

Budget 2006-07: An Overview Of Customs Proposals

The Budget 06-07 has been hailed as a bland but fiscally prudent budget. The Finance Minister Mr. P. Chidambaram, who presented the finance budget consecutively for the third time, has endeavoured to deliver a budget which is not full of surprises. As regards indirect taxes, overall the budget seems to be a promising one barring exceptions like the hike in service tax rate.

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I. Changes in duty structure

The year 2005 saw the levy of an additional duty of customs @ 4 per cent under section 3(5) of the Customs Tariff Act, 1975 on ITA (Information Technology Agreement) bound items and on specified inputs/raw materials used for manufacture of electronics/information technology items except IT software. This duty was imposed to partly compensate for the internal taxes like VAT, sales tax, central sales tax, which apply to sale, purchase or transportation of goods in India, thereby ensuring a level playing field for indigenous manufacturers. In budget 06-07 this additional duty of customs has been extended to cover all imported goods. This will apply to all agricultural as well as non-agricultural imports. Jewellery will, however, attract a lower rate of additional duty of customs at 1 per cent. However, goods which are fully exempt from VAT or which are exempt both from basic and CV duty, petroleum crude, kerosene for PDS, LPG for domestic supply, petrol, diesel, coal, goods

for export promotion schemes under which imports are allowed at zero duty etc. are spared from such levy. Since majority of the States have implemented VAT, the extension of this levy on all imported items was the need of the hour. Full credit of this duty will be allowed to manufacturers of excisable goods. The services which require the use of imported goods will however not be benefited as the credit of this duty is not available to service providers.

Relief measures

The initiative of reducing the peak rate of customs duty on non-agricultural products to 12.5 per cent from 15 per cent is a step of aligning the duty rates with the ASEAN countries as per the guidelines of the WTO agreement. This will no doubt make the imports cheaper.

The textile industry has been given a boost by reducing the ad valorem component of customs duty on textiles fabrics and garments from 15 per cent to 12.5 per cent. Further, the customs duty on man made fibres, filament yarns and spun yarns has been reduced from 15 per cent to 10 per cent. Raw materials like DMT, PTA, MEG Caprolactum and Paraxylene have been granted duty cuts. Customs duty on specified textile machinery, and parts for manufacture of such machinery has also been reduced from 15 per cent to 10 per cent.

In case of metals like alloy steel, aluminium, copper, zinc, tin etc. the customs duty has been reduced from 10 per cent to 7.5 per cent. In the health

sector, the duty restructuring has been favourable. Customs duty on 14 specified anti-cancer drugs, 10 specified anti AIDS drugs and bulk drugs for their manufacture has been reduced to 5 per cent with Nil CVD by way of excise duty exemption. Further, duty has been reduced to 5 per cent on two specified diagnostic kits and one equipment. The CVD has also been exempted on them by way of excise exemption.

Parts of hearing aid have been made totally duty free. Duty has been reduced from 15 per cent to 5 per cent on parts of pen under heading 9608. Duty has been brought down from 15 per cent to 5 per cent on items like MP3 players and MPEG4 players. In case of computers, the CVD imposed under section 3(3) of the Customs Tariff Act has been withdrawn following imposition of excise duty @ 12 per cent on them.

Withdrawal of exemptions

Exemption on food preparations containing flour meal, starch, etc. in a specified proportion meant for infant use and put up for retail sale has been withdrawn. Similar fate has been met by food products (excluding alcoholic preparations) imported by hotels/tourism industry in terms of licence issued under 1997-2002 EXIM policy. The exemptions enjoyed by plant, machinery, equipment imported for setting up of currency note/bank note press at certain specific locations and specified goods for manufacture of capital goods for setting up of a unit with an investment of Rs.5

crore or more, too has been withdrawn.

(All the above changes have come in to effect from 01.03.2006.)

First Schedule to the Customs Tariff Act, 1975, is being amended so as to incorporate the amendments approved by the Customs Cooperation Council (World Customs Organisation) in the legal text of the International Convention on the Harmonised Commodity Description and Coding System (Harmonised System). These changes would align the First Schedule of the Customs Tariff Act with the Harmonised System. This amendment will come into force with effect from 1.1.2007.

II. Amendments in Customs Tariff Act, 1975 and Customs Act, 1962

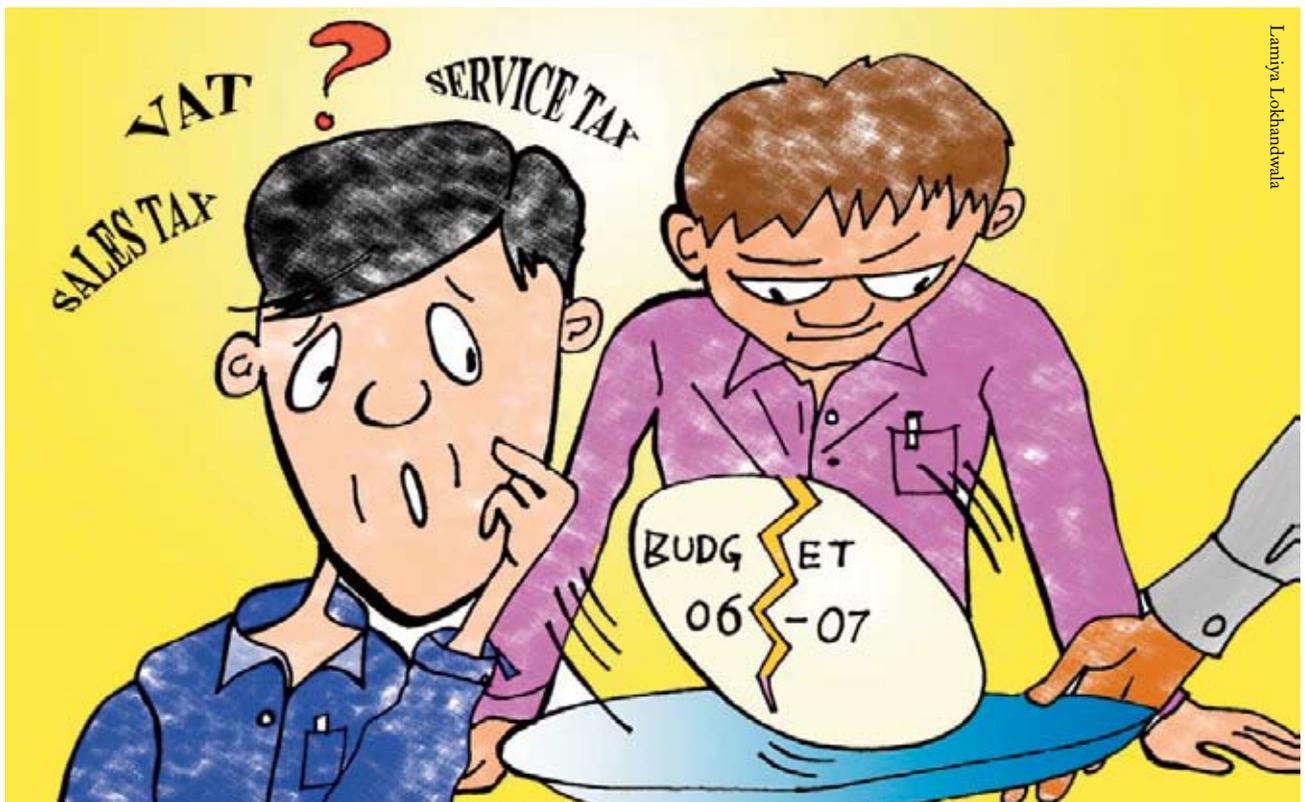
- Section 9 of the Customs Tariff Act, 1975 deals with levy of countervailing duty on import of goods in respect
- A new sub-section 7A is proposed to be inserted in section 9 of the Customs Tariff Act, 1975. This is an enabling provision for

of which any subsidy has been paid. Explanation to sub-section (1) provides that subsidy shall be deemed to exist if there is financial contribution by the Government or any public body within the territory of the exporting or producing country. Section 9(1) is proposed to be amended so as to substitute the words 'territory of the exporting or producing country' by 'exporting or producing country or territory'. This amendment clarifies that this section will cover cases where subsidy is bestowed by a country or by a Customs Union of more than one country.

application of provisions of the Customs Act, 1962 and the rules and regulations in respect of date of determination of the rate of duty, non levy, short levy, refunds, interest, appeals, offences and penalties to the duty chargeable under Section 9.

- Section 9A of the Customs Tariff Act, 1975 prescribes the provisions in respect of anti-dumping duty. The anti-dumping duty is country specific i.e. it is imposed on imports from a particular country. Section 9A provides that where any article is exported from any country or territory to India at less than its normal value, then, upon the importation of such article into India, the Central Government may by notification in the Official Gazette, impose an anti-dumping duty not

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exceeding the margin of dumping in relation to such article. Margin of dumping in relation to an article means the difference between its export price and normal value. Normal value in relation to an article means the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules.

Finance Bill 2006 seeks to substitute the words 'meant for consumption' in the definition of normal value with the words 'destined for consumption'.

- Section 23(2) of the Customs Act, 1962 provides the owner of any imported goods an opportunity to relinquish his title to the goods before an order for clearance for home consumption or an order for permitting the deposit thereof in a warehouse has been made. The Finance Bill 2006 proposes to insert a proviso in this section to ensure that the provisions relating to relinquishment of title to imported goods are not available to the importer in case such goods are involved in any offence.
- Proviso to section 68 of the Customs Act, 1962 provides the owner of any warehoused goods an opportunity to relinquish his title to the goods before an order for clearance of goods for home consumption has been made in respect of such goods. Such relinquishment can be done on payment of rent, interest, other charges and penalties that may be

payable in respect to the goods. After such relinquishment, the owner of the said goods shall not be liable to pay duty thereon. It is proposed to insert a proviso in this section too to ensure that the provisions relating to relinquishment of title to imported goods are not available to the importer in case such goods are involved in any offence.

These amendments may plug the loophole in the law which allowed erring importers an easy way out if there arose a chance of their being caught. These provisos will help nailing down such importers.

(All the above amendments will come in to effect from the date of the enactment of the Finance Bill, 2006.)

Capital goods imported under EPCG Scheme are assessed to duty on the basis

of transaction value as per the Customs Valuation Law. However, in respect of certain licences, while fixing the export obligation, which is a multiple of CIF value of imports, instead of taking into account the actual Customs assessed value, the corresponding value of new capital goods was taken. Notification No.160/92-Customs dated 20.4.1992 is being amended retrospectively to provide that in respect of these licenses, the export obligation would be refined based on actual CIF value assessed by Customs instead of the corresponding value of new capital good. This amendment has come in to effect from 28.12.1992.

On the whole, the Finance Minister deserves accolades for presenting a budget which mounts for growth, accompanies equity and heads for social justice. □

