

The Jt. Secretary
Tax Research Unit - I
Central Board of Excise & Customs
New Delhi

Dear Sir

Sub: Taxation Laws (Amendment) Act, 2017 (No. 18 of 2017)

1. Consequent upon the introduction of GST, necessary amendments have been made to Entry 84 of List I and Entry 54 of List II of the Seventh Schedule to the Constitution, to enable the Central and State Governments continue to levy central excise / VAT respectively on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
2. The Taxation Laws (Amendment) Act, 2017 (hereinafter called "The 2017 Act"), amongst other amendments, has amended the Central Excise Act, 1944 to provide for levy of excise duty only on the aforementioned five petroleum products and tobacco & tobacco products.

Vide Section 12 of the 2017 Act, a new Schedule, viz "the fourth schedule" has been introduced to the Central Excise Act 1944, thereby levying duties of excise on tobacco and petroleum. The said 2017 Act has been brought into force effective July 1, 2017, vide Notification No. 25/2017-Customs, dated June 28, 2017.

3. Before inviting your kind attention to the contents of Fourth Schedule and specifically w.r.t goods covered under heading 2709, we invite your kind attention to the entries relating to "Petroleum oils and oils obtained from bituminous minerals, crude" as is appearing in the Customs Tariff Act, 1975 and also the Central Excise Tariff Act, 1985, extracted in the table below:

Tariff Item	Description of goods	Unit	Rate of duty
2709 00 00	Petroleum oils and oils obtained from bituminous minerals, crude	Kg.	Nil

The term "crude" in 2709 00 00 goes to qualify both, petroleum oil and oils obtained from bituminous minerals, meaning thereby, to fall under 27090000, the said oils should remain "crude" or "unprocessed oils". This is in contrast to processed oils, which would fall under 2710.

4. The above classification is consistent with the principles of classification laid down in HSN relating to goods falling under heading 27.09 (relevant extracts enclosed as Annexure A). As you would kindly note, the HSN very clearly states that heading 27.09 covers crude petroleum oils and crude oils obtained from bituminous minerals. As per HSN, the heading 27.09 also covers gas condensates i.e. crude oils obtained during the stabilisation of natural gas immediately upon its extraction. In other words, as per HSN, Customs Tariff Act and

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Central Excise Tariff Act, there is no distinction between crude Petroleum oils and crude oils obtained from bituminous minerals & crude.

5. The above settled principles of classification appear to have been unintentionally overlooked in the Fourth Schedule to the Central Excise Act. The table below contains the relevant extracts w.r.t the goods covered under heading 2709:

Tariff Item	Description of goods	Unit	Rate of duty
2709	Petroleum oils and oils obtained from bituminous minerals, crude	Kg.
2709 10 00	Petroleum oils and oils obtained from bituminous minerals	Kg.
2709 20 00	Petroleum crude		Nil

As per the above Fourth Schedule, Petroleum oils and oils obtained from bituminous minerals and Petroleum Crude are different products, which is a deviation from the classification under HSN. Since both are crude oils as per HSN, and since India follows HSN, the description of tariff head and tariff item for Crude in the Fourth Schedule to the Central Excise Act 1944, as well as in the Seventh Schedule to the Finance Act 2001, whereby NCCD has been levied on petroleum oils and oils obtained from bituminous minerals, crude, should be identical with the tariff item description in the Customs Tariff Act.

6. Therefore, the Oil Industry requests that suitable amendments be made to the Fourth Schedule and the entries relating to Heading 2709 in the Fourth Schedule be incorporated in the same manner as in the Customs Tariff Act. Similarly, the amendment to the seventh Schedule to the Finance Act, 2001, vide section 16(b) of the 2017 Act needs to be deleted, so that the classification of crude oil in India is consistent with the classification under HSN.
7. Even otherwise, in the view of the Oil industry, there is a need for amendment to the Fourth Schedule. Against the entry 2709 in the above Fourth Schedule, in the column "rate of duty", the entry appearing is ".....", which means that central excise duty is not leviable on goods covered by Tariff Head 2709.

Since crude petroleum should continue to be liable to a duty of Excise, the Oil Industry requests that appropriate amendments are made to the said Fourth Schedule by stating "NIL" in column 4 of the table against all the three tariff heads for crude petroleum oils, namely 2709, 270910 00 and 2709 20 00.

The oil industry seeks a favourable disposal of the above representation.

Thanking you,

Yours faithfully,



Rajiv Bahl
Director (Finance, Taxation & Legal)