

ANALYSIS OF INDIAN UNION BUDGET 2012-13

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

CLAUSE NO.	SECTION OF CEA, 1944	CHANGE AT GLANCE	APPLICABLE w.e f	EXECUTIVE SUMMARY
129	4 - Valuation of Excisable Goods for purposes of charging of duty of excise.	A New definition of ' <i>Inter-connected Undertaking</i> ' has been introduced. Previously, the definition was as per the provision of Monopolies and Restrictive Trade Practices Act, 1949 which has been repealed.	Date of enactment of the Finance Bill, 2012	Section 4 prescribes for determination of value for charging excise duty. The new definition has incorporated almost all combination of relations/association to term it as 'inter-connect undertakings. It includes cases, where an undertaking, directly or indirectly, owns, controls, is being owned or is being controlled, or under the same management, or is subsidiary, holding company, being managed by same group, associated person etc.
130	9 - Offences and Penalties	Section 9 provides, in case of evasion, an imprisonment upto 7 years with fine, if the evaded amount of duty is Rs. 1 Lac or more.	Date of enactment of the Finance Bill, 2012	Now, the imprisonment of 7 years with fine, may be awarded the evasion cases, where the evaded duty of excise is Rs. 30 Lacs or more.

		The evaded duty amount has been increased to Rs. 30 Lacs or more.		
131	9A - Certain offences to be non-cognizable	Section 9A is being amended to provide that all offences under the Act, except an offence punishable with imprisonment of three years or more under section 9, shall be non-cognizable.	Date of enactment of the Finance Bill, 2012	The offences punishable (i) with imprisonment of 3 years or more shall be <i>cognizable</i> , and (ii) with imprisonment of less than 3 year shall be <i>non-cognizable</i> .
132	11A - Recovery of duties...	Section 11A is being amended to exclude the period of stay in computing the period of one year or five years, as the case may be, for issuance of show cause notice where service of notice is stayed by an order of a court or tribunal.	Date of enactment of the Finance Bill, 2012	Only the stay on <i>service of notice</i> by any court, or tribunal, shall be considered for this purpose.
133	11AC - Penalty for short levy or non-levy of duty in	Section 11AC provides for reduced penalty if the duty along with interest is paid within a 30 days of the communication of the order. It is being amended to make available	Date of enactment of the Finance Bill, 2012	Previous to this amendment, there was a benefit to assessee that the benefit of reduced penalty would be available even if such reduced penalty is not paid within 30 days. This benefit has been taken away

	<b>certain cases</b>	<b>the benefit of reduced penalty only if the reduced penalty is also paid within the specified period of thirty days.</b>		
<b>134</b>	<b>12F - Power of Search and Seizure</b>	<b>Section 12F is being amended to assign the powers of Search and Seizure to CCE instead of 'Magistrate' as prescribed under Code of Criminal Procedure, 1973.</b>	<b>Date of enactment of the Finance Bill, 2012</b>	<b>Section 12F relating to search and seizure is being amended to align the provisions with Customs Act.</b>
<b>135</b>	<b>13 - Power to arrest</b>	<b>Section 13 is being amended to assign the powers of arrest, bail of any person who has committed an offence under the Act. Such Excise officer have been given the powers of Officer -in- Charge of Police Station as prescribed under Code of Criminal Procedure, 1973, subject to certain conditions.</b>	<b>Date of enactment of the Finance Bill, 2012</b>	<b>Section 13 dealing with the power to arrest is being substituted to align the provisions with Customs Act and also to provide that offences punishable with imprisonment of three years or more under section 9 shall be cognizable.</b>
<b>135</b>	<b>13A- New Insertion - Bail for</b>	<b>Section 13A is being inserted to provide that bail in the case of offences punishable with a term of</b>	<b>Date of enactment of the Finance Bill, 2012</b>	<b>The newly inserted section 13A has given a wide range of powers to Excise Officer for arrest and bail related cases. This</b>

	offences ...	<p>imprisonment of 3 years or more under section 9 shall not be granted by a Court or Magistrate without an opportunity being given to the Public Prosecutor to present his case.</p> <p>It also provides that in the case of minors, infirm and women the Magistrate may grant bail.</p> <p>It also <i>excludes</i> the jurisdiction of police officers to initiate investigation of offences under the Central Excise Act, unless authorized in this behalf by the Central Government by a special or general order.</p>		process shall result in more case of offences and arrest.
136	18 - Searches and Arrests how to be made	Section 18 is being substituted to provide that save as provided under the Central Excise Act, searches shall be carried out as per the procedure laid down in the Code of Criminal Procedure.	Date of enactment of the Finance Bill, 2012	Through this amendments, an attempt has been made to carry out the process of search or seizure in accordance with Code of Criminal Procedure.

137	19 - Omitted	Omitted	Date of enactment of the Finance Bill, 2012	The provision of erstwhile provision 19 has been considered in section 13 and 13A. Hence, it has been omitted as a consequential change.
138	20 - Procedure... ..	Section 20 relating to procedure to be followed by officer-in-charge of police station, is being amended to carry out consequential changes in view of omission of section 19.	Date of enactment of the Finance Bill, 2012	Further, due to amendment in section 12F, in case of search and seizure, the person shall be appeared before Commissioner of Central Excise instead of Magistrate.
139	Notification No.1/2010- CE dated 6th February, 2010	It is being amended retrospectively from the date of issue of the said notification to provide that for units undertaking substantial expansion in terms of the notification, the exemption period of ten years would be computed from the date of commercial production from the expanded capacity.	Retrospectively from date of notification	Notification No.1/2010-CE dated 6th February, 2010 provides exemption from Central Excise duty to goods cleared from new units or units that have undertaken substantial expansion in the State of Jammu and Kashmir. This amendment would clarify the policy intent.  Further, any act or omission which has become punishable due this change, shall not be punishable.
140	Third Schedule of	The Third Schedule of the Central Excise Act relating to the deeming	Come into force immediately	Accordingly, the packing, or repacking in a unit container, labeling or relabeling of

	<b>CEA</b>	<b>of certain processes as amounting to “manufacture” is being amended to include cigarettes.</b>		<b>Containers including the declaration or alteration of Retail Sale Price on cigarettes or adoption of any treatment to render cigarettes marketable shall be processes amounting to manufacture.</b>
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