

PRESS RELEASE

The Central Board of Excise & Customs had requested FICCI to conduct a tax payers' experience survey with the objective of garnering a feedback on impact that reforms undertaken during the last two years had on the ground. FICCI outsourced the survey to KPMG and they jointly reached out to 40000-45000 potential respondents across India. The survey was accompanied with a flier detailing the reforms carried out by the CBEC in the last two years (attached).

The key question of the survey was – “Do you feel a perceptible change in policies of the CBEC by way of becoming liberal and friendly to the taxpayer?” An overwhelming number of respondents, 72%, responded with a “yes” The fact that a tax department had the gumption to ask such a question and the tax payer's having actually acknowledged positively, both are a harbinger of increasing maturity of the regulatory eco system of India.

The questionnaire centred upon four themes –

- Interaction experience with senior and junior functionaries of the department
- Dispute resolution
- Information Technology Enabled Services
- Refund claims
- Evaluation of sectoral reforms undertaken by the CBEC.

As business demographics would suggest, respondents from Maharashtra outnumbered all states, with respondents making up for 30%, Delhi followed at number 2, with 11%. Sectoral responses showed that 46% respondents from service industry, 39% from manufacturing and 15% from the trading community. This trend reveals the importance that service tax has acquired over the years, broadening the tax payer base and accounting for Rs. 2,11,456 crores which is 26% of the Indirect Tax revenue.

The responses showed that 45% of the respondents saw an attitudinal change in senior functionaries (Commissioner level and above); and 51% acknowledged an improvement at the ground level, at the level of inspectors and above. This should come as heartening news for India Inc, as it is the inspector raj which is considered as the most stubborn stumbling block to improving the tax environment. In wake of widespread allegations of tax terrorism, which has most often been cited as a barrier to entry of foreign investment in manufacturing, the survey sought an opinion on whether the CBEC administration was becoming less adversarial. 32% of the respondents answered in the affirmative, which is indicative of an improving trend but does show that much needs to be done. The most outstanding

achievement of the CBEC was getting the customs single window project off-the-block on 1st April 2016. Interestingly, USA had also launched its single window in the same period but had to eventually stagger dates for accommodating different government agencies and had to in fact drop FDA altogether for the time being. In India's case the project was a top most priority with the PMO and Cabinet Secretary, which brought together 6 ministries on a single window. CBEC's team evolved a unique methodology to solve teething problems by creating a whatsapp group for continuously receiving a feedback on operational issues faced by the trade and disseminating solutions. At the ports, customs brokers made their own whatsapp groups to share experiences and information. The implementation of the project has shown the power of the digital applications in problem solving and CBEC's adaptability in being able to successfully leverage it. In a short span of time, the single window has had a huge impact on custom clearance processes. The survey saw respondents acknowledge the improvement. 76% respondents found improvement in customs clearance process. For a highly IT driven department, it was also very heartening to note that 75% of the respondents were satisfied by the IT enabled services.

Responses on sectoral reforms also generally received a thumbs up, including refunds. 49% of respondents acknowledged a positive change in processing of refunds. Of most interest to foreign businesses were responses to reforms undertaken in SVB (transfer pricing in customs) where 89% of the respondents indicated improvements. Similarly, responses on legislative changes carried out to warehousing in the budget also elicited a positive response from 85% of the respondents. Considering the make in India initiative, central excise has been a major area of focus. 92% of the respondents have acknowledged CBEC's success in simplification of customs & excise business processes.

After this poll, FICCI & KPMG have also given to the CBEC a wish list of respondents. The 10 MUST Dos are:

1. Infuse attitudinal changes
2. Focus on Tax evaders
3. Simplify Procedures
4. Fast track adjudication
5. Reduce litigation
6. Expedite refunds
7. Introduce e-communication
8. Improve website and IT Platform
9. Enhance training
10. Improve Office infrastructure

Significant Initiatives taken by CBECI Customs

- Single Window - As part of Ease of Doing Business initiatives, CBEC has launched Single Window Interface for Facilitating Trade (SWIFT). SWIFT provides a single point interface for clearance and is expected to reduce documentation and costs. It is expected to cover and benefit over 97 per cent of India's imports. The single window will cover over 50 offices of six government agencies with the Indian customs department. These are the Food Safety Standards Authority of India (FSSAI), Plant Quarantine, Animal Quarantine, Wildlife Crime Control Bureau, Textile Committee and Drug Controller. [Circular 3/2016 dated 3rd Feb. 2016 and 15th March 2016 - online w.e.f. 1.4.2016]

- Customs Clearance Facilitation Committee - Considering that multiple agencies are involved in the process of clearance of goods, steps have been taken for improved inter-agency coordination so as to build a modern and responsive eco-system for businesses. In order to improve efficiency of Govt. and private agencies involved in customs clearance, **Customs Clearance Facilitation Committee (CCFCs)** have been set up at every major Customs seaport and airport. The CCFC is headed by the Chief Commissioner of Customs and includes the senior-most functionary of the following departments /agencies / stakeholder at the particular seaport/airport:
 - (i) Food Safety Standards Authority of India/Port Health Officer (PHO)
 - (ii) Plant Quarantine Authorities
 - (iii) Animal Quarantine Authorities
 - (iv) Drug Controller of India (CDSO)
 - (v) Textile Committee
 - (vi) Port Trust / Airports Authority of India / Custodians
 - (vii) Wild Life Authorities
 - (viii) Railways/CONCOR
 - (ix) Pollution Control Board[Circular No. 13 /2015 dated 13th April 2015]

- Electronic Delivery Orders - Electronic messaging system for electronic Delivery Order, instead of a paper based Delivery Order introduced [Circular No. 1/2015-Customs dated 12.1.2015].

- Digitally Signed Documents - To increase the coverage of digitally signed documents and subsequent phasing out of physical /manual submission of documents, CBEC has enabled that all importers, exporters, shipping lines and air lines shall file customs documents under digital signature with effect from 01.01.2016. Wherever the customs documents are digitally signed, the Customs will not insist on the user to physically sign the said documents[Circular No. 26/2015-Customs dated 23.10.2015].
- 24X 7 customs clearance facilities extended to 19 sea ports and 17 Air Cargo complexes[Circular Nos. 19/2014-Customs dated 31.12.2014 and No. 1/2016 dated 6.01.2016].
- Deferred duty payment for select categories of importers and exporters: This provision will enable release of cargo without payment of duty, which shall enable speedier clearance and improved liquidity in hands of the businesses[Finance Bill 2016].
- Special Valuation Branches (SVB): The procedure for handling related party transactions and those involving special relationships completely revamped. Extra Duty Deposits waived and the provisions for renewal of SVB orders have also been dispensed[Circular No. 4 & 5/2016-Customs dated 9.02.2016].
- Warehousing:The system of physical control and locking of public & private warehouses by Customs dispensed and being replaced with record based controls. The period of warehousing to be extended till de-bonding or consumption of goods in respect of EoUs/EHTPs/STPIs/Manufacturing Units under Customs Bond, such as ship building yards which shall reduce transaction costs and burden of documentation. Power for extending warehousing periods in respect of other classes of importers delegated to Principal Commissioner/Commissioner[Notification No. 66 to 72 / 2016-Cus (NT) dated 14th May 2016].
- Temporary Imports for exhibitions: Exemption notification issued for enabling temporary importation of goods for display/exhibition/demonstration. The requirement of ITPO certification dispensed. The revised process is simplified, predictable and reduces transaction costs[notification No. 8/2016-Customs dated 05.02.2016].
- Auction facilities for Gems & Jewelry sector - A special Notified Zone has been established in Mumbai at the Bharat Diamond Bourse for display, and sale of rough diamonds by major mining companies, which has attracted business from overseas auction centres to India and reduced transaction costs for the Gems & Jewelry sector of India. (Circular 17/2015-Cus dated 26.05.2015)

- Second hand machinery - The guidelines relating to valuation of second hand machinery have been revised. In order to achieve nationwide standardization, formats for certification by chartered engineers (Indian & Overseas) have been devised. (Circular No. 25/2015-Cus dated 15.10.2015)
- Safeguard Measures - Under the India-ASEAN FTA, Rules for initiating investigations by DG, Safeguards have been issued (Notification 37/2016 -Cus(NT) dated 4th March 2016).
- Baggage Allowance – Rules simplified; free allowance enhanced to Rs 50,000; baggage declaration from passengers not having items in excess of free allowance dispensed. Customs declaration required from domestic passengers on international flights dispensed [Circular No: 08 / 2016 – Cus dated 8th March 2016 and Budget 2016]

Export Promotion

- Provisional payment of drawback to exporters pending fixation of brand rate w.e.f.23.11.2015 (Notification No. 110 / 2015 – Cus (NT) 16.11.2015 and circular no. 29/2015 – Cus)
- Electronic Monitoring of realization of export proceeds has commenced from 2014. Now exporters do not have to submit documentary proof of remittances.
- Exemption to payment of excise duty in the case of locally procured excisable goods against advance authorization, which shall improve cash flow of exporters. [Notification No. 18/2015 – Cus (NT) dated 1.4.2015]
- Owing to the difficulties faced by the trade in sealing of bulk cargo for exports under Bond, rules amended to grant exemption from self-sealing of bulk cargo for export. [Circular No. 1011/18/2015 – Cx dated 30th Oct 2015]
- Installation certificates from private chartered engineers allowed [Circular No. 14/2015-Cus dated 20th April 2015]

II Central Excise

- Records can be maintained electronically and digitally signed invoices accepted [notification No. 18/2015-CE (NT) dated 6.7.2015, Instruction dated 06.07.2015 vide F. No. 224/44/2014-CX.6].

- Facility of direct dispatch of goods by registered dealer from seller to customer's premises provided. Similar facility allowed in respect of job-workers[*notification No. 10/2015-CE (NT) dated 01.03.2015*].
- More than 50 technical issues on which there was sustained litigation resolved in the Chief Commissioner's Tariff Conference last year[*Instructions dated 7th December, 2015 containing Annexure B of the Minutes of Tariff Conference held on 28th and 29th October, 2015*].
- Time limit for taking CENVAT Credit of duty/tax paid on inputs and input services increased from six months to one year[*notification No. 6/2015-CE (NT) dated 1.3.2015*].
- E-payment of refunds and rebates through RTGS/NEFT introduced[*Circular No. 1013/1/2016-CX dated 12.1.2016*].
- The provision restricting CENVAT credit to 85% under proviso to Rule 3(i)(vii) of Cenvat Credit Rule, 2004 deleted. Consequently ship breaking units entitled to avail 100% credit of the CVD paid with effect from 01.03.2015 subject to provisions of Cenvat Credit Rule, 2004[*notification No. 1/2016-CE (NT) dated 1.02.2016 and Circular No.-1014/2/2016-CX dated the 1.02.2016*].
- Registration for factories operating through multiple premises falling within a range allowed. [*Circular No. 1016/4/2016-CX dated 29.02.2016*]
- Requirement of self attestation of the transporter's copy by a manufacturer using digitally signed invoice discontinued. [*notification No. 8/2016-CE(NT) dated 01.03.2016*]
- 14 returns have been dispensed. Number of returns to be filed by a large manufacturer reduced from 27 to 13. ER-4, ER-5, ER-6 and ER-7 discontinued. [*notification No. 8/2016-CE(NT) dated 01.03.2016*]
- Revision of return allowed in Central Excise. [*notification No. 8/2016-CE(NT) dated 01.03.2016*]
- Rules for Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods simplified. The requirement of approval of application by Central Excise officer discontinued. [*notification No. 20/2016-CE(NT) dated 01.03.2016 as amended vide Notification No. 22/2016-CE (NT) dated 15.03.2016*]

- Procedure for fixation of input-output ratio for payment of rebate simplified. Now, the ratio can be fixed on the basis of a certificate from Chartered engineer without any need for verification by the Central Excise officer. [*notification No. 21/2016-CE (NT) dated 01.03.2016*]
- Cenvat Credit rules amended to improve credit flows and reduce litigation [*notification No. 13/2016-CE (NT) dated 1.3.2016*]. Key highlights are-
 - Rule relating to apportionment of credit between exempted and non-exempted goods and services simplified.
 - Input services credit flow from Input Services distributor to outsourced manufacturer allowed.
 - Maintenance of common warehouse for distribution of inputs and credit allowed.
 - Small capital goods below a minimum value to be treated as inputs.
 - Credit of inputs such as tools, capital goods such as water pumping station, wagons allowed.
- Interest rate on late payment of duty reduced to 15% from the present rate of 18% per annum [*notification No. 15/2016-CE(NT) dated 01.03.2016*].
- Circular issued to simplify procedure to deal with Audit objections raised by CAG. The Circular provides that demand notice in cases of agreement on audit objections should be issued and decided expeditiously. However, where revenue does not agree with the objections, no demand notice would be issued. This is an effort to make the indirect tax administration assessee friendly and non-adversarial by bringing the audit objections to closure in an expeditious and fairer manner [*Circular 1023/11/2016-CX dated 08.04.2016*].

III Service Tax

- 100 % e-payment of duty, permission to maintain electronic records, and acceptance of digital signatures [*notification No. 18/2015-CE (NT) dated 06.07.2015*].
- Online registration of new service tax assessee in 2 days [*Order No. 1/2015-ST dated 28.02.2015*].
- Granting provisional payment of 80% of the refund amount with 5 days in respect of service exporters, subject to fulfilment of certain conditions [*Circular No. 187/6/2016-ST dated 10.11.2015*].

- Interest applicable on outstanding taxes has been reduced to 15%. Only in cases where service tax has been collected by the assessee and not deposited, interest, at a higher rate of 24%, shall be applicable [notification No. 13/2016/ST dated 1.03.2016].

IV Audit

- The requirement of mandatory audit of units with prescribed periodicity based on duty payment done away with. Now the selection of units done based on scientific risk parameters which also takes into account past track record of the unit. Further, concept of integrated audit implemented in all the three taxes- as against three separate audits being conducted. [Circular No. 995/2/2015 – Cx dated 27th Feb 2015]

V Dispute Resolution

- Withdrawal of all cases in High Court and CESTAT where there is a precedent Supreme Court decision and against which no review is contemplated by the Department [Instruction F No. 390/Misc/67/2014-JC dated 18.12.2015].
- Pre show cause notice consultation mandatory with Principal Commissioner / Commissioner before issue of a show cause notice where duty involved is above Rs 50 lakhs. [F.No: 1080/09/DLA/MISC/15/757 dated 21.12.15]
- The threshold limit below which appeals are not to be filed by the department in CESTAT (Tribunal) and High Courts has been raised to Rs 10 lakhs and Rs 15 lakhs respectively [Instruction F No. 390/Misc/163/2010-JC dated 17.12.2015].
- Zonal Chief Commissioners/ Principal Commissioners have been directed to identify the cases fit for withdrawal amongst the cases pending in appeal before CESTAT and High Courts. In response field formations have identified 2051 and 5261 cases which are fit for withdrawal from High Court and CESTAT respectively as per the threshold monetary limits prescribed now [Letter F No. 390/Misc/163/2010-JC dated 1.01.2016 & 21.01.2016].
- Detailed instructions have been issued to all field formations regarding the manner, in which a SCN is to be issued, personal hearings are to be granted and adjudication orders to be issued. The senior most officers in the field i.e. CC's have been directed to do sample verification of records of such proceedings from time to time. [F.No: 1080/09/DLA/MISC/15/757 dated 21.12.15]

- Proceedings against the co-noticees to close where the proceedings against the main noticee has been closed.[Rule 26 sub-clause (1) of Central Excise Rules amended w.e.f 1.3.2016]
- Prosecution proceedings in cases older than fifteen years involving duty of less than Rs 5 lakhs to be withdrawn[Circular No. 1018/6/2016-CX dated 29.02.2016].
- For early settlement of disputes pending in appeal before the Commissioner (Appeals) as on 1st March, 2016, payment of tax dues alongwith interest and 25% of the penalty has been prescribed subject to certain conditions. [Finance Act, 2016 – scheme will be effective from 1.6.2016 to 31.12.2016]

