

HOT-AIR STENTER INDEPENDENT TEXTILE PROCESSORS ANNUAL CAPACITY DETERMINATION RULES, 2000

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HOT-AIR STENTER INDEPENDENT TEXTILE PROCESSORS ANNUAL CAPACITY DETERMINATION RULES, 2000

In exercise of the powers conferred by sub-section (2) of section 3A of the Central Excise Act, 1944 (1 of 1944) and in supersession of the Hot-air Stenter Independent Textile Processors Annual Capacity Determination Rules, 1998, published in the Gazette of India, Extraordinary, vide notification No. 42/98-Central Excise (N.T.), dated the 10th December, 1998, the Central Government, hereby makes the following rules to provide for determination of the annual capacity of production of certain goods notified under sub-section (1) of said section 3A, namely :-

1. Short title and commencement :-

(1) These rules may be called the Hot-air Stenter Independent Textile Processors Annual Capacity Determination Rules, 2000 .

(2) They shall come into force with effect from the 1st day of March, 2000.

2. Application :-

These rules shall apply to processed textile fabrics falling under heading Nos. 52.07, 52.08, 52.09, 54.06, 54.07, 55.11, 55.12, 55.13 or 55.14, or processed textile fabrics of cotton or man-made fibres, falling under heading Nos. or sub-heading Nos. 58.01, 58.02, 5806.10, 5806.40, 6001.12, 6001.22, 6001.92, 6002.20, 6002.30, 6002.43 or 6002.93, of the First Schedule to Central Excise Tariff Act, 1985 (5 of 1986), for determining the annual capacity and the average value of production of an independent processor if such textile fabrics are manufactured or produced with the aid of a hot-

air stenter.

3. Declaration to be filed by independent processor :-

(1) An independent processor shall declare -

(i) the number of hot-air stenters installed in his factory;

(ii) the name of the manufacturer of each of the hot-air stenter, its identification no. and the date of its purchase;

(iii) the number and size (both the length and width in centimetres) of chambers in each of the hot-air stenters;

(iv) the total value of processed textile fabrics referred to in rule 2, produced or manufactured in the preceding financial year; and

(v) the total quantity of the said processed textile fabrics, produced or manufactured in the preceding financial year;

(vi) the total value of the said processed textile fabrics, cleared from the factory in the preceding financial year; and

(vi) the total quantity of the said processed textile fabrics, cleared from the factory in the preceding financial year,

(2) With effect from 1st of April, 2000, the independent processor shall also file an annual declaration, indicating whether he seeks to retain the option for redetermination of the duty liability on the basis of actual production, in terms of sub-section (4) to section 3A or not, prior to the commencement of the relevant financial year, and the option so exercised shall not be withdrawn during any part of such financial year :

Provided that in respect of new units commencing production during the course of a financial year, such declaration shall be filed prior to the commencement of commercial production and the option exercised through such declaration shall not be withdrawn during the remaining part of that financial year.

(3) On receipt of the declaration referred to in rule 3, the Commissioner shall take necessary action to verify its correctness and ascertain the correct value of each of the parameters given in such declaration:

Provided that the Commissioner may, if he so desires, consult any technical authority for this purpose;

4. Determination of annual capacity and average value :-

(1) The annual capacity of production of processed textile fabrics specified in rule 2 in respect of a factory of an independent processor referred to in rule 2 shall be determined in the following manner, namely :-

(i) the number of chambers (of a hot-air stenter), each of which having a rail length of upto 3.05 metre on each side, installed in such factory shall be construed as one chamber and any fraction exceeding such rail length of any such chamber shall be computed on a pro-rata basis;

(ii) the production capacity of a chamber in terms of quantity shall be deemed to be 1 lakh sq. mtr. per chamber per month.

(2) The average value of the processed textile fabrics (per square metre) referred to in rule 2 for such factory shall be arrived at by dividing the total value of such processed fabrics cleared from the factory in the immediately preceding financial year by the total quantity of such processed fabrics cleared during that preceding financial year:

Provided that in the case of textile fabrics produced by a new unit or a closed unit of such factory for which average value as specified above cannot be calculated, the average value of such fabrics shall be as declared by the independent processor at the time of making the declaration. But the amount of duty payable on such fabrics shall be re-worked out at the end of a financial year on the basis of actual average value of the textile fabrics produced in the financial year in such factory;

(3) The Commissioner of Central Excise shall, as soon as may be, after determining the annual capacity of production and the average value of processed textile fabrics and the number of chambers (of a hot-air stenter) of the factory of the independent processor, by an order, intimate the same as also the rate of duty applicable to the independent processor :

Provided that the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, may determine the annual capacity of production on a provisional basis pending verification of the declaration furnished by the independent processor and pass an order accordingly. Thereafter, the Commissioner may determine, the annual capacity, as soon as

may be, and pass an order accordingly.

(4) The capacity of production for any part of the year, or any change in the total number of chambers, shall be calculated pro-rata on the basis of annual capacity of production determined in the manner specified in sub-rule (1).

5. Changes in parameters for capacity determination :-

In case an independent processor proposes to make any change in the installed machinery or any part thereof which tends to change any of the parameters referred to in rule 4, he shall intimate, about the proposed change, to the Commissioner of Central Excise in writing, with a copy to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, one month in advance of such proposed change, and shall obtain the written approval of the Commissioner before making such change, whereafter the Commissioner of Central Excise shall determine the date from which the change in the annual capacity shall be deemed to be effective.

Explanation I. - For the purposes of this notification, a float drying machine or any other equipment, except the galleries, of a length 3.05 metres installed in or attached to a stenter for aiding the process of heat setting or drying of the fabrics shall be deemed to be one chamber of a stenter and any fraction of such length shall be computed on a pro-rata basis.

Explanation II. - Unless otherwise specified in any rule made under section 3A of the Central Excise Act, 1944 (1 of 1944), for the purposes of this notification the goods shall be deemed to have been manufactured or produced with the aid of a hot-air stenter, if they are cleared from a factory where a hot-air stenter is installed, irrespective of whether it is in use or not, or is in working condition or not.

Explanation III. - For the purposes of this notification, -

(i) "independent processor" means a manufacturer who is engaged primarily in the processing of fabrics with the aid of power and who also has the facility in his factory (including plant and equipment) for carrying out heat-setting or drying, with the aid of power or steam in a hot-air stenter and who has no proprietary interest in any factory primarily and substantially engaged in the spinning of yarn or weaving or knitting of fabrics, on or after the 10th December, 1998; and

(ii) "value" means the value as determined under section 4 of the Central Excise Act, 1944 (1 of 1944).

Explanation IV. - For removal of doubts, it is clarified that the hot-air stenters installed in the factory, but which are permanently closed or sealed as on the 1st day of March, 2000 shall, subject to such safeguards, conditions and limitations as may be specified by the Commissioner of Central Excise in this regard, not be taken into account for the purposes of determination of the annual capacity of production of the independent processor.