

ANALYSIS OF INDIAN UNION BUDGET 2013-14

CENTRAL EXCISE - NON TARIFF (Central Excise Act, 1944) & RULES MADE THEREUNDER

CLAUSE NO.	SECTION OF CEA, 1944	CHANGE AT GLANCE	APPLICABLE w.e f	EXECUTIVE SUMMARY
78	9	The threshold of involved duty to determine heavy punishment and penalty has been increased from Rs. Rs. 30 Lacs to Rs. 50 Lacs i.e. if the amount of disputed duty is more than Rs. 50 Lacs, there may be imprisonment upto 7 years.	From the date of enactment of Finance Bill, 2013	Section 9 provides the prosecution and penalties for different kind of offences and violations under Central Excise Act and rules made there-under. The limit to determine the greater prosecutions has been revised from Rs. 30 Lacs to 50 Lacs. In case the involved duty leviable is more than Rs. 50 lacs, there may be imprisonment upto 7 years, and in other case, the imprisonment may be upto 3 years.
79	9A	A new sub-section (1A) has been inserted to provide that if (i) there is an offence relating to payment of duty or availment and utilization of Cenvat Credit and (ii) the amount of duty leviable exceeds Rs. 50 Lacs,	From the date of enactment of Finance Bill, 2013	Prior the amendment, all the offences prescribed under section 9, were non-cognizable without referring to provision of Code of Criminal Procedures, 1973. Now, an exception has been created to treat the offence as cognizable and non-

		then such offence would be cognizable and non-bailable.		bailable where the conditions prescribed are fulfilled.
80	11	<p>Section 11 is being amended so as to provide for (i) recovery of money due to the Government from any person other than from whom money is due after giving a proper notice, if that other person holds money for or on account of the first person;</p> <p>(ii) the other person to whom such notice has been issued is bound to comply and</p> <p>(iii) if the other person to whom the notice is served fails to comply, he shall face all the consequences under this Act.</p>	From the date of enactment of Finance Bill, 2013	<p>This is a new and one of its own kinds of provision in tax laws. Let me illustrate this with an example:</p> <p>Mr. A is the person who is liable to pay the excise duty leviable and he is unable or does not pay the duty. Now Mr. B is a person who holds some of money of Mr. A as deposit, debtor or any other kind. In that case, under new provision, Central Excise Officer may issue notice to Mr. B for recovery of duty payable by Mr. A. and Mr. B has to comply with the notice otherwise consequences under Central Excise Law shall be initiated.</p>
81	11A	A new sub-section 7A is being inserted u/s 11A prescribing that if a statement (containing the details of duty not paid, short levied or erroneously refunded) shall be	From the date of enactment of Finance Bill, 2013	<p>This is new kind of provision and the application of this provision shall made on fulfillment of the following conditions:-</p> <p>(i) The assessee has been served a</p>

		deemed to be notice u/s (1) or (3) or (4) or (5) of section 11A.		<p>notice for recovery of disputed duty under section 11A, and</p> <p>(ii) A statement containing the details of disputed duty in the <u>subsequent to the above period</u> [as mentioned in above point (i)] is issued to the assessee.</p> <p>In this case, such statement shall be deemed to be notice if the same grounds, for which notice in above point (i) is issued, are used for this statement also.</p>
82	11DDA	A change is being made regarding attachment provision so as to extend its applicability to the notices issued u/s 11A in relation of recovery of disputed duty.	From the date of enactment of Finance Bill, 2013	The scope of Provisional attachment to protect revenue has been extended to every case of disputed duty recovery. Prior to amendment, it was limited to cases where notice u/s 11(1) has been issued.
83 & 84	20 & 21	Section 20 is being amended so as to make the provisions applicable only to offence which is non-cognizable.	From the date of enactment of Finance Bill, 2013	In case of non-cognizable offences under Central Excise, the concerned officer shall admit such person before Magistrate. This is not required in case of cognizable offences.

85	23A	The scope of Advance ruling has been enlarged to include any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer.	From the date of enactment of Finance Bill, 2013	The definition of "activity" has been made inclusive and includes new business proposed to be undertaken by existing manufacturer or producer i.e. advances ruling under Central Excise Laws in such proposed activity can be availed.
86	23C	The scope of admissibility of advance ruling under Central Excise Laws has been expanded to include credit of service tax paid or deemed to have been paid on input services, under its ambit.	From the date of enactment of Finance Bill, 2013	The existing sub-section (2) of section 23C provides for the admissibility of application for advance ruling, inter alia, for credit of excise duty paid or deemed to have been paid. Now it is being amended to include service tax credit also.
88	35C	A new proviso is being inserted in sub-section (2A) of section 35C so as to provide that in cases where delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the	From the date of enactment of Finance Bill, 2013	Prior to amendment, if the stay order is made in any proceeding by Tribunal, it would vacate after 180 days. Now, this period may further be extended by 185 days by Tribunal, if the delay is not attributable by applicant. However, Total period would not exceed 365 days.

		date of order, the stay shall stand vacated.		
89	35D	Section 35D is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from "10 Lakhs rupees" to "50 lakhs rupees".	From the date of enactment of Finance Bill, 2013	However, such monetary limit would not apply where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue.
90	37C	Section 37C is being amended to specify additional modes of delivery of specified documents i.e. by speed post with proof of delivery or through courier approved by the Central Board of Excise & Customs.	From the date of enactment of Finance Bill, 2013	Additional modes to deliver the documents, has been extended to include courier as well among other modes.
2/2013	Central Excise Rules, 2002	Sub Rule (5) of Rule 7 is being amended to provide interest on refund subsequent to a provisional assessment under sub-rule (3), as provided u/s 11BB of Central Excise Act" 1944.	From the date to be notified	The effect of change is that prior to amendment, interest is being calculated from the first day of month in which the refund is determined till date of refund. Now, as provided u/s 11BB of Act, the interest shall be calculated from the date after lapse of 3 months from the date of determination of refund.

				In crux, there would be delay and lesser interest shall be paid to assessee.
3/2013	Cenvat Credit Rules, 2004	A new explanation has been inserted under sub-rule (5B) of Rule 3, to provide that if any assessee fails to pay the Cenvat Credit taken on input or capital goods and then removes such input or capital goods, then such Cenvat Credit shall be recovered under rule 14 of Cenvat Credit Rules, 2004	From the date to be notified	Now, the recovery of such Cenvat Credit would be made as if excise duty or service tax has not be paid.