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Pak to Drop Shopping List with India Soon, Secretaries in Pow Wow in Islamabad

Agreed Minutes of the 5th Round of Talks on Commercial and Economic Co-Operation between Commerce Secretaries of India and Pakistan

The 5th round of India-Pakistan talks on Commercial and Economic Co-operation was held on 27-28 April 2011, in Islamabad.

2. The Indian delegation was led by Commerce Secretary, Rahul Khullar and the Pakistan delegation was led by Zafar Mahmood, Secretary, Commerce.

3. Both sides agreed that increase in trade and economic engagement would help not only in the mutual quest for national development, but also contribute to building trust between the two countries. The discussions were guided by the mutual desire to realize the full potential of bilateral trade. To facilitate this objective, they agreed to make efforts to create an enabling environment for trade on both sides. The two sides also agreed to encourage greater engagement between the private sectors of the two countries.

With this in view, the following decisions were taken:

- (i) To build confidence, dispel misunderstandings and allay any misapprehensions, it is essential that governments in both countries support the business communities in promotion of bilateral trade. Further efforts would be made to make the bilateral trading environment more business friendly. Necessary outreach activities would be undertaken to bridge information gaps relating to the trade environment and economic opportunities.
- (ii) To promote trade, both tariff and non-tariff barriers (NTBs) need to be reduced/removed. It was decided to establish a Working Group (WG) specifically dedicated to address and resolve clearly identified sector-specific barriers to trade. The WG would comprise technical experts and representatives of regulatory bodies directly concerned with the clearly identified barriers. The first meeting of the WG shall be held by September 2011.
- (iii) Both sides appreciated the significant progress made in developing physical infrastructure for trade through the Wagah-Attari land route. Closer coordination needs to be ensured to open the second gate and new dedicated roads for passenger and freight traffic. The Indian side intimated that its new Integrated Check Post is expected to be fully functional by October, 2011. To facilitate the coordinated effort of both sides, it was agreed that the Joint Technical Group for promotion of trade and travel would meet in June 2011 and thereafter



every month to ensure adherence to the October 2011 timeline on both sides.

- (iv) Both sides agreed to expand trade through Wagah-Attari by *inter-alia* (a) increasing trading hours taking advantage of the new infrastructure (b) expeditious clearance of cargo and (c) facilitating movement of large vehicles and containerized traffic.
- (v) It was also agreed that Pakistan side would remove its present restrictions on trade by land route as soon as the infrastructure to facilitate mutual trade is completed. The timeline for this purpose would be before October, 2011.
- (vi) It was noted that an informal and effective Customs Liaison arrangement is already operating at Wagah-Attari. It was decided to formalise the arrangements in the form of a Customs Liaison Border ^ Committee which would meet at least once in two months to resolve any operational issue at the field level.
For harmonization in customs procedures, facilitation of trade consignments, exchange of trade data and information, both sides agreed that the Sub Group on Customs Cooperation would meet in New Delhi before 15th June, 2011. Nodal officers shall be notified by both sides before 15th May, 2011- to establish regular direct contact by email/fax/ telephone on all matters relating to delay in clearance of trade consignments, trade document requirements, and other customs cooperation. It was agreed that Pakistan would send a draft Customs cooperation agreement within a month.
- (viii) It was decided to undertake a new initiative to enable trade of electricity between both countries. To this end, a group of experts from both sides would examine feasibility, scope and modalities of such trading. *Inter alia*, the group may also address itself to issues such as suitable site(s) and routes for transmission lines, funding mechanisms and other related issues. The composition of the Group would be finalised before the end of June 2011 and the first meeting would be scheduled by October 2011.
- (ix) Both sides also agreed to work out how to initiate and substantially expand trade in all types of petroleum products. A group of experts from both sides would be set up for this purpose before 15 June 2011. The Group would *inter alia* discuss trade arrangements, building of cross border pipelines and use of road/rail

route, including the Munabao-Khokrapar route. The Group's first meeting would be held before September 2011.

- (x) A new initiative to promote bilateral trade in Bt. cotton seeds was identified. This would help Pakistan's farmers and its textile industry by significantly raising cotton yields and ensuring better cotton security. It was agreed to take this process forward by enabling Business-to-Business contact and governmental regulatory clearances.
- (xi) Cooperation in the Information Technology (IT) sector would be encouraged through the private sector route.
- (xii) Pakistan recognized that grant of MFN status to India would help in expanding the bilateral trade relations. Both sides also agreed to remove the NTBs and all other restrictive practices which hamper bilateral trade.
- (xiii) It was informed by Pakistan side that it would take immediate necessary steps to ensure that non-discriminatory trade regime is operationalized at the earliest. The consultative process in this regard has been set in motion and information from all stakeholders including business chambers and trade bodies is being collected to replace the present "Positive list" with a "Negative list". It was agreed that this process would be completed by October, 2011.
- (xiv) Both sides expressed the intent to explore the possibility of entering into a mutually agreed preferential trade arrangement to further promote bilateral trade by extending tariff concessions on products of export interest to both countries.
- (xv) Both sides agreed that facilitating grant of Business Visas was essential to expansion of trade. It was noted that during the recent meeting of the Home Secretaries, it was decided to set up a Joint Working Group to look at the Visa regime. Suitable inputs would be provided by both sides to this JWG, to realise the goal of easier access to Business Visas. In this regard the possibility of effective involvement of private sector through officially recognised joint chambers would be explored.
- (xvi) While appreciating the need for business-to-business contact, both sides desired to create an enabling environment and encourage Chambers of Commerce and Industry on both sides to form officially recognised Joint Chambers at the apex and regional levels.
- (xvii) Both sides agreed on the desirability of promoting bilateral investments and removing any impediments for such investments.

(xviii) On opening of bank branches in each other's countries, both sides agreed that banking channels are important and the process needs to be fast tracked.

(xix) Trade Development Authority of Pakistan (TDAP) and its counterpart organisation, India Trade Promotion Authority (ITPO) will collaborate on trade promotional activities. TDAP will send a draft MOU to ITPO for mutual cooperation by June 2011.

A Joint Working Group on "Economic and Commercial Cooperation and Trade Promo-

tion" will be co-chaired by the Joint Secretaries of the respective

Departments of Commerce. Implementation of decisions taken in this round and any other trade promotion issues that may arise from time to time will be reviewed by this JWG.

Commerce Secretaries of both countries would meet bi-annually to oversee the functioning of this JWG.

The talks were held in a very cordial and constructive atmosphere.

[Source: MEA Press Release]

New FCRA Comes into Force from 1 May 2011

Registration only for five years at a time

More power to banks

Mistakes rectified through compounding

Foreign Contribution Regulation Act (FCRA) 2010 has been notified and it has come into force with effect from 1/5/2011. FCR Rules 2011 have also come into force from 1/5/2011.

Key features of FCRA 2010 include the following:

- Concept of 'permanent' registration done away with; A five-year registration is provided so that dormant organisations do not continue. All existing registered organisations are deemed to be on a five-year validity from now.
- 'person' has been defined in a broader sense
- 'Organisations of political nature' cannot receive foreign funds.

- Ceiling on administrative expenses has been prescribed.
- Procedure for suspension and cancellation of registration has been prescribed.
- Statutory role provided for banking sector in regulation.
- Time limits have been provided for accountability of officials
- To deal with bona fide mistakes of NGOs, provision has been made for 'compounding' of offences.

Details are available on Ministry of Home Affairs website-mha.nic.in.

[Source: PIB Press Release dated 2 May 2011]

Dollar Exports Up by 43.5% in March – Balance Trade in 2011-12 Improves

Exports (including re-exports)

India's exports during March, 2011 were valued at US \$ 29134.89 million (Rs. 131081.97 crore) which was 43.8 per cent higher in Dollar terms (42.2 per cent higher in Rupee terms) than the level of US \$ 20254.14 million (Rs. 92149.26 crore) during March, 2010. Cumulative value of exports for the period April-March 2010 -11 was US \$ 245868.29 million (Rs 1118822.85 crore) as against US \$ 178751.41 million (Rs. 845533.62 crore) registering a growth of 37.5 per cent in Dollar terms and 32.3 per cent in Rupee terms over the same period last year.

Imports

India's imports during March, 2011 were valued at US \$ 34743.08 million (Rs.156314.00 crore) representing a growth of 17.2 per cent in Dollar terms (15.9 per cent in Rupee terms) over the

level of imports valued at US \$ 29626.87 million (Rs. 134791.91 crore) in March, 2010. Cumulative value of imports for the period April-March, 2010-11 was US \$ 350694.97 million (Rs. 1596869.37 crore) as against US \$ 288372.87 million (Rs. 1363735.55 crore) registering a growth of 21.6 per cent in Dollar terms and 17.1 per cent in Rupee terms over the same period last year.

Crude Oil and Non-Oil Imports

Oil imports during March, 2011 were valued at US \$ 9438.6 million which was 8.2 per cent higher than oil imports valued at US \$ 8721.6 million in the corresponding period last year. Oil imports during April-March, 2010-11 were valued at US\$ 101689.2 million which was 16.7 per cent higher than the oil imports of US \$ 87135.9 million in the corresponding period last year.

Non-oil imports during March, 2011 were estimated at US \$ 25304.5 million which was 21.0 per cent higher than non-oil imports of US \$ 20905.3 million in March, 2010.

Cont'd..59

Dollar-Rupee Rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
2-May-11	44.5775	44.6675	44.5025	44.5500	44.5500	920446	2553261	1137705	44.3000
29-Apr-11	44.7875	44.7875	44.4550	44.4700	44.4700	889365	2366121	1054816	44.3800
28-Apr-11	44.5300	44.6950	44.5200	44.6650	44.6650	854615	2380173	1061525	44.3300
27-Apr-11	44.7300	44.7650	44.6450	44.7225	44.7225	857496	2655825	1187363	44.4000

[Source: NSE and RBI Website]

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No Re-export for Commonwealth Games Goods if “Change of Form” Takes Place

[Ref: CBEC Instruction F.No. 528/16/2008-CUS (TU) dated 27 April 2011]

Subject: Regarding difficulties faced in establishing identity of CWG-2010 goods imported in terms of Notification No.13/2010-Cus., dated 19.02.2010 as amended by Notification No.9/2011-Cus., dated 14.02.2011

Attention is drawn to Notification No.13/2010-Customs dated 19.02.2010 as amended by Notification No.9/2011-Customs dated 14.02.2011, which stipulates that the goods imported for Commonwealth Games (CWG)-2010 should be exported within six months from the conclusion of the Games and identification of the goods at the time of export is a necessary condition in the said notification.

2. Board has taken note of the difficulties faced by the field formations in establishing identity of the goods imported for CWG-2010 Games since many of the imported items are reportedly generic in nature and do not bear any marks and numbers. In these circumstances Board has examined the issue and it is hereby clarified that normally a certificate from the Joint Director General (Coordination) or Director (Coordination) or Chief Executive Officer of the Organizing Committee (CWG)-2010, duly supported by a reconciliation statement corroborating the goods with the import documents as well

as the shipping Bill under which the goods are exported may be accepted as the proof of identity, if otherwise found in order. However, in cases where imported goods under the said notification have undergone a change in form while being used for the intended purpose and where the condition regarding proof of identity is not satisfied, the benefit of the exemption will not be available.

3. A similar dispensation as stipulated above may be accorded for goods imported under the exemption notification but on which the importer have chosen to pay duty on the goods either at the time of import or subsequently and have put in a claim for drawback under section 74 of Customs Act, 1962 at the time of re-export of the goods.

4. These instructions are issued only with respect to imports of CWG-2010 goods under the above mentioned notifications. Accordingly, suitable instructions may be issued to the field formation.

Fork Lifts in Ch.84 not subject to Homologation and other Restrictions on Motor Vehicles in Ch.87

Subject:- Imports of goods under Chapter 84 of ITC (HS) and the requirement of compliance to Chapter 87 Import Licensing Notes.

30-Pol.Cir The Customs at JNPT have
27.04.2011 sought a clarification on the
(DGFT) requirement of complying with
the conditions of Import

Licensing Note No. 1 and 2 of Chapter 87 of ITC (HS) Classification (Vehicles other than Railway or Tramway Rolling – Stock and parts and accessories thereof) even if the goods fall under Chapter 84 of ITC(HS) (Machinery and mechanical appliances; parts thereof)

2. The matter has been examined. The goods in question like Reach Stackers / Fork Lifts have been specifically covered at 8 digit level (Code : 8427 20 00) under Chapter 84 of ITC(HS), as mentioned by Customs. This is also clear from a plain reading of Chapter 84 of ITC(HS).

3. Such goods, that are in the nature of machine and equipments and are covered under Chapter 84 of ITC(HS), cannot be classified under Chapter 87 of ITC(HS). Therefore, Import Licensing Note No. 1 and 2 of Chapter 87 of ITC(HS) are not applicable to goods covered under Chapter 84 of ITC(HS).

4. It is also clarified that Policy Circular No. 21 (RE-2007)/ 2004-09 dated 14th December, 2007 quoted “Special Purpose Vehicles” which are classified under Code: 8705 at 4 digit level. Thus, Policy Circular No. 21 dated 14th December, 2007 is limited to goods covered under Chapter 87 of ITC(HS) only.

5. This issues with the approval of Director General of Foreign Trade.

Show Cause Notice only from Jurisdiction Commissioner in DRI/ Preventive Cases

[Ref: CBEC Instruction F. No.437/143/2009-Cus.IV(pt) dated 15 April 2011]

Subject: Adjudication of appraising related Show Cause Notices.

Attention is invited to Hon'ble Supreme Court order in Civil Appeals Nos. 4294-4295 of 2002 along with C.A. Nos. 4603-4604 of 2005. As per the said Hon'ble Supreme Court order, only such Customs officer who has been assigned the specific functions of assessment and re-assessment of duty in the jurisdictional area where the import concerned has been effected,

by either the Board or the Commissioner of Customs, in terms of Section 2 (34) of the Act is competent to issue notice under section 28 of the Act. The Supreme Court in its judgement has also observed that these judgements shall not preclude the revenue from initiating any proceedings against the importers for recovery of duty and other charges payable in respect of

Drawback Recovery Waived where ECGC Claim Realised

30-Cus(NT) In exercise of the powers
11.04.2011 conferred by section 75 of
(DoR) the Customs Act, 1962 (52
of 1962), section 37 of the
Central Excise Act, 1944 (1 of 1944) and
section 93A read with section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, namely:-

1. (1) These rules may be called the Customs, Central Excise Duties and Service Tax Drawback (Second Amendment) Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, in rule 16(A),-

(i) in sub-rule(1), after the words “ such drawback shall”, the following words shall be inserted, namely:-

“, except under circumstances or conditions specified in sub-rule (5),”;

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(5) Where sale proceeds are not realised by an exporter within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but such non-realisation of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd. under an insurance cover and the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of sale proceeds from the buyer, the amount of drawback paid to the exporter or the claimant shall not be recovered.”

F.No. 605/39/2010-DBK

subject goods, if permissible under the Act.

2. In view of Hon'ble Supreme Court order, while other alternative measures are being considered to address the matter, it has been decided by the Board that henceforth all Show Cause Notices under Section 28 of the Customs Act, 1962 in respect of cases investigated DRI/ Customs Preventive formations are required to be issued by jurisdictional Commissioners from where imports have taken place. Board also desires the field formations to examine the pending show cause notices and wherever the cases are not hit by limitation, show cause notices may be got issued afresh by jurisdictional Commissionerates in supersession of the earlier show cause notices and in the light of the Hon'ble Supreme Court judgement in the matter.

3. As for the cases which would be hit by limitation if notices are issued afresh now, necessary legal options are being explored.

4. Difficulty faced, if any, may be brought to notice of the Board.

TRU Clarifications on New Services after Enactment of Finance Bill 2011 – Effective from 1 May 2011

[Ref: TRU D. O. F. No. 334/3/2011-TRU dated 25 April 2011]

The new services specified in clauses (zzzzv) and (zzzzw) of section 65 (105) of the Finance Act, 1994 and amendments to the existing clauses of the same section are being operationalized w.e.f. May 1, 2011. The scope of these services was explained in my D.O. letter of even number dated Feb. 28, 2011. In accordance with the budget announcements certain changes are necessitated and the related clarifications are given as follows:

Services provided by a Restaurant

2. An exemption @ 70% of the gross value i.e. the total price charged by the restaurant has been given by amending the notification No. 1/2006-ST dated 01.03.2006 vide notification No. 34/2011-ST dated April 25, 2011. The exemption is available provided no Cenvat credit is availed either of inputs or input services. It is clarified that the exemption is available on the gross price charged by the restaurant for the taxable service, including any portion shown separately e.g. service charge. However the amount paid by the customer ex-gratia e.g. as tip to any member of the staff doesn't constitute consideration paid to the restaurant and shall remain outside this levy.

Short Term Accommodation

3. In accordance with the budget announcement, the levy will be applicable on short-term accommodation with a declared tariff of Rs 1000 per day or above. A suitable exemption has been given below this amount vide notification No. 31/2011-ST dated April 25, 2011. Declared tariff has been defined within the notification as charges for all amenities provided in the unit of accommodation. Thus it will include cost of all electronic gadgets installed in the room and any other facility normally provided by a hotel as part of the stay. Cost of extra bed will not form a part of the declared tariff. No further exclusions are provided from the declared tariff e.g. on account of breakfast or any other meal whose cost is included in the declared tariff including any discount given to the customer. However an exemption @ 50% has been given by amending the notification No.1/2006-ST dated 01.03.2006 vide notification No. 34/2011-ST dated April 25, 2011 provided no Cenvat credit is availed either of inputs or input services.

Life Insurance Services

4. The new definition will include all services provided by a life insurance company. The optional scheme available in rule 6(7A) of the Service Tax Rules, 1994 has been amended vide notification No. 35/2011-ST dated April 25, 2011. The assessee will have the option to pay tax on that portion of the premium which is not invested, when such break-up is given to the policy holder. Where the break-up is not so provided, tax amount shall be 1.5% of the gross premium. However, where the entire premium is only for the risk portion the same shall constitute the taxable value of the service.

Health Services

5. The new levy on medical services in terms of sub-clause (zzzzo) of section 65(105) has been exempted vide notification No. 30/2011-ST dated April 25, 2011. It may be noted that the earlier levy on certain services provided by hospitals imposed last year was substituted by the new entry. Thus the levy imposed last year will not be applicable anymore.

Commercial Coaching and Training

6. The revised definition is intended to bring into the tax net all unrecognized education within its ambit irrespective of the fact whether the institute imparting the education is conducting any one or more course recognized by law. Accordingly, an exemption has been given to pre-school education and all education that leads to the award of a qualification recognized by law vide notification No. 33/2011-ST dated April 25, 2011.

Legal Services

7. With the amendments coming into force, exemption provided to CAs, CWAs and CSs vide notification No. 25/2006-ST dated 13.07.2006 for similar services is being withdrawn by notification No. 32/2011-ST dated April 25, 2011.

Other Services

8. Changes have also been made in other services namely club or association, business support services and service centre for motor vehicles and have already been explained in my previous D.O. letter dated Feb. 28, 2011.

Other changes

9. Both the new services i.e. Services provided by Restaurants and short-term Accommodation have also been notified for the purpose of Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 and placed in category 1 i.e. based on the location of the property.

10. All the above changes may be carefully studied and any issues in their implementation may be informed as and when they arise. Potential new assesseees as well existing assesseees who are required to pay tax on certain hitherto non-taxable services may be informed suitably of the changes and assisted in any desired manner.

Service Tax on New Services will come into effect from 1 May 2011

29-ST
25.04.2011
(DoR)

In exercise of the powers conferred by clauses (A) and (B) of section 71 of the Finance Act, 2011 (8 of 2011), the Central Government hereby appoints the 1st day of May 2011, as the date on which the provisions of the said Act shall come into force.

[F. No. 334/3/ 2011 – TRU]

No Service Tax on Medical Services

30-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central

Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service referred to in sub-clause (zzzzo) of clause (105) of section 65 of the Finance Act, from the whole of the service tax leviable thereon under section 66 of the said Act. 2. This notification shall come into force on the 1st day of May, 2011.

[F. No. 334/3/ 2011 – TRU]

Zero Service Tax on Accommodation Less than `1000/day

31-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994)

(hereinafter referred to as the said Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service as referred to in sub-clause (zzzzw) of clause (105) of section 65 of the said Act, when the declared tariff for providing of such accommodation is less than rupees 1000 per day from the whole of the service tax leviable thereon under section 66 of the said Act.

Explanation.- For the purpose of this notification, "declared tariff" includes charges for all amenities provided in the unit of accommodation like furniture, air-conditioner, refrigerators etc., but does not include any discount offered on the published charges for such unit. 2. This notification shall come into force on the 1st day of May, 2011.

[F. No. 334/3/2011-TRU]

Service Tax Exemption to CAs, CWAs and CSs – Notification Rescinded

32-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central

Government, on being satisfied that it is necessary in the public interest so to do, hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2006-Service Tax, dated the 13th July, 2006, published in the Gazette of India, Extraordinary, Part II, Section3, Sub-section (i) vide number G.S.R. 418(E) dated the 13th July, 2006, except as respects things done or omitted to be done before such rescission.

2. This notification shall come into force on the 1st day of May, 2011.

[F. No. 334/3/ 2011 – TRU]

Zero Service Tax on Coaching Leading to a Recognised Degree

33-ST
25.04.2011
(DoR)

In exercise of the power conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government on being satisfied that it is necessary in the public interest so to do, hereby exempt,-

- (i) any preschool coaching and training;
- (ii) any coaching or training leading to grant of a certificate or diploma or degree or any

educational qualification which is recognised by any law for the time being in force;

when provided by any commercial coaching or training centre from the whole of the service tax leviable thereon under section 66 of the Finance Act, 1994.

2. This notification shall come into force on the 1st day of May, 2011.

[F. No. 334/3/ 2011 – TRU]

Abatement on AC Restaurant Services, Hotels

34-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue),

No. 1/2006-Service Tax, dated the 1st March, 2006, published in the Gazette of India, vide number G.S.R.115(E), dated the 1st March, 2006, with effect from the 1st day of May 2011 namely:-

2. In the said notification, in the Table, after S.No.12 and the entries relating thereto, the following S.No. and the entries shall be inserted, namely:-

Table

(1)	(2)	(3)	(4)	(5)
"13.	(zzzzv)	Services provided or to be provided, to any person, by a restaurant, by whatever name called, having the facility of air-conditioning in any part of the establishment, at any time during the financial year, which has licence to serve alcoholic beverages, in relation to serving of food or beverage, including alcoholic beverages or both, in its premises;	-	30
14.	(zzzzw)	Services provided or to be provided, to any person, by a hotel, inn, guest house, club or campsite, by whatever name called, in relation to providing of accommodation for a continuous period of less than three months;	-	50

[F. No. 334/3/2011-TRU]

Service Tax Payable only on Life Insurance Premium

35-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. (1) These rules may be called the Service Tax (Third Amendment) Rules, 2011.

(2) They shall come into force on the 1st day of May, 2011.

2. In rule 6 of the Service Tax Rules, 1994, for sub-rule (7A), the following sub-rule shall be substituted, namely,-

"(7A) An insurer carrying on life insurance business shall have the option to pay tax:

(i) on the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

(ii) 1.5 per cent of the gross amount of premium charged from a policy holder in all other cases;

towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the said Act:

Provided that such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance."

[F. No. 334/3/ 2011 – TRU]

Amendments in Export of Services Rules, 2005

36-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Export of Services Rules, 2005, namely :-

1. (1) These rules may be called the Export of Services (Third Amendment) Rules, 2011.

(2) They shall come into force on the 1st day of May, 2011.

2. In the Export of Services Rules, 2005, in rule 3, in sub-rule (1), in clause (i), for the brackets, letters and words "(zzzzm) and (zzzzu)", the brackets, letters and word "(zzzzm), (zzzzu), (zzzzv) and (zzzzw)" shall be substituted;

[F. No. 334/03/2011-TRU]

Amendments in Import of Services Rules, 2006

37-ST
25.04.2011
(DoR)

In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central

Government hereby makes the following rules further to amend the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, namely :-

1. (1) These rules may be called the Taxation of Services (Provided from Outside India and Received in India) (Third Amendment) Rules, 2011.

(2) They shall come into force on the 1st day of May, 2011.

2. In the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, in rule 3, in clause (i), for the brackets, letters and words "(zzzzm) and (zzzzu)", the brackets, letters and word "(zzzzm), (zzzzu), (zzzzv) and (zzzzw)" shall be substituted;

[F. No. 334/03/2011-TRU]

NOC for Drug Import not Required if Past NOC for Drug Import same Drug Produced to Customs

The following Public Notice was issued by the Commissioner of Customs (Import), Jawaharlal Nehru Custom House, Nhava Sheva on 21 April 2011

65-PN
21.04.2011

Attention is invited of all Trade/ Importers/CHAs and their employees that under the Drug & Cosmetics Act, 1940, No-objection Certificate (NOC) from Assistant Drug Controller (ADC) is required for the import of drugs/items capable of dual use etc. It has been reported that in the process, many such items also get referred to ADC for NOC which are otherwise not required in terms of the said Act. In such cases, ADC is giving the remarks on hard copy of Bill of Entry as "Not a drug. Noted and Returned." However, in the process, certain delay takes place.

2. The matter was taken up with the local office of Asstt. Drug Controller to provide a list of the items where alone there would be a requirement of obtaining NOC from them, but no exhaustive list of the items has been provided. Though efforts are being made to get the list of such items from Head/Regional office of Drug Controller, till such time, to facilitate the clearance of such cargo, the following procedure is prescribed:

(i) In Bills of Entry under assessment by Group, if the importer/CHA presents a copy of past Bill of Entry containing the remark of non-requirement of NOC from ADC for the item under assessment (whether for the same importer or otherwise), the Assessing Group shall not give examination order of ADC/NOC requirement for the said item.

(ii) In RMS facilitated Bills of Entry, notwithstanding the CCR instruction, the Docks officer shall not insist for ADC/NOC if the Importer/CHA presents a copy of past Bill of Entry containing the remark of non-requirement of NOC

from ADC for the item under clearance (whether for the same importer or otherwise).

3. Difficulties faced in the implementation of the Public Notice may be reported to undersigned.

F.NO. S/22-GEN- 153 /2010 AM (IMP) JNCH

No CENVAT Credit of Capital Goods in 1% Excise Notification 1/2011

Service Tax Cenvat Clarification

Sub: Clarification on issues relating to CENVAT Credit Rules 2004

943-CBEC The CENVAT Credit Rules 2004 were amended along with the Budget 2011 announcements vide Notification 29.04.2011 with the Budget 2011 announcements vide Notification (DoR) 3/2011-CE (NT) dt 1.3.2011. A few changes were further effected vide Notification 13/2011-CE (NT) dt 31.3.2011. On a few issues trade has requested for clarity. Accordingly the following clarifications are presented issue wise in a tabular format.

SNo	Issue	Clarification
1	Can credit of capital goods be availed of when used in manufacture of dutiable goods on which benefit under Notification 1/2011-CE is availed or in provision of a service whose part of value is exempted on the condition that no credit of inputs and input services is taken?	As per Rule 6(4) no credit can be availed on capital goods used exclusively in manufacture of exempted goods or in providing exempted service. Goods in respect of which the benefit of an exemption under notification No. 1/2011-CE, dated the 1st March, 2011 is availed are exempted goods [Rule 2(d)]. Taxable services whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken, are exempted services [Rule 2(e)]. Hence credit of capital goods used exclusively in manufacture of such goods or in providing such service is not allowed.
2	Is the credit of only specified goods and services listed in the definition of inputs and input services not allowed such as goods used in a club, outdoor catering etc, or is the list only illustrative?	The list is only illustrative. The principle is that cenvat credit is not allowed when any goods and services are used primarily for personal use or consumption of employees.
3	How is the "no relationship whatsoever with the manufacture of a final product" to be determined?	Credit of all goods used in the factory is allowed except in so far as it is specifically denied. The expression "no relationship whatsoever with the manufacture of a final product" must be interpreted and applied strictly and not loosely. The expression does not include any goods used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not. Only credit of goods used in the factory but having absolutely no relationship with the manufacture of final product is not allowed. Goods such as furniture and stationary used in an office within the factory are goods used in the factory and are used in relation to the manufacturing business and hence the credit of same is allowed.
4	Is the credit of input services used for repair or renovation of factory or office available?	Credit of input services used for repair or renovation of factory or office is allowed. Services used in relation to renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, are specifically provided for in the inclusive part of the definition of input services.
5	Is the credit of Business Auxiliary Service (BAS) on account of sales commission now dis-allowed after the	The definition of input services allows all credit on services used for clearance of final products upto the place of removal. Moreover activity of sale promotion is specifically

deletion of expression "activities related to business"?

allowed and on many occasions the remuneration for same is linked to actual sale. Reading the provisions harmoniously it is clarified that credit is admissible on the services of sale of dutiable goods on commission basis.

6	Can the credit of input or input services used exclusively in trading, be availed?	Trading is an exempted service. Hence the credit of any inputs or input services used exclusively in trading cannot be availed.
7	What shall be the treatment of credit of input and input services used in trading before 1.4.2008?	Trading is an exempted service. Hence credit of any inputs or input services used exclusively in trading cannot be availed. Credit of common inputs and input services could be availed subject to restriction of utilization of credit up to 20% of the total duty liability as provided for in extant Rules.
8	While calculating the value of trading what principle to follow- FIFO, LIFO or one to one correlation?	The method normally followed by the concern for its accounting purpose as per generally accepted accounting principles should be used.
9	Are the taxes and year end discounts to be included in the sale price and cost of goods sold while calculating the value of trading?	Generally accepted accounting principles need to be followed in this regard. All taxes for which set off or credit is available or are refundable/ refunded may not be included. Discounts are to be included.
10	Does the expression "in or in relation" used in Rule 6 override the definition of "input" under Rule 2(k) for determining the eligibility of Cenvat credit?	The definition of "input" is given in Rule 2(k) and Rule 6 only intends to segregate the credits of inputs used towards dutiable goods and exempted goods. While applying Rule 6, the expression "in or in relation" must be read harmoniously with the definition of "inputs".
11	Sub-rules 3B and 3C of rule 6 apply to whole entity or independently in respect of each registration?	The sub-rules 6(3B) and 6(3C) impose obligation on the entities providing banking and financial services (in case of a bank and a financial institution including a non-banking financial company) or life insurance services or management of investment under ULIP service. The obligation is applicable independently in respect of each registration. When such a concern is exclusively rendering any other service from a registered premises, the said rules do not apply. In addition to BoFS and life insurance services if any other service is rendered from the same registered premises, the said rules will apply and due reversals need to be done.
12	Is the credit available on services received before 1.4.11 on which credit is not allowed now? e.g. rent-a-cab service	The credit on such service shall be available if its provision had been completed before 1.4.2011.

2. Trade and Industry as well as field formations may be suitably informed.

F.No.354/73/2011 -TRU

No Permission for Forex Trading Overseas

Sub: Overseas forex trading through electronic / internet trading portals
The Reserve Bank of India has today clarified that remittance in any form towards overseas foreign exchange trading through electronic/internet trading portals is not permitted under the Foreign Exchange Management Act (FEMA), 1999. The Reserve Bank has also clarified that the existing regulations under FEMA, 1999 do not permit residents to trade in foreign exchange in domestic / overseas markets.

Residents are, however, permitted to trade in currency futures and options contracts, traded on the stock exchanges recognised by the Securities and Exchange Board of India (SEBI) in India, subject to the conditions specified by the Reserve Bank from time to time.

Exchange Rates for Customs Valuation

IMPORTS and EXPORTS

The current notification No. 32-Customs(NT) dated 27th April 2011 supersedes notification 24-Customs(NT) dated 29th March 2011.

32-Cus(NT) In exercise of the powers conferred by section 14 of 27.04.2011 the Customs Act, 1962 (52 of 1962), and in (DoR) supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) **No.24/2010-CUSTOMS (N.T.), dated the 29th March, 2011** vide number S.O. 646(E), dated the 29th March, 2011, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or vice versa shall, **with effect from 1st May, 2011** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SNo	Currency	Imprted Goods		Exported Goods	
		Current	Previous	Current	Previous
Schedule I – Rate of exchange of one unit of foreign currency equivalent to Indian rupees					
1	Australian Dollar	48.25	46.55	47.05	45.30
2	Canadian Dollar	47.35	46.25	46.15	44.95
3	Danish Kroner	8.85	8.60	8.55	8.30
4	EURO	65.65	63.70	64.05	62.00
5	Hong Kong Dollar	5.80	5.80	5.70	5.65
6	Norwegian Kroner	8.45	8.10	8.15	7.80
7	Pound Sterling	74.35	72.65	72.55	70.75
8	Swedish Kroner	7.40	7.10	7.15	6.85
9	Swiss Franc	51.25	49.25	49.75	47.85
10	Singapore Dollar	36.50	35.95	35.60	34.95
11	US Dollar	45.00	45.20	44.15	44.30

Schedule II – Rate of exchange of 100 units of foreign currency equivalent to Indian rupees

1	Japanese Yen	55.40	55.55	53.85	53.90
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[F.No.468/6/2011-Cus.V]

Background

The Reserve Bank had noticed advertisements issued by electronic / internet portals offering trading or investing in foreign exchange with guaranteed high returns. Many companies even engage agents who personally contact gullible people to undertake forex trading/ investment schemes and entice them with promises of disproportionate / exorbitant returns.

The Reserve Bank of India cautions the public not to remit or deposit money for such unauthorised transactions. The advice has become necessary in the wake of many residents falling prey to such tempting offers and losing money heavily in the recent past.

AP(DIR Srs) Attention of the Authorised Dealer Category - I (AD Cir.53 Category - I) banks is invited to Regulation 4 of the 07.04.2011 Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 (Notification (RBI) No. FEMA 25/2000-RB dated May 3, 2000), as

amended from time to time, in terms of which a person resident in India may enter into a foreign exchange derivative contract in accordance with the provisions contained in Schedule I to hedge an exposure to risk in respect of a transaction permissible under the Foreign Exchange Management Act (FEMA), 1999 or rules or regulations or directions or orders made or issued thereunder. Further, in terms of Regulation 5 A, ibid, a person resident in India may enter into currency futures or currency options on a stock exchange recognized under section 4 of the Securities Contract (Regulation) Act, 1956, to hedge an exposure to risk or otherwise, subject to such terms and conditions as may be set forth in the

Brass Scrap Tariff Value Down by US\$6/MT

33-Cus(NT) In exercise of the powers conferred by sub-section (2) 29.04.2011 of section 14 of the Customs Act, 1962 (52 of 1962), (DoR) the Board, being satisfied that it is necessary and expedient so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Cus (N. T.), dated, the 3rd August 2001, namely:-

In the said notification, for the Table, the following Table shall be substituted namely:-

Table

SNo.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soyabean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	4272
9	1207 91 00	Poppy seeds	2745 (i.e. no change)

[F. No. 467/2/2011-Cus.V]

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Non-oil imports during April - March, 2010-11 were valued at US\$ 249005.7 million which was 23.7 per cent higher than the level of such imports valued at US\$ 201236.9 million in April - March, 2009-10.

Trade Balance

The trade deficit for April - March, 2010-11 was estimated at US \$ 104826.68 million which was lower than the deficit of US \$ 109621.46 million during April -March, 2009-10.

Exports & Imports: (US \$ mn)

(Provisional)

	March	April-March
Exports (including re-exports)		
2009-10	20254.14	178751.41
2010-11	29134.89	245868.29
%Growth2010-11/2009-2010	43.85	37.55
Imports		
2009-10	29626.87	288372.87
2010-11	34743.08	350694.97
%Growth2010-11/2009-2010	17.27	21.61
Trade Balance		
2009-2010	-9372.73	-109621.46
2010-11	-5608.19	-104826.68

[Source: PIB Press Release dated 2 May 2011]

directions issued by the Reserve Bank of India from time to time. In terms of A.P. (DIR Series) Circular No. 32 dated December 28, 2010, a derivative transaction is only permitted based on the presence of an underlying price risk exposure for which purchase and/or sale of foreign exchange is permitted under FEMA, 1999. Further, attention of the AD Category – I banks is invited to A.P. (Dir Series) Circular No. 51 dated May 8, 2007 in terms of which remittances under the Liberalised Remittance Scheme are allowed only in respect of permissible capital or current account transactions or a combination of both. All other transactions, which are otherwise not permissible under FEMA, 1999, including the transactions in the nature of remittance for margins or margin calls to overseas exchanges / overseas counterparty, are not allowed under the Scheme.

2. It has been observed that overseas foreign exchange trading has been introduced on a number of internet /electronic trading portals luring the residents with offers of guaranteed high returns based on such forex trading. The advertisements by these internet / online portals exhort people to trade in forex by way of paying the initial investment amount in Indian Rupees. Some companies have reportedly engaged agents who personally contact people to undertake forex trading/ investment schemes and entice them with promises of disproportionate / exorbitant returns. Most of the forex trading through these portals are done on a margining basis with huge leverage or on an investment basis, where the returns are based on forex trading. The public is being asked to make the margin payments for such online forex trading transactions through credit cards / deposits in various accounts maintained with banks in India. It is also observed that accounts are being opened in the name of individuals or proprietary concerns at different bank branches for collecting the margin money, investment money, etc.

3. AD Category - I banks are, therefore, advised to exercise due caution and be extra vigilant in respect of the above transactions. It is

clarified that any person resident in India collecting and effecting / remitting such payments directly /indirectly outside India would make himself/ herself liable to be proceeded against with for contravention of FEMA, 1999 besides being liable for violation of regulations relating to Know Your Customer (KYC) norms / Anti Money Laundering (AML) standards.

4. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned. Authorised Dealers may also give wide publicity to the instructions contained in the A.P. (DIR Series) Circulars referred to above and the Press Release issued by the Reserve Bank dated February 21, 2011 (copy enclosed). The instructions contained in this circular may also be brought to the attention of the card issuing companies who may also be advised to remain alert against permitting payments for such unauthorised transactions.

5. The directions contained in this circular have been issued under sections 10(4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

GI Register for Liquor Soon

World Trade Organization members met Monday and Tuesday to discuss a draft text that would create a global register for geographical indications (GIs) of wines and spirits. Members are under pressure to conclude the Doha round negotiations this year, with hopes that texts will be published in all areas, including this one, by the end of the week.

GIs apply to products named after places known for their particular characteristics, such as quality or reputation; well known examples include Champagne or Roquefort cheese.

Agreement on a multilateral register for wines and spirits has not been without difficulties since the start of these negotiations in 1997 - in accordance with Article 23.4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). For many years, there was no single negotiating text but competing proposals mainly from two groups of countries: the Joint Proposal Group - which includes Australia, Canada, Chile, US, Mexico, Japan, and South Africa - and a coalition of countries - such as the EU, Switzerland and India - which favours strong protection for GIs in general.

The aim of the consolidated text is to flesh out the different details for the establishment of a GIs multilateral register. The elements discussed include: notification, registration, the legal effects of registration, fees and costs, special treatment to developing countries, and whether participation in the system is voluntary or mandatory to all WTO members. Legal effects are widely considered as one of the most complex and divisive issues in these discussions.

This week's Special Session of the WTO TRIPS Council witnessed a significant reduction in the number of brackets in the consolidated text. However, fundamental differences remain, including whether the register extends beyond wines and spirits, whether participation is voluntary, and the legal effects of registration. At the last meeting in March, the document had 208 pieces of rival text.

The coalition in favour of strong GI protection proposes a register with legal implications that would apply to all members though registration of their own geographical indications would be voluntary. The Joint Proposal Group argues that a voluntary register for wines and spirits that would act as a database of geographical indications but that would not enforce legal consequences is more appropriate. When considering trademark protection or geographical indications, national intellectual property authorities would be able to "consult" the database.

WTO Director General Lamy has been eager to push the Doha negotiations forward and as such set 21 April as the day when all the draft texts - which span from tariffs to dispute settlement - would be published. An informal Trade Negotiations Committee meeting will take place on 29 April and will give members the opportunity to respond to comments made on all documents.

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