

## ANALYSIS OF INDIAN UNION BUDGET 2011-12

### CENTRAL EXCISE - NON TARIFF (Central Excise Act, 1944)

<u>(Clause no.)</u>	<u>Section</u>	<u>Brief of Amendment</u>	<u>Old Law</u>	<u>New Law</u>	<u>Applicable (w.e.f.)</u>	<u>Executive Summary</u>
59.	4A - MRP based Duty	The reference for "Standards of Weights and Measures Act, 1975' (SWM) has been replaced with newly inserted law of "Legal Metrology Act, 2009" (LMA).	Earlier u/s 4A, excise duty on pre-packaged goods was being paid with reference to their MRP declared under SWM Act,	Now, the MRP value shall be decided with reference to 'Legal Metrology Act, 2009'	01/03/2011	LMA is a new version of SWM. The new act mainly affect the imported goods which needs convert their quantity in Indian quantity terms mentioned under new act of LMA.
60.	11A - Recovery of duties	Whole section of 11A has been substituted to make it more lucid, clear and coherent.	Section 11A provides the different modes for recovery the duties not levied or not paid or short levied or short paid or erroneously refunded	Apart from all the old laws, the revamped section has introduced a new category of cases which would attract general penalty of 50% of the duty.	From the date the Finance Bill receives the consent of President of India.	The old provision was cumbersome. The newer provision has become the laws more clear and coherent. Apart from the old laws, the new provisions have introduced some new laws.

61.	11AA and 11AB - Interest on delayed payment of duty	Both the section of 11AA and 11AB relating to Interest on delayed payment of duty has been substituted by newly inserted section of 11AA.	As per the combined reading of sec. 11AA and 11AB, the interest on delayed payment of duty is charged from the first day of the month succeeding the month in which the duty was payable till the date of payment.	However, new section 11AA provided to charge interest from the date on which such duty becomes payable till the date of actual payment.	-do-	The new section 11AA has substituted old section of 11AA and 11AB to make the provisions more clear and coherent. The newer section will result in more interest charges in case of failure of payment of duty.
62.	11AC - Penalties	The old section 11AC providing penalties in certain cases, has been substituted by new version of section 11AC to accommodate the changes in above mentioned section of 11AA and 11AB.	-General penalty is 100% of duty payable -Concessional penalty is 25% of duty payable.	-General penalty is 100% of duty payable -Concessional penalty is (a) 25% of duty payable (b) 50% of duty payable	- do-	The newer version of section 11AC has been inserted so as to accommodate the changes made in section 11A, 11AA and 11AB.
63.	New Insertion	The new section has been inserted to	Not applicable	As stated in 3 column	-do-	The new section is to create first

	of section 11E	create first charge on the property of the defaulters but after the due payable under Companies Act, RDBFIA and SRFAESIA.				charge on property of defaulter in order to recover the pending excise dues.
64.	12 – Application of provision of Custom Act to Duty	The amendment has been inserted to apply the provision relating to levy and exemption under Custom Act, on the same matters under Central Excise Act.	Under the old law, CG, may notify all the provision of Custom Act to apply on the like matters u/s 3 of Central Excise.	Under the new laws, CG, may notify all provisions under Custom Act to apply on like matter u/s <b>3A (instead of 3)</b> of Central Excise.	10.05.2008	This section was amended in order to restrict the application of provision under Custom Act to the assessee on which excise duty is chargeable on the basis of production capacity.
65.	New insertion of Section 12F	New section was inserted to empower the JCCE or ACCE to conduct search or seizure by himself or authorize any officer.	Not applicable	JCCE or ACCE shall be empowered to conduct search or seizure by himself or authorize any officer subordinate to him. The	From the date the Finance Bill receives the consent of President of India.	If JCCE or ACCE has reasons to believe then, he may conduct a search or seizure.

				provision of Code of Criminal procedure, 1973 shall be applicable to such search or seizure.		
66.	New insertion of Section 35R	This new section has been inserted retrospectively to provide the provision relating to filling of appeal by Central Excise office in certain cases.	Not Applicable	The new section empowers CBEC to issue any order, instruction, or direction to file appeal in certain cases.	20/10/2010	This section has been inserted to give retrospective effect to the instruction; order of CBEC issued after 20/10/2010 in line with the National Litigation Policy.
67.	Section 38(2)	The amendment has been made to produce the notification issued u/s 5B related to non-reversal of CENVAT Credit before Parliament.	Old provision was applicable to notification u/s 5A(1) and 11C.	The new provision is applicable to notifications issued u/s 5A(1), 5B and 11C.	From the date the Finance Bill receives the consent of President of India.	This section was amended to include the notification u/s 5B which are prejudicial to revenue, to produce before Parliament.
68.	Rule 3(1)	The amendment has	Rule 3 of	The new section	18/04/2006	Consequent to

	of CENVAT Credit Rules, 2004	been made to incorporate the service tax paid on Imported service under Input Tax Credit.	CENVAT Credit Rules, 2004 provides for the components for which credit shall be available.	has inserted the service tax paid on service received from outside India under the Input Tax credit.		amendment, the Input tax credit of service tax paid on imported services, shall be available.
69.	Notificatio n u/s 5A	The amendment seeks to extend the time limit of exemption based on investment in certain states of India.			Retrospecti vely by different dates	After this amendment, the time limit for making investment in the Eastern States of India has be extended.