**Finance Act 2016 (No. 28 of 2016)**

CHAPTER IV

**Indirect Taxes**

*Customs*

**Amendment of section 2**

**116**. In the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act), in section 2,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | for clause (*43*), the following clause shall be substituted, namely:— |
|  |   | '(*43*) "warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A;'; |
| (*ii*) |   | clause (*45*) shall be omitted. |

**Amendment of chapter heading of Chapter III**

**117**. In the Customs Act, in Chapter III, for the chapter heading, the following chapter heading shall be substituted, namely:--

"APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, ETC.".

**Omission of section 9**

**118.**In the Customs Act, section 9 shall be omitted.

**Amendment of section 25**

**119.**In the Customs Act, in section 25,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | for sub-section (4), the following sub-section shall be substituted, namely:— |
|  |   | "(*4*) Every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette."; |
| (*ii*) |   | sub-section (5) shall be omitted. |

**Amendment of section 28**

**120**. In the Customs Act, in section 28,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | in the marginal heading, for the words "duties not levied or short-levied", the words "duties not levied or not paid or short-levied or short-paid" shall be substituted; |
| (*b*) |   | in sub-section (1),— |

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the opening paragraph, for the words "duty has not been levied or has been short-levied", the words "duty has not been levied or not paid or has been short-levied or short- paid" shall be substituted; |
| (*ii*) |   | in clause (*a*),— |

|  |  |  |
| --- | --- | --- |
| (*A*) |   | for the words "one year", the words "two years" shall be substituted; |
| (*B*) |   | after the words "so levied", the words "or paid" shall be inserted; |

|  |  |  |
| --- | --- | --- |
| (*c*) |   | in sub-section (3), for the words "one year", the words "two years" shall be substituted; |
| (*d*) |   | in sub-section (4),— |

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the opening paragraph, for the words "levied or has been short-levied", the words "levied or not paid or has been short-levied or short-paid" shall be substituted; |
| (*ii*) |   | in the long line, for the words "so levied", the words "so levied or not paid" shall be substituted; |

|  |  |  |
| --- | --- | --- |
| (*e*) |   | in sub-section (5), for the words "duty has not been levied or has been short-levied", the words "duty has not been levied or not paid or has been short-levied or short-paid" shall be substituted; |
| (*f*) |   | in sub-section (6), in item (*ii*), for the words "one year", the words "two years" shall be substituted; |
| (*g*) |   | in sub-section (7), for the words "one year", the words "two years" shall be substituted; |
| (*h*) |   | in *Explanation*1*,*in clause (*a*), for the words "not levied", the words "not levied or not paid or short-levied or short-paid" shall be substituted. |

**Amendment of section 47**

**121**. In the Customs Act, in section 47,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | in sub-section (1), the following proviso shall be inserted, namely:— |
|  |   | "**Provided**that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules."; |
| (*b*) |   | in sub-section (2), for the portion beginning with the words "Where the importer" and ending with the words "payment of the said duty", the following shall be substituted, namely:— |
|  |   | "Where the importer fails to pay the import duty, either in full or in part, within two days (excluding holidays)— |

|  |  |  |
| --- | --- | --- |
| (*a*) |   | from the date on which the bill of entry is returned to him for payment of duty; or |
| (*b*) |   | in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, |

|  |  |  |
| --- | --- | --- |
|  |   | he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.". |

**Amendment of section 51**

**122**. In the Customs Act, section 51 shall be renumbered as sub-section (1) thereof,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | in sub-section (1) as so renumbered, the following proviso shall be inserted, namely:— |
|  |   | "**Provided**that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules."; |
| (*b*) |   | after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:— |
|  |   | "(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.". |

**Substitution of new section for section 53**

**123**. In the Customs Act, for section 53, the following section shall be substituted, namely:—

"53. *Transit of certain goods without payment of duty.*—Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.".

**Substitution of new section for section 57**

**124**. In the Customs Act, for section 57, the following section shall be substituted, namely:—

"57. *Licensing of public warehouses.*—The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a public warehouse wherein dutiable goods may be deposited.".

**Substitution of new sections 58, 58A and 58B for section 58**

**125**. In the Customs Act, for section 58, the following sections shall be substituted, namely:—

"58. *Licensing of private warehouses.—*The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.

58A. *Licensing of special warehouses*.—(1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.

(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).

58B. *Cancellation of Licence*.—(1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:

**Provided** that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.

(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).

(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:

**Provided**that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.

(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export:

**Provided**that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.".

**Substitution of new section for section 59**

**126**. In the Customs Act, for section 59, the following section shall be substituted, namely:—

"59. *Warehousing bond*.—(1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods; |
| (*b*) |   | to pay, on or before the date specified in the notice of demand, all duties and interest payable under sub-section (2) of section 61; and |
| (*c*) |   | to pay all penalties and fines incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods. |

(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) The importer shall, in addition to the execution of a bond under sub-section (1) or sub-section (2), furnish such security as may be prescribed.

(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.

(5) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3)."

**Substitution of new section for section 60**

**127**. In the Customs Act, for section 60, the following section shall be substituted, namely:—

"60. *Permission for removal of goods for deposit in warehouse.—*(1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.

(2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.".

**Substitution of new section for section 61**

**128**. In the Customs Act, for section 61, the following section shall be substituted, namely:—

'61. *Period for which goods may remain warehoused*.—(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse; |
| (*b*) |   | in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and |
| (*c*) |   | in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60: |

**Provided**that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time:

**Provided further**that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.

(2) Where any warehoused goods specified in clause (*c*) of sub-section (1) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (1) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:

**Provided**that if the Board considers it necessary so to do, in the public interest, it may,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods; |
| (*b*) |   | by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section; |
| (*c*) |   | by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order under sub-section (1) of section 60. |

*Explanation*.— For the purposes of this section,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | "electronic hardware technology park unit" means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India; |
| (*ii*) |   | ''hundred per cent. export oriented undertaking" has the same meaning as in clause (*ii*) of *Explanation*2 to sub-section (1) of section 3 of the Central Excise Act, 1944 (1of 1944); and |
| (*iii*) |   | "software technology park unit" means a unit established under the Software Technology Park Scheme notified by the Government of India.'. |

**Omission of sections 62 and 63**

**129.**In the Customs Act, sections 62 and 63 shall be omitted.

**Substitution of new section for section 64**

**130.**In the Customs Act, for section 64, the following section shall be substituted, namely:—

"64. *Owner's right to deal with warehoused goods.—* The owner of any warehoused goods may, after warehousing the same,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | inspect the goods; |
| (*b*) |   | deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods; |
| (*c*) |   | sort the goods; or |
| (*d*) |   | show the goods for sale.". |

**Amendment of section 65**

**131.**In the Customs Act, in section 65, in sub-section (1), for the words "With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees", the words "With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions" shall be substituted.

**Amendment of section 68**

**132.**In the Customs Act, in section 68,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the opening paragraph, for the words "The importer of any warehoused goods may clear them", the words "Any warehoused goods may be cleared from the warehouse" shall be substituted; |
| (*ii*) |   | for clause (*b*), the following clause shall be substituted, namely:— |
|  |   | "(*b*) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and"; |
| (*iii*) |   | in the first proviso, the words "rent, interest, other charges and" shall be omitted. |

**Amendment of section 69**

**133**. In the Customs Act, in section 69,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the marginal heading, for the word "exportation", the word "export" shall be substituted; |
| (*ii*) |   | in sub-section (1),— |

|  |  |  |
| --- | --- | --- |
| (*A*) |   | for clause (*b*), the following clause shall be substituted, namely:— |
|  |   | "(*b*) the export duty, fine and penalties payable in respect of such goods have been paid; and"; |
| (*B*) |   | in clause (*c*), for the word "exportation", the word "export" shall be substituted. |

**Amendment of section 71**

**134.**In the Customs Act, in section 71, for the word "re-exportation", the word "export" shall be substituted.

**Amendment of section 72**

**135.**In the Customs Act, in section 72,—

|  |  |  |
| --- | --- | --- |
| (*a*) |   | in sub-section (1),— |

|  |  |  |
| --- | --- | --- |
| (*i*) |   | clause (*c*) shall be omitted; |
| (*ii*) |   | in clause (*d*), for the word "exportation", the words "export or" shall be substituted; |
| (*iii*) |   | in the long line, for the words "all penalties, rent, interest and other charges", the words "interest, fine and penalties" shall be substituted; |

|  |  |  |
| --- | --- | --- |
| (*b*) |   | in sub-section (2), for the word "select", the words "deem fit" shall be substituted. |

**Amendment of section 73**

**136.**In the Customs Act, in section 73, after the words "exported or", the words "transferred or" shall be inserted.

**Insertion of new section 73A**

**137.**In the Customs Act, after section 73, the following section shall be inserted, namely:—

"73A. *Custody and removal of warehoused goods.*—(1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.

(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.

(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.".

**Amendment of section 156**

**138**. In the Customs Act, in section 156, in sub-section (2), after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.".

**Amendment of notifications issued under section 25 of Act 52 of 1962**

**139**. (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 367 (*E*), dated the 27th April, 2000, G.S.R. 292 (*E*), dated the 19th April, 2002, G.S.R. 281 (*E*), dated the 1st April, 2003, G.S.R. 604 (*E*), dated the 10th September, 2004, G.S.R. 606 (*E*), dated the 10th September, 2004 and G.S.R. 260 (*E*), dated the 1st May, 2006 issued under sub-section (1) of section 25 of the Customs Act, 1962 by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Second Schedule, on and from the corresponding date mentioned in column (*4*) of that Schedule, retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, 1962 retrospectively, at all material times.

(3) The refund shall be made of all such safeguard duty which has been collected, but would not have been so collected, had the amendments made in sub-section (1) been in force at all material times and such refund shall be subject to the provisions of section 27 of the Customs Act, 1962.

(4) Notwithstanding anything contained in section 27 of the Customs Act, 1962, an application for the claim of refund of safeguard duty under sub-section (3) shall be made within a period of one year from the date on which the Finance Bill, 2016 receives the assent of the President.

*Customs Tariff*

**Omission of section 8C**

**140.**In the Customs Tariff Act, 1975 (51 of 1975)(hereinafter referred to as the Customs Tariff Act), section 8C shall be omitted.

**Amendment of First Schedule**

**141.**In the Customs Tariff Act, the First Schedule shall,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | be amended in the manner specified in the Third Schedule; |
| (*ii*) |   | be also amended in the manner specified in the Fourth Schedule with effect from the 1st day of January, 2017. |

*Excise*

**Amendment of section 5A**

**142**. In the Central Excise Act, 1944 (1 of 1944)(hereinafter referred to as the Central Excise Act), in section 5A,—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | for sub-section (5), the following sub-section shall be substituted, namely:— |
|  |   | "(*5*) Every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette."; |
| (*ii*) |   | sub-section (6) shall be omitted. |

**Amendment of section 11A**

**143**. In the Central Excise Act, in section 11A, for the words "one year", wherever they occur, the words "two years" shall be substituted.

**Amendment of section 37B**

**144.**In the Central Excise Act, in section 37B, for the words "such goods", the words "such goods or for the implementation of any other provision of this Act" shall be substituted.

**Amendment of Third Schedule**

**145.**In the Central Excise Act, the Third Schedule shall be amended—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the manner specified in the Fifth Schedule; |
| (*ii*) |   | in the manner specified in the Sixth Schedule, with effect from the 1st day of January, 2017. |

*Excise Tariff*

**Amendment of First Schedule**

**146**. In the Central Excise Tariff Act, 1985 (5 of 1986)(hereinafter referred to as the Central Excise Tariff Act), the First Schedule shall be amended—

|  |  |  |
| --- | --- | --- |
| (*i*) |   | in the manner specified in the Seventh Schedule; |
| (*ii*) |   | in the manner specified in the Eighth Schedule, with effect from the 1st day of January, 2017. |

**Amendment of Second Schedule**

**147**. In the Central Excise Tariff Act, the Second Schedule shall be amended in the manner specified in the Ninth Schedule, with effect from the 1st day of January, 2017.