



PRE BUDGET RECOMMENDATIONS 2011-12

These budget recommendations are being prepared in the backdrop of a recovering Indian economy which has come out of the recessionary conditions which gripped the world in 2009. In the developed world, the recovery is still 'fragile' and partial and there is a continued fear of the global economy slipping back into an economic slowdown.

Two countries which came out relatively quickly from this recession are India and China. India particularly due to its lower dependence on exports, conservative financial policies followed by the government and even more so, due to the package of special policies implemented by the government of India. This is an opportune time for India, and continuous rapid growth is vital for us to quickly bring the gains of development to our masses and create a virtuous long term growth cycle.

At US\$ 1.7 Trillion, electronics remains the largest and fastest growing manufacturing industry in the world. In spite of the recovery, the Indian electronics manufacturing sector faces a number of challenges, some which are continuing from the past and some which are due to economic and technological factors. The same are listed below:

- Domestic markets are bullish and growing at a brisk pace. While this has led to recovery of demand from local manufacturers, there is even higher growth in imports
- The status of local manufacturers in export markets remains as before; ie. we are uncompetitive in global markets and have succeeded in niche markets only
- Dependence on imports to feed domestic demand remains very high and is still growing. Less than 20% components required for local equipment manufacturing are available from domestic sources. For semiconductors, there is almost 100% dependence on imports.
- Inverted Duties due to ITA-1 & FTAs, specially due to Dual Use Inputs such as Plastics, Copper, Aluminium, etc plaguing hardware manufacturers
- Domestic Taxes and Levies impose Fiscal Disabilities
- Cascading impact of CST on components detrimental for finished products manufacturing
- High cost of Finance, Power and Logistics/ Regulatory and Procedural problems add to disabilities estimated at 7-8%. This discourages capital intensive, high value add investments in manufacture of components / parts which require high and long term investments necessitating a supportive fiscal and infrastructural environment

ELCINA supports the total electronics hardware sector market estimate of US\$ 400 Bn by 2020 projected by the DIT Report released in December 2009.

In the shorter time horizon, ELCINA estimates that with the current market growth rate of ~25% per annum, the total demand for electronic components, products and equipment is well on its way to approach the US\$ 200 Bn mark in next 5-6 years (2015).

ELCINA also believes and emphasizes that a manufacturing output of approximately US\$ 125-150 Bn is possible with right support and would have the potential to create huge employment of 21 million (7m direct + 14m indirect) and Revenue of ~US\$ 40-50 Bn including direct and indirect taxes.

Key Recommendations

Following are the key recommendations necessary for revival and healthy growth of the electronics components and equipment manufacturing sector:

- Zero duty on all inputs for manufacture of electronic components and parts, including dual use inputs; necessary to avoid inverted duty
- ELCINA supports Implementation of GST wef April 2011; 12% GST (8% Excise + 4% VAT) on electronics value chain, specially components, parts and assemblies.
- 4% Vat on all electronic components and assemblies as these are industrial inputs
- In case of any delay in implementing GST, Zero CST on electronics value chain till such time as GST is implemented
- 10% Excise Duty should be retained, considering the fragile global economic recovery.
- 4% SAD should be abolished.
- Finished electronic equipment import should be subject to atleast 5% Customs Duty to encourage local manufacturing
- Mandate local content in key sectors such as telecom, rural IT infrastructure, e-governance projects (similar to 30% under DOFA in defence sector) and in special giveaway schemes such as the Tamil Nadu Government scheme of donating TVs.
- Do not implement ITA -II and do not include electronic components and parts in any future FTA's
- Streamline excise procedures on import of inputs/raw materials for electronic components at 0% to equate with import of finished components without any procedural hassles.

SPECIAL RECOMMENDATIONS

Promote Domestic Manufacturing & Value Addition

- Policy for encouraging local manufacture of champion products such as CFLs, Solar Lighting, Mobile accessories (Chargers) etc. Simple products required in large quantity with high employment potential.
- For Electronic Components and Parts have high value addition – Allow manufacturers to retain Excise Duty paid through PLA as interest free loan for 5 years.
- Promote hardware manufacturing zones - clusters

SPECIAL REQUEST ON BEHALF OF INDUSTRY ASSOCIATIONS

Industry associations have been brought under **Service Tax** under section 65(25a) of Finance Act, 1994, with retrospective effect from 16th June, 2005.

Industry associations represent vital economic interests of our country, are non-profit organizations and serve the cause of nation building and economic development. We request you to kindly review the rules framed and consider keeping us out of the ambit of Service Tax.

At the least, Association Membership Subscriptions should not be subjected to Service Tax as this is against the interests of the industry and our economic progress. We believe that this is also contrary to the principle of 'mutuality' as these subscriptions are not for any specific service provided to a member, but pay for general upkeep of the association.

Also, surprisingly, as per present rules, Social/ Entertainment Clubs and Associations are being treated as one and the same; this should be changed and Industry Associations should be treated as a separate category. Industry Associations cannot be equated with social and entertainment clubs, which have totally different purpose.

The recommendations below are in two sections as follows:
Section - I. - ELCINA'S DETAILED TAX RECOMMENDATIONS
Section - II.- SIMPLIFICATION OF PROCEDURES

Section – I

ELCINA'S DETAILED TAX RECOMMENDATIONS

CUSTOMS:

To ensure import of all Raw Materials and Capital Goods for manufacture of electronic components & equipment at 0%, please find attached Annexures listing products / goods which need to be allowed for import by actual users at zero duty under the following categories:

1. *Raw Materials to be placed under 0% Notifn 25/99-Customs*
2. *Raw Materials for which end-use extension is required for additional electronic components which must be added to Notfin 25/99-Customs.*

Components required as inputs for Consumer Electronics equipment such as CTVs, Audio and Video equipment should not be brought under ITA and continue to attract peak customs duty to encourage their local manufacture. This is particularly important because a number of such inputs are anyway facing lower or even nil duties under various FTA's being signed by India.

The list submitted last year by ELCINA for including pending inputs for component manufacture is still pending with Finance Ministry. A fresh rationalized list is attached herewith for kind consideration and urgent action.

DTA sales by EHTP for Space & Defence Programs

Reg: Input duty on products sold against CDEC (Customs Duty Exemption Certificate) given by Indian Space Research Organization (ISRO) – refer notification 20/2007

Customs insist on payment of customs duty on imported & domestic inputs used to manufacture the products sold to ISRO against CDEC citing para 3 of Customs notification 52/2003

However, when ISRO imports from abroad, citing notification 20/2007, does not have to pay any duties whereas if ISRO procures from EHTP (which is equivalent to imports), or DTA units, it results in the EHTP units paying the duties on the inputs used for such goods. This clearly makes EHTPs (and DTA) uncompetitive vis-à-vis imports. Also, this discourages the development of domestic suppliers for Space Programs.

ELCINA suggests amendment of Para 3 of Customs notification 52/2003, such that, supplies by EHTP and DTA units to ISRO (and other Defence Programs) do not suffer any disability and are at par with imports. For example, they should be allowed import of inputs at zero Customs Duty. This will promote local manufacturing and enable EHTPs and DTA's to support the space and defence programs of Government of India and reduce dependence on imports.

Exclusion of Royalty and Licence Fee in Assessable Value of Imports

The Customs Department contrary to the specific legal mandate (Explanatory Notes to Rule 10(1)(c)] is seeking to add royalties related to reproduction, distribution and resale of the Import of content in Master tape format in the Assessable Value of the such Imports.

Customs duty on import of exposed and developed cinematographic films in reel form, (Chapter 3706 of Customs Tariff), is levied only on the material value (i.e. cost of the reel) due

to an exemption that has been granted for not levying Customs duty on the entire contract value (i.e. including the royalty or licence fee paid / payable for content rights) [*Customs notification no. 33/2003- Cus dated March 1, 2003*].

However, such exemption is still awaited for the import of cinematographic films in master tape formats (classified under chapter 8523 of the Customs Tariff).

It is recommended that exemption may be granted from levy of Customs duty on the royalty / license fee paid / payable by the importer on import of cinematographic films in master tape formats (classified under chapter 8523 of the Customs Tariff) by extending the benefit of exemption notification 33/2003-Cus, dated March 1, 2003.

Seek Customs duty Reduction on 'Solar Lanterns'

Notification No. 30/2010-Cus dated 27-2-2010 imposed a concessional duty of 5% on all items to be used for Solar Power Generation Projects. However, Solar Lanterns (CTH 9405 50 40) continue to be subject to 10% Customs Duty.

While the Govt. of India has granted full excise duty exemption on this item, 10% BCD is very high and in order to encourage this Solar based product which is now being extensively used in rural areas where power shortages are acute, **there is an urgent need to reduce the BCD on Solar Lantern in line with items for Solar Power Generation to a maximum of 5%.**

Import of Spares and Consumables for manufacturing of goods

Clarity needs to be brought in as to spares and consumables required for the manufacturing of the goods listed under Sl. No. 1 to 38 are also exempted from duty. This has given rise to unnecessary disputes between the authorities and the assesses. Also there is no clarity with reference to consumption certificate in respect of spares/consumable tools used. Self certification/CE certificate to be accepted for closure of the Bonds.

Custom notification 24/2005 dated 1.3.2005 states that "All goods for the manufacture of goods covered by Sl.Nos. 1 to 38 above, provided that the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are exempted from the whole of the duty of customs"

EXCISE:

Although Excise Duty was increased to 10% from 8% in the last Budget, the industry was somewhat relieved that the stimulus package announced in 2009-10 to save the local industry from going down was not completely withdrawn. The Finance Minister has himself cautioned that global economic recovery is fragile and emerging economies are not resilient enough in the event of another crisis.

Since India is linked with world economies, it is imperative that the excise relief to the local industry should be retained at existing level of 10%, if not enhanced to ward off any slow down.

Manufacturers of electronic components, who are allowed to import their inputs/raw materials at 0%, have to follow excise procedures which are cumbersome and cause delays. There is need to relax the procedure. The plea is genuine since finished components can be imported at 0% without any procedural hassles. Local manufacturing is at a great disadvantage leading to imports and avoidable outflow of Foreign Exchange.

Special Recommendation For Incentivising Local Manufacturing:

Allow retention of Excise Duty paid through PLA to be retained (paid over 5 years) as an interest free loan:

- For Electronic Components and Parts (high value addition) – *allow manufacturers to retain ED paid through PLA as interest free loan as a special incentive which can be paid in five equal installments over 5 years. This benefit should be provided for sales from DTA to DTA units.*

This is similar to Sales Tax/Trade Tax Schemes promoted by State Governments. (Eg. In Uttar Pradesh UPTT Rule 4-A) to promote investments and expansion schemes of manufacturers.

Value Addition = Excise Duty paid in cash through PLA and this scheme would ensure that manufacturers adding higher value get higher benefit. This would be WTO compliant and give benefit to those who deserve it.

It is estimated that share of local components in electronics manufacturing has declined from 45% to less than 20% between 1997 and 2008. Components are the building blocks for electronics manufacturing with high value addition and require high investment. The above measure will enhance use of local components and provide relief to industry.

Abolish SAD

SAD should be removed as this is now not serving its intended purpose. Since is SAD is refunded, it is no real cost to traders/importers and thus does not benefit the manufacturer and also does not serve its original purpose of protection against local input taxes which are not allowed to be credited.

Reduction of Excise Duty/CVD on Memory Modules

Memory modules are used in all Personal computers, laptops, net books, servers etc. and their demand is growing rapidly. Memory Modules are small components & are easily brought into the country by the parallel channel that has been ever existing resulting into sizeable loss in revenue for the government and business opportunity for local manufacturing. The reason is that these items are small in size & attract CVD which is an incentive enough for the parallel channel to flourish.

Current Duty structure on Memory Modules is as follows:

Memory Modules: Basic 0% + CVD 10.33% + SAD 4%

It is proposed that, the CVD be further rationalized to 4% or less on Memory Modules so that the parallel channel loses all incentive to get the above products in the country without payment of duty.

Excise Duty Exemption on ‘Solid-State non-volatile storage-device’

In the last Budget, Govt imposed 4% Excise Duty on products like USB-Pen Drive, Misco SD Cards, falling under CTH 85235100, by inserting following entry against Sr. No. 17 of Notif 6/2006-CE dt 01.03.2006 and amended by Notif No. 12/2010 dated 27.02.2010.

- (i) meant for fitment inside the CPU Housing/laptop body only, NIL
- (ii) meant for external use with a computer or laptop as a plug-in-device. 4%

The products like USB-Pen Drive, Misco SD Cards are always used externally with a computer or laptop as a plug-in-device and therefore is payable now 4% Excise Duty.

With the imposition of 4% duty on these items, Govt. has put the **Manufacturers in India**, who have invested in creating manufacturing facilities in India on an equal footing with Traders on duty payment and therefore in disadvantageous position, as explained hereunder:-

Comparative Statement- Manufacturers V/s Traders					
Sr.No.	Item	CTH	Duty Paid By		Remarks
			Manufacturer	Traders	
1	Solid-State non-volatile storage device- Like --	85235100			SAD duty is NIL on MRP products.
1.1	--USB Pen Drive		4.12%	4.12%	Disadvantage position for Manufacturers.
1.2	--Micro SD Cards		4.12%	4.12%	Disadvantage position for Manufacturers.

In view of above there is no incentive to Indian Manufacturers to invest in manufacturing facilities of these products.

Further, the imposition of 4.12% duty has encouraged the Grey Market on a large scale in India. Since these products are valuable and easy to carry, imposition of 4% duty has activated the players in grey market. Resulting to this the genuine manufacturer's in India are suffering further on account of loss of sale, since the products are easily available in grey market, wherein no duty is paid.

Therefore, in order to protect the domestic manufacturer's for the reasons explained above, this is a fit case to exempt the products 'Solid-State non-volatile storage device', falling under CTH 85235100 from payment of 4.12% Excise duty, by restoring the position, as available prior to aforesaid amendment made under Notif No. 12/2010 dated 27.02.2010.

Excise Duty Exemption on 'Stamper for CD/DVD-ROM'

All CD/DVD-ROM (Recorded discs) falling under CTH 85234080/ 85234090 are exempted from payment of Excise duty in terms of Sr. No. 22 of Notif No. 6/2006-CE.

CD/DVD (Recorded discs) are manufactured with the help of Stampers made for CD/DVD. The Stamper also falls under CTH 85234070 and are in form of Discs wherein content is recorded. These Recorded Stampers are not included in Sr. No. 22 of above said exemption notification. Therefore, there is need for Excise Duty Exemption on product "Stamper for CD/DVD-Rom", falling under CTH 85234070, on following grounds:--

- (i) Recorded CD/DVDs (CD/DVD-ROM) are exempted from payment of Excise Duty. Stampers for CD/DVD-Rom are used **exclusively** to manufacture the exempted goods CD/DVD-ROM. Since final goods are exempted, the manufacturers of CD/DVD-ROM are not in position to avail Cenvat Credit of duty paid on these Stampers. The duty paid on Stampers thus becomes a cost for the manufacture of Recorded CD/DVDs which, we submit, is contrary to the intent of exempting Recorded CD/DVDs from Excise duty.
- (ii) Since Stamper for CD/DVD-ROM are also 'Recorded Disc' falling under CTH 85234070, the same are need to be included as exempted goods under Sr. No. 22 of Notification No. 6/2006-CE dated 01-03-2006, as amended.

Reduction in Excise Duty Rate on EOU Despatches

EOUs were paying duty on their DTA sales at 25% of Basic customs duty+Countervailing duty+Special Additional duty vide notification No 23/2003-CE dt 31.3.2003. This notification was amended Vide Notification No 10/2008-CE dt 1.3.2008 and EOUs are now required to pay excise duty at 50% of Basic customs duty+Countervailing duty+Special duty.

Prior to the year 2006, exemption was granted for 50% of all the duties. Assuming that the BCD on a particular product is 0% then the trader will pay CVD and manufacturer will pay ED on the same product. Therefore there is no incentive to manufacture. Cheap imports are flooding Indian market and realizations of the EOU manufacturers have also come down. Hence, exemption should be provided to an EOU @ 50% on all the duties wherever, basic customs duty is nil.

If the above is not acceptable, then the amendment made in the budget for 2008 should be withdrawn and duty levied at old rate of 25% BCD+CVD+SAD.

4% VAT on all Components

Electronic components and sub-assemblies are industrial inputs and duty on them is modvatable and therefore they need to be at 4% VAT. Some of the components mentioned in the schedule are levied at 4% VAT, while those not included in the schedule attract the highest levy which is a great anomaly.

ELCINA pleads that all electronic components should be covered at 4% VAT, which will have no revenue implications for the Central or State Governments.

We request that sub-assemblies should also be at 4% VAT.

Zero CST across the value chain

It is assumed that CST would be abolished/ subsumed within GST. Till such time as CST is abolished and GST implemented, we recommend that CST should be abolished completely on all Electronic components, assemblies, and inputs with immediate effect to ensure that there is no negative protection against electronics hardware.

Encashment of CENVAT Credit – REFUND OF ACCUMULATED CENVAT CREDITS

As this is a pre-paid tax deposited every month within the mandated time, automatic encashment should be allowed with a suitable formula as follows:

Opening CENVAT Balance	xxx
Less Duty paid on domestic sales (xxx)	
Balance for encashment	xxx

This could be on monthly, quarterly or even yearly basis, but must be time bound. Wherever exports are high in comparison to domestic sales, there is likely hood huge accumulation of CENVAT balance. Currently there is no simplified procedure to encash the same and exporters suffer the most due their funds being blocked.

Removal of unsold and old Finished Goods as FG scrap

Rule 21 of Central Excise Rules 2002 enables seeking remission of excise duty on the finished goods which cannot be sold or marketed for various reasons subject to the conditions prescribed by the Revenue Authorities. Sub-rule (5C) of Rule 3 of CENVAT Credit Rules 2004 calls for reversal of CENVAT credit taken on inputs used in the manufacture or production of the finished goods on which payment of duty is ordered to be remitted.

This is totally against the CENVAT Credit Rules and its very purpose. No doubt the inputs are actually used in the manufacture of final product. The finished goods becoming obsolete and not-marketable are for reasons beyond the control of manufacturers. If the said finished goods are sold as waste and scrap on payment of duty, reversal should not be insisted in line with the erstwhile rule before introduction of this sub-rule (5C) of Rule 3 of CCR 2004.

Inputs on which 100% provision is made in the Books of Account

Sub-rule (5B) of Rule 3 of CENVAT Credit Rules 2004 calls for payment of an amount equivalent to CENVAT credit taken on inputs or capital goods for which provision to write off fully has been made or fully written off in books.

The provision is made strictly in line with the accounting principles. Mere provision in the books should not make the manufacturers to lose the CENVAT amount by way of debit in CENVAT Account. Although re-credit is allowed on subsequent use of the said items, this provision would adversely affect the industry.

The sub-rule and the relevant Board Circular on Reversal or payment of an amount equivalent to the CENVAT credit based on the mere provision in the books should be deleted subject to the condition that the inputs or capital goods are physically available at the premises. Reversal or payment is justified when the goods are physically scrapped without being put to use.

GOODS & SERVICES TAX (GST):

As per promise made in the 2010-11 Budget, ELCINA sincerely hopes that the deadline of 1st April, 2011 for the Goods & Services Tax (GST) will be met. Implementation of GST, couched in simple language with maximum clarity will lead to all-round rationalization. ELCINA pleads that GST may be brought into effect at the earliest with CST subsumed in it.

In case for some reason, the implementation of GST is delayed, CST should be made zero. 2% CST is one of the many critical factors which erode local manufacturers' competitiveness specially where customs duties are so low that they do not provide enough protection.

In the case of State GST on Services, our request is that this should be based on “the State from where services invoiced” and not on “the State where services are performed”.

Form C

Usage of “C” Forms should be abolished under the new GST regime as the present system of collection/submission of these forms is cumbersome and leads to malpractices.

SERVICE TAX:

Total Exemption from Service Tax for SEZ

Our Association understands from its constituents that with effect from March, 2009, total exemption from Service-tax for SEZ has been restricted to only those services rendered inside SEZ. Services rendered outside SEZ come under the scheme of refund by the Government. In order to obtain the refund, there is a cumbersome procedure and slow process, under which one has to submit all original supporting documents to the concerned authorities. We suggest that Finance Ministry may consider reverting to pre-March/2009 procedure.

Service Tax Exemption by way of Refund on all Services used by Exporters

Presently service tax exemption by way of refund has been granted to exporters on 18 services vide ST notification No 17/2009 dated 7.7.09 as amended.

The number of services covered under this notification has to be increased to cover all categories of services where cenvat credit is not available as we find that in many cases, the services are outbound (beyond the factory) and cenvat credit is being denied. Furthermore the service providers are providing the services mentioned in the notification but are registered under different categories of services which are not specifically covered by the notification under the eligible 18 services but are providing services to the exporters. For example most of the Logistic Service providers, who are regularly offering their services to exporters, are registered under ‘Business support services’ and ‘Business auxiliary services’, and these services are not included in above said exemption notification.

Hence, it is essential that exemption by way of refund should be granted for all the services used by the exporter wherever cenvat credit facility is not available.

Notification 18/2009-ST dated 7.7.2009 – Exemption of taxable service received by an exporter of goods

With the other relevant documents to support for having paid the commission to a commission agent, on the taxable services received by an exporter of goods, the exemption should be allowed. Conditions stipulated in the said notification may be suitably amended.

One of the conditions for claiming exemption is that the commission paid or payable to the Commission Agent shall be declared on the shipping bills. However, the commission payable may depend on the export turnover for the quarter/half-year/year, in which case, although commission is paid on the export turnover, it is practically not possible to declare the same at the time of shipment in the shipping bills, thereby denying the exemption benefit

Levy of Service Tax on Copyright Services

Finance Act, 2010 has levied service tax on transferring temporarily or permitting use or enjoyment of any Copyright for the purpose of (a) Recording of cinematographic films; (b) Sound recording, as taxable service, effective from July, 2010.

Dual taxation of the same transaction: - As per the provisions of the VAT laws in various States, copyrights are treated as intangible goods. Since the transfer of right to use any goods is included in the definition of ‘sale’, VAT is levied on the consideration received for the transfer of right to use the copyrights. Now, the same transaction will also attract Service tax. Further, both taxes are levied on entire value, as they are applicable on the same taxable event, i.e. permitting use of the copyright.

Since in the present case VAT is already being paid on the entire consideration for grant of right to use the copyright, no service tax should be levied on the same transaction of permitting use of the copyright.

DIRECT TAX SUGGESTIONS:

Introduction of Sec 80HHC

Seek re-introduction of Sec 80HHC and also introduce some more schemes to encourage exporters.

It is to be noted that corporates are passing through a very tough time post recession and global competition. At this point in time it is very important to give benefits to Exporters to encourage and increase exports which will contribute to FOREX.

Corporate Income Tax

Corporate income tax rates need to be brought down to 25%. Considering the indirect tax payments, the overall tax payments to government form considerable part of profits of the entity.

Refunds

Considering the tough times industry is facing, department should allow to set off the refunds of previous years with any year where tax is payable (without waiting for refund orders).

Presently, refund of excess taxes paid can be adjusted only after the assessment is completed and refund order is passed. This process is taking approximately 5-8 years.

15CB Certificate

No further monthly information should be required by ITO when 15CA & 15CB are filed. Presently for making payment to foreign nationals, certificate from 15CB is taken from Chartered Accountant and Form 15CA is uploaded. In spite of this, department is sending notices to get complete details of monthly foreign payments and reason for non-deduction of tax.

Safe Harbour Rules

These rules for transfer pricing should be finalized and enacted at the earliest. Such rules, when in place, will remove uncertainty and confusion.

OTHER ISSUES:

MRP Based Assessment

Manufacturers of components and parts (eg. Relays, Switches) are experiencing problems in MRP based assessment with regard to Rule 2A of the Standards of Weights & Measures Rules 1977. MRP based assessment should be for consumer goods which are sold in the retail market directly to the consumers and should not be made applicable to products sold directly or indirectly to Industrial or Institutional buyers. ELCINA has already represented on this subject to the Finance Ministry and to Director (Legal Metrology), Department of Consumer Affairs, New Delhi.

Further, for MRP based assessment under Notif No. 49/2008-CE dt 24.12.2008, though Personal Computers are included with 20% abatement on MRP for Tariff Codes 8471 30 and 8471 60, ELCINA suggests that an entry for Microcomputers under 8471 41 be also inserted to include the smaller versions of Personal Computers which may get classified as Microcomputers. This will take care of the current industry trend of miniaturization. There is a strong view that products under this tariff may become more popular and a provision of 20% on

MRP as provided to PCs would be found in order both for the industry as well as for government revenues.

DEPB Rates

In view of the slow-down in the West, our members find themselves uncompetitive to secure export orders. This is because of higher manufacturing costs. ELCINA pleads that DEPB rates may be increased to 7% for special components like Connectors (falling under Sl.No.44A/83 with considerable exports) and 5% for all other electronic components.

Piece parts and accessories of components may also be allowed drawback to give a push to exports for which there is a great potential.

Piece parts of Connectors attract import duty, whereas finished Connectors can be imported at 0%. Suggest import duty on parts may be removed to make local manufacture competitive..

Restoration of Drawback Benefits on Furnace Oil to SEZ & EOU from 27-2-2010

Drawback benefits not restored on Furnace Oil to SEZ & EOU even after Customs Duty of 5% has been imposed on Crude Oil in the last Budget.

SEZ & EOUs are eligible for duty drawback as per the provisions of SEZ Act/Rules and FTP on Furnace Oil used for generation of Power. Prior to 4.6.2008, Customs Duty on Crude Oil was 5% therefore duty drawback was available to SEZs and EOUs @ Rs 1160 /MT

Customs Duty on Crude oil import was reduced to 'Zero' w.e.f. 4.6.2008 and therefore duty drawback on furnace oil was also made NIL vide Notif No. 78/2008-Cus dt 24-06-2008.

All India Duty Drawback Rates were notified by MOF vide Notif No. 84/Customs dated 17.09.2010, wherein duty draws back rates on FO & HSD is still not restored. Resulting, SEZ Units & EOU units, who are procuring FO & HSD from Domestic Oil Companies, are forced to export the incidence of tax, which is against the Foreign Trade Policy.

Hence, there is an urgent need to restore the duty draw back rates on supply of FO & HSD from Domestic Oil Companies to SEZ & EOU, with effect from 27.02.2010.

Extension of Time Limit for Deduction available to 100% EOU (Sec 10B)

The benefits conferred by Section 10B of the Act envisages a tax holiday period of 10 years to 100% EOU. However the deduction under section 10B is restricted till FY ending 31.03.2011 only. (Previous year 2009-10)

Restricting the benefits available to these units will make such units uncompetitive and unviable globally threatening their closure.

It is requested that the sun-set clause in section 10B be extended to such units for another 5 years to offset the losses suffered by the units owing to rising input costs.

Extension of Interest subvention scheme to Export oriented renewable energy and Optical data Storage Sectors

Govt. of India in Dec, 2008 provided relief to various sectors of the economy including the export sector which were severely hit by the global financial crisis. The relief for the export sector included 2% interest subsidy on pre and post shipment credit for select labour intensive exports. The scheme is now extended upto 31st March, 2011.

In view of the demand slow down in major developed markets as well as high interest rates in the country, exports have shrunk and most affected industries are industries where huge Capital is invested and where technology keeps changing.

It is requested that the benefit of such interest subsidy should also be extended to the following sectors for the reasons stated therein:

a) Solar sector (including Photovoltaics):

In India, photovoltaic industry is at nascent stage and needs government support to participate in tremendous export potential to European and US markets. Indian Photovoltaic industry is competing with European companies who have far lower interest costs as compared to Indian photovoltaic units. Solar sector needs Government support to make the industry attractive to enable it to contribute towards clean energy and also to boost exports which is the need of hour.

In India, pioneering sizable photovoltaic investment has been made with Foreign direct investment and also from the borrowings from international financial institutions. **To retain project economics and also to ensure committed debt servicing of these photovoltaic units to international community, it is necessary to provide relief to photovoltaic Industry.**

b) Optical data storage units:

Optical Data storage is capital intensive and require huge amount of working capital. This industry is facing challenges from overseas competition. To keep the Indian optical data storage industry viable and prevent loss of market share in the international market, it is necessary to provide relief of interest subsidy to the export oriented optical storage units as well.

To attract foreign direct investment for expansion of Capacities for next generation formats of optical data storage media industry, it is also necessary to ensure timely service to overseas investors. **Indian optical storage industry's main competition is from Taiwan where interest rates are comparatively much lower.**

The period of interest subvention should be extended to March, 2012 instead of March, 2011.

Deduction of TDS at 11% on telecalling/inbound services

Deduction of **TDS at 11%** on telecalling/inbound services provided by call centres is unjustified specially for new entrants. For Domestic call centres 11% of their total invoicing is much higher than their profitability. This discourages new entrants and ELCINA pleads it should be removed totally as a registered call centres is a corporate activity hence it should be treated as any other business activity.

Promoting Local Cell Phone Manufacturing

Out of the total demand of **180 mln.** cell phones it is reported that nearly **120 mln** phones are assembled in India. Although this huge production (almost **Rs. 30,000 to 35,000 crores** in terms of value) real benefit to country in terms of higher value addition is negligible. Usages of components/part and other inputs from indigenous sources is negligible. It has potential to spur large scale employments as well as proliferation of high technology in large number of enterprises which can expand to many other high tech product manufacturing in the country.

High value added manufacturing needs to be encouraged through incentives such as **(i)** Income tax exemption in proportion to value addition **(ii)** Interest free soft loans equivalent to **PLA** of excise duty **(iii)** Safeguarding duty on imports of **CPV** as well as **SKD**.

PRE BUDGET RECOMMENDATIONS 2011-12

Section - II

SIMPLIFICATION OF PROCEDURES

CURRENT PROCEDURES WHICH INVOLVE COSTS / INCONVENIENCE TO THE MANUFACTURER EXPORTERS/SERVICE PROVIDERS AND PREFERRED VIABLE SOLUTIONS

MOST IMPORTANT RECOMMENDATION PENDING SINCE THREE YEARS

1. **Import Of Goods Under Concessional Rate Of Duty For Manufacture of Excisable Goods (IGCRDMEG):-**

The prevalent procedures for import at concessional rate (zero duty) continue to be a major obstacle in manufacturing due to delays in the process:

- Presently the application for obtaining the concessional rate of duty is to be submitted to Assistant Commissioner or Deputy Commissioner of Central Excise through Range Supdt..
- This causes undue delay in clearing consignment, and a good number of cases involve demurrage.
- Request the application should be countersigned by the Range Supdt. instead of Assistant commissioner or Deputy Commissioner of Central Excise

The procedure involves executing a bond for the differential amount of duty, which has to be given individually against each consignment or a running bond for the total amount required for a year. The procedure for extinguishing this bond is also not clear and very cumbersome. Applications are made for each item separately for port of import for requirement of three months. *This is a tedious and repetitive procedure and it is recommended that assesses may be allowed to make yearly applications.*

Intimation is required to be given to Central Excise within 24 hours of material receipt it cannot be used till it is verified. *This restriction must be removed monthly information of the items received should be filed.*

Another provision is that Central Excise Department verifies the records and input to output ratio and issues the **End Use Consumption certificate**. This procedure takes too much time and serves no purpose as most items covered under notification No.25/99 can be used only in the manufacture of the related end product. The end result is delay, stock out and stoppage of production. Self certification / Chartered engineer certification based on the input output ratio and /or norms for consumption of the raw materials should be accepted.

It is also recommended that the assesses records may be accepted for issuing consumption certificate and the format for this record and the input output ratios may be fixed when a new product is introduced. These can be reviewed and reconfirmed once every year by Central Excise.

We strongly recommend that the import of raw material/inputs by local manufacturers of Electronic Components should be routed through a green channel procedure, at least for established and regular manufacturers with a good track record. There should be no need of any Certificate or Bond and only a consumption report may be required periodically to confirm genuine use of the imported material.

It is noteworthy and ironical that any Importer of finished electronics hardware/components gets benefit of zero Customs Duty on ITA-1 /other exempt goods, while a manufacturer has to go

through the complex procedure with Excise and Customs authorities explained above for their inputs. This is a big anomaly which encourages imports, leading manufacturers in the lurch.

For example, Aluminium Electrolytic Capacitors under Tariff Heading No.8532.22 are eligible for import under 0% Customs Duty without any conditions: by which even a trader can import capacitors freely with no payment of customs duty. However, all the inputs for the manufacture of above product, viz., Aluminium Electrolytic Capacitors under Tariff Heading No.8532.22 are eligible for 0% customs duty provided that the importer follows the procedure set out in the customs (Import of Goods at concessional rate of duty for manufacture of Excisable Goods) Rules, 1996.

Admissibility of CENVAT credit availed on duty paid goods received for rework

The manufacturers would take up the rework or reprocess work on the goods received under Rule 16. In the process, all goods do not qualify for dispatch as finished goods, resulting in scrapping some of the goods received for reprocess/repair. The present rule allows reversal of credit taken proportionately in respect of the goods which could not be repaired or reprocessed and returned to the customer.

If for any reason (rejected in process) the goods received for rework or for reconditioning are not returned then the credit earned and utilised be made admissible, as this would be actually scrapped in the process only.

Rule 16 of Central Excise Rules 2002 provides for credit of duty on goods brought to the factory for rework/ reconditioning. This rule is a combination of erstwhile Rule 173H and 173L of Central Excise Rules 1944 in a simplified form.

Under the new rule: The Assessee is entitled to take CENVAT credit of the duty paid as if such goods (received for rework) are received as inputs under the CENVAT credit rules and reverse the same while clearing the same after the required process is carried out. If for any reason, the goods are not returned then the credit earned and utilized is not admissible.

There was a provision available under erstwhile rule 173L for refund of excise duty for goods received for rework. In the new rule, duty paid goods received for rework, remade or for any other reason have been treated at par with input received for manufacturing process. If the input rejected in process, the reversal of CENVAT credit is not required.

Letter of undertaking for export without payment of duty

Present Procedure: It is mentioned in the CBEC's Central Excise Manual with regard to LUT to be submitted by a manufacturer exporter, before clearance of excisable goods on export without payment of duty. However it is also mentioned that the LUT should be renewed every year and there is no clarity about the procedure for such submission i.e. Whether the same can be in the form of a letter or to be typed on a stamp paper of worth of Rs.100/-. In fact, there is no such restriction in the relevant Rule 19 of Central Excise Rules, 2002 read with relevant Notifications issued by the CBEC laying down the procedure to be followed for export of excisable goods without payment of duty against LUT.

Under these circumstances, in the absence of specific procedure in the relevant Rules, the Excise Department is insisting on the following:

- The LUT should be typed on a stamp paper of Rs.100/- and duly notarized.
- The LUT should be renewed every year.
- The details of proof of export should be submitted relating to the previous year while submitting for every such LUT renewal, irrespective of the fact that even though all the proof of exports are submitted and accepted by the same divisional head i.e. Dy/Asst. Commissioner of Central Excise.

Viable Solution: ELCINA pleads for issuance of specific guidelines, which will reduce not only the unnecessary paper work but also plug the loop holes for unfair practices as detailed below:

- The Letter of Undertaking duly typed on the letter head of the Manufacturer Exporter, one time, before effecting the clearance of his excisable goods for export, without payment of duty, to be submitted to the jurisdictional Dy/Asst. Commissioner of Central Excise to obtain the dated acknowledgment. The manufacturer Exporter needs to submit the proof of exports regularly on monthly basis along with Annex.19, to the jurisdictional Dy/Asst. Commissioner of Central Excise for acceptance.
- The Letter of Undertaking is valid continuously till such time that the Manufacturer exporter is in export business and/or till the excise registration is surrendered.

Requirement for Sealing of Each Export Consignment

1. Every Export shipment, however small the value may be, requires seal of the excise authorities. Exporters do the sealing and get signature of excise officials. There is a cost involved in this. We feel there is no need for sealing each individual consignment as exporter provides post export documents to the Excise department any way. The same should be accepted as adequate safeguard?
2. For all duty free import, manufacturer needs to get a certificate and is required to give consumption certificate to cancel the bond. There is no meaning behind this as all ITA products and inputs can be imported for resale duty free without all these headaches.

Procedure for Refund of Cenvat to DTA Exporters

Presently, exporters from DTA have to pay Cenvat. For zero duty raw material imports, they have to pay CVD + Additional Duty, which results in blocking of funds leading to higher cost. ELCINA suggests that for recognized manufacturer-exporters, CVD + Additional Duty may be removed. There is no revenue loss since these levies are in any case refundable and will greatly help by reducing involvement of working capital and also reduce the Governments headache of processing refunds.

Alternatively, it should be provided that refunds will be processed within 30 days of export and interest paid to the assessee in case of delay.

EHTP / EOU Units

EHTP / EOU units are charged Cost recovery charges by Excise / Customs authorities at the time of renewal of Bonded warehouse license. These charges are based on the salary of a senior officer and a field officer. This should be done away with as a substantial amount involved contributes to the cost of product which is already under great pressure.

Role of STPI in day to day activity needs to be done away with as it does not have any function for routine matters. It is recommended that the provision for approval for every import should be deleted from Customs Notification # 52/03 dt. 31.03.2003. Project approval and valid Green Card issued by STPI is enough proof for this purpose.

For import of Moulds, tools and dies under concessional duty, manufacturers of electronic hardware products have to approach Ministry of Information Technology as per condition of Customs Notification # 21/2002 dt. 01.03.2002, serial # 175 and condition # 23. This should also be done away with and one time certificate from Ministry should be considered good enough for this purpose.

Fixation of Wastage Norms : As per FTP 2009-14 para 6.8 (e) Scrap / Waste remnants arising out of production process cannot be sold in DTA unless Norms are fixed. The Procedure for fixation of Norms is very tedious as application is filed with local STPI, the local STPI forwards the application to STPI Zonal office, who further sends it to IMSC from where it goes to DGFT. It takes more than a year for fixation of Norms

Recommendation: The Scrap Norms should be fixed by the concerned STPI where the unit is situated & a reasonable time frame, say one month, should be fixed.

Proof of Export : Under Rule 19 of Central Excise Rules,2002 and Notification no. 42/2001-C.Excise (N.T) dated 26.06.2001 proof of export has to be submitted within six months from date of clearance for Export in Annexure-19 in the concerned Central Excise Divisional Office. The exporter is permitted to take credit in his running bond account on the basis of copy of the statement/letter duly acknowledged by the Range office or the bond accepting authority. The letter of final acceptance of Proof of Exports is generally not given.

Recommendation: The Range Superintendent under whose supervision export is done should be authorized to issue letter of Proof of Export **OR** the letter of Proof of Export from Division office should be given within one month of submission of Proof of Exports.

Refund/Rebate claim in Export : Under Rule 18 of Central Excise Rules,2002 & Rule 12 of Central Excise Rules, 1944 the rebate of duty paid on goods exported may be granted by Government. The Rebate claim documents are filed with Divisional office with a copy to Range office. The Rebate claim is normally given in three months.

Recommendation: The Rebate claim from Division office should be given within one month of submission of rebate claim application.

B-17 Bond & Customs Bonding Licence Renewal : Under Notification no. 14/98-Cus dated 10.03.1998 a single all purpose Bond B-17is executed by 100 % EOU and Customs Licence is taken with the validity of Five years.

Recommendation: The Cutoms Bonding Licence & B-17 Bond should be valid till the 100% EOU is in operation like Central Excise Registration No.

MOT Charges : The 100 % EOU Unit has to deposit Merchant Overtime Charges (MOT Charges) under Customs (Fee for Rendering Services By Customs Officers) Regulations, 1998 whenever export sealing and re-warehousing of goods being done by Central Excise/Customs staff.

Recommendation: The Merchant Overtime Charges (MOT Charges) should be waived as other duties like Central Excise, Customs are not applicable for 100 % EOU.

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