

Issue of Inverted Duty Structure

Issue - 1

Rotor Blades of Wind Electricity Generators

Blades for rotor of wind operated electricity generators, parts for manufacturing/maintenance of such blades, parts, sub-parts of such blades falling under any Chapter, attract 5% Customs duty as per Sr. No. 362 of Notification No. 12/2012-Customs dated 17 March, 2012.

Further, wind operated electricity generator, its components and parts thereof including rotor and wind turbine controller are exempt from excise duty in terms of Sr. No. 332 of Notification No. 12/2012-Central Excise dated 17 March, 2012. Similar exemption has been granted to specified goods falling under Chapter 32, 38, 39, 44 or 70 which are required for manufacture of rotor blades, intermediaries, parts and sub-parts of rotor blades, for wind operated electricity generators (Sr. No. 327).

As is evident, various exemptions have been provided to the sector. However, the benefit of the said exemption has not been extended to raw material being imported for certain products being manufactured by the domestic manufacturers. The same have been highlighted below:

- a. Raw material for manufacture of '*intermediates*' has not been extended the benefit of reduced Customs duty rate.

This is in spite of the fact that the said benefit is clearly provided for in D.O.F.No.334/3/ 2012-TRU (Sr. No. 24.2(iii)) but which has been omitted from exemption notification 12/2012-Customs.

- b. Few products covered in list 9 under point 327 of Notification No. 12/2012-CE are manufactured even in India. However, no exemption has been provided with respect to purchase of inputs for manufacture of such items which puts the Indian industry at a disadvantage.

Post the budget, an additional exemption has been granted to this sector by way of full exemption from Special Additional Duty on parts and raw materials required for use in the manufacture of wind operated electricity generators.

This additional exemption has added to the hardship of indigenous manufacturer and supplier to wind power sector, as the imports would become further more attractive for direct import by manufacturer of "rotor for wind energy generators".

Suggestions

Customs

- **Amend Notification No. 12/2012-Customs** to clearly provide that import of raw material for manufacture of '*intermediates*' shall also be granted the benefit of concessional duty of Customs.

Central Excise

- Amend Notification No. 12/2012-Central excise to

- Add Sl.No. 19 in list 9 with the following description:

“Raw materials falling under chapter 28 and 29 for manufacture of goods at Sl.No. 1 to 18”

- Add chapter 28 and 29 in column 2 under point 327 of Notification No. 12/2012-Central Excise.
- Add in Condition No. 36, the word “and the Raw Material for the Intermediates, parts and sub parts of rotor blades” after the words “for the manufacture of rotor blades” **i.e. to read as:**

*“for the manufacture of rotor blades **and the Raw Material for the Intermediates, parts and sub parts of rotor blades** for Wind Operated electricity Generators.”*

Issue – 2

Sr. No.	Issue	Proposal / Justification
1	<p>Inverted duty structure created on Reverse Osmosis (RO) Membrane Elements (Other than household type filters)</p> <ul style="list-style-type: none"> • The excise duty exemption granted by the Government vide Notification No. 12/2014-CE dated July 10, 2014 on RO membrane elements has adversely impacted the domestic manufacturers of RO membrane elements vis-a vis traders importing RO Membrane elements. • After the exemption, the domestic manufacturers are now unable to avail input credit of excise duty/CVD/SAD paid on domestic and imported raw materials used in manufacture of such membrane elements. • This exemption has resulted in creating a grossly unfair duty advantage for Traders selling imported RO membrane elements 	<p>Request: The Government could consider any of the following alternate approaches to re-create the level playing field between the domestic manufacturers and importers:</p> <ul style="list-style-type: none"> • Restore the pre-budget duty regime by withdrawing the excise duty exemption to RO water membrane element extended vide Notification No. 12/2014-CE dated July 10, 2014. • Extend full exemption from payment excise duty/CVD and special additional duty of Customs (SAD) on at least the major raw materials used in manufacture of RO Membrane elements, namely, Thin Film Composite classifiable under Chapter 39 and RO Product Carriers classifiable under Chapter 59 of the Customs and Excise Tariffs.

	<p>and making domestic manufacturing wholly unviable.</p> <ul style="list-style-type: none"> • The effective import duty paid by the traders on the imported RO membrane elements post budget is 12.03% out of which 4.31% is available as refund. However, the domestic manufacturers are now burdened with 28.85% import duty on raw materials which is wholly non creditable/refundable • While the Budget amendments have removed the anomalies of Inverted Duty structure for some of the Electronic/IT goods, similar redressal is required for RO Membrane elements. This is clearly against the “Make-in-India” campaign as it disincentivises domestic manufacturing of these goods. 	
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Issue - 3

- **Refund of unutilized CENVAT credit in specific cases**

Imported goods in India are subject to Customs duty comprising of Basic Customs duty (‘BCD’), Additional Customs Duty (‘ACD’) and Special Additional Duty (‘SAD’). ACD and SAD are available as credit to the manufacturer import for offset against the output Excise duty liability. However, in specific situations like inverted duty structure, lower value addition, manufactured goods subject to MRP based levy, the credit, mainly on account of SAD, is not fully utilized and gets accumulated e.g. smart cards (Heading 8523 52), polycarbonates and products of polycarbonates (Chapter 39), Auto components (Chapter 87), slide fasteners (Heading 9607), active pharmaceutical ingredient (Chapter 30).

In order to address the issue, following steps can be considered.

- SAD should be withdrawn or reduced to 2% in line with the CST rate of 2%; or
- Mechanism of refund of accumulated credit or specifically SAD in these cases may be considered for manufacturers in line with the facility of refund extended to traders engaged in import and sale of goods; or
- Permitting credit of SAD of 4% against output Service tax liability

Issue - 4

Basic Customs Duty (BCD) on specified telecommunication products not covered under the ITA (Information Technology Agreement) with WTO (World Trade Organization) increased from NIL to 10% for tariff items (HS) 8517 62 90 and 8517 69 90 under Notification No. 11/2014-Customs.

Operational Issue in Customs Clearance of Products:

- Broad range of Products under tariff item (HS) 85176290 and 85176990, tariff description “Other” also covered under ITA. Hence difficulties to make differentiate between ITA and non-ITA telecommunication products for field formations and the trade.
- Lack of clarity in recognizing technical clarification by Customs authorities for products covered under the ITA.
- Lacks of clarifications on Notification No. 11/2014-Customs, which are resulting, delay/stuck/payment of BCD, even products covered under the ITA. For example: difficulties in customs duty calculation for clearance, such as difference between “Carrier Ethernet Switches” which are generally being used for connecting geographical through a service provider network and “Enterprise Ethernet Switches” are used to connect computer, printer and other IP peripheral within the enterprise campus/area are not provided.

Impact of Notification No. 11/2014-Customs, Para(a):

- Boundaries for doing ease of business because inverted duty structure.
- This has led to domestic cost for ITA products, which are under tariff items (HS) 8517 62 90 and 8517 69 90 due to uncertainty about BCD.
- Uncertainty about any duties & taxes structure/tariff barriers would erode foreign investor confidence and may become barrier to develop environment for the information and communication technology industry’s growth and investment to boost domestic production of telecom products.
- Equipment become costlier, which may impact Digital India Program to develop Digital Infrastructure as a Utility to Every Citizen.

Suggestions:

- Withdrawal of this Notification No. 11/2014-Customs at the earliest possible date.
- Make uniformity of duties structure for all products under tariff heading 8517; to eliminate tariff barriers, uncertainty& litigation.
- Provide more clarifications on specified telecommunication products not covered under the ITA for Customs, field formations and the trade to recognize/accept technical clarification/declaration from OEM/Manufacturer/Importer for assessment of Import Bill of Entry @ NIL BCD by Customs authorities for products covered under the ITA.