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E-BOOK

On

Clean

Environment (Energy)

Cess

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1. Introduction

- 1.1 The Government of India vide **Section 83, under Chapter VII of the Finance Act, 2010**, levied the “**Clean Energy Cess**”, as duty of excise, on the goods produced in India as specified in the Tenth Schedule to the Finance Act, 2010.
- 1.2 The purpose of this cess was financing and promoting clean energy initiatives, finding research in the area of clean energy, or for any other purpose relating thereto. This cess is leviable in addition to any cess or duty leviable on the goods specified in the Tenth Schedule to the Finance Act, 2010.
- 1.3 The levy of clean Energy Cess is applicable to the whole of India. It is in addition to any other cess or duty leviable on such specified goods. Further, the proceeds of such cess are not to be distributed among the states. Further, Section 83 also empowers Government by notification to apply any of the provisions of the Central Excise Act, 1944, relating to levy of and exemption from duty of excise, refund, offences and penalties, confiscation and procedure relating to offences and appeals as such or with such modification and alteration as considered necessary. Section 84 empowers Government to frame rules for the purposes of laying down the manner of assessment, collection, utilisation and any other matter relating to clean energy cess.
- 1.4 The Tenth Schedule of the Finance Act 2010, specified the following goods, produced in India, for the purpose of levy of Clean Energy Cess:-

Chapter heading, sub-heading or Tariff Item	Description of goods
2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
2702	Lignite, whether or not Agglomerated excluding jet
2703	Peat (including peat litter), whether or not agglomerated

- 1.5 The Rate of Clean Energy Cess was initially fixed as the rate of Rs.100/ per tonne (effective rate was notified as Rs.50 per tonnes *vide* exemption Notification No.3/2010-Clean energy Cess, dated 22.06.2010). This Tenth Schedule was amended *vide* the Finance Act, 2015 (Section 188) and Rate of Clean Energy Cess was enhanced to Rs.300/- per tonne. In the Finance Bill, 2016, this rate is proposed to be further enhanced to Rs.400/- per tonne.
- 1.6 In the Finance Bill, 2016, two changes have been proposed with regard to Clean Energy Cess:
- (i) Amendment of the Tenth Schedule to increase the rate of Clean Energy Cess to Rs.400/- per tonne (**Ref: Clause 232 (2) of the Finance Bill, 2016**).

- (ii) Substitution of the words “Clean Energy Cess” with the words “Clean Environment Cess” (*Ref: Clause 232 (1) of the Finance Bill, 2016*)

1.7 Clause 232 of the Finance Bill, 2016 has been declared under the Provisional Collection of Taxes Act, 1932 so as to bring it in force with effect from 1.3.2016.

Effective Date

1.8 The provisions of Chapter VII of the Finance Act, 2010 came into force with effect from 01.07.2010 [*Ref: Notification No.01/2010-Clean Energy Cess, dated 22.06.2010*].

Provisions of Central Excise Act, 1944 made applicable to the Chapter VII of Finance Act, 2010

1.9 Provisions of Sections 5A, 6, 9, 9A, 9AA, 9C, 9D, 9E, 11, 11A, 11AA, 11AB, 11AC, 11B, 11BB, 11C, 11D, 11DD, 11DDA, 12A, 12B, 12C and 12D, chapters III, VI, VIIA and VIB of the Central Excise Act, 1944 have been made applicable to like matter in respect of Clean Energy Cess imposed under Section 83 of the Finance Act, 2010 [*Ref: Notification No.02/2010-Clean Energy Cess, dated 22.06.2010*].

Applicable Rate and Exemption:-

1.10 Initially the Rate of Clean Energy (New environment) cess was fixed @ Rs.100/ per tonne. However, *vide* exemption Notification No.3/2010-CEC, dated 22.06.10, the effective rate was notified as Rs.50/-per tonne.

1.11 *Vide* Finance Act, 2015, the Rate of Clean Energy Cess in the Tenth Schedule of Finance Act, 2010 was enhanced to Rs.300/- per tonne. However, the effective rate was notified as Rs. 200/- per tonne *vide* notification No.1/2015-CEC, dated 1.3.2015.

1.12 In the Finance Bill, 2016, the rate of Clean Energy Cess in the Tenth Schedule has been further enhanced to Rs.400/- per tonne. As this clause of the Finance Bill, 2016 has been declared under Section 3 of the Provisional Collection of Taxes Act, 1932, the enhanced rate has come into force w.e.f. 1.3.2016. To enable collection of Clean Energy Cess at such revised rate, the exemption notification No.1/2015-Clean Energy Cess, dated 1.3.2015 has been rescinded (***vide* Notification No.1/2016 –Clean Energy Cess, dated 1.3.2016**).

1.13 The Government has issued two exemption notifications providing relief from payment of Clean Energy Cess in certain cases. The details of such exemption notifications issued are as under:-

(a) full exemption to all goods falling under heading No.2701,2702,2703, other than raw coal, raw lignite and raw peat from clean energy cess provided that applicable clean energy cess has been paid at the stage of raw coal, raw lignite or raw peat from which the said goods are produced or manufactured (**Ref: notification No.4/2010-Clean Energy Cess, dated 22.6.2010**).

(b) exemption to all goods specified in Tenth Schedule of the Finance Act, 2010, which are produced or extracted, as per traditional and customary rights enjoyed by local tribals in the State of Meghalaya and State of Nagaland without any licence or lease required under any Law for the time being in force. (**Ref: notification No.5/2010-Clean Energy Cess, dated 22.06.2010 as amended vide notification No.2/2016-Clean Energy Cess, dated 1.3.2016**).

Clean Energy Cess Rules, 2010

1.14 In exercise of powers under Section 84 of the Finance Act, 2010, the Government has issued the Clean Energy Cess Rules, 2010 vide notification No. 06/2010-Clean Energy Cess, dated 22.06.2010 prescribing the manner of payment of cess, periodicity of returns to be filed under the aforesaid rules. The salient features of these rules are as under:-

- (i)** Every producer of coal, lignite and peat is required to be registered with the jurisdictional central excise authority. This implies that every coal mine should obtain registration. In several cases, especially in the case of coal mines operated by public sector undertakings such as Coal India Limited and its subsidiaries, the accounting and billing of coal is done in a centralized manner. In order to ease the compliance burden on such producers, an option has been given to obtain Centralised registration for the office from where accounting or billing is done.
- (ii)** The application form for registration of Central Excise assessee is to be used for the registration of assessee liable to pay Clean Energy Cess with the modification that the word "factory" would be read as "mine" in this case and by selecting the category of registration as manufacturer.
- (iii)** Cess is payable on quantity removed during a month on self assessment basis.
- (iv)** The due date for payment has been fixed as the 6th (for e- payment) / 5th (for payment in any other manner) of the month following the next month to which the removals relate i.e. payment for removals during the month of July,2010 should be paid by the 5th/6th of September,2010. However, on imports the cess would be payable w.e.f. 1st July, 2010.

- (v) Adjustment of excess payment, if any, is permissible by the next payment date.
- (vi) Monthly return indicating the total quantity removed along with cess payment has been prescribed. The due day for filing the monthly return is the 10th day of the next month, following the month in which removals were made. For example, the Return for the month of July, 2010 shall be due by the 10th of September, 2010.
- (vii) General penalty of Rs 10,000 has been prescribed for any contravention.
- (viii) Specified goods are to be removed under cover of proper documents. However, this need not be an invoice. It has been prescribed in rule that any document specifying the quantity removed and name of the consignee would suffice.

Payment of Clean Energy Cess on Imported Coal

1.15 Since clean energy cess is being levied as a duty of excise, it would also apply to imported coal by virtue of Section-3 (1) of the Customs Tariff Act, 1975 in form of additional duty of customs. As imported coal would not satisfy the condition regarding payment of appropriate cess at the raw stage, clean energy cess would apply to all forms of imported coal including washed coal.

Accounting Head for payment of Clean Energy Cess

1.16 The accounting head for payment of Clean Energy Cess is 00380173.

2. Summary of Legal Provisions at a Glance

2.1 Summary of legal provisions applicable to Clean Energy Cess are as given in **Table** below:-

Table

Sl. No.	Sections/Rules/ Notifications/Circulars	Subject
1.	Section 83 and 84 of the Finance Act, 2010	It provides statutory provisions for levy and collection of Clean Energy Cess.
2.	Tenth Schedule to the Finance Act, 2010	It specifies the rate of Clean Environment Cess and the goods which are subjected to levy and payment of Clean Environment Cess.
3.	Notification No.01/2010-CEC, dated 22.06.2010	It notifies 1.7.2010 as the effective date for the provisions of Chapter VII of the Finance Act, 2010.
4.	Notification No.02/2010-Clean Energy Cess dated 22.06.2010	It applies certain provisions of the Central Excise Act, 1944 to Chapter VII of the Finance Act, 2010.

5.	Notification No.04/2010-Clean Energy Cess, dated 22.06.2010.	It provides exemption to all goods falling under heading No. 2701, 2702, 2703, other than raw coal, raw lignite and raw peat from clean energy cess provided that applicable clean energy cess has been paid at the stage of raw coal, raw lignite or raw peat.
6.	Notification No.05/2010-Clean Energy Cess, dated 22.06.2010 as amend vide notification No. 2/2016-Clean Energy Cess, dated 1.3.2015	It provides exemption to the specified goods produced in the state of Meghalaya and Nagaland in specified conditions from payment of Clean Energy Cess.
7.	Notification No.06/2010-Clean Energy Cess dated 22.06.2010 as amended vide Notification No.07/2010-Clean Energy Cess, dated 08.09.2010	It notifies the Clean Energy Cess Rules, 2010.
8.	CBEC Instruction F.No.354/72/2010-TRU, dated 24.06.2010	It explains salient features of new levy of clean Energy Cess.
9.	CBEC Instruction F.No.354/72/2010-TRU, dated 08.09.2010.	It explains the changes effected in the Clean Energy Cess Rules, 2010 and new form for filing monthly return.

3. Text of Relevant Sections/ Rules/Notifications

3.1 Section 83 and Section 84 of the Finance Act, 2010

Chapter VII Clean Energy Cess

Section-83. (1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Clean Energy Cess, as duty of excise, on goods specified in the Tenth Schedule, being goods produced in India, at the rates set forth in the said Schedule for the purposes of financing and promoting clean energy initiatives, funding research in the area of clean energy or for any other purpose relating thereto.

(4) The proceeds of the cess levied under sub-section (3) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the cess for the purposes specified in sub-section (3), as it may consider necessary.

(5) The cess leviable under sub-section (3) shall be in addition to any cess or duty leviable on the goods specified in the Tenth Schedule under any other law for the time being in force.

(6) The cess leviable under sub-section (3) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States and the manner of assessment, collection, utilisation and any other matter relating to cess shall be such as may be prescribed by rules.

(7) The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the Central Excise Act, 1944, relating to levy of and exemption from duty of excise, refund, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary, be applicable in respect of cess levied under sub-section (3).

Section-84. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for —

(a) the manner of assessment, collection and utilisation of the cess under sub-section (6) of Section 83;

(b) any other matter relating to the cess under sub-section (6) of Section 83.

(3) Every rule made and every notification issued under this Chapter shall be laid as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

3.2 Tenth Schedule of the Finance Act, 2010 as amended vide Finance Act, 2015 (Section-188) and Finance Bill, 2016.

Tenth Schedule

[see Section 83 (3) & (5)]

NOTES: 1. In this Schedule, “Chapter”, “heading”, “sub-heading” and “tariff item” mean respectively a Chapter, heading, sub-heading and tariff item of the First Schedule to the Central Excise Tariff Act.

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, the Section and Chapter Notes and the General Rules for the Interpretation of the First Schedule shall apply to the interpretation of this Schedule.

Sl. No.	Chapter heading, Sub-heading or Tariff Item	Description of goods	Rate
1	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	100 (Per tonne)
2	2702	Lignite, whether or not Agglomerated excluding jet	100 (Per tonne)
3	2703	Peat (including peat litter), whether or not agglomerated	100 (Per tonne)

3.3 Clean Energy Cess Rules, 2010

Notification No. 06/2010-Clean Energy Cess

G.S.R. (E).- In exercise of the powers conferred by Section 84 of the Finance Act, 2010 (14 of 2010), the Central Government hereby makes the following rules, namely:-

Chapter 1

PRELIMINARY

1. **Short title, extent and commencement.**- (1) These rules may be called the Clean Energy Cess Rules, 2010.
 - (2) They extend to the whole of India.
 - (3) They shall come into force on the 1st day of July, 2010.
2. **Definitions.** - In these rules, unless the context otherwise requires, -
 - (a) "Act" means the Finance Act, 2010 (14 of 2010);
 - (b) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
 - (c) "cess" means the Clean Energy Cess levied under Section 83 of the Act;
 - (d) "Central Excise Officer" shall have the meaning assigned to it in the Central Excise Act, 1944(1 of 1944);
 - (e) "mine" shall have the meaning assigned to it under Mines Act,1952 (32 of 1952);
 - (f) "producer" means any person engaged in the production of specified goods and includes a owner or agent as defined under Section 2 of the Mines Act, 1952 (32 of 1952);
 - (g) "removal" means despatch of specified goods from a mine and shall include despatch of such goods for captive consumption within that mine for any purpose other than for raising of such goods;
 - (h) "specified goods " means raw coal, raw lignite and raw peat.

Chapter 2

COLLECTION AND ASSESSMENT OF CESS

3. **Registration.**- Every producer who is liable to pay cess shall get registered immediately with the jurisdictional Central Excise Officer but not later than a period of thirty days from the date of commencement of these rules by making an application to the jurisdictional Central Excise Officer :

Provided that where a producer commences production of the specified goods at any time after the commencement of these rules, such producer shall obtain registration within thirty days from the commencement of such production ;

Provided further that where a producer has a centralized billing or accounting system in respect of such specified goods produced at different mines, he may, instead, opt for registering only the premises or office from where such centralized billing or accounting is done.

4. **Cess payable on removal.**- Every producer shall pay the cessleviable on the removal of the specified goods in the manner provided in rule 6.

5. **Assessment of cess.**— The producer shall himself assess the cess payable on the specified goods.

6. **Manner of payment.**— (1) Cess on the specified goods removed from the mine during a month shall be paid by the 5th of the second month, following the month in which the removals were made:

Illustration.— Cess payable on specified goods removed from the factory for the month of July, 2010 shall be paid by the 5th of September, 2010.

(2) A producer who has opted for centralized registration in respect of its mines located at different places under rule 3, shall discharge the cess liability in respect of the aggregate removal of specified goods from all such mines effected during a month by the stipulated period specified in sub-rule (1)

(3) Where a producer has paid to the credit of the Central Government any amount in excess of the amount required to be paid towards cess liability for a month, such producer may adjust such excess amount paid by him against the cess liability for the next month:

Provided that the adjustment of excess amount paid under sub-rule (2) shall be subject to the condition that such excess amount paid is on account of reasons not involving interpretation of law, taxability, or applicability of any exemption notification;

Provided further that the producer may, instead, file a refund claim for any excess amount of cess paid if such producer fails to adjust the excess amount against the cess liability for the next month.

(4) Where any producer fails to pay the cess by the due date, he shall be liable to pay the outstanding amount along with interest at the rate specified by the Central Government under Section 11AB of the Central Excise, 1944 (1 of 1944) on the outstanding amount for the period starting from the first day after the due date till the date of the actual payment of the outstanding amount.

(5) Where any producer defaults in payment beyond thirty days from the due date as specified in rule 6, such specified goods shall be deemed to have been cleared without payment of cess and the consequences and penalties under these rules and provisions of the Central Excise Act, 1944 (1 of 1944) as have been made applicable, shall follow in addition to payment of interest under sub-rule (4).

(6) The provisions of Section 11 of the Central Excise Act, 1944 (1 of 1944) shall be applicable for recovery of the cess as assessed under rule 5 and the interest under sub-rule (4) in the same manner as they are applicable for recovery of any sums payable to the Central Government.

Explanation.— For the purposes of this rule, -

(i) Cess liability shall be deemed to be discharged only if the amount payable is credited to the account of the Central Government by the specified date;

(ii) Where the registered person deposits cess by cheque, the date of presentation of the cheque in the bank designated by the Board for this purpose shall be deemed to be the date on which the cess has been paid subject to realization of the cheque.

7. **Maintenance of records.**- (1) Every producer shall maintain accounts showing the quantity of specified goods actually removed during a month, particulars to whom these were removed, the amount of cess payable during a month and the total amount of cess paid:

Provided that where a producer has opted for centralized registration under rule 3, such producer shall maintain mine wise details mentioned in the sub-rule (1).

(2) The amount of cess payable on any removals shall be rounded off to the nearest rupee and the actual weight of a consignment shall be rounded off to the nearest tonne.

8. Access to registered premises or mine.- (1) An officer empowered by the Commissioner in this behalf shall have access to any mine or premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be considered necessary to safeguard the interest of revenue.

(2) Every producer shall furnish to the officer empowered under sub-rule (1) ,-

(i) all records prepared and maintained for accounting of transactions in regard to production, storage or removal of specified goods; and

(ii) financial records and statements including cost audit reports etc.

9. Goods to be removed under proper documents.- (1) No specified goods leviable to cess shall be removed from a mine except under cover of a document indicating the quantity of specified goods and the name and address of the consignee.

10. Cess shall be shown separately in the invoice or bill.-Cess shall be shown separately by the producer in the bill or invoice raised in respect of specified goods.

11. Filing of return.- Every producer shall submit to the Jurisdictional Central Excise Officer, a return in Form - I showing the quantities of specified goods removed during the month in respect of which the payment has been made, the amount paid under rule 6 and other particulars specified in that form enclosing the evidence of payment of cess not later than 10th day of the second month, following the month in which removals were made:

Provided that in the case of a producer who has obtained centralized registration under rule 3 , the return in Form- I shall contain mine-wise information.

Illustration.- Return for the month of July 2010 shall be due by the 10th of September, 2010.

12. General penalty.- Whoever contravenes any of the provisions of these rules shall be liable to pay a penalty which may extend to ten thousand rupees and confiscation of the goods in question in respect of which the contravention is made, if no penalty is provided elsewhere.

[F. No. 354/72/2010-TRU]

3.4 Notification No.01/2010-Clean Energy Cess, dated 22.06.2010

G.S.R. (E).- In exercise of the powers conferred by sub-section (2) of the Section 83 of the Finance Act, 2010 (14 of 2010), the Central Government hereby appoints the 1st day of July, 2010, as the date on which the provisions of Chapter VII of the said Act shall come into force.

[F. No. 354/72/2010-TRU]

3.5 Notification No.02/2010-Clean Energy Cess, dated 22.06.2010

G.S.R. (E).- In exercise of the powers conferred by sub- section (7) of Section 83 of the Finance Act, 2010 (14 of 2010), the Central Government hereby declares that the following provisions of the Central Excise Act, 1944 (1 of 1944) relating to the matters specified therein, shall be applicable in regard to like matters in respect of cess imposed under Section 83 of the said Finance Act, namely :-

Sections 5A, 6, 9, 9A, 9AA, 9C, 9D, 9E, 11, 11A, 11AA, 11AB, 11AC, 11B, 11BB, 11C, 11D, 11DD, 11DDA, 12A, 12B, 12C and 12D; Chapters III, VI, VIA and VIB.

[F. No. 354/72 /2010-TRU]

3.6 Notification No. 04/2010-Clean Energy Cess, dated 22.06.2010

G.S.R. (E).- In exercise of the powers conferred by Section 83 of the Finance Act, 2010 (14 of 2010) read with Section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts all goods falling under Central Excise Tariff headings 2701, 2702, 2703 of the First Schedule to the Central Excise Tariff Act,1985 (5 of 1986), other than raw coal, raw lignite and raw peat , from the clean energy cessleviable under Section 83 of said Finance Act :

Provided that the said exemption shall be applicable subject to the condition that applicable clean energy cess has been paid at the stage of raw coal, raw lignite or raw peat from which the said goods are produced or manufactured.

[F. No. 354/ 72 /2010-TRU]

3.7 Notification No.05/2010-Clean Energy Cess, dated 22.06.2010 as amended vide notification No. 2/2016-Clean Energy Cess, dated 01.03.2016

G.S.R. (E).- In exercise of the powers conferred by Section 83 of the Finance Act, 2010 (14 of 2010) read with Section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts all goods produced or extracted as per traditional and customary rights enjoyed by local tribals in the State of Meghalaya [and the State of Nagaland]* without any license or lease required under any law for the time being in force, from the clean energy cessleviable under Section 83 of the said Finance Act.

[F. No. 354/ 72 /2010-TRU]

Note:* The exemption under the notification has been extended to the State of Nagaland vide notification No. 2/2006-Clean Energy Cess, dated 1.3.2016.

3.8 CBEC Instruction F.No.354/72/2010-TRU, dated 24.06.2010

Subject: Levy of Clean Energy Cess - regarding.

It may kindly be recalled that as part of the proposals contained in the Budget for 2010-11, Finance Minister had announced the imposition of Clean Energy Cess as a duty of excise on coal, lignite and peat. This cess is to come into force on a date to be notified by the Central Government after the enactment of the Finance Bill, 2010. In pursuance of the enactment of the Bill on 08.05.2010, it has been decided to notify 1st July, 2010 as the appointed date for coming into force of the provisions of Chapter VII (Section 83 and 84) of the Finance Act, 2010. Notification No. 1/2010-CEC (Clean Energy Cess) dated 22.06.2010 has been issued for this purpose.

2. The Tenth Schedule to the Finance Act, 2010 prescribes a statutory rate of cess of Rs.100 per tonne for all three categories, namely, coal, lignite and peat. An effective rate of Rs.50 per tonne has been prescribed through Notification No. 3/2010-CEC dated 22.06.2010. Notification No. 28/2010-CE and 29/2010-CE, both dated 22.06.2010 have also been issued to exempt such goods (i.e to which the clean energy cess applies) from education cess and higher education cess respectively. As a result the aggregate rate of cess would be Rs.50 per tonne. This amount has to be paid in cash as suitable amendment in the CENVAT credit rules,2004 is being made to exclude payment of this cess using credit.

3. The cess would apply to the gross quantity of raw coal, lignite or peat raised and dispatched from a coal mine. No deduction from this quantity is to be allowed for loss, if any, on account of washing of coal or its conversion into any other product/form prior to its dispatch from the mine. At the same time, cess would not be chargeable on washed coal or any other form provided the appropriate cess has been paid at the raw stage. In order to provide for this, all goods covered by the Tenth Schedule other than raw coal, raw lignite and peat are being exempted from the cess (Notification No. 4/2010-CEC dated 22.06.2010) on the condition that appropriate cess has been paid at the raw stage.

4. Since Clean Energy Cess is being levied as a duty of excise, it would also apply to imported coal by virtue of Section 3(1) of the Customs Tariff Act in the form of additional duty of customs. As imported coal would not satisfy the condition regarding payment of appropriate cess at the raw stage, Clean Energy Cess would apply to all forms of imported coal including washed coal.

5. In the State of Meghalaya, coal is mined under traditional and customary rights vested on the local tribes. The mines operated by these tribes are not subjected to the provisions of laws that regulate the operation of coal mines. As such, full exemption from Clean Energy Cess is being provided to coal produced in the State of Meghalaya under such rights (Notification No. 5/2010-CEC dated 22.06.2010 refers).

6. Section 83 of the Finance Act, 2010 provides that the Central Government may by notification in the official gazette declare that any of the provisions of Central Excise Act, 1944 relating to levy, exemption, refund etc. would be applicable in respect of Clean energy Cess. In pursuance of this power, Notification No. 2/2010-Clean Energy Cess dated 22.06.2010 has been issued to borrow the relevant machinery provisions of the Central Excise Act, 1944 for the collection and administration of the cess.

7. Section 84 of the Finance Act, 2010 empowers the Central Government to make rules for carrying out the provisions of Chapter VII. Accordingly, Clean Energy Cess Rules, 2010 have been notified under this provision to prescribe a procedure for the levy and collection of the cess (Notification No. 6/2010-Clean Energy Cess, dated 22.06.2010). These rules envisage simple compliance regime for coal mines akin to the one already in place in respect of stowing Excise Duty collected by the office of the Coal Controller, Government of India. The salient features of these rules are as under:

- (i) Every producer of coal, lignite and peat is required to be registered with the jurisdictional central excise authority. This would imply that every coal mine should obtain registration. In several cases, especially in the case of coal mines operated by public sector undertakings such as Coal India Limited and its subsidiaries, the accounting and billing of coal is done in a centralized manner. In order to ease the compliance burden on such producers, an option has been given to obtain centralised registration for the office from where accounting or billing is done. With the introduction of ACES, the registration of Central Excise assessee is being undertaken exclusively in the electronic mode. Besides, the registration number generated

electronically is required for making electronic payments of duty. In order to harmonise the processes in respect of Clean Energy Cess with Central Excise it has been decided that the application form for registration of Central Excise assesseees would itself be used for the registration of assesseees liable to pay Clean Energy Cess with the modification that the word "factory" would be read as "mine" in this case.

- (ii) Cess would be payable on quantity removed during a month on self assessment basis.
- (iii) The due date for payment has been fixed as the 6th (for e- payment) / 5th (for payment in any other manner) of the month following the next month to which the removals relate i.e. payment for removals during the month of July,2010 should be paid by the 5th/6th of September,2010. However, on imports the cess would be payable w.e.f. 1st July, 2010.
- (iv) Adjustment of excess payment, if any, is permissible by the next payment date.
- (v) Monthly return indicating the total quantity removed along with cess payment has been prescribed. Since this return is not compatible with ACES software electronic filing would not be feasible at this stage. Returns may hence be accepted manually by the jurisdictional Range/Division of Central Excise.
- (vi) General penalty of Rs 10,000 has been prescribed for any contravention.
- (vii) Specified goods are to be removed under cover of proper documents. However, this need not be an invoice. It has been prescribed in rule that any document specifying the quantity removed and name of the consignee would suffice.

8. Although the levy of Clean Energy Cess comes into force on the 1st of July, 2010, the first payment from registered producers would be due only by the 5th of September, 2010. In the meanwhile, the office of Chief Controller of Accounts has already been requested to assign a minor head for the payment of this cess both on domestic and imported coal. Relevant communication conveying this to the field formations would be issued in due course.

9. The provisions of the relevant notifications and this letter may be brought to the notice of field formations under your charge and the trade. The notifications may kindly be studied with utmost care and difficulties in their implementation, if any, may be brought to the notice of the undersigned.

3.9 CBEC Instruction F.No.354/72/2010-TRU, dated 08.09.2010

Subject: Levy of Clean Energy Cess - regarding

It may kindly be recalled that while communicating the clean energy cess notifications, it has been stated that the office of Chief Controller of Accounts has already been requested to assign a minor head for the payment of this cess both on domestic and imported coal & relevant communication conveying this to the field formations would be issued in due course. In this regard, the Office of the Principle Chief Controller of Accounts has informed that pending opening of new Head of Account, the Cess being deposited by assesseees may be accounted for under Sub-Head/Minor Head of Accounts "Receipt Awaiting Transfer to other Minor Head etc" under the Major Head 0038-Union Excise Duty. The reduced accounting code to be quoted for depositing "Clean Energy Cess" is 00380086 (U.E.D). As soon as specific Minor head is received from their office, the same will be informed accordingly.

2. It has been brought to the notice that ACES application for registration under the Central Excise Rules, 2002 does not provide for "Producer" as a separate class of registrants. It has been suggested by the Directorate of Systems that an applicant seeking registration as a "producer" may register through ACES by selecting the category of registration as a "manufacturer".

This suggestion has been examined and it has been decided to accept it. Accordingly it is clarified that an applicant seeking registration as a "producer" shall register through ACES by selecting the category of registration as a "manufacturer".

3. In order to integrate the monthly return form, FORM-I, of the clean energy cess with systems format, the same has been changed as suggested by the Directorate of Systems, vide notification no.7/2010 - Clean energy Cess, dated 8.9.10. Rule 11 of the Clean Energy Cess Rules has also been modified vide the same notification so as to align it with payment date. Accordingly the return is due by the 10th day of the second month, following the month in which removals were made. For example, the Return for the month of July 2010 shall be due by the 10th of September, 2010.

4. The above may kindly be brought to the notice of field formations under your charge and the trade. Difficulties in their implementation, if any, may be brought to the notice of the undersigned.

4. Forms and Formats

FORM -I

Monthly Return for Removal of specified goods

(See rule 11)

M M Y YYY

Return for Specified Goods for the Month														
--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

- I. (1) Registration Number :
- (2) Name of the Producer :
- (3) Full Address :

II. Details of Specified Goods removed and Cess payable

S.No.	Name of the mine along with address	CETSH NO.	Description of specified goods	Unit of quantity	Quantity of specified goods removed during the month (in MT)	Rate of cess per tonne (Rs. per tonne)	Notification availed	S.No. in notification	Total cess payable as per billing (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

(This part is to be repeated for each CETSH and for each mine, in case a producer has obtained centralized registration)

III. Details of payment:

Total Cess paid (Rs.)	Amount of Cess adjusted during the month under Rule 6(3)	Source document	Cess Code	Challan No. (CIN)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)

(Total Cess paid should include Cess payment made during the month through challan as well as excess payment adjusted from earlier month(s).)

IV. Details of other Payments:

Payments	Amount paid in cash(Rs.)	Challan No. (CIN)	Source document			
No.	Date					
Arrears of CESS under rule 6						
Other arrears						
Interest payment under rule 6(4)						
Other interest payments						
*Miscellaneous payments						
Total						

(*Miscellaneous payments include penalty, pre-deposit, redemption fine.)

V. (a) I hereby declare that the information given in this return is true, correct and complete in every respect and that I am authorized to sign on behalf of the assessee.

(b) During the month a total amount of Rs._____ was deposited vide TR-6 Challan (copies enclosed).

(c) During the month, invoices bearing S. No._____to _____were issued. (Mine-wise)

(Name and Signature of the Assessee or Authorised signatory)

Place:

Date :

ACKNOWLEDGMENT

				M	M		Y	Y	Y	Y
Return of Specified Goods										
	D	D		M	M		Y	Y	Y	Y
Return of Specified Goods										

(Name and Signature of the Range Officer with Official Seal)

INSTRUCTIONS

1. In case where a producer has obtained a centralized registration under Rule 3 of Clean Energy Cess Rules 2010 he should provide information in respect of table No.II and V (c) in respect of each Mine separately.
2. In case more than one item is produced, additional row may be inserted in each table.
3. 8-Digit CE'HS No. may be indicated without any decimal point.
4. The details of the challans for duty payment should be mentioned in Table II. Separate challans should be used for pre-deposit of duty for the purpose of appellate remedy.
5. In the sixth column of Table at serial number IV specify the Order-in-Original number and date relating to the payment of arrears of duty and of interest, the period for which the said interest has been paid. For other miscellaneous payments, mention the source document number and date.
