

CENTRAL EXCISE RULES, 1944

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and extent
2. Definitions
3. Agent of owner of goods, factory or warehouse to be deemed owner for certain purposes

CHAPTER 2 :- APPOINTMENT AND POWERS OF OFFICERS

4. Appointment of Officers
5. Delegation of powers by the Commissioner
6. Commissioner or Joint Commissioner to exercise the power of any officer

CHAPTER 3 :-LEVY AND REFUND OF, AND EXEMPTION FROM DUTY

7. Recovery of duty
 - 7A. Recovery of duty on molasses produced by a khandsari sugar factory
 - 7AA. Recovery of duty on articles of apparel manufactured on job work
8. XXX XXX XXX
9. Time and manner of payment of duty
 - 9A. Date for determination of duty and tariff valuation
 - 9B. Provisional assessment to duty
 - 9C. Rules to apply to procurer
 - 9D. Application of rules in relation to articles of apparel and clothing accessories, not knitted or crocheted
10. XXX XXX XXX
11. XXX XXX XXX
12. Rebate of duty
13. Export in bond of goods on which duty has not been paid
14. Exporter may enter into a general bond
 - 14A. XXX XXX XXX
 - 14B. Penalty for removing excisable goods, the duty leviable on which exceeds the bond amount

CHAPTER 4 :- UNMANUFACTURED PRODUCTS

15. XXX XXX XXX
16. XXX XXX XXX

17. XXX XXX XXX
18. XXX XXX XXX
19. XXX XXX XXX
20. XXX XXX XXX
21. XXX XXX XXX
22. XXX XXX XXX
23. XXX XXX XXX
24. XXX XXX XXX
25. XXX XXX XXX
26. XXX XXX XXX
27. XXX XXX XXX
28. XXX XXX XXX
29. XXX XXX XXX
30. XXX XXX XXX
31. XXX XXX XXX
32. XXX XXX XXX
33. XXX XXX XXX
34. XXX XXX XXX
35. XXX XXX XXX
36. XXX XXX XXX
37. XXX XXX XXX
38. XXX XXX XXX
39. XXX XXX XXX
40. XXX XXX XXX
41. XXX XXX XXX
42. XXX XXX XXX

CHAPTER 5 :- MANUFACTURED GOODS, OTHER THAN SALT

43. Notice of manufacture to be given
44. Commissioner may require manufacturer to make prior declaration of factory premises and equipment
45. Alteration or movement of factory equipment
46. Marking of premises and equipment
47. Goods may be stored without payment of duty
48. XXX XXX XXX
49. Payment of duty on fortnightly-basis on removal of goods from the factory premises or from an approved place of removal
- 49A. Collection of duty leviable on cellulosic spun yarn and cotton yarn along with the duty on cotton fabrics
50. XXX XXX XXX
51. Packing and weighment of goods
- 51A. Removal of goods after payment of duty
52. Clearance on payment of duty
- 52A. Goods to be delivered on an invoice
- 52AA. Procedure for issuing invoices under rule 57AE
- 52B. XXX XXX XXX
53. Daily sk account
- 53A. XXX XXX XXX
54. Monthly returns

55. Monthly returns
56. Taking of samples for excise purposes
56A. Taking of samples for excise purposes
56AA. XXX XXX XXX
56B. Special procedure for removal of finished excisable or semi-finished goods for certain purposes
56C. Special procedure for removal of finished excisable or semi-finished goods for certain purposes
57. XXX XXX XXX
57A. Applicability
57AA. Definitions
57AB. CENVAT credit
57AC. Conditions for allowing CENVAT credit
57AD. Obligation of manufacturer of dutiable and exempted goods
57AE. Documents and accounts
57AF. Transfer of credit
57AG. Transitional provision
57AH. Recovery of credit wrongly taken
57AI. XXX XXX XXX
57AJ. Special dispensation in respect of inputs manufactured in factories locate of North East region
57AK. Power of Central Government to notify goods for deemed credit
57B. Eligibility of credit of duty on certain inputs
57C. Credit of duty not to be allowed if final products are exempt
57CC. Adjustment of credit on inputs used in exempted final products or maintenance of separate inventory and accounts of inputs by the manufacturer
57D. Credit of duty not to be denied or varied in certain circumstances
57E. Adjustment in duty credit
57F. Manner of utilisation of inputs and the credit allowed in respect of duty paid thereon
57G. Procedure to be observed by the manufacturer
57GG. Procedure to be followed by persons issuing invoices under rule 57G or rule 57T
57H. Transitional provisions
57I. Recovery of credit wrongly availed of or utilised in an irregular manner
57J. Credit of duty in respect of inputs used in an intermediate product
57JJ. Special dispensation in respect of inputs manufactured in factories located in specified areas of NorthEast Region
57K. Applicability and extent of credit
57L. Credit not to be allowed if final products are exempt
57M. Credit not to be denied or varied in certain circumstances
57N. Manner of utilisation of the credit
57O. Procedure to be observed by the manufacturer
57P. Disallowance of credit
57Q. Applicability

- 57R. Credit of duty not to be allowed or denied or varied in certain circumstances and adjustment in duty credit
- 57S. Manner of utilisation of the capital goods and the credit allowed in respect of duty paid thereon
- 57T. Procedure to be observed by the manufacturer
- 57U. Recovery of credit wrongly availed of or utilised in an irregular manner
- 57V. Special dispensation in respect of inputs manufactured in factories located in specified areas of NorthEast Region
58. XXX XXX XXX
59. XXX XXX XXX
60. XXX XXX XXX
61. XXX XXX XXX
62. Finished matches to be kept in a secure place
63. Number of matches which may be packed in boxes
64. Each box or booklet to bear a Central Excise Stamp
65. Procurement of Central Excise Stamps
66. Central Excise Stamps to be kept in a secure place and periodically inspected
67. Manufacturer to keep account of Central Excise Stamps purchased and used
68. Manner of affixing Central Excise Stamps
69. Affixing of Central Excise Stamps to matches redeemed after confiscation
70. Matches to be packed, affixed with Central Excise Stamps and transferred to store. Room immediately after finishing
71. Method of packing
72. Examination by proper officer at the factory
73. Test-check of contents of boxes and booklets
74. Disposal of matches examined under rule 72 or 73 and of Central Excise Stamps damaged during examination
75. Deposit of matches in store-room
76. Matches intended for export may also be deposited in the store-room.
77. XXX XXX XXX
78. Manner of storage in the store-room
79. Removal of defective matches for reconditioning
80. XXX XXX XXX
81. XXX XXX XXX
82. Removal of matches bearing Central Excise Stamps purchased on credit
- 82A. Storage of duty paid matches near the factory premises
83. XXX XXX XXX
84. XXX XXX XXX
85. XXX XXX XXX
86. XXX XXX XXX
87. XXX XXX XXX
88. XXX XXX XXX
89. XXX XXX XXX
90. XXX XXX XXX

- 91. XXX XXX XXX
- 92. XXX XXX XXX
- 92A. XXX XXX XXX
- 92B. XXX XXX XXX
- 92C. XXX XXX XXX
- 92D. XXX XXX XXX
- 92E. XXX XXX XXX
- 92F. XXX XXX XXX
- 93. Manufacture and disposal of excisable tobacco products
- 94. Daily account of tobacco products manufactured
- 95. XXX XXX XXX
- 95A. Special procedure for removal in bond of biris to other premises
- 96. Abatement of duty on defective tyres
- 96A. XXX XXX XXX
- 96B. XXX XXX XXX
- 96C. XXX XXX XXX
- 96D. XXX XXX XXX
- 96DD. Procedure for removal of cotton fabrics or man-made fabrics from one factory to another without payment of duty for embroidery
- 96E. Procedure for removal of cotton yarn or jute twist, yarn, thread, ropes and twine from one factory to another without payment of duty
- 96EE. Procedure for removal of yarn (other than cotton yarn or jute yarn) from one factory to another without payment of duty
- 96F. Fixation of areas for the purpose of excise duty
- 96G. XXX XXX XXX
- 96H. XXX XXX XXX
- 96I. XXX XXX XXX
- 96J. XXX XXX XXX
- 96K. XXX XXX XXX
- 96L. XXX XXX XXX
- 96M. XXX XXX XXX
- 96MM. XXX XXX XXX
- 96MMM. XXX XXX XXX
- 96MMMM. XXX XXX XXX
- 96MMMMM. XXX XXX XXX
- 96N. xxx xxx xxx
- 96ZA. Application to avail of special procedure
- 96ZB. Discharge of liability for duty on payment of certain sum
- 96ZC. Manufacturers declaration and accounts
- 96ZD. Exemption from certain provisions, no rebate of excise duty on export
- 96ZE. XXX XXX XXX
- 96ZF. Provisions regarding new factories and closed factories resuming production
- 96ZG. Power to condone failure to apply for special procedure
- 96ZGG. Provision regarding factories ceasing to work or reverting to the normal procedure

- 96ZH. Application to avail of special procedure
96ZI. Discharge of liability for duty on payment of certain sum
96ZJ. Manufacturers declaration and accounts
96ZK. Exemption from certain provisions; no rebate of excise duty on export
96ZL. XXX XXX XXX
96ZM. Power to condone failure to apply for special procedure
96ZN. Markings on labels
96ZNA. Application to avail of special procedure
96ZNB. Conditions for availing of special procedure
96ZNC. Discharge of liability for duty on payment of certain sum, etc
96ZND. Procedure for claiming abatement
96ZO. XXX XXX XXX
96ZP. XXX XXX XXX
96ZQ. XXX XXX XXX
96ZR. XXX XXX XXX
96ZUU. XXX XXX XXX
96ZV. Damaged cement may be returned for reprocessing or for further manufacture to the original factory of production or to any other cement factory
96ZW. XXX XXX XXX
96ZZZZ. XXX XXX XXX
97. Refund of duty on goods returned to factory
97A. Goods cleared for export may be allowed to be returned to factory
97B. Excisable goods exported may be allowed to be returned to the factory
98. Goods not affixed with Central Excise Stamps and unlabelled goods removed for export may be returned to the factory
99. Refund of purchase price of unused or damaged Central Excise Stamps
100. Refund of duty on sugar received for refining

CHAPTER 5A :-REMOVALFROM A FREE TRADE ZONE OR FROM A HUNDRED PER CENT EXPORT-ORIENTEDNDERTAKING OF EXCISABLE GOODS FOR HOME CONSUMPTION

- 100A. Application
100B. Daily Sk Account
100C. Maintenance of account-current
100D. Removal of goods on payment of duty
100E. Issue of invoice
100F. Monthly Return
100G. Restrictions on removal of goods
100H. Exemption from certain provisions

CHAPTER 6 :- SALT

101. XXX XXX XXX

102. XXX XXX XXX
103. XXX XXX XXX
104. XXX XXX XXX
105. XXX XXX XXX
106. XXX XXX XXX
107. XXX XXX XXX
108. XXX XXX XXX
109. XXX XXX XXX
110. XXX XXX XXX
111. XXX XXX XXX
112. XXX XXX XXX
113. XXX XXX XXX
114. XXX XXX XXX
115. XXX XXX XXX
116. XXX XXX XXX
117. XXX XXX XXX
118. XXX XXX XXX
119. XXX XXX XXX
120. XXX XXX XXX
121. XXX XXX XXX
122. XXX XXX XXX
123. XXX XXX XXX
124. XXX XXX XXX
125. XXX XXX XXX
126. XXX XXX XXX
127. XXX XXX XXX
128. XXX XXX XXX
129. XXX XXX XXX
130. XXX XXX XXX
131. XXX XXX XXX
132. XXX XXX XXX
133. XXX XXX XXX
134. XXX XXX XXX
135. XXX XXX XXX
136. XXX XXX XXX
137. XXX XXX XXX
138. XXX XXX XXX

CHAPTER 7 :- WAREHOUSING

139. Warehousing provisions to apply only to goods specially notified in the Official Gazette
140. Appointment and registration of warehouses
141. Receipt of goods at warehouse
142. XXX XXX XXX
143. Owners power to deal with warehoused goods
- 143A. Special provisions with respect to goods processed and manufactured in refineries
144. Goods not to be taken out of warehouse except as provided by these rules

- 145. Period for which goods may remain warehoused
- 145A. Goods in private warehouse to be cleared on cancellation of Registration Certificate
- 146. Mode of calculating quantity of goods warehoused
- 147. Power to remit duty on warehoused goods lost or destroyed
- 148. Responsibility of warehouse-keeper
- 149. Destruction of unusable material, waste and other refuse
- 150. Excisable goods may be lodged in Customs bonded warehouse under certain conditions
- 151. XXX XXX XXX
- 152. Goods may be removed from one warehouse to another
- 153. XXX XXX XXX
- 154. XXX XXX XXX
- 155. XXX XXX XXX
- 156. Certificate regarding consignee to be produced
- 156A. Procedure in respect of goods removed from one warehouse to another
- 156B. Failure to present triplicate application
- 157. Clearance of goods for home consumption
- 158. Form of application for clearance of goods
- 159. Re-assessment
- 160. If goods are improperly removed from warehouse or allowed to remain beyond time fixed, or lost, or destroyed, Commissioner may demand duty, etc
- 161. Procedure on failure to pay duty, etc
- 162. Noting removal of goods
- 162A. XXX XXX XXX
- 163. Warrant to be given when goods are lodged in a public warehouse
- 164. Owner of goods to pay such dues when demanded
- 165. Access of owner to warehoused goods
- 166. Keeper of public warehouse solely responsible for safety of goods stored therein
- 167. Payment of rent and warehouse dues
- 168. Keeper of public warehouse to keep record of all entries into, operations in, and removals from his warehouse
- 169. Public warehouse to be locked
- 170. Expenses of carriage, packing, etc., to be borne by owner
- 171. Wholesale dealer in excisable goods may receive such goods into a private warehouse without payment of duty
- 172. Private warehouses to contain only goods belonging to warehouse owner or held by him as a broker or a commission agent and only goods on which duty has not been paid
- 173. Registered person of private warehouse to keep record of all entries into, operations in, and removals from his warehouse

CHAPTER 7A :-REMOVAL OF EXCISABLE GOODS ON DETERMINATION OF DUTY BY PRODUCERS, MANUFACTURERS OR PRIVATE WAREHOUSE LICENSEES

173A. Application

173B. .

173C. Procedure regarding valuation of goods assessable ad valorem

173CC. XXX XXX XXX

173D. XXX XXX XXXX

173E. Determination of normal production

173F. Assessee to determine the duty due on the goods and to remove them on payment thereof

173FF. XXX XXX XXX

173G. Procedure to be followed by the assessee

173GG. XXX XXX XXX

173H. Retention in, or bringing into, a factory or warehouse, of duty paid goods

173I. Scrutiny by the proper officer

173J. XXX XXX XXX

173K. XXX XXX XXX

173L. Refund of duty on goods returned to factory

173M. Goods cleared for export to be returned to the factory

173MM. Procedure in respect of exported goods subsequently re-imported and returned to the factory

173N. Procedure in respect of warehoused goods

173O. XXX XXX XXX

173P. Remission of duty on goods used for special industrial purposes

173PP. XXX XXX XXX

173PPP. XXX XXX XXX

173Q. Confiscation and penalty

CHAPTER 7B :- REFUND

173S. Application for refund of duty

CHAPTER 8 :- REGISTRATION

174. Registration of certain persons

174A. XXX XXX XXX

175. XXX XXX XXX

176. XXX XXX XXX

177. XXX XXX XXX

178. XXX XXX XXX

179. XXX XXX XXX

180. XXX XXX XXX

181. XXX XXX XXX

182. XXX XXX XXX

183. XXX XXX XXX

184. XXX XXX XXX

CHAPTER 9 :-EXPORT UNDER CLAIM FOR REBATE OF DUTY OR UNDER BOND

- 185. Proper numbering of packages meant for export
- 186. XXX XXX XXX
- 187. Sealing of goods and examination at place of despatch
- 187A. Despatch of goods without examination
- 187B. Examination of goods at the place of export
- 188. Examination of goods at the place of export
- 189. Presentation of claim for rebate
- 189A. XXX XXX XXX
- 190. XXX XXX XXX
- 191. XXX XXX XXX
- 191A. XXX XXX XXX
- 191B. XXX XXX XXX
- 191BB. XXX XXX XXX

CHAPTER 10 :-REMISSION OF DUTY ON GOODS USED FOR SPECIAL INDUSTRIAL PURPOSES

- 192. Application for concession
- 193. Packing and transport of concessional goods
- 194. Storage and accounts
- 195. Disposal of refuse of excisable goods
- 196. Duty leviable on excisable goods not duly accounted for
- 196A. Surplus excisable goods
- 196AA. Transfer of excisable goods
- 196B. Disposal of defective or damaged excisable goods
- 196BB. Movement of excisable goods

CHAPTER 11 :- ENTRY, SEARCH, SEIZURE AND INVESTIGATION

- 197. Authorized Officers to have free access to premises, equipment, stocks and accounts of dealers in excisable goods
- 198. Penalty for obstruction or giving false or misleading information
- 199. Power to detain person and examine goods
- 200. Power to stop and search vessels, carts, etc., and to seize goods which appear to be contraband
- 201. Power to enter and search
- 202. Power to require access to place, vessel or conveyance for inspection or examination of goods
- 203. Police to take charge of articles seized
- 204. Issue of summons
- 205. XXX XXX XXX
- 206. Disposal of things seized
- 207. Charge by whom to be preferred
- 208. Customs Officers to exercise the same powers as Central Excise Officers

CHAPTER 12 :- PENALTIES AND CONFISCATIONS

- 209. Confiscation and penalty
- 209A. Penalty for certain offences

- 210. General penalty
- 210A. Composition of offences
- 211. On confiscation, property to vest in Central Government
- 212. Disposal of goods confiscated
- 212A. Storage charges in respect of goods confiscated and redeemed

CHAPTER 12A :- APPEALS TO COMMISSIONER (APPEALS)

- 213. Form of appeal to Commissioner (Appeals)
- 214. Form of application to the Commissioner (Appeals)
- 215. Production of additional evidence before Commissioner (Appeals)

CHAPTER 12B :- APPEALS TO APPELLATE TRIBUNAL

- 216. Form of appeal, etc., to the Appellate Tribunal
- 217. Form of application to the Appellate Tribunal
- 218. Form of application to the High Court

CHAPTER 12BB :- REVISION BY CENTRAL GOVERNMENT

- 218A. Form of revision application to the Central Government
- 218B. Procedure for filing revision application

CHAPTER 12C :- OTHER MATTERS RELATING TO APPEALS

- 219. Procedure for filling appeals etc

CHAPTER 13 :- OTHER MATTERS RELATING TO APPEALS

- 220. Form and manner of Application
- 220A. Disclosure of information in the application for settlement of cases
- 220B. Manner of Provisional Attachment of Property
- 220C. Fee for Copies of reports

CHAPTER 14 :- MISCELLANEOUS

- 221. Responsibility of a corporate body for making declaration and obtaining Registration Certificate
- 221A. Exemption from execution of bonds by Central Government undertakings and furnishing of security or surety by State Government undertakings
- 222. XXX XXXX XXX
- 223. Sk of excisable goods to be stored in an orderly manner
- 223A. Account of sk of goods in a factory or warehouse to be taken and balance to be struck
- 223B. XXX XXX XXX
- 224. Restrictions on removal of goods
- 224A. Cancellation of Central Excise documents
- 224B. Duplicates of documents may be granted on payment of fees
- 224C. Duplicates of documents may be granted on payment of fees

225. Producer or manufacturer liable for removal of goods by any person
226. XXX XXX XXX
- 226A. Electronic maintenance or generation of records, returns and documents using computer
227. Provision and maintenance of weighing and measuring apparatus
228. Provision and maintenance of locks
229. Provision of accommodation at factory or warehouse
230. Goods, plant and machinery chargeable with duty and not paid
231. Matches and excisable tobacco products not to be sold except in prescribed containers bearing a Central Excise Stamp or label
232. Officer shall not disclose information learned in his official capacity
- 232A. Publication of names and other particulars of persons
- 232B. Qualifications for authorized representatives
- 232C. Authority under section 35Q(5)(b)
233. Power to issue supplementary instructions
- 233A. Issue of show cause notice before confiscation of any property or imposition of any penalty
- 233B. Procedure to be followed in cases where duty is paid under protest
234. Cancellation of former rules, orders and notifications

CENTRAL EXCISE RULES, 1944

PREAMBLE

In exercise of the powers conferred by sections 6,12 and 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government is pleased to apply in the adapted form set out below certain provisions of the Sea Customs Act, 1878 (VIII of 1878), and to make the following rules for the purpose of providing for the assessment and collection of the duties imposed by the first mentioned Act.

CHAPTER 1 PRELIMINARY

1. Short title and extent :-

- (1) These Rules may be called the Central Excise Rules, 1944.
- (2) They extend to the whole of India.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context-

- (1) "the Act" means the Central Excises Act, 1944;

(1a) "appointed date" means the date appointed for presentation of the Annual or any Supplementary Budget of the Central Government to Parliament or for the introduction in the House of People of any Finance Bill or any Bill for imposition or increase of any duty, as the case may be."

(1b) "appointed time" means the time appointed for presentation of the Annual or any Supplementary Budget of the Central Government to Parliament or for the introduction in the House of People of any Finance Bill or any Bill for imposition or increase of any duty, as the case may be.

(2) "assessment" means assessment made by the proper officer and includes self-assessment of duty made by the assessee, re-assessment by the proper officer, provisional assessment under rule 9B, best judgment assessment for the purpose of rule 173Q and any order of assessment in which the duty assessed is nil;

(3) "assessee" means any person who is liable for payment of duty assessed and also includes any producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored;

(4) "Commissioner" means, in relation to excisable goods,-

(i) in the districts of West Godavari, Krishna, Guntur, Prakasam, Nellore and Chittoor of the State of Andhra Pradesh, the Commissioner of Central Excise, Guntur;

(ii) in the districts of Medak, Nizamabad, Adilabad, Karimnagar and in Basheerabad, Tandur, Yalal, Peddamul, Bantwaram, Marpalle, Mominpet, Nawab-pet, Dharoor, Vikarabad, Pudur, Pargi, Doma, Kulkacherla, Gandeed, Shankarpalle, Chevella, Shahabad, Moinabad, Serilingampalle, Qutubullapur, Balanagar, Medchal and Shamirpet mandals in the districts of Rangareddy, and in the areas comprising of Secundrabad Municipal ward numbers 1,9 and 10 and all wards of Secundrabad Cantonment in the district of Hyderabad, of the State of Andhra Pradesh, the Commissioner of Central Excise, Hyderabad-1;

(iii) in the districts of Mahaboobnagar, Kurnool, Ananthapur, Cuddappah, in the areas comprising of Hyderabad Municipal Ward numbers 19, 20, 21 and 23 in the district of Hyderabad, and in the areas comprising of Shamshadbad mandal, Kandukur mandal, Maheswaram mandal, in the villages of Laxmiguda, Shivarampalle, Pallacheru, Mailardevapalle, Kattedan, Gaganpahad, Madannaguda, Premavathipet, Bamrakunuddowla, Panjashajamalbowli, Bundvel, Sikanderguda, Kismatpur and Sogbowli of Rajendranagar mandal in the district of Ranga Reddy, of the State of Andhra Pradesh, the

Commissioner of Central Excise, Hyderabad-11;

(iv) in the districts of Nalgonda, Warangal, Khammam, in the areas comprising of Malkajgiri, Keesara, Ghatkesar, Uppal, Hyathnagar, Saroornagar, Ibrahimpatnam, Manchal and Yacharam mandals, in the villages of Rajendranagar mandal other than those specified in item (iii) in the district of Ranga Reddy and in the areas comprising of Hyderabad Municipal Ward numbers 1-18 and 22, and Secunderabad Municipal Ward numbers 2-8,11 and 12, in the district of Hyderabad, of the State of Andhra Pradesh, the Commissioner of Central Excise, Hyderabad-111;

(v) in the districts of Srikakulam, Vizianagaram, Visakhapatnam and East Godavari, of the State of Andhra Pradesh and the territory of Yanam in the Union territory of Pondicherry, the Commissioner of Central Excise, Visakhapatnam;

(vi) in the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, the Commissioner of Central Excise, Shillong;

(vii) in the districts of Dhanbad, Dumka (Santal Pargana), Bokaro, Giridih, East Singhbhum, West Singhbhum, Gumla, Ranchi, Lohardaga, Hazaribagh, Chatra and Deogarh, of the State Of Bihar, the Commissioner of Central Excise, Jamshedpur;

(viii) in the districts, other than those specified in item (vii) above, of the State of Bihar, the Commissioner of Central Excise, Patna;

(ix) in the districts of Ropar, Patiala, Ludhiana and Fategarh Sahib of the State of Punjab, in the State of Himachal Pradesh and in the Union Territory of Chandigarh, the Commissioner of Central Excise, Chandigarh-I;

(x) in the districts of Amritsar, Jalandhar, Kupurthala, Moga, Sangrur, Bathinda, Mansa, Faridkot, Ferozpur, Mukhtasar, Hoshiarpur, Nawanshahar, Gurdaspur, of the State of Punjab and in the State of Jammu and Kashmir, the Commissioner of Central Excise, Chandigarh-II;

(xi) in the Union Territory of Delhi, the Commissioner of Central Excise, Delhi-1;

(xii) in the district of Faridabad of the State of Haryana, the Commissioner of Central Excise, Delhi-11;

(xiii) in the districts of Gurgaon, Rewari, Mohindergarh, Rohtak, Jind, Bhiwani, Hissar, Sisra, Sonapat, Karnal, Panipat, Ambala, Kaithal, Kurukshetra, Jhajjar, Yamunanagar, Fatehabad and Panchkula, of the State of Haryana, the Commissioner of Central Excise, Delhi-111;

(xiv) in the State of Goa, the Commissioner of Central Excise, Goa;

- (xv) in the City taluka and Daskroi taluka in the district of Ahmedabad of the State of Gujarat, the Commissioner of Central Excise, Ahmedabad-I;
- (xvi) in the district of Ahmedabad (excluding the City taluka and Daskroi taluka), Dasada taluka in the district of Surendranagar, districts of Kheda, Anand, Gandhinagar, Banaskantha, Mehsana, Patan and Sabarkantha, of the State of Gujarat, the Commissioner of Central Excise, Ahmedabad-II;
- (xvii) in the districts of Surendranagar (excluding the taluka of Dasada), Rajkot, Jamnagar, Kutch, Amreli, Bhavnagar, Porbandar and Junagarh of the State of Gujarat, and in the territory of Diu of the Union Territory of Daman and Diu, the Commissioner of Central Excise, Rajkot;
- (xviii) in the districts of Narmada and Surat, and in the talukas of Ankaleshwar, Jhagadia, Hansot and Valia of the district of Bharuch of the State of Gujarat, the Commissioner of Central Excise, Surat-I;
- (xix) in the districts of Valsad, Navsari and Dang of the State of Gujarat, in the Union Territory of Dadra and Nagar Haveli, and in the Territory of Daman of the Union Territory of Daman and Diu, the Commissioner of Central Excise, Surat-II;
- (xx) in the districts of [Vadodara, Godhra, Dahod], and in Amod, Jambusar, Bharuch, Vagara and Palej talukas in the district of Bharuch, of the State of Gujarat, the Commissioner of Central Excise, Vadodara;
- "(xxi) in the areas comprising of Ward numbers 62 to 76 and 81 to 89 of Bangalore Metropolitan Municipal Corporation, in the Taluk of Anekal [excluding areas specified in item (xxiii)], in the areas comprising of the Hoblis of Varthur, Krishnaraja Puram, Bidarahalli and Begur in the Taluk of Bangalore South in Bangalore Urban District, in the Taluk of Hoskote of Bangalore Rural District, in the district of Kolar, in the State of Karnataka, the Commissioner of Central Excise, Bangalore-I;
- (xxii) in the areas comprising of Ward numbers 1 to 5, 11, 80, 90 to 98 and 100 of Bangalore Metropolitan Municipal Corporation, in areas comprising of the City Municipal Corporations of Dasanapura and Byatarayanapura, and in the areas comprising of the Hoblis of Vishwanthapura- Hesaraghatta, Yelahanka, Jala, in the Taluk of Bangalore North of Bangalore Urban District, in the Taluks of Nelamangala, Doddaballapur and Devanahalli of Bangalore Rural District, in the districts of Tumkur, Chitradurga, Davangere and Haveri, in the State of Karnataka, the Commissioner of Central

Excise, Bangalore-II;

(xxiii) in the areas comprising of Ward numbers 6 to 10, 12 to 61, 77 to 79 and 99 of Bangalore Metropolitan Municipal Corporation, in areas comprising of the Hoblis of Kengeri, Tavarakere and Uttarahalli in the Taluk of Bangalore South and in the areas comprising of Kannaikana Agrahara of the Taluk of Anekal in Bangalore Urban District, in the Taluks of Kanakapura, Chennapatna, Ramanagaram, and Magadi, of Bangalore Rural District, in the districts of Mysore, Mandya, and Chamarajnagar, in the State of Karnataka, the Commissioner of Central Excise, Bangalore-III;

(xxiv) in the districts of Belgaum, Bellary, Raichur, Bijapur, Bagalkot, Gadag, Dharwad, Gulbarga, Koppal and Bidar. in the State of Karnataka, the Commissioner of Central Excise, Belgaum;

(xxiva) in the districts of Uttara Kannada, Dakshina Kannada, Udupi, Chikmagalur, Shimoga, Hassan and Kodagu, in the State of Karnataka, the Commissioner of Central Excise, Mangalore;

(xxv) in the districts of Ernakulam, Kottayam, Idukki, Kollam, Pattanamthitta, Alappuzha and Thiruvananthapuram, of the State of Kerala, Kolukumalai Tea Factory (being a part of Kottakudi village of Uthamapalayam taluka of the district of Theni) in the State of Tamilnadu, and in the Union Territory of Lakshadweep, the Commissioner of Central Excise, Cochin;

(xxvi) in the districts of Trichur, Palakkad, Malappuram, Kozhikode, Wayanad, Kannur, and Kasargod (excluding the area comprised in Malkipara tea factory, being part of Pariyaram village of Mukundapuram taluka of the district of Trichur), of the State of Kerala, and Mahe Commune of the Union Territory of Pondicherry, the Commissioner of Central Excise, Calicut;

(xxvii) in the districts of Indore, Dhar, West Nimar (Khargaon), East Nimar (Khandwa), Jhabua, Ratlam, Mandsaur, Dewas, Shajapur, Ujjain, Guna, Rajgarh (excluding the tehsil of Narsingarh), Gwalior, Shiv-puri, Datia, Morena and Bhind, of the State of Madhya Pradesh, the Commissioner of Central Excise, Indore;

(xxviii) in the tehsil of Narsingarh of the district of Rajgarh, in the districts of Bhopal, Sihore, Vidisha, Betul, Hoshangabad, Raisen, Chhatarpur, Tikamgarh, Jabalpur, Sagar, Shahdol, Damoh, Chhindwara, Narsingpur, Seoni, Manda and Balaghat, of the State of Madhya Pradesh, the Commissioner of Central Excise, Bhopal;

(xxix) in the districts of Raipur, Bastar, Durg, Rajnandgaon, Bilaspur, Raigarh, Surguja, Satna, Rewa, Sidhi and Jagdalpur, of

the State of Madhya Pradesh, the Commissioner of Central Excise, Raipur;

(xxx) in the districts of Ahmednagar, Nasik, Dhule, Jalgaon, Aurangabad, Jalna, Farbhani, Bhir, Usmanabad, Latur and Nanded, of the State of Maharashtra, the Commissioner of Central Excise, Aurangabad;

(xxxi) in the areas comprising of wards A to F of the Municipal Corporation of Greater Mumbai, of the State of Maharashtra, and in the areas in the Continental Shelf, or as the case may be, in the Exclusive Economic Zone, of India, declared as designated areas by the notification of Government of India in the Ministry of External Affairs, number S.O. 429(E), dated the 18th July, 1986, the Commissioner of Central Excise, Mumbai-I;

(xxxii) in the areas comprising of wards L, M, N, S and T of the Municipal Corporation of Greater Mumbai, of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-II;

(xxxiii) in the district of Thane (except Thane taluka) of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-III;

(xxxiv) in the areas comprising of wards G, H and K (East) of the Municipal Corporation of Greater Mumbai, of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-IV;

(xxxv) in the areas comprising wards of K (West), P and R of Municipal Corporation of Greater Mumbai, of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-V;

(xxxvi) in the area comprising of Thane taluka in the district of Thane, of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-VI;

xxxvii) in the district of Raigad, of the State of Maharashtra, the Commissioner of Central Excise, Mumbai-VII;

(xxxviii) in the districts of Chandrapur, Gadchiroli, Bhandara, Nagpur, Akola, Buldhana, Yeotmal, Amraothi, and Wardha of the State of Maharashtra, the Commissioner of Central Excise, Nagpur;

(xxxix) in the district of Pune, of the State of Maharashtra, the Commissioner of Central Excise, Pune-I;

(xl) in the districts of Sindhudurg, Ratnagiri, Sangli, Kolhapur, Satara and Sholapur, of the State of Maharashtra, the Commissioner of Central Excise, Pune-II;

(xli) in the district of Cuttack, Puri, Khurda, Nayagarh, Ganjam, Kandhamal, Kendrapara, Jagatsinghpur, Dhenkenal, Angul, Balasore, Mayurbhanj, Bhadrak, Rayagada, Koraput, Malkanagiri, Kalahandi, Jajpur and Gajapati, and mauza bamnipal of Thana Daitari No. 29 of tehsil Ghatagaon of the district of keonjhar, of the

State of Orissa, the Commissioner of Central Excise, Bhubaneshwar-I;

(xlii) in the districts of Sundergarh, Keonjhar, (excluding mauza Bamnipal of Thana Daitari No. 29 of Tehsil of ghatagaon), Sambalpur, Deogarh, Jharasaguda, Sonapur, Boudh, Baragarh, Bolangir and Nuapada, of the State of Orissa, the Commissioner of Central Excise, Bhubaneshwar-II;

(xliii) in the districts of Jaipur, Dausa, Tonk, Alwar, Bharatpur, Dholpur, Sawaimadhopur, Kota, Bundi, Jhalawar, Barun, Sikar, Jhunjhunu, Churu, Bikaner, Sriganganagar and Hanumangarh, of the State of Rajasthan, the Commissioner of Central Excise, Jaipur-1;

(xliv) in the districts of Udaipur, Dungarpur, Banswara, Chittorgarh, Rajasamund, Jodhpur, Pali, Jhalore, Sirohi, Barmer, Jaisalmer, Ajmer, Nagaur and Bhilwara, of the State of Rajasthan, the Commissioner of Central Excise, Jaipur-11;

(xlv) in the areas comprising of the taluka of Fort-Tondiarpet of Chennai district, in the areas comprising of the Airport Terminals in Alandur firka of Tambaram taluka in the district of Kancheepuram, in the areas falling under Minjur firka of Ponneri taluks and Madhavaram firka of Ambattur taluk in the district of Tiruvallur, of the State of Tamil Nadu, the Commissioner of Central Excise, Chennai-I;

(xlvi) in the district of Chennai (excluding Fort-Tondiarpet taluk), in the areas comprising Thiruperumbudur taluk of Kancheepuram district, and the district of Tiruvellore (excluding the taluks of Pollipattu and Tiruttani and the Minjur firka of Ponneri taluk and Madhavaram firka of Ambattur taluk), of the State of Tamil Nadu, the Commissioner of Central Excise, Chennai-II;

(xlvii) in the districts of Dharampuri other than those areas specified in item (xlviii), Vellore, Thiruvannamalai, Kancheepuram (excluding Thiruperumbudur taluk and Airport Terminals in Alandur firka of Tambaram taluk), Villupuram (except Vanur taluk) and the Pallipattu and Tiruttani taluks of Tiruvellore district of the State of Tamil Nadu, the Commissioner of Central Excise, Chennai-III;

(xlviii) in the areas comprising of Pappireddypatti and Bommidi firkas of Pappireddypatti taluk and Harur and Kambainallur (excluding Kalavalli Village) firkas of Harur taluk of Dharampuri district, in the districts of Salem, Namakkal, Coimbatore, Erode and Nilgiris of the State of Tamil Nadu and the area comprising in Malkipara Tea factory (being a part of Pariyaram village of Mukundapuram taluk of Trichur district of the State of Kerala), the

Commissioner of Central Excise, Coimbatore;

(xlix) in the districts of the State of Tamilnadu [other than the districts and the areas] specified in item (xxv), items (xlv) to (xlviii) and item (1), the Commissioner of Central Excise, Madurai;

(l) in the districts of Tanjore, Nagapattinam, Thiruvarur, Tiruchirappalli, Karur, Perambalur, Cuddalore and Pudukkottai, and Vanur taluka of Villupuram district and Gudalur village of Palayam firka of Vedasandur taluka of Dindigul district of the State of Tamil Nadu, and the Union territory of Pondicherry (excluding Mahe Commune and Yanam territory), the Commissioner of Central Excise, Tiruchirappalli;

(li) in the districts of Allahabad, Varanasi, Mirzapur, Rai Bareilly, Gonda, Faizabad, Basti, Deoria, Sultanpur, Azamgarh, Ballia, Ghazipur, Fatehpur, Jaunpur, Maharaj Ganj, Sidharth Nagar, Pratapgarh, Gorakh-pur, Sonbhadra and Maunath Baijan of the State of Uttar Pradesh, the Commissioner of Central Excise, Allahabad;

(lii) in the districts of Kanpur, Kanpur Dehat, Unnao, Jhansi, Jalaon, Mahoba, Hamirpur, Lalitpur, Agra, Ferozabad and Etawa, of the State of Uttar Pradesh, the Commissioner of Central Excise, Kanpur;

(liii) in the districts of Aligarh, Mathura, Etah, Farookha-bad, Mainpuri, Bareilly, Budaun, Pilibhit, Sitapur, Hardoi, Lakhimpur Kheri, Shahjahanpur, Lucknow and Barabanki, of the State of Uttar Pradesh, the Commissioner of Central Excise, Lucknow;

(liv) in the districts of Meerut, Muzaffarnagar, Saharanpur, Dehradun, Hardwar, Tehri Garhwal, Pauri Garhwal, Uttarkashi, Ghaziabad (excluding the tehsils of Hapur and Garhmukteshwar) and the areas starting from Delhi-Uttar Pradesh border and bound in the south by the National Highway Number 24 bye-pass road upto its crossing with the Delhi-Kanpur (main) Railway line and thereafter bound first in the west by the said line and then in the south and east by the Maant Khand Ganga Nahar passing through Kot Ka Pul and the Maant Poshak Ganga Nahar in the district of Gautam Budh Nagar and tehsils of Bijnore and Chandpur in the district of Bijnore, of the State of Uttar Pradesh, the Commissioner of Central Excise, Meerut-I;

(Iv) in the districts of Bulandshahar, Moradabad, Rampur, Nainital, Chamoli, Almora, Udham Singh Nagar, Pitthoragarh, Jyotiba Phuley Nagar, Bijnore (excluding the tehsils of Bijnore and Chandpur), Gautam Budh Nagar [excluding the areas specified in item number (liv)] and the tehsils of Hapur and Garhmukteshwar in the district

of Ghaziabad, of the State of Uttar Pradesh, the Commissioner of Central Excise, Meerut-II;

(Ivi) in the districts of the State of West Bengal other than those specified in items (Ivii) to (Ix) and in the State of Sikkim, the Commissioner of Central Excise, Bolpur;

(Ivii) in the district of Calcutta (excluding the areas comprised in the factory of M/s I.T.C. Ltd., Kidderpore in ward 80 of the Calcutta Municipal Corporation) and South 24 Parganas, of the State of West Bengal, the Commissioner of Central Excise, Calcutta-1;

(Iviii) in the districts of Howrah and Midnapore of the State of West Bengal, and in the Union Territory of Andaman and Nicobar Islands, the Commissioner of Central Excise, Calcutta-11;

(lix) in the districts of North 24 Parganas and Nadia, and in the areas comprised in the factory of M/s I.T.C. Kidderpore in Ward 80 of the Calcutta Municipal Corporation, of the State of West Bengal, the Commissioner of Central Excise, Calcutta-III;

(Ix) in the district of Hooghly of the State of West Bengal, the Commissioner of Central Excise, Calcutta-IV; and includes an Additional Commissioner, except for the purposes of Chapter VIA of the Central Excise Act, 1944 and any officer specially authorised under rule 4 or rule 5 to exercise throughout any State or any specified area therein all or any of the powers of a Commissioner under these rules.

(5) "Commissioner (Appeals)" means, in relation to an order or decision of an officer of the Central Excise subordinate to-

(i) Omitted

(ii) (a) the Commissioner of Central Excise, Ahmedabad-I;

(b) the Commissioner of Central Excise, Ahmedabad-II;

(c) the Commissioner of Central Excise, Rajkot; the Commissioner of Central Excise (Appeals) Ahmedabad;

(iia) the Commissioner of Central Excise, Vadodara, the Commissioner of Central Excise (Appeals), Vadodara;

(iii) (a) the Commissioner of Central Excise, Bangalore-I;

(b) the Commissioner of Central Excise, Bangalore-II;

(c) the Commissioner of Central Excise, Bangalore-III;

(d) the Commissioner of Central Excise, Belgaum;

(e) the Commissioner of Central Excise, Manglore;

(f) the Commissioner of Central Excise (Appeals), Bangalore;

(iv) (a) the Commissioner of Central Excise, Indore;

(b) the Commissioner of Central Excise, Bhopal;

(c) the Commissioner of Central Excise, Nagpur;

(d) the Commissioner of Central Excise, Raipur;

- (e) the Commissioner of Central Excise (Appeals), Bhopal;
- (v) (a) the Commissioner of Central Excise, Bhubaneswar-I;
- (b) the Commissioner of Central Excise, Bhubaneswar-II;
- (c) the Commissioner of Central Excise, Bolpur;
- (d) the Commissioner of Central Excise, Calcutta-I;
- (e) the Commissioner of Central Excise, Calcutta-II;
- (f) the Commissioner of Central Excise, Calcutta-III;
- (g) the Commissioner of Central Excise, Calcutta-IV; the Commissioner of Central Excise (Appeals), Calcutta;
- (vi) (a) the Commissioner of Central Excise, Chandigarh-I;
- (b) the Commissioner of Central Excise, Chandigarh-II, the Commissioner of Central Excise (Appeals), Chandigarh;
- (vii) (a) the Commissioner of Central Excise, Chennai-I;
- (b) the Commissioner of Central Excise, Chennai-II;
- (c) the Commissioner of Central Excise, Chennai-III, the Commissioner of Central Excise (Appeals), Chennai;
- (viii) (a) the Commissioner of Central Excise, Cochin;
- (b) the Commissioner of Central Excise, Calicut, the Commissioner of Central Excise (Appeals), Cochin;
- (ix) (a) the Commissioner of Central Excise, Delhi-1;
- (b) the Commissioner of Central Excise, Delhi-11;
- (c) the Commissioner of Central Excise, Delhi-111; the Commissioner of Central Excise (Appeals), Delhi;
- (x) (a) the Commissioner of Central Excise, Meerut-I;
- (b) the Commissioner of Central Excise, Meerut-II;
- (c) the Commissioner of Central Excise, Allahabad;
- (d) the Commissioner of Central Excise, Kanpur-I;
- (e) the Commissioner of Central Excise, Kanpur-II, the Commissioner of Central Excise (Appeals), Ghaziabad;
- (xa) the Commissioner of Central Excise, Shillong, the Commissioner of Central Excise (Appeals), Guwahati;
- (xi) (a) the Commissioner of Central Excise, Guntur;
- (b) the Commissioner of Central Excise, Hyderabad-1;
- (c) the Commissioner of Central Excise, Hyderabad-11;
- (d) the Commissioner of Central Excise, Hyderabad-III;
- (e) the Commissioner of Central Excise, Visakhapatnam, the Commissioner of Central Excise (Appeals), Hyderabad;
- (xia) (a) the Commissioner of Central Excise, Jaipur-1;
- (b) the Commissioner of Central Excise, Jaipur-11, the Commissioner of Central Excise (Appeals), Jaipur;
- (xii) (a) the Commissioner of Central Excise, Goa,
- (b) the Commissioner of Central Excise, Mumbai-I;

- (c) the Commissioner of Central Excise, Mumbai-II;
- (d) the Commissioner of Central Excise, Mumbai-III;
- (e) the Commissioner of Central Excise, Mumbai-IV;
- (f) the Commissioner of Central Excise, Mumbai-V;
- (g) the Commissioner of Central Excise, Mumbai-VI;
- (h) the Commissioner of Central Excise, Mumbai-VII, the Commissioner of Central Excise (Appeals), Mumbai;
- (xiia) (a) Commissioner of Central Excise, Patna;
- (b) Commissioner of Central Excise, Jamshedpur, the Commissioner of Central Excise, (Appeals), Patna;
- (xiii) (a) the Commissioner of Central Excise, Aurangabad;
- (b) the Commissioner of Central Excise, Pune-I;
- (c) the Commissioner of Central Excise, Pune-II, the Commissioner of Central Excise (Appeals), Pune;
- (xiiia) (a) the Commissioner of Central Excise, Surat-I;
- (b) the Commissioner of Central Excise, Surat-II; the Commissioner of Central Excise (Appeals), Surat;
- (xiv) (a) the Commissioner of Central Excise, Coimbatore;
- (b) the Commissioner of Central Excise, Madurai;
- (c) the Commissioner of Central Excise, Tiruchirapalli, the Commissioner of Central Excise (Appeals), Tiruchirapalli;
- (6) "Chief Commissioner" means, in relation to all excisable goods, in the areas falling within the jurisdiction of,-
 - (i) (a) Commissioner of Central Excise, Bhubaneshwar-I;
 - (b) Commissioner of Central Excise, Bhubaneshwar-II;
 - (c) Commissioner of Central Excise, Bolpur;
 - (d) Commissioner of Central Excise, Calcutta-1;
 - (e) Commissioner of Central Excise, Calcutta-11;
 - (f) Commissioner of Central Excise, Calcutta-111;
 - (g) Commissioner of Central Excise, Calcutta-IV;
 - (h) Commissioner of Central Excise, Shillong; Chief Commissioner of Central Excise, Calcutta;
 - (ii) (a) Commissioner of Central Excise, Coimbatore;
 - (b) Commissioner of Central Excise, Chennai-I;
 - (c) Commissioner of Central Excise, Chennai-II;
 - (d) Commissioner of Central Excise, Chennai-III;
 - (e) Commissioner of Central Excise, Madurai;
 - (f) Commissioner of Central Excise, Tiruchirapalli; Chief Commissioner of Central Excise, Chennai;
 - (iii) (a) Commissioner of Central Excise, Chandigarh-I;
 - (b) Commissioner of Central Excise, Chandigarh-II;
 - (c) Commissioner of Central Excise, Delhi-1;

- (d) Commissioner of Central Excise, Delhi-11;
- (e) Commissioner of Central Excise, Delhi-111; Chief Commissioner of Central Excise, Delhi
- (iv) (a) Commissioner of Central Excise, Guntur;
- (b) Commissioner of Central Excise, Hyderabad-1;
- (c) Commissioner of Central Excise, Hyderabad-11;
- (d) Commissioner of Central Excise, Hyderabad-11;
- (e) Commissioner of Central Excise, Vishakhapatnam; Chief Commissioner of Central Excise, Hyderabad;
- (v) (a) Commissioner of Central Excise, Allahabad;
- (b) Commissioner of Central Excise, Jamshedpur;
- (c) Commissioner of Central Excise, Kanpur-I;
- (d) Commissioner of Central Excise, Kanpur-II;
- (e) Commissioner of Central Excise, Meerut-I;
- (f) Commissioner of Central Excise, Meerut-II;
- (g) Commissioner of Central Excise, Patna; Chief Commissioner of Central Excise, Kanpur;
- (vi) (a) Commissioner of Central Excise, Mumbai-I;
- (b) Commissioner of Central Excise, Mumbai-II;
- (c) Commissioner of Central Excise, Mumbai-III;
- (d) Commissioner of Central Excise, Mumbai-IV;
- (e) Commissioner of Central Excise, Mumbai-V;
- (f) Commissioner of Central Excise, Mumbai-VI;
- (g) Commissioner of Central Excise, Mumbai-VII; Chief Commissioner of Central Excise, Mumbai;
- (vii) (a) Commissioner of Central Excise, Ahmedabad-I;
- (b) Commissioner of Central Excise, Ahmedabad-II;
- (c) Commissioner of Central Excise, Vadodara;
- (d) Commissioner of Central Excise, Rajkot;
- (e) Commissioner of Central Excise, Surat-I;
- (f) Commissioner of Central Excise, Surat-II; Chief Commissioner of Central Excise, Vadodara;
- (viii) (a) Commissioner of Central Excise, Bangalore-I;
- (b) Commissioner of Central Excise, Bangalore-II;
- (c) Commissioner of Central Excise, Bangalore-III;
- (d) Commissioner of Central Excise, Belgaum;
- (e) Commissioner of Central Excise, Cochin;
- (f) Commissioner of Central Excise, Calicut;
- (g) Commissioner of Central Excise, Mangalore;
- Chief Commissioner of Central Excise, Bangalore;
- (ix) (a) Commissioner of Central Excise, Jaipur-1;
- (b) Commissioner of Central Excise, Jaipur-11;

- (c) Commissioner of Central Excise, Indore;
- (d) Commissioner of Central Excise, Bhopal;
- (e) Commissioner of Central Excise, Raipur; Chief Commissioner of Central Excise, Jaipur;
- (x) (a) Commissioner of Central Excise, Aurangabad;
- (b) Commissioner of Central Excise, Nagpur;
- (c) Commissioner of Central Excise, Pune-I;
- (d) Commissioner of Central Excise, Pune-II;
- (e) Commissioner of Central Excise, Goa; Chief Commissioner of Central Excise, Pune;

(7) "duty" means the duty payable under section 3 or section 3A of the Act;

(8) "free trade zone" means the Kandla Free Trade Zone and the Santa Cruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(9) "Kandia Free Trade Zone" means,-

(i) the Kandia Free Trade Zone comprising the places bearing the survey numbers, 199, 200, 201, 202, 204, 205, 206, 207, 208, 209, 211, 212, 216, 217, 218, 219, 220, 221, 222, 223, 224, 257, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 302, 303, 304, 310, 312, 313 and 315 in the taluka of Anjar District of Kutch, State of Gujarat at a distance of 9.6 kilometres from the port of Kandla, and enclosed by a 3.3528 metres high fencing, consisting of stone masonry in mild steel bar mesh at the top, extending 1,042.49 metres in the North, 1,529.51 metres in the West, 777.85 metres in the South and 1,847.88 metres in the East; and

(ii) the places bearing the survey numbers, 12,13,14,18,19, 20, 21, 22, 23, 210, 213, 214, 215, 227, 256, 258, 259, 264, 265, 298, 299, 300, 307, 308, 309, 311, 314, 316, 317,318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 and 331 in the taluka of Anjar, District of Kutch, in the State of Gujarat, at a distance of 9.6 kilometres from the port of Kandla, enclosed partly by 3.3528 metres high fencing consisting of stone masonry in the plinth and mild steel bar mesh at the top and partly by 4.20 metres wall consisting of stone masonry wall up to 3 metres with 1.20 metres barbed wire-fencing at the top.

The places specified in items (i) and (ii) above combined together extending up to 1552.49 metres in the North, 1512.0 metres in the South, 1849.08 metres in the East and 1560.00 metres in the

West;

(10) "Maritime Commissioner" means the Commissioner of Central Excise under whose jurisdiction one or more of the following port, airport or post office of exportation is located, namely:-

(i) Mumbai;

(ii) Calcutta;

(iii) Chennai;

(iv) Paradeep;

(v) Visakhapatnam;

(vi) Cochin;

(vii) Kandla; and

(viii) Tuticorin;

(11) "officer" means a Central Excise Officer;

(12) "procurer" means any person who receives molasses manufactured in a khandsari sugar factory, whether directly from such factory or otherwise, for use in the manufacture of any commodity, whether or not excisable, and is liable for payment of duty assessed on such molasses;

(13) "proper form" means the appropriate form as prescribed in Appendix I to these rules;

(14) "proper officer" means the officer in whose jurisdiction the land or premises of the producer of any excisable goods, or of any person engaged in any process of production of, or trade in, such goods or containers thereof whether as a grower, curer, wholesale dealer, broker or commission agent or manufacturer, or intended grower, curer, wholesale dealer, broker, commission agent, or manufacturer, are situated;

(15) "Santa Cruz Electronics Export Processing Zone" means the Santa Cruz Electronics Export Processing Zone, Mumbai, comprising the places bearing Plot number F. 1 in the Marel Industrial Area of Maharashtra Industrial Development Corporation within the village limits of Parjapur and Vyaravli, taluka Andheri, and now in the Registration sub-district and District of Mumbai and Mumbai suburban containing by admeasurement 3,75,013 square metres or thereabout and bounded-

on or towards the North, by road and Aarey Milk Colony Land,

on or towards the South, by road,

on or towards the East, by pipeline and Aarey Milk Colony Land, and

on or towards the West, by road.

(16) "treasury" means a treasury of the Central Excise Department (A) and includes-

(i) the Reserve Bank of India constituted under the Reserve Bank

of India Act, 1934 (2 of 1934);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iv) a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

nominated in this behalf by the Central Government for any particular area for the collection and accounting of duty and other charges payable under the Act and these rules;

(B) but does not include a District Revenue Treasury or a Sub-Treasury:

(17) "unmanufactured products" means excisable goods which are described in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), as unmanufactured or cured;

(18) "warehouse" means any place or premises appointed or registered under rule 140.

3. Agent of owner of goods, factory or warehouse to be deemed owner for certain purposes :-

When any person is expressly or impliedly authorized by the owner of any goods, factory or warehouse to be his agent in respect of such goods, factory or warehouse for all or any of the purposes of these rules and such authorization is approved by the Commissioner, such person shall, for such purposes, be deemed to be the owner of such goods, factory or warehouse.

CHAPTER 2 APPOINTMENT AND POWERS OF OFFICERS

4. Appointment of Officers :-

The Central Board of Excise and Customs may appoint such persons as it thinks fit to be Central Excise Officers, or to exercise all or any of the powers conferred by these rules, on such officers.

5. Delegation of powers by the Commissioner :-

Unless the Central Government in any case otherwise directs, the Commissioner may authorize any officer subordinate to him to exercise throughout his jurisdiction, or in any specified area therein, all or any of the powers of a Commissioner under these rules.

6. Commissioner or Joint Commissioner to exercise the power of any officer :-

(1) The Commissioner may perform all or any of the duties, or exercise all or any of the powers, assigned to an officer under these rules.

(2) Subject to the provisions of sub-rule (1), the Joint Commissioner of Central Excise appointed by the Central Board of Excise and Customs, may, within his territorial jurisdiction, perform all or any of the duties, or exercise all or any of the powers, assigned under these rules to an officer subordinate to him.

CHAPTER 3 LEVY AND REFUND OF, AND EXEMPTION FROM DUTY

7. Recovery of duty :-

Every person who produces, cures or manufactures any excisable goods, or who stores such goods in a warehouse, shall pay the duty or duties leviable on such goods, at such time and place and to such persons as may be designated, in, or under authority of these rules, whether the payment of such duty or duties is secured by bond or otherwise.

Provided that nothing contained in this rule shall apply to molasses produced in a khandsari sugar factory.

Provided further that in respect of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), manufactured on job-work, the provisions of these rules shall apply subject to the provisions of rule 7AA.

7A. Recovery of duty on molasses produced by a khandsari sugar factory :-

Every person who procures molasses produced in a khandsari sugar factory, whether directly from such factory or otherwise, for use in the manufacture of any commodity, whether or not excisable, shall pay the duty or duties leviable on such molasses, as if such molasses has been manufactured by the procurer, at such time and to such persons as may be designated under these rules, whether the payment of such duty or duties be secured by bond or otherwise.

7AA. Recovery of duty on articles of apparel manufactured on job work :-

Every person who gets the goods, falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced or manufactured on his account on job work, shall pay the duty leviable on such goods, at such time and in such manner as may be specified under these rules, whether the payment of such duty be secured by bond or otherwise, as if such goods have been manufactured by such person:

Provided that such person may authorise the job worker to pay the duty leviable on such goods on his behalf and the job worker so authorized undertakes to discharge all liabilities and comply with all the provisions of these Rules:

Explanation.--

For the purposes of this rule, the expression "job worker" shall be deemed to mean the person who undertakes the process or processes that brings into existence the finished goods, complete in all respects, falling under Chapter 62 of the said First Schedule, in his factory. For the removal of doubt, it is further clarified that the job-worker may also get part of the processing required for the manufacture of the said goods done by another person but should bring back the same for the completion of the manufacturing process in his factory.

8. XXX XXX XXX :-

[***]

9. Time and manner of payment of duty :-

(1) No excisable goods shall be removed from any place where they are produced, cured or manufactured or any premises appurtenant thereto, which may be specified by the Commissioner in this behalf, whether for consumption, export or manufacture of any other commodity in or outside such place, until the excise duty leviable thereon is determined and indicated on each application in the proper form or on each gate pass, as the case may be, presented to the proper officer at such place and in such manner as is prescribed in these rules or as the Commissioner may require:

Provided that such goods may be deposited without payment of duty in a store-room or other place of storage approved by the Commissioner under rule 27 or rule 47 or in a warehouse appointed or registered under rule 140 or may be exported under bond as provided in rule 13:

Provided further that the molasses produced in a khandsari sugar

factory may be removed without payment of duty leviable thereon and the duty of excise leviable on such molasses shall be paid by the procurer, as if such molasses has been manufactured by such procurer, on the date of receipt of such molasses in his factory:

Provided also that the goods falling under Chapter 62 of the First Schedule to Central Excise Tariff Act, 1985 (5 of 1986) produced or manufactured by a job worker may be removed without payment of duty leviable thereon and the duty of excise leviable on such goods shall be paid by the person referred to in rule 7AA, as if such goods have been produced or manufactured by him, on the date of removal of such goods from his premises registered under rule 174:
Explanation.--

It is hereby clarified that where such person has authorised the job worker to pay the duty leviable on such goods under rule 7AA, such duty shall be paid by the job worker on the date of removal of such goods from his registered premises:

Provided also that such goods may be removed without payment or on part-payment of duty leviable thereon if the Central Government, by notification in the Official Gazette, allow the goods to be so removed under rule 49:

Provided also that the manufactures shall maintain an account current at such place or premises specified in this behalf or at a storeroom or warehouse duly approved, appointed or registered, by the Commissioner, and shall discharge the duty liability debiting such account current.

(1A) Where a person keeping an account-current under the third proviso to sub-rule (1) makes an application to the Commissioner for withdrawing an amount from such account-current, the Commissioner may, for reasons to be recorded in writing, permit such person to withdraw the amount in accordance with such procedure as the Commissioner may specify in this behalf.

Form:B.14(Gen.sur.)

Form:D.D.2

Form:A.R.1

9A. Date for determination of duty and tariff valuation :-

(1) The rate of duty and tariff valuation, if any, applicable to any excisable goods shall be the rate and valuation in force -

(i) in the case of goods removed from the premises of a curer on payment of duty, on the date on which the duty is assessed;

(ii) in the case of goods removed from a factory or a warehouse,

subject to sub-rules (2), (3) and (3A), on the date of the actual removal of such goods from such factory or warehouse; and

(iii) in the case of molasses manufactured in a khandsari sugar factory, on the date of receipt of such molasses in the factory of the procurer

(iv) in the case of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced or manufactured on job work, on the date of removal of such goods by the person referred to in rule 7AA from his premises registered under rule 174.

(2) If the goods have previously been removed from a warehouse to be re-warehoused, and the duty is paid on such goods without their being re-warehoused, the rate and valuation, if any, applicable thereto shall be the rate and valuation, if any, in force on the date on which duty is paid or, if duty is paid through an account-current maintained with the Commissioner under rule 9, on the date on which an application in the proper form is delivered to the officer-in-charge of the warehouse from which the goods were removed.

(3) Where any person who has removed excisable goods for export in bond fails to export or to furnish proof of such export to the satisfaction of the Commissioner or diverts the goods for home consumption, the rate of duty leviable and the tariff valuation, if any, in respect of such goods shall be the rate and valuation in force on the date on which the duty is paid.

(3A) Where duty becomes chargeable on any material or component parts in respect of which credit of duty had been allowed under rule 56A, the rate of duty leviable and the tariff valuation, if any, in respect of such material or component parts shall be the rate and valuation in force on the date on which the duty is paid:

Provided that where such material or component parts are removed from the factory for home consumption on payment of duty, such duty shall in no case be less than the amount of credit that has been allowed in respect of such material or component parts under rule 56A.

(4) The rate and valuation, if any, applicable to cases of losses of goods shall-

(i) where the loss occurs in a curers premises or in a curers private storeroom, be the rate and valuation, if any, in force on the date on which such loss is discovered by the proper officer or made known to him;

(ii) where the loss occurs in transit from a curers premises or a curers private store-room to a warehouse, from one warehouse to another or during the course of processing of the goods in a warehouse, be the rate and valuation, if any, in force on the date on which the goods are warehoused in the warehouse of destination or the processing thereof is completed, as the case may be; and

(iii) where the loss occurs in storage, whether in a factory or in a warehouse, be the rate and valuation, if any, in force on the date on which such loss is discovered by the proper officer or made known to him.

(5) In all other cases, the rate of duty and tariff valuation, if any, applicable to excisable goods shall be the rate and valuation in force on the date on which the notice for demand of duty is issued or on the date on which duty is paid, whichever is earlier.

Explanation.-For the purposes of clause (ii) of sub-rule (1), goods-

(i) on which duty has been paid;

(ii) which have been loaded into railway wagon or other vehicle; and

(iii) for which the railways or the transport agency, as the case may be, has issued a receipt in favour of the purchaser of the said goods,

shall be deemed to have been removed from the factory or warehouse, as the case may be, even though the wagon or other vehicle laden with the said goods may continue to be stationed within the factory or warehouse premises.

9B. Provisional assessment to duty :-

(1) Notwithstanding anything contained in these rules,-

(a) where the assessee is unable to determine the value of excisable goods in terms of section 4 of the Act on account of non-availability of any document or information; or

(b) where the assessee is unable to determine the correct classification of the goods while filing the declaration under rule 173B;

the said assessee may request the proper officer in writing giving the reasons for provisional assessment to duty, and the proper officer may direct after such inquiry as he deems fit, that the duty leviable on such goods shall be assessed provisionally at such rate or such value (which may not necessarily be the rate or price declared by the assessee) as may be indicated by him, if such assessee executes a bond in the proper form with such surety or

sufficient security in such amount, or under such conditions as the proper officer deems fit, binding himself for payment of difference between the amount of duty as provisionally assessed and as finally assessed:

Provided that all clearances in respect of excisable goods covered under such request by the assessee submitted with the proper officer under the dated acknowledgement shall be deemed to be cleared as provisionally assessed to duty at such rate or at such value as declared by the assessee, till the date when the direction of the proper officer is issued and communicated to the assessee:

Provided further that the proper officer where he is satisfied that the self-assessment made by the assessee is not in order, he may direct him to resort to provisional assessment and on receipt of such directions the assessee shall comply with such directions.

(2) Omitted

(3) The Commissioner may permit the assessee to enter into a general bond in the proper Form with such surety or sufficient security in such amount or under such conditions as the Commissioner approves for assessment of any goods provisionally from time to time:

Provided that, in the event of death, insolvency or insufficiency of the surety or where the amount of the bond is inadequate, the Commissioner may, in his discretion, demand a fresh bond and may, if the security furnished for a bond is not adequate, demand additional security.

(4) The goods provisionally assessed under sub-rule (1) may be cleared for home consumption or export in the same manner as the goods which are not so assessed.

(5) When the duty leviable on the goods is assessed finally in accordance with the provisions of these rules, the duty provisionally assessed shall be adjusted against the duty finally assessed, and if the duty provisionally assessed falls short of, or is in excess of the duty finally assessed, the assessee shall pay the deficiency or be entitled to a refund, as the case may be.

Provided that, if an assessee is entitled to a refund, such refund shall not be made to him except in accordance with the procedure established under sub-section (2) of section 11B of the Act.

(6) Notwithstanding the provisions of self-assessment made in this rule, in cases of provisional assessment, the final assessment shall be made by the proper officer.

Form:B.10(sur.)

Form:B.10(sec.)

Form:B.13(Gen.sur.)

Form:B.13(Gen.sec.)

Form:B.16(Gen.sur./Gen.sec.)

Form:B.17(Gen.sur./Gen.sec.)

Form:A.R.1

9C. Rules to apply to procurer :-

The provisions of these rules shall apply to a procurer of molasses as if such molasses has been manufactured by him.

9D. Application of rules in relation to articles of apparel and clothing accessories, not knitted or crocheted :-

The provisions of these rules shall apply to a person who is liable to pay the duty or duties of excise leviable on goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) under rule 7AA as if such goods have been manufactured by him.

10. XXX XXX XXX :-

[***]

11. XXX XXX XXX :-

[***]

12. Rebate of duty :-

(1) The Central Government may, from time to time, by notification in the Official Gazette, grant rebate of-

(a) duty paid on the excisable goods;

(b) duty paid on materials used in the manufacture of goods;

If such goods are exported outside India or shipped as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft, to such extent and subject to such safeguards, conditions and limitations as regards the class or description of goods, class or description of materials used for manufacture thereof, destination, mode of transport and other allied matters as may be specified in the notification:

Provided that if the Commissioner of Central Excise or as the case may be the Maritime Commissioner of Central Excise is satisfied that the goods have in fact been exported, he may, for reasons to

be recorded in writing, allow, the whole or any part of the claim for such rebate, even if all or any of the conditions laid down in any notification issued under this rule have not been complied with.

(2) Where the Central Government does not grant under clause (a) of sub-rule (1) either wholly or partially any rebate of duty paid on goods exported to a country outside India, it may, in order to promote exports or fulfil obligations arising out of any treaty entered into between India and the Government of that country, provide, by notification in the Official Gazette, for payment to the Government of that country an amount not exceeding the duty paid on such goods which are exported out of India to that country.

(3) No rebate of duty in respect of excisable materials used in the manufacture of goods exported out of India under clause (b) of sub-rule (1) shall be allowed, if the exporter avails of drawback of the said duty under the Customs and Central Excise Duties Drawback Rules, 1995 or avails of credit of said duty under section AA of Chapter V of the Central Excise Rules, 1944.

Explanations-In this rule, the expressions,-

(i) "manufacture" includes the process of blending of any goods or making alterations or any other operation thereon;

(ii) "materials" includes raw materials, consumables (other than fuel) components, semi-finished goods, assemblies, sub-assemblies, intermediate goods, accessories, parts and packaging materials required for manufacture of export goods but does not include capital goods used in the factory in or in relation to manufacture of export goods.

(iii) Omitted.

(4) The provisions of this rule shall not apply to such excisable goods, export of which are prohibited under any law for the time being in force.

13. Export in bond of goods on which duty has not been paid :-

(1) The Central Government may, from time to time, by notification in the Official Gazette-

(a) permit export of specified excisable goods in bond without payment of duty in the like manner, as the goods regarding which the rebate is granted under sub-rule (1) of rule 12, from a factory of manufacture or warehouse or any other premises as may be approved by the Commissioner of Central Excise;

(b) specify materials, removal of which without payment of duty

from the place of manufacture or storage for use in the manufacture in bond of export goods, may be permitted by the Commissioner of Central Excise;

(c) allow removal of excisable material without payment of duty for the manufacture of export goods, as may be specified, to be exported in execution of one or more export orders; or for replenishment of duty paid materials used in the manufacture of such export goods already exported for the execution of such orders, or both;

subject to such safeguards, conditions and limitations as regards the class or description of goods, class or description of materials used for manufacture thereof, destination, mode of transport and other allied matters as may be specified in the notification which the exporter undertakes to abide by entering into a bond in the proper form with such surety or sufficient security, and under such conditions as the Commissioner approves.

(2) The Central Government may, from time to time, by notification in the Official Gazette, permit export of specified excisable goods in bond, without payment of duty from a factory of manufacture or warehouse, to Nepal or Bhutan, subject to such conditions or limitations as regards the class of goods, destination, mode of transport and other matters as may be specified therein.

Explanation I. - In this rule, the expression "manufacture" includes the process of blending of any goods or making alterations or any other operation thereon.

Explanation II. - In this rule, the term "materials" shall include raw materials, consumables (other than fuel), components, semi-finished goods, assemblies, sub-assemblies, intermediate goods, accessories, parts and packaging materials used in the manufacture of export goods but does not include capital goods used in the factory in or in relation to manufacture of export goods.

Form:B.1(sur.)

Form:B.1(sec.)

Form:B.16(Gen.sur./Gen.sec.)

Form:B.17(Gen.sur./Gen.sec.)

Form:D.D.2

14. Exporter may enter into a general bond :-

The Commissioner may permit any person desirous of exporting from India, in the manner provided in the foregoing rules, excisable goods on which duty has not been paid, to enter into a general

bond in the proper Form, with such surety or sufficient security, in such amount, and under such conditions, as the Commissioner approves for the export, from time to time, of such excisable goods within the period prescribed for goods exported under rule 12:

Provided that, in the event of death, insolvency or insufficiency of the surety, or where the amount of the bond is inadequate, the Commissioner may, in his discretion, demand a fresh bond; and may, if the security furnished for a bond is not adequate, demand additional security.

Form:B.1(Gen.sur.)

Form:B.1(Gen.sec.)

Form:B.16(Gen.sur./Gen.sec.)

Form:B.17(Gen.sur./Gen.sec.)

Form:D.D.2

Form:D.D.2

14A. XXX XXX XXX :-

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14B. Penalty for removing excisable goods, the duty leviable on which exceeds the bond amount :-

(1) Except with the prior permission of the Commissioner, no person shall at any time remove from a factory or warehouse excisable goods for export, the duty leviable on which together with the duty leviable on the goods removed from the factory or warehouse and not exported until such time exceeds the amount of the bond executed under rule 14.

CHAPTER 4 UNMANUFACTURED PRODUCTS

15. XXX XXX XXX :-

16. XXX XXX XXX :-

17. XXX XXX XXX :-

18. XXX XXX XXX :-

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41. XXX XXX XXX :-

42. XXX XXX XXX :-

CHAPTER 5 MANUFACTURED GOODS, OTHER THAN SALT

43. Notice of manufacture to be given :-

(1) Every manufacturer who intends to manufacture excisable goods for the first time shall, before commencing operations, give notice in writing to the Commissioner and shall specify therein the nature of the raw materials which he intends to use.

(2) Every manufacturer of excisable goods shall, before stopping or resuming the production of such goods, give notice in writing to the Commissioner of his intention to stop or resume the production of

such goods.

(3) Whenever there is any change in the nature of any raw material used, the manufacturer shall, before making any change, give notice in writing to the Commissioner, specifying the new material to be used.

44. Commissioner may require manufacturer to make prior declaration of factory premises and equipment :-

(1) Every manufacturer, who is required by the Commissioner so to do, shall, before beginning to manufacture, excisable goods other than salt, liable to duty on manufacture, declare in the proper Form all premises, pipes and vessels intended to be used by him for his business specifying the purpose for which each room, place, pipe and vessel, is to be used and the mark by which it is to be distinguished and stating the quantity of goods which his factory is capable of producing.

(2) The manufacturer shall sign the declaration and deliver it to the proper officer.

(3) Plans of the premises, rooms, places, pipes and vessels to be used by the manufacturer which are referred to in such declaration, shall be submitted to the proper officer if required and no manufacture shall be permitted unless such officer has given a certificate of approval.

Form D-2

45. Alteration or movement of factory equipment :-

(1) A manufacturer who has made a declaration as required in rule 44, may, on giving to the proper officer two days previous notice in writing of his intention, specifying the vessel, or pipe intended to be altered, moved or added, alter or move any declared vessel, or pipe, or add a new vessel or pipe.

(2) Every such vessel or pipe shall be duly declared.

46. Marking of premises and equipment :-

Every person making a declaration under rule 44 shall, to the satisfaction of the proper officer, paint and keep in a large and distinct character upon some convenient and conspicuous part of the outside of such building, place or vessel, the distinguishing mark shown in such declaration, and from time to time and when occasion requires or when requested by the Commissioner shall

renew the mark so long as the declaration thereof remains uncanceled, so that each letter or number so painted may be easily and distinctly observed and known by an officer, and whenever any such person uses or employs, in any declared building or place, any fixed pipe, he shall, when required by the Commissioner by a written notice, paint and keep painted every such pipe throughout its whole length and over its whole exterior surface with distinct oil colours to the satisfaction of the proper officer. And all pipes or parts of pipes used for the same purpose shall be painted in the same colour.

47. Goods may be stored without payment of duty :-

(1) A manufacturer shall provide a store-room or other place of storage at his premises for depositing goods made on the same premises without payment of duty:

Provided that, where the manufacturer undertakes to pay duty on all such goods and clear them immediately on completion of manufacture, the Commissioner may exempt him from providing such store-room or other place of storage.

(2) No duty-paid goods and no goods other than excisable goods made in the factory shall be deposited in such store-room or place.

(2A) Notwithstanding anything contained in sub-rule (2), the Board may, subject to such conditions and limitations as may be laid down by it, permit duty paid ice-cream falling under Heading No. 21.05 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) to be deposited in store room or other place of storage.

(3) Every such store-room or place shall be declared by the manufacturer and approved by the Commissioner.

(3A) Where the provisions of Chapter VII of these rules have been extended by the Central Government by notification in the Official Gazette to any excisable goods, every such store-room or other place of storage in the premises of a factory manufacturing such goods shall be deemed to be a warehouse registered under rule 140.

(4) Omitted.

(5) Notwithstanding anything contained in sub-rule (1), the Central Board of Excise and Customs may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of the manufacturer where the goods are made, permit a manufacturer to store his goods in any other place outside such premises, without payment of duty subject to such

conditions as it may specify; and the provisions of sub-rules (2) to (4) shall apply to such place of storage as they apply for storage of goods in a store-room or other place of storage within the premises of the manufacturer, where the goods are made.

Form E.B.4(Matches)

Form R.G.1

48. XXX XXX XXX :-

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49. Payment of duty on fortnightly-basis on removal of goods from the factory premises or from an approved place of removal :-

(1) (a) Every manufacturer, other than a manufacturer who is availing of the exemption under a notification based on value of clearances in a financial year, shall discharge his duty liability in respect of clearances of excisable goods from the place or premises specified under rule 9 or from a store room or other place of storage approved by the Commissioner under rule 47 made:-

- i. during the first fortnight of the month, by the twentieth day of that month,
- ii. during the second fortnight of the month, other than the month of March, by the fifth day of the succeeding month; and
- iii. during the second fortnight of March, by the 31st day of the said March

(a a) Every manufacturer availing of the exemption under a notification based on the value of clearances in a financial year shall discharge his duty liability in respect of clearances made during a calendar month, by the 15th day of the succeeding month.

Explanation - For removal of doubts, it is hereby clarified that the duty liability under clause (a) or clause (aa) shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the date specified.

(b) The manufacturer shall discharge his duty liability by debiting account current or utilising CENVAT credit in the following manner, namely: -

(i) the manufacturer shall assess the duty due on the excisable goods intended to be removed, for each consignment and shall enter the particulars of such consignments in daily sk account maintained under rule 53.

(ii) the manufacturer shall indicate on each gate pass or invoice,

issued under rule 52 or 52A, as the case may be, the amount of duty payable;

(iii) at the end of each fortnight, the manufacturer shall determine the total amount of excise duty payable on the excisable goods removed during the fortnight, and he shall discharge the total duty liability so payable by making debit entry in the account current or by utilising CENVAT credit.

(c) The duty of excise shall be deemed to have been paid on excisable goods for the purpose of these rules, and the credit of such duty, as may be prescribed under any rule, will be permissible.

(d) If the manufacturer fails to pay the amount of duty payable by the due date, he shall be liable to pay the outstanding amount along with interest at the rate of twenty-four percent per annum on the outstanding amount, for the period starting with the first day after due date of actual payment of the outstanding amount

(e) If the manufacturer defaults on account of-

(i) full payment of any one installment is discharged beyond a period of thirty days from the date on which the installment was due in a financial year, or

(ii) the due date on which full payment of installments is to be made is violated for the third time in a financial year, whether in succession or otherwise, then the manufacturer shall forfeit the facility to pay the dues in installments under this sub-rule for a period of two months, starting from the date of communication of an order passed by the proper officer in this regard or till such date on which all dues are paid, whichever is later and during this period the manufacturer shall be required to pay excise duty for each consignment by debit to the account current referred to in clause (b) and in the event of any failure, it will be deemed as if such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules shall follow."

(1A) The manufacturer shall, on demand, pay the duty leviable on any goods which are not accounted for in the manner specifically provided in these rules, or which are not shown to the satisfaction of the proper officer to have been lost or destroyed by natural causes or by unavoidable accident during handling or storage in such store-room or other approved premises:

Provided that the proper officer may not demand duty due on any goods claimed by the manufacturer as unfit for consumption or for marketing subject to such conditions as may be imposed by the

Commissioner by order in writing.

(2) Notwithstanding anything contained in sub-rule (1), excisable goods made in a factory to which provisions of Chapter VII of these rules have been extended by the Central Government by notification in the Official Gazette, may be removed from the factory in which they are made to any warehouse registered under rule 140 for the storage of such goods and situated outside the registered premises of the factory and subject to such exemptions, limitations and conditions as may, from time to time, be specified in this behalf by the Central Government.

(3) Notwithstanding anything contained in sub-rule (1), the Central Government may, under circumstances of exceptional nature, allow, by notification in the Official Gazette, any excisable goods to be removed from the factory in which they are produced without payment of, or only on part payment of, duty leviable thereon subject to such conditions and limitations (including payment of interest on the balance amount of duty) as may, from time to time, be specified by the Central Government. The manufacturer of such excisable goods shall execute a bond in the proper Form with such surety or security as the Commissioner may approve.

Explanation.-For the purposes of this rule, excisable goods made in a factory and consumed or utilised-

(i) as such or after subjection to any process or processes; or

(ii) for the manufacture of any other commodity,

whether in a continuous process or otherwise, in such factory or place or premises specified under rule 9 or store-room or other place of storage approved by the Commissioner under rule 47, shall be deemed to have been issued out of, or removed from such factory, place, premises, store-room or other place of storage, as the case may be, immediately before such consumption or utilisation.

Form:B.14(Gen.sur.)

Form:D.D.2

49A. Collection of duty leviable on cellulosic spun yarn and cotton yarn along with the duty on cotton fabrics :-

Where a manufacturer,-

(i) who manufactures cellulosic spun yarn not containing synthetic staple fibre falling within Chapter 55 and cotton yarn not containing synthetic staple fibre falling within Chapter 52 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) or both, and uses

the whole or part of the yarn so manufactured in the manufacture of cotton fabrics in his own factory; or

(ii) who being a composite mill, brings such yarn under rule 96E or rule 96EE, as the case may be, from outside for the purpose of manufacture of cotton fabrics in his own factory,

makes an application to the Commissioner in this behalf, shall, on such application being granted by the Commissioner, pay the duty leviable on such cellulosic spun yarn and such cotton yarn along with the duty on such cotton fabrics in the manner prescribed in rule 52, subject to the following conditions, namely:-

(1) when the cotton fabrics are cleared grey (unprocessed), the yarn duty payable shall be-

(a) the appropriate duty payable on such cellulosic spun yarn or cotton yarn, or both, as the case may be; plus

(b) one and a half per cent of the duty payable on such cellulosic spun yarn, or cotton yarn, or both, as the case may be, by way of interest on the amount of yarn duty;

(2) when the cotton fabrics are cleared after processing, the yarn duty payable shall be-

(a) the appropriate duty payable on such cellulosic spun yarn, or cotton yarn, or both, as the case may be; plus

(b) three per cent of the duty payable on such cellulosic spun yarn, or cotton yarn, or both, as the case may be, by way of interest on the amount of yarn duty:

Provided that where the cotton fabrics are cleared without payment of duty leviable thereon for processing under rule 96D, the duty payable on such cellulosic spun yarn and cotton yarn plus the interest at the rate of three per cent thereof may be paid at the time of clearance of such fabrics after processing from the composite mill or the factory which processes such fabrics, as the case may be.

Explanation.-For the purposes of this rule, "Composite mill" means a manufacturer who is engaged in spinning of cotton yarn or weaving or processing of cotton fabrics with the aid of power and has a proprietary interest in at least two of such manufacturing activities.

50. XXX XXX XXX :-

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51. Packing and weightment of goods :-

Unless specially exempted by the Commissioner by order, for reasons to be recorded in writing, every manufacturer shall, as soon as practicable, after any excisable goods are packed and weighed in the factory or otherwise made ready for removal from the factory-

(i) mark on each wholesale package, in a clearly legible manner-

(a) batch No. (lot No.), if any, to which the goods pertain;

(b) a running Serial No. which will commence from the 1st of January of every year;

(c) the number of retail packages contained in each wholesale package, and the quantity of goods contained in each retail package;

(d) a distinguishing letter or letters or a word or words or a combination thereof, denoting the kind and quality of the goods:

Provided that where there is any doubt or difficulty regarding the manner of marking any of the particulars at (a) to (d) on a wholesale package, the same may be done in the manner approved by the concerned Assistant Commissioner of Central Excise:

Provided further that the approval under the first proviso shall be subject to the modification, if any, that may be made by the Commissioner:

Provided also that where the goods cannot, by reason of their nature or for any special reason, be enclosed in packages, they shall themselves be marked and distinguished or, if they cannot be marked, shall be otherwise distinguished in such manner as the Commissioner may require;

(ii) deposit the goods in an approved store-room unless they are intended to be cleared on payment of duty immediately after completion of manufacture:

Provided that where the goods are to be converted into some other form of manufactured product and cannot, therefore, or for any other sufficient reason, be deposited in a store-room, they shall be disposed of in such manner as the Commissioner may require.

Explanation.-For the purpose of this rule, in case of a doubt regarding what is a wholesale package or, as the case may be, a retail package, the same shall be determined by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise having regard to the normal trade practice for clearing such goods.

51A. Removal of goods after payment of duty :-

Except as otherwise expressly provided in these rules, no duty-paid

goods shall be allowed to enter, or be retained in, any part or premises of a factory:

Provided that the Commissioner or the Board may, by a general or special order, and subject to such conditions and limitations as may be laid down in such order, permit duty-paid goods to enter, or to be retained in, any part or premises of a factory.

52. Clearance on payment of duty :-

When the manufacturer desires to remove goods on payment of duty, either from the place or premises specified under rule 9 or from a store-room or other place of storage approved by the Commissioner under rule 47, he shall make application in triplicate (unless otherwise by rule or order required) to the proper officer in the proper Form and shall deliver it to the officer at least twelve hours (or such other period as may be elsewhere prescribed or as the Commissioner may in any particular case require or allow) before it is intended to remove the goods. The officer shall, thereupon, assess the amount of duty due on the goods shall allow the goods to be cleared:

Provided that where removals from a factory are frequent and the manufacturer maintains a sufficient credit balance in his account-current maintained under rule 9 for payment of duty, the Assistant Commissioner of Central Excise or Deputy Collector of Central Excise may, on a request by the manufacturer, permit, by an order in writing, removal of goods on presentation of a gate-pass as prescribed under rule 52A, subject to the observance of such procedure as may be prescribed in this regard by the Commissioner.

Form:A.R.1

52A. Goods to be delivered on an invoice :-

(1) No excisable goods shall be delivered from a factory or a warehouse except under an invoice signed by the owner of the factory, or his authorised agent:

Provided that when the excisable goods, other than those to which the provisions of Chapter VII-A apply, are removed on payment of duty such invoice shall be required to be countersigned by the proper officer.

Explanation.-In this rule, and in any other rule, where the term invoice or gatepass, as the case may be, is used it shall mean-

(i) assessee's own document such as invoice, challans, advice or

other document of similar nature generally used for sale or removal of excisable goods and which shall contain all the particulars as required under the said Act or in these rules; or

(ii) such other form as the Central Board of Excise and Customs may notify.

(2) The invoice shall be made out in triplicate. The original copy shall be for the buyer, the duplicate for the transporter, and the triplicate shall be retained by the manufacturer. The manufacturer may make extra copies of the invoice for his own use and each such extra copy shall be clearly marked with its sequential number. The duplicate copy shall be produced by the transporter on demand by any Officer while the goods are en route to such destination from the factory:

Provided that in respect of removal of excisable goods consumed within the factory for manufacture of other goods in a continuous process, the manufacturer may make out a single invoice, at the end of the day:

Provided further that for any excisable goods, other than those to which the provisions of Chapter VII-A apply, the invoice shall be presented to the proper officer for counter-signature at least one hour before the actual removal of goods from the factory. After counter-signature the proper officer shall return all the copies of the invoice to the manufacturer except the triplicate required for his record.

(3) The copies of the invoices shall be marked at the top in bold capital letters in the following manner, namely:-

(i) the original copy shall be marked as ORIGINAL FOR BUYER;

(ii) the duplicate copy shall be marked as DUPLICATE FOR TRANSPORTER.

(iii) the triplicate copy shall be marked as TRIPLICATE FOR ASSESSEE.

(4) If all the packages comprising a consignment are despatched in one lot at any one time, only one invoice shall be made out in respect of the consignment. If, however, a consignment is split up into two or more lots each of which is despatched separately either on the same day or on different days, a separate invoice shall be made out in respect of each such lot. In case a consignment is loaded on more than one vehicle, vessel, pack animal or other means of conveyance which do not travel together but separately or at intervals, a separate invoice shall be made out in respect of each vehicle, vessel, pack animal or other conveyance.

(5) Invoice shall be maintained in two sets-

(i) one for clearance for home consumption; and

(ii) the other for clearances for export.

(6) Each invoice shall bear a printed serial running for the whole financial year beginning on the 1st April of each year. Only one invoice book of each type shall be used by a factory for removal of excisable goods at any one time unless otherwise specially permitted by the Commissioner in writing.

(7) Each foil of the invoice book shall be authenticated by the owner or working partner or Managing Director/Company Secretary, as the case may be, before being brought into use by the manufacturer. The serial number of the invoice, before being brought into use, shall be intimated to the Assistant Commissioner of Central Excise or Deputy Collector of Central Excise and dated acknowledgment of receipt of such intimation shall be retained by the manufacturer:

Provided that the Commissioner may, by a general or special order, exempt an assessee or class of assesseees from pre-authentication of each foil of invoice book and from intimating the serial number of the invoice.

52AA. Procedure for issuing invoices under rule 57AE :-

(1) Every person, who issues invoices under rule 57AE shall get registered under rule 174

(2) Every person registered for the purposes of this rule (hereafter in this section referred to as the registered person) shall maintain a sk account in Form R.G.23D.

(3) The registered person shall maintain the R.G.23D register and at the end of the day enter therein receipt and issue of excisable goods, and shall-

(a) at the time of making any entry, insert the date when the entry is made;

(b) correctly keep such book, account or register in the manner required under these rules and shall not cancel, obliterate, or alter any entry therein, except for correction of any errors;

(c) keep the book, account or register ready for inspection by the officers, and shall permit any officer to inspect it and make such minute therein or take any extract there from, as such officer may think fit;

(d) at any time, if demanded by the officer, send the records referred to in the clause (c) to the proper officer.

(4) The registered person shall issue an invoice containing such

details as may be specified by the Central Board of Excise and Customs or the Commissioner.

(5) (a) The invoice shall be made out in quadruplicate. The copies of the invoice shall be marked at the top in bold capital letters in the following manner, namely:-

(i) the original copy shall be marked as "ORIGINAL FOR BUYER" and that copy shall be given to the buyer;

(ii) the duplicate copy shall be marked as "DUPLICATE FOR TRANSPORTER";

(iii) the triplicate copy shall be marked as "TRIPLICATE FOR CENTRAL EXCISE" and that copy shall be sent to the proper officer;

(iv) the quadruplicate copy shall be marked as "QUADRUPPLICATE FOR REGISTERED PERSON" and that copy shall be retained by the registered person for his record.

(b) The copies of the invoices issued by a first stage dealer and a second stage dealer shall also be marked at the top in bold capital letters as "FIRST STAGE DEALER" and "SECOND STAGE DEALER" respectively.

(c) The invoice issued by a first stage dealer or second stage dealer in the case of imported goods and by a second stage dealer in the case of other goods, shall be duly authenticated by the proper officer.

(6) (i) Each invoice shall bear a printed serial number running for the whole financial year beginning on the 1st April of each year.

(ii) The registered person shall use only one invoice book at any one time unless otherwise permitted by the Commissioner in writing.

(7) (i) Each foil of the invoice book shall be authenticated by the owner or the working partner or the Managing Director or the Company Secretary, before being used by the registered person.

(ii) The registered person shall intimate the serial number of the invoice before being used to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise as the case may be, and the dated acknowledgement of receipt of such intimation shall be retained by the said registered person.

(8) (i) It shall be permissible to use records and invoices generated through a computer.

(ii) When the invoice is generated through a computer, the registered person shall intimate the serial number likely to be used in the forthcoming quarter and as soon as the same is exhausted, a revised intimation shall be sent.

(iii) The registered person shall also send details of the software

used including the format used for information of the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise as the case may be.

(9) (i) The registered person shall issue only one invoice in respect of the consignment if all the packages comprising the said consignment are dispatched in one lot at any one time.

(ii) If a consignment is split up into two or more lots and each such consignment is dispatched separately either on the same day or on different days, a separate invoice shall be made out in respect of each lot.

(iii) Separate invoice shall be issued in case where the consignment is loaded on more than one vehicle, vessel, pack animal or other means of conveyance which do not travel together but travel separately or at intervals.

(10) The registered person shall, within seven days after the close of each month, submit to the Range Superintendent, a monthly return and other documents as the Central Board of Excise and Customs or the Commissioner may specify, for the purpose of verification by the said Range Superintendent.

(11) The registered person shall preserve documents specified under this rule for a period of five years and shall, on demand, produce the same to the Officer.

(12) The registered person shall, within seven days of close of each month, submit duplicate copies of the invoices issued under rule 52A or 57AE to the Superintendent of Central Excise with whom such person is registered, and-

(a) where the entire quantity shown in the invoice has been sold, deface the same with remarks CENVAT CREDIT ALLOWED - NOT TO BE USED AGAIN; and

(b) where the entire quantity has not been sold, the Range Superintendent shall endorse on the back of the invoice, details relating to the quantity received, quantity issued, total amount of duty available as input stage credit (hereafter referred to as the said duty), amount of the said duty for which invoices have been issued, and the balance quantity and the balance amount of the said duty available for issuing invoices).

52B. XXX XXX XXX :-

[***]

53. Daily sk account :-

- (1) Every manufacturer shall maintain a sk account, and shall enter in such account daily-
- (a) description of goods,
 - (b) opening balance,
 - (c) quantity manufactured,
 - (d) quantity deposited in the store-room, or other place of storage approved by the Commissioner under rule 47,
 - (e) quantity and value, of goods removed on which duty is required to be paid from such store-room or other place of storage or from the place or premises specified under rule 9,
 - (f) quantity and value of goods delivered from the factory without payment of duty for export or other purposes, and
 - (g) the rate of duty and the amount of such duty paid or payable, as the case may be:

Provided that a manufacturer who furnishes a declaration in the Form annexed hereto may be exempted by the Commissioner from making nil entries in the above account on days on which there is no production, receipt in store-room, or clearance of excisable goods:

Provided further that the Chief Commissioner of Central Excise may allow by, general or special order, a manufacturer, to make entries in respect of such goods, in such manner, at such interval, and subject to such conditions and limitations, as may be specified in such order.

Declaration

The Commissioner of Central Excise-----having permitted me/us, in relaxation of the provisions of rule 53 of the Central Excise Rules, 1944, to make entries in the different openings of the sk account only on those dates when there is any transaction of the nature mentioned in the said rule in respect of the particular description/variety/size of packing of the excisable goods, I/we hereby solemnly declare that no such transaction has taken place on any date for which no entries are made in the sk account for the particular description/variety/size of packing of the goods. I/We hereby undertake to make regular daily entries in the said account in respect of each description/variety/size of packing of the goods in respect of each transaction mentioned in rule 53 of the said rules on the particular day.

Signature of Registered person

(2) The sk account maintained under sub-rule (1) shall, after being filled up, be preserved for a period of not less than five years and kept available for inspection by any officer.

53A. XXX XXX XXX :-

[***]

54. Monthly returns :-

Within ten days after the close of each month every manufacturer shall submit to the proper officer a monthly return in the proper Form showing the quantity of excisable goods manufactured during the month, the quantity (if any) used within the factory for the manufacture of another commodity, the quantity removed on payment of duty from the place or premises specified under rule 9 or from the store-room or other place of storage approved by the Commissioner under rule 47, the quantity removed for export without payment of duty and such other particulars as may be elsewhere prescribed or as the Commissioner may, by general or special order, require, and, where so required by the Commissioner, by a written notice, shall submit a similar return in the proper Form showing all the other products manufactured in and issued from the factory during the same month.

Form:R.T.3

Form:R.T.3(Modified)

Form:R.T.4

55. Monthly returns :-

55 XXX XXX XXX

[***]

56. Taking of samples for excise purposes :-

(1) The manufacturer shall permit any officer to take samples of any manufactured or partly manufactured goods or of any intermediate or residual products resulting from the manufacture thereof, in his factory.

(2) The officer referred to in sub-rule (1) shall conduct the test from the samples taken under that sub-rule and communicate to the manufacturer the result of such test.

(3) (a) Where the officer is of the opinion that the samples after completion of the test can be restored to the manufacturer, officer shall send a notice in writing to the manufacturer requesting him to collect the samples within such period as may be specified in the notice.

(b) If the manufacturer fails to take delivery of the samples within

the period specified in the notice referred to in clause (a), the samples shall be disposed of in such manner as the Commissioner of Central Excise may direct.

(4) Where a manufacturer is aggrieved by the result of the test, he may, within ninety days of the date on which the result of the test is received by him, request the Assistant Commissioner of Central Excise or the Deputy Commissioner of central Excise that the samples be re-tested.

56A. Taking of samples for excise purposes :-

56A XXX XXX XXX

[***]

56AA. XXX XXX XXX :-

[***]

56B. Special procedure for removal of finished excisable or semi-finished goods for certain purposes :-

The Commissioner may, by special order and subject to such conditions as may be specified by the Commissioner, permit a manufacturer to remove-

(i) excisable goods which are in the nature of semi-finished goods, for carrying out certain manufacturing processes, or

(ii) excisable goods for carrying out tests,

to some other premises of his or to the premises of another person and to bring back such goods to his factory, without payment of duty, or to some other registered premises of his or to the premises of another assessee and allow these goods to be removed on payment of duty or without payment of duty for export from such other registered premises of his or from the premises of such assessee to whom the goods have been sent:

Provided that this rule shall not apply to the goods known as "prototypes" which are sent out for trial or development test.

Form:D.D.2

56C. Special procedure for removal of finished excisable or semi-finished goods for certain purposes :-

56C XXX XXX XXX

[***]

57. XXX XXX XXX :-

[***]

57A. Applicability :-

(1) The provisions of this section shall apply to such finished excisable goods (hereafter, in this section, referred to as the final products) as the Central Government may, by notification in the Official Gazette, specify in this behalf for the purpose of allowing credit of any duty of excise or the additional duty under section 3 of the Customs Tariff Act, 1975 (51 of 1975), as may be specified in the said notification (hereafter, in this section, referred to as the specified duty) paid on the goods used in the manufacture of the said final products (hereafter, in this section, referred to as the inputs).

(2) The credit of specified duty allowed under subrule (1) shall be utilised towards payment of duty of excise leviable on the final products, whether under the Act or under any other Act, as may be specified in the notification issued under subrule (1) and subject to the provisions of this section and the conditions and restrictions, if any, specified in the said notification.

(3) The Central Government may also specify in the said notification the goods or classes of goods in respect of which the credit of specified duty may be restricted.

(4) The credit of specified duty under this section shall be allowed on inputs used in the manufacture of final products as well as on inputs used in or in relation to the manufacture of the final products whether directly or indirectly and whether contained in the final product or not.

(5) Notwithstanding anything contained in subrule (1), the Central Government may, by notification in the Official Gazette declare the inputs on which declared duties of excise or additional duty (hereinafter referred to as declared duty) paid shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in the said notification and allow the credit of such declared duty deemed to have been paid in such manner and subject to such conditions as may be specified in the said notification even if the declared inputs are not used directly by the manufacturer of final products declared in the said notification, but are contained in the said final products. Explanation. For the purposes of the subrule, it is clarified that even if the declared inputs are used directly by a manufacturer of final products, the credit of the declared duty shall, notwithstanding the actual

amount of duty paid on such declared inputs, be deemed to be equivalent to the amount specified in the said notification and the credit of the declared duty shall be allowed to such manufacturer.

¹ [(6) Notwithstanding anything contained in subrule (1), the Central Government may, by notification in the Official Gazette, declare the inputs on which the duty of excise paid under section 3A of the Central Excise Act, 1944 (1 of 1944), shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in the said notification, and allow the credit of such duty in respect of the said inputs at such rate or such amount and subject to such conditions as may be specified in the said notification: Provided that the manufacturer shall take all reasonable steps to ensure that the inputs acquired by him are goods on which the appropriate duty of excise as indicated in the documents accompanying the goods, has been paid under section 3A of the Central Excise Act, 1944 (1 of 1944).]

1. Inserted (w.e.f. 191997) by M.F. (D.R.) Notification No. 44/97C.E. (N.T.), dated 3081997.

57AA. Definitions :-

For the purpose of this section,-

(a) "capital goods" means-

(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading No. 68.02 and sub-heading No. 6801.10 of the First Schedule to the Central Excise Tariff Act, 1985;

(ii) components, spares and accessories of the goods specified at (i) above;

(iii) moulds and dies;

(iv) refractories and refractory materials;

(v) tubes and pipes and fittings thereof, used in the factory; and

(vi) pollution control equipment, used in the factory of the manufacturer of the final products;

(vii) storage tank.

Explanation. - For removal of doubts, it is hereby clarified that "capital goods" do not include any equipment or appliances used in an office.

(b) "exempted goods" means goods which are exempt from the whole of the duty of excise leviable thereon, and includes goods which are chargeable to "Nil" rate of duty;

(c) "final products" means excisable goods manufactured or produced from inputs, except matches;

(d) "input" means all goods, except high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not, and includes accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used for manufacture of final products or for any other purpose, within the factory of production, and also includes lubricating oils, greases, cutting oils and coolants.
Explanation 1.--

The high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.
Explanation 2. - Inputs include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer.

(e) "manufacturer" or "producer" in respect of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) shall include a person who is liable to pay the duty of excise leviable on such goods under rule 7AA.

57AB. CENVAT credit :-

(1) A manufacturer or producer of final products shall be allowed to take credit (hereinafter referred to as the CENVAT credit) of , -

- i. the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 (hereinafter referred to as the said First Schedule), leviable under the Act;
- ii. the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985, leviable under the Act;
- iii. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- iv. the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- v. the National Calamity Contingent duty leviable under clause 129 of the Finance Bill, 2001, which clause has, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931, the force of law; and
- vi. the additional duty leviable under section 3 of the Customs Tariff Act, 1975, equivalent to the duty of excise specified under clauses (i), (ii), (iii), (iv) and (v) above,

paid on any inputs or capital goods received in the factory on or

after the first day of March, 2001, including, the said duties paid on any inputs or capital goods used in the manufacture of intermediate products, by a job-worker availing the benefit of exemption specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 214/86- Central Excise, dated the 25th March, 1986, published in the Gazette of India vide number GSR 547(E), dated the 25th March, 1986, and received by the manufacturer for use in or in relation to the manufacture of final products, on or after the first day of March, 2001.

Explanation.--

For removal of doubts it is clarified that the manufacturer of the final products shall be allowed CENVAT credit of additional duty leviable under section 3 of the Customs Tariff Act, 1975 on goods falling under heading No. 98.01 of the First Schedule to the said Customs Tariff Act.

(1A) Notwithstanding anything contained in sub-rule (1), the manufacturer or producer of final products shall be allowed to take CENVAT credit of the duty paid on inputs lying in sk or in process or inputs contained in the final products lying in sk on the date on which any goods cease to be exempted goods or any goods become excisable.

(1B) The CENVAT credit may be utilized for payment of any duty of excise on any final products manufactured by the manufacturer or for payment of duty on inputs or capital goods themselves if such inputs are removed as such or after being partially processed, or such capital goods are removed as such.

Provided that while paying duty in the manner specified under sub-rule (1) of rule 49 or sub-rule (1) of rule 173G, as the case may be, the CENVAT credit shall be utilised only to the extent such credit is available on the fifteenth day of a month for payment of duty relating to the first fortnight of the month, and the last day of a month for payment of duty relating to the second fortnight of the month or in case of a manufacturer availing exemption by notification based on value of clearances in a financial year, for payment of duty relating to the entire month.";

(1C) When inputs or capital goods, on which credit has been taken, are removed as such from the factory, the manufacturer of the final products shall pay an amount equal to the duty of excise which is leviable on such goods at the rate applicable to such goods on the date of such removal and on the value determined for such goods under section 4 of the said Central Excise Act, and such removal

shall be made under the cover of an invoice referred to in rule 52A.

(1D) The amount paid under sub-rule (1C) shall be eligible as credit as if it was a duty paid by the person who removed such goods under sub-rule (1C).

(2) Notwithstanding anything contained in sub-rule (1)-

(a) credit of duty in respect of inputs or capital goods produced or manufactured (i) in a free trade zone and used in the manufacture of the final products in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking or by a unit in an Electronic Hardware Technology Park or Software Technology Parks and used in the manufacture of the final products in any place in India, shall be restricted to the extent which is equal to the additional duty leviable on like goods under section 3 of the Customs Tariff Act, 1975 paid on such inputs;

(b) credit in respect of-

(i) the additional duty of excise under section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);

(ii) the additional duty of excise under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957); and

(iii) the additional duty under section 3 of the Customs Tariff Act, 1975, equivalent to the duty of excise specified under clauses (i) and (ii) above shall be utilized only towards payment of duty of excise leviable under the said Additional duties of Excise (Textiles and Textile Articles) Act, or under the said Additional Duties of Excise (Goods of special Importance) Act, on any final products manufactured by the manufacturer or for payment of such duty as inputs themselves if such inputs are removed as such or after being partially processed

(c) CENVAT credit of the duty paid on the inputs shall not be allowed in respect of texturised yarn (including draw-twisted or draw-wound yarn) of polyesters falling under heading No. 54.02 of the said First Schedule, manufactured by an independent texturiser, that is to say, a manufacturer engaged in manufacture of texturised yarn (including draw-twisted or draw-wound yarn) of polyesters falling under heading No. 54.02, who does not have the facility in his factory (including plant and machinery) for manufacture of partially oriented yarn of polyesters falling under sub-heading No. 5402.42 of the said First Schedule.

(d) credit, in respect of additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975), paid on marble slabs or

tiles falling under sub-heading No. 2504.21 or 2504.31 respectively of the First Schedule to the Central Excise Tariff Act, 1985 (1 of 1986) shall be allowed to the extent of thirty rupees per square metre.

(e) credit in respect of-

(i) the National Calamity Contingent duty leviable under clause 129 of the Finance Bill, 2001; and

(ii) the additional duty under section 3 of the Customs Tariff Act, 1975, equivalent to the duty of excise specified under clause (i) above shall be utilized only towards payment of National Calamity Contingent duty leviable under clause 129 of the Finance Bill, 2001 on any final products manufactured by the manufacturer or for payment of such duty on inputs themselves if such inputs are removed as such or after being partially processed.

Explanation. - Where the provisions of any other rule or notification provide for grant of partial or full exemption on condition of or non-availability of credit of duty paid on any input or capital goods, the provisions of such other rule or notification shall prevail over the provisions of the rules made under this section.

57AC. Conditions for allowing CENVAT credit :-

(1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer.

Provided that in respect of final products falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), CENVAT credit of the duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who gets such final products manufactured on his account on job work subject to the condition that such inputs are used in the manufacture of such final products by the job worker.

(2) (a) The CENVAT credit in respect of capital goods received in a factory at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent of the duty paid on such capital goods in the same financial year.

(b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, provided that the capital goods (other than components, spares and accessories, refractories and refractory materials and goods falling under heading No. 68.02 and sub-heading No. 6801.10 of the First

Schedule to the Central Excise Act) are still in the possession and use of the manufacturer of final products in such subsequent years.
(c) CENVAT credit may also be taken in respect of such capital goods as have been received in the factory, but have not been installed, before the 1st day of April, 2000 subject to the condition that during the financial year 2000-2001, the credit shall be taken for an amount not exceeding fifty per cent. of the duty paid on such capital goods.

Illustration.--

A manufacturer received machinery on April 16, 2000 in his factory. CENVAT of two lakh rupees is paid on this machinery. The manufacturer can take credit upto a maximum of one lakh rupees in the financial year 2000-2001, and the balance in subsequent years.

(3) The CENVAT credit in respect of duty paid on the capital goods shall be allowed to a manufacturer even if the capital goods are acquired by the manufacturer on lease, hire purchase or loan agreement, from a financing company.

(4) The CENVAT credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).

(5) (a) The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, re-conditioning or any other purpose, and it is established from the records, challans or memos or any other document produced by the assessee availing the CENVAT credit that the goods are received back in the factory within 180 days of their being sent to a job worker. If the inputs or the capital goods are not received back within 180 days, the manufacturer shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise. However, the manufacturer can take the CENVAT credit again when the inputs or capital goods are received back in his factory.

(b) CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to a job worker for the production of goods on his behalf and according to his specifications.

(6) The Commissioner of Central Excise having jurisdiction over the factory of the manufacturer of the final products who has sent the

inputs or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such inputs or partially processed inputs, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow finished goods to be cleared from the premises of the job-worker.

(7) Where any inputs are used in the final products which are cleared for export under bond or used in the intermediate products cleared for export, the CENVAT credit in respect of the inputs so used shall be allowed to be utilized by the manufacturer towards payment of duty of excise on any final products cleared for home consumption or for export on payment of duty and where for any reason such adjustment is not possible, the manufacturer shall be allowed refund of such amount subject to such safeguards, conditions and limitations as may be specified by the Central Government by notification in the Official Gazette. No refund of credit shall, however, be allowed if the manufacturer avails of drawback allowed under the Customs and Central Excise Duties Drawback Rules, 1995, or claims a rebate of duty under rule 12, in respect of such duty.

57AD. Obligation of manufacturer of dutiable and exempted goods :-

(1) CENVAT credit shall not be allowed on such quantity of inputs which is used in the manufacture of exempted goods, except in the circumstances mentioned in sub-rule (2).

(2) Where a manufacturer avails of CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufactures such final products which are chargeable to duty as well as exempted goods, then, the manufacturer shall maintain separate accounts for receipt, consumption and inventory of inputs meant for use in the manufacture of dutiable final products and the quantity of inputs meant for use in the manufacture of exempted goods and take CENVAT credit only on that quantity of inputs which is intended for use in the manufacture of dutiable goods. The manufacturer, opting not to maintain separate accounts shall follow either of the following conditions, as applicable to him, namely:-

(a) if the exempted goods are,-

(i) final products falling under Chapters 50 to 63 of the Schedule to the Central Excise Tariff Act, 1985 ;

- (ii) tyres of a kind used on animal drawn vehicles or handcarts and their tubes, falling within Chapter 40;
 - (iii) black and white television sets, falling within Chapter 85;
 - (iv) newsprint, in rolls or sheets, falling within Chapter heading No.48.01, the manufacturer shall pay an amount equivalent to the CENVAT credit attributable to inputs used in or in relation to the manufacture of such final products at the time of their clearance from the factory, or
- (b) if the exempted goods are other than those described in clause (a) above, the manufacturer shall pay an amount equal to eight per cent. of the total price, excluding sales tax and other taxes, if any, paid on such goods, of the exempted final product charged by the manufacturer for the sale of such goods at the time of their clearance from the factory.

Explanation.--

The amount mentioned in (a) and (b) above shall be paid by the manufacturer by debiting the CENVAT credit or otherwise.

(3) No credit of the specified duty shall be allowed on capital goods which are used exclusively in the manufacture of exempted goods (other than final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year).

(4) The provisions of sub-rule (1), sub-rule (2) and sub-rule (3) shall not be applicable in case the exempted goods are either,-

- (i) cleared to a unit in a free trade zone; or
- (ii) cleared to a hundred per cent. Export-oriented undertaking; or
- (iii) cleared to a unit in an Electronic Hardware Technology Park or Software Technology Parks; or
- (iv) supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No.108/95-Central Excises, dated 28th August, 1995; or
- (v) cleared for export under bond in terms of the provisions of rule 13.

[(5) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of April, 2000 and ending with the 30th day of June, 2001 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules

(1) and (2), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:

Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the date of clearance till the date of payment of the said amount.]

57AE. Documents and accounts :-

(1) The CENVAT credit shall be taken by the manufacturer on the basis of any of the following documents, namely :-

(a) an invoice issued by a manufacturer of inputs or capital goods under rule 52A or 52AA or rule 100E from his factory or from his depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;

(b) a bill of entry;

(c) an invoice issued by a first stage dealer of excisable goods under rule 52AA;

(d) an invoice issued by a second stage dealer of excisable goods under rule 52AA;

(e) an invoice issued by an importer under rule 52AA;

(f) an invoice issued by an importer from his depot or from the premises of the consignment agent of the said importer provided the said depot or the premises, as the case may be, is registered under rule 174;

(g) an invoice issued by a first stage or second stage dealer of imported goods registered under rule 174;

(h) an invoice issued by a manufacturer of final products for clearance of inputs or capital goods as such.

(i) a supplementary invoice, issued by a manufacturer of inputs or capital goods under rule 52A or rule 52AA or rule 100E from his factory or from his depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, in case additional amount of excise duties has been paid, except where the additional amount of duty became recoverable from the manufacturer or importer of inputs or capital goods on account of

any non-levy or short-levy by reason of fraud, collusion or any wilful mis-statement or suppression of facts or contravention of any provisions of the Act or of the Customs Act, 1962 or the rules made thereunder with intent to evade payment of duty.

Explanation. - For the purposes of this section,-

(i) "first stage dealer" means a dealer who purchases the goods directly from-

(a) the manufacturer under the cover of an invoice issued under rule 52A or rule 100E or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice; or

(b) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice;

(ii) "second stage dealer" means a dealer who purchases the goods from a first stage dealer.

(2) (a) The manufacturer shall take all reasonable steps to ensure that the inputs or capital goods in respect of which he has taken the CENVAT credit are goods on which the appropriate duty of excise as indicated in the documents accompanying the goods, has been paid.

(b) The CENVAT credit in respect of inputs or capital goods purchased from a first stage or second stage dealer shall be allowed only if such dealer has maintained records indicating the fact that the inputs or capital goods were supplied from the sk on which duty was paid by the producer of such inputs or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.

Explanation.--

The provisions of the explanation under rule 173Q shall apply mutatis mutandis for the purpose of determining whether the manufacturer has taken reasonable steps as required by this sub-rule.

(3) The manufacturer of final products shall maintain proper records for the receipt, disposal, consumption and inventory of the inputs and capital goods in which the relevant information regarding the value, duty paid, the person from whom the inputs or capital goods have been purchased is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer taking such credit.

(4) The manufacturer of final products shall submit within ten days from the close of each month to the Superintendent of Central Excise, a monthly return in the prescribed form.

Explanation. - In respect of a manufacturer availing of any exemption based on the value or quantity of clearances in a financial year, the provisions of this sub-rule shall have effect in that financial year as if for the expression "month", the expression "quarter" was substituted.

57AF. Transfer of credit :-

(1) If a manufacturer of the final products shifts his factory to another site or the factory is transferred on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with the specific provision for transfer of liabilities of such factory, then the manufacturer shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated factory.

(2) The transfer of the CENVAT credit under sub-rule (1) shall be allowed only if the stock of inputs as such or in process, or the capital goods is also transferred alongwith the factory to the new site or ownership and the inputs, or capital goods, on which credit has been availed of are duly accounted for to the satisfaction of the Commissioner.

57AG. Transitional provision :-

(1) Any amount of credit earned by a manufacturer under rules 57A, 57B or 57Q, as they existed prior to 1st day of April, 2000 and remaining unutilized on that day shall be allowable as CENVAT credit to such manufacturer under these rules, and be allowed to be utilized in accordance with these rules.

(2) A manufacturer who opts for exemption from the whole of the duty of excise leviable on goods manufactured by him under a notification based on the value or quantity of clearances in a financial year, and who has been availing of the credit of the duty paid on inputs before such option is exercised, shall be required to pay an amount equivalent to the credit, if any, allowed to him in respect of inputs lying in stock or used in any finished excisable goods lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not

be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export.

(3) (a) An independent texturiser who has availed of the credit of duty paid on inputs used for manufacture of texturised yarn (including draw-twisted or draw-wound yarn) of polyesters falling under heading No. 54.02 of the said First Schedule shall be required to pay an amount equivalent to the credit, if any, allowed to him in respect of such inputs lying in sk, or used in the manufacture of texturised yarn (including draw-twisted or draw-wound yarn) of polyesters falling under heading No. 54.02 of the said First Schedule lying in sk as on the 1st day of March, 2000, or thereafter.

(b) An independent texturiser who manufactures texturised yarn (including draw twisted or draw-wound yarn) of polyesters falling under heading No. 54.02, and also other goods, shall be allowed to take CENVAT credit of the duty paid on inputs used for the manufacture of such other goods, lying in sk as on the 1st day of March, 2000 or received in his factory on or after the 1st day of March, 2000.

(4) A manufacturer, who had debited amount equivalent to ten per cent of the value of inputs or as the case may be, partially processed inputs while removing such inputs or partially processed inputs under the sub-rule (4) of rule 57F as it existed prior to the 1st day of April, 2000, and receives back the inputs or as the case may be, partially processed inputs, on or after the 1st day of April, 2000, shall be allowed to take CENVAT credit of the amount debited by him and shall be allowed to utilize the CENVAT credit in accordance with these rules.

Explanation.--

For the purposes of this sub-rule, independent texturiser means a manufacturer engaged in the manufacture of texturised yarn (including draw-twisted or draw-wound yarn) of polyesters falling under heading No. 54.02 of the said First Schedule, and who does not have the facility in his factory (including plant and machinery) for manufacture of partially oriented yarn of polyesters falling under sub-heading no. 5402.42 of the said First Schedule.

(5) A manufacturer of machinery falling under heading Nos. 84.26, 84.27, 84.28, 84.29 and 84.30 and motor vehicles, who had received, on or after the 1st day of March, 2000, tyres, tubes and flaps falling under sub-heading Nos. 4011.90, 4012.11, 4012.19, 4012.90 and 4013.90 cleared before the 1st day of March, 2000 on which special excise duty has been paid as it existed prior to the

1st day of March, 2000, for use in the manufacture of machinery falling under heading Nos. 84.26, 84.27, 84.28, 84.29 and 84.30 and motor vehicles, shall be allowed to take CENVAT credit of the amount of special excise duty paid by him and shall be allowed to utilize the CENVAT credit in accordance with these rules.

57AH. Recovery of credit wrongly taken :-

(1) Where the CENVAT credit has been taken or utilised wrongly, the same along with interest shall be recovered from the manufacturer and the provisions of sections 11A, 11AA and 11AB of the Act shall apply mutatis mutandis for effecting such recoveries.

(2) Where the CENVAT credit has been taken or utilized wrongly on account of fraud, willful misstatement, collusion or suppression of facts, or contravention of any of the provisions of the Act or the rules made thereunder with intention to evade payment of duty, then, the manufacturer shall also be liable to pay penalty and the provisions of section 11AC of the Act shall apply mutatis mutandis.

57AI. XXX XXX XXX :-

[***]

57AJ. Special dispensation in respect of inputs manufactured in factories locate of North East region :-

Notwithstanding anything contained in these rules, where a manufacturer has cleared any inputs or capital goods, in terms of notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 32/99- Central Excise, dated the 8th July, 1999, or notification no. 33/99- Central Excise, dated the 8th July, 1999, the CENVAT credit of duty paid on such inputs or capital goods shall be admissible as if no portion of the duty paid on such inputs or capital goods was exempted under any of the said notifications.

57AK. Power of Central Government to notify goods for deemed credit :-

Notwithstanding anything contained in rule 57AB, the Central Government may, by notification in the Official Gazette declare the inputs on which the duties of excise, or additional duty paid, shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in the said notification and allow credit

of such duty deemed to have been paid in such manner and subject to such conditions as may be specified in the said notification even if the declared inputs are not used directly by the manufacturer of final products declared in the said notification, but are contained in the said final products."..

3. In the Central Excise (Second Amendment) Rules, 2000, in rule 7, in sub-rule (i), in clause (1) (b),-

(i) for the words "shall discharge his duty liability by debiting such account-current" the words "shall discharge his duty liability by debiting such account-current or by utilising CENVAT credit" shall be substituted;

(a) after sub-clause (ii), the following sub-clause shall be inserted, namely,-

"(iii) at the end of each fortnight, the manufacturer shall determine the total amount of excise duty payable on the excisable goods removed during the fortnight, and he shall discharge the total duty liability so payable by making debit entry in the account current or by utilising CENVAT credit, as the case may be."

57B. Eligibility of credit of duty on certain inputs :-

(1) Notwithstanding anything contained in rule 57A, the ["manufacturer of final products shall be allowed to take credit of the specified duty paid on the following"]¹[inputs], used in or in relation to the manufacture of the final products, whether directly or indirectly and whether contained in the final products or not, namely :

(i)¹[inputs] which are manufactured and used within the factory of production;

(ii) paints;

(iii)¹[inputs] used as fuel;

(iv) ¹[inputs] used for generation of electricity or steam, used for manufacture of final products or for any other purpose, within the factory of production;

(v) packing materials and materials from which such packing materials are made provided the cost of such packing materials is included in the value of the final product;

(vi) accessories of the final product cleared alongwith such final product, the value of which is included in the assessable value of the final product. 5*]

⁶{Explanation. For the purposes of this subrule, it is hereby clarified that the term inputs refers only to such inputs as may be

specified in a notification issued under rule 57A.]

(2) The manufacturer of the final products shall not be allowed to take credit of the duty paid on the following goods, namely :

(i) machines, machinery, equipment, apparatus, tools, appliances or capital goods as defined in rule 57Q (other than those used as component parts in the manufacture of final products), used for any purpose in the factory;

(ii) packing materials in respect of which any exemption to the extent of the duty of excise payable on the cost of the packing materials is being availed of for packing any final products;

⁷ [(iii) packing materials or containers, the cost of which is not included in the value of the final products under section 4 of the Act; and

(iv) crates and glass bottles used for aerated water;]

1. Substituted by Corrigendum F. No. B42/1/97TRU, dated 1031997. 5. Omitted for " (1) The Central Government may, from time to time, by notification in the Official Gazette, provide for the grant of a credit of the duty paid on such excisable goods cleared from a factory for home consumption in excess of such clearances, to such extent, and subject to such conditions, as may be specified in the notification. (2) The 1 [Commissioner] may, on application made in this behalf by a manufacturer of the excisable goods to which this rule applies, by order in writing, permit such manufacturer to take credit of the duty paid on such excisable goods equal to an amount determined in accordance with the provisions of the notification issued under subrule (1) of rule 8 2 [of the Central Excise Rules, 1944.] (3) A manufacturer so permitted shall maintain an account in such form, and shall follow such procedure, as the 3 [Commissioner] may specify in this behalf. (4) If the duty paid on the excisable goods cleared from a factory for home consumption, in respect of which credit has been allowed under subrule (2), be varied subsequently due to any reason resulting in payment of refund to, or, as the case may be, recovery of more duty from the manufacturer, the credit allowed under subrule (2) shall be varied proportionately by adjustment in the account maintained under subrule (3) or in the account current maintained under rule 9 or subrule (1) of rule 173G or, if such adjustment be not possible for any reason, by cash recovery from, or, as the case may be, refund to the manufacturer. (5) The credit of duty allowed under subrule (2) shall be utilised towards payment of duty on any excisable goods and no part of such credit shall be refunded in cash or by cheque.] ", vide " THE CENTRAL EXCISE RULES, 1944" Dt.18th May, 1999 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 353(E), No. 35/99 Central Excise (NT), dated May 18, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 18th May, 1999, p. 2, No.

241 [F. No. 201/16/98CX. 6]

6. Inserted by M.F. (D.R.) Notification No. 5/98C.E. (N.T.), dated 23/1998.

7. Substituted by M.F. (D.R.) Notification No. 46/97C.E. (N.T.), dated 19/1997.

57C. Credit of duty not to be allowed if final products are exempt :-

(1) No credit of the specified duty shall be allowed on such quantity of inputs which is used in the manufacture of final products ¹[which are exempt from the whole of the duty of excise leviable thereon or are chargeable to nil rate of duty] except when the final products are either,

(i) cleared to a unit in a Free Trade Zone; or

(ii) cleared to a hundred per cent. export-oriented undertaking; or

(iii) cleared to a unit in an Electronic Hardware Technology Park or Software Technology Parks; or

(iv) supplied to the United Nations or an international organisation for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 108/95Central

(2) Where a manufacturer avails of the credit of specified duty on any inputs and he is engaged in the manufacture of any final product which is chargeable to duty as well as in the manufacture of any other ²[final product which is exempt from the whole of the duty of excise leviable thereon or is chargeable to nil rate of duty] in the same factory, the provisions of subrule (1) shall be deemed to be satisfied only³ [when the provisions of subrule (1) or subrule (5) or subrule (9) of rule 57CC are complied with, or where goods are exported under bond in terms of the provisions of rule 13.]

(3) Subrule (2) shall not apply to inputs intended to be used as fuel.

(4) Subrule (2) shall also not apply when the final product manufactured by the manufacturer is exempt from duty of excise on account of the fact that it is cleared to a unit in a free trade zone or to a hundred per cent. export-oriented undertaking or to a unit in an Electronic Hardware Technology Park or Software Technology Parks or supplied to the United Nations or an international organisation for their official use or supplied to

projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 108/95 Central Excises, dated the 28th August, 1995.

1. Substituted by Corrigendum F. No. B42/I/97TRU, dated 10/3/1997.
2. Substituted by Corrigendum F. No. B42/1/97TRU, dated 10/3/1997.
3. Substituted by M.F. (D.R.) Notification No. 46/97C.E. (N.T.), dated 19/1/1997.

57CC. Adjustment of credit on inputs used in exempted final products or maintenance of separate inventory and accounts of inputs by the manufacturer :-

(1) Where a manufacturer is engaged in the manufacture of any final product which is chargeable to duty as well as in any other ¹ [final product which is exempt from the whole of the duty of excise leviable there on or is chargeable to nil rate of duty] and the manufacturer takes credit of the specified duty on any inputs (other than inputs used as fuel) which is used or ordinarily used in or in relation to the manufacture of both the aforesaid categories of final products, whether directly or indirectly and whether contained in the said final products or not, the manufacturer shall, unless the provisions of subrule (9) are complied with, pay an amount equal to eight per cent. of the price (excluding sales tax and other taxes, if any, payable on such goods) of the second category of final products charged by the manufacturer for the sale of such goods at the time of their clearance from the factory.

(2) The amount mentioned in subrule (1) shall be paid by the manufacturer by adjustment in the credit account maintained under subrule (7) of rule 57G or in the accounts maintained under rule 9 or subrule (1) of rule 173G and if such adjustment is not possible for any reason, the amount shall be paid in cash by the manufacturer availing of credit under rule 57A.

(3) The provisions of subrule (1) shall not apply to final products falling under Chapters 50 to 63 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

(4) The provisions of subrule (1) shall also not apply to

(a) articles of plastics falling within Chapter 39;

(b) tyres of a kind used on animal drawn vehicles or handcarts and

their tubes, falling within Chapter 40;

(c) Black and White television sets, falling within Chapter 85; and

(d) Newsprint, in rolls or sheets, falling within Chapter heading No. 48.01;

(5) In the case of final products referred to in subrule (3) or subrule (4) and excluded from the provisions of subrule (1), the manufacturer shall pay an amount equivalent to the credit of duty attributable to inputs contained in such final products at the time of their clearance from the factory.

(6) The provisions of subrule (1) shall also not apply to final products which are exported under bond in terms of the provisions of rule 13.

(7) The provisions of subrule (1) shall apply even if the inputs on which credit has been taken are not actually used or contained in any particular clearance of final products.

(8) If any goods are not sold by the manufacturer at the factory gate but are sold from a depot or from the premises of a consignment agent or from any other premises, the price (excluding sales tax and other taxes, if any, payable) at which such goods are ordinarily sold by the manufacturer from such depot or from the premises of a consignment agent or from any other premises shall be deemed to be the price for the purpose of subrule (1) .

(9) In respect of inputs (other than inputs used as fuel) which are used in or in relation to the manufacture of any goods, which are exempt from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty, the manufacturer shall maintain separate inventory and accounts of the receipt and use of inputs for the aforesaid purpose and shall not take credit of the specified duty paid on such inputs.

1. Substituted by Corrigendum F. No. B42/1/97TRU, dated 1031997.

57D. Credit of duty not to be denied or varied in certain circumstances :-

(1) Credit of specified duty shall not be denied or varied on the ground that part of the inputs is contained in any waste, refuse, or byproduct arising during the manufacture of the final product, or that the inputs have become waste during the course of manufacture of the final product, whether or not such waste or

refuse or byproduct is exempt from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty or is not specified as a final product under rule 57A.

(2) Credit of specified duty shall also not be denied or varied in case any intermediate products have come into existence during the course of manufacture of final products or the inputs are used in the manufacture of capital goods as defined in rule 57Q and such intermediate products or capital goods are not chargeable to duty of excise.

57E. Adjustment in duty credit :-

(1) If a manufacturer of final products has taken credit on any inputs and subsequently it so happens that any refund of the duty paid by the manufacturer of inputs or importer of inputs, as the case may be, is allowed to him for any reason, then the manufacturer of the final products shall accordingly adjust the amount of credit in his credit account and if such adjustment is not possible for any reason, the manufacturer of the final products shall pay the amount in cash equal to the amount of refund allowed to the manufacturer of inputs or importer of inputs.

(2) If a manufacturer of the final products has not taken any credit or has taken credit on any inputs and subsequently it so happens that any additional amount of duty is recovered by the manufacturer of such inputs or importer of such inputs in respect of such inputs, then the manufacturer of the final products shall be allowed an additional credit equal to the amount of duty so recovered, if the manufacturer or importer of such inputs has passed on the incidence of the additional amount of duty to the manufacturer of final products.

(3) The provisions of subrule (2) shall not apply in cases where the additional amount of duty became recoverable from the manufacturer or importer of inputs on account of any short levy or nonlevy by reason of fraud, collusion or any wilful misstatement or suppression of facts or ¹ [contravention of any provisions of the Act or of the Customs Act, 1962 (52 of 1962) or rules made thereunder with intent to evade payment of duty.

(4) No additional credit under subrule (2) shall be allowed to a manufacturer of the final products unless he produces a certificate issued by the Superintendent of Central Excise having jurisdiction over the factory of the manufacturer of inputs or, as the case may be, by the proper officer in the customs area, from where such

inputs were originally cleared.

(5) The certificate required to be produced under subrule (4) shall indicate the full description of the inputs, original duty paid and the particulars of the documents under which the inputs were cleared from the factory or, as the case maybe, from the customs area and also the particulars of differential duty recovered from the manufacturer or the importer.

1. The words "after intimating the Assistant Commissioner of Central Excise concerned in writing omitted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/11/1998.

57F. Manner of utilisation of inputs and the credit allowed in respect of duty paid thereon :-

(1) The inputs on which credit has been taken may be used in or in relation to the manufacture of final products.

(2) The inputs may be removed,¹[* * *] for home consumption or for export under bond.

(3) All removals of inputs for home consumption shall be made

(a) on payment of duty equal to the amount of credit availed in respect of such inputs; and

(b) under the cover of invoice prescribed under rule 52A.

(4) The inputs can also be removed as such or after they have been partially processed by the manufacturer of the final products to a place outside his factory under the cover of a challan specified in this behalf by the Central Board of Excise and Customs, for the purposes of test, repair, refining, reconditioning or carrying out any other operation necessary for the manufacture of the final products or for manufacture of intermediate products necessary for the manufacture of final products and return the same to his factory

²[with in one hundred and eighty days] for,

(i) further use in the manufacture of the final product; or

(ii) removing after payment of duty for home consumption; or

³[(iii) removing the same without payment of duty to a unit in a free trade zone or to a hundred per cent export oriented undertaking or to a unit in an Electronic Hardware Technology Park or Software Technology Parks or supplied to the United Nations or an international organisation for their official use or supplied to projects funded by them, in which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue), No 108/95 Central Excises, dated

the 28th August, 1995; or

(iv) removing the same without payment of duty under bond for export.] Provided that the Commissioner of Central Excise having jurisdiction over the factory of manufacturer of the final product who has sent the inputs or partially processed inputs outside his factory to a jobworker may, by an order in each removal of such inputs or partially processed inputs, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow finished goods to be cleared from the premises of the jobworker.

(5)

(i) The waste, if any, arising in the course of any operation mentioned in subrule (4) shall be returned to the factory of the manufacturer of final products.

(ii) No such waste as is referred to in clause (i) is required to be returned to the factory of the manufacturer of final products if the excise duty payable on such waste is paid.

(6)

(i) Where a manufacturer removes the inputs as such or in the partially processed form to a place outside his factory for the purposes specified in subrule (4), the manufacturer shall do so only after debiting an amount equal to ten per cent of the value of such inputs or, as the case may be, the partially processed inputs declared by him on the challan under which such inputs or partially processed inputs are cleared from his factory.

(ii) The debit shall be made in the account maintained under subrule (7) of rule 57G or the account current maintained under rule 9 or subrule (1) of rule 173G.

(7) Notwithstanding anything contained in rule 57A, the manufacturer shall be eligible to take credit of an amount equal to the amount debited by him under subrule (6) when the inputs or partially processed inputs, as the case may be, are received back in full in his factory, in the account maintained under subrule (7) of rule 57G.

(8) A manufacturer shall take credit under subrule (7) only after the entire quantity of the inputs or the partially processed inputs, as the case may be, but excluding the waste, if any, arising in the course of operation outside the factory of the manufacturer, or otherwise, is received back in his factory.

(9) A manufacturer shall not take credit under subrule (7) unless the inputs or the partially processed inputs are received back in his factory under the cover of the duplicate copy of the challan on

which such inputs or partially processed inputs were removed from his factory.

(10) If the Assistant Commissioner of Central Excise is satisfied that the duplicate copy of the challan has been lost in transit, he may allow a manufacturer of final products to take credit under subrule (7) on the basis of the triplicate copy of the challan.

(11) If the inputs or partially processed inputs are not received back in the factory of the manufacturer of final products within a period of ⁴[one hundred and eighty days] the manufacturer shall recalculate the amount of actual credit attributable to such inputs or on inputs contained in the partially processed inputs and thereafter he shall adjust the differential amount, if any, after taking into account the amount already debited while sending the inputs or partially processed inputs from his factory.

(12) Credit of specified duty allowed in respect of any inputs may be utilised by the manufacturer of the final products towards payment of duty of excise on any of the following, namely:

(a) on any of the final products in the manufacture of which such inputs are intended to be used in accordance with the declaration filed under rule 57G; or

(b) on the waste, if any, arising in the course of manufacture of the final products; or

(c) on the inputs themselves if such inputs are removed as such under ⁵[Provided that, notwithstanding anything contained in rule 57A and the notifications issued thereunder the credit of specified duty allowed in respect of any inputs may be utilised towards payment of duty of excise on any other final product, whether or not such inputs have actually been used in the manufacture of such other final product, if the said inputs have been received and used in the factory of production on or after the first day of March, 1997.]

(13) Where any inputs are used in the final products which are cleared for export under bond or used in the intermediate products cleared for export in accordance with subrule (4), the credit of specified duty in respect of the inputs so used shall be allowed to be utilised by the manufacturer towards payment of duty of excise on any final products cleared for home consumption or for export on payment of duty and where for any reason such adjustment is not possible, the manufacturer shall be allowed refund of such amount subject to such safeguards, conditions and limitations as may be specified by the Central Government by notification in the Official Gazette.

(14) No refund of credit mentioned in subrule (13) shall be allowed if the manufacturer avails of drawback allowed under the Customs and Central Excise Duties Drawback Rules, 1995, or claims a rebate of duty under rule 12, in respect of such duty.

(15) Where any inputs are used in the final products cleared either to a unit in a free trade zone or to a unit of a hundred per cent export oriented undertaking or to a unit in an Electronic Hardware Technology Park or to a unit in Software Technology Parks or supplied to the United Nations or an International Organisation for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No.IOS/95CentralExcises, dated the 28th August, 1995, underbond, the credit of specified duty in respect of such inputs shall be allowed to the manufacturer. The credit so allowed can be used for payment of duty on any final product.

(16) The manufacturer shall also be allowed to utilise the credit of specified duties towards adjustment of the credit, as required to be made under subrule (6) or rule 57CC.

(17) Notwithstanding anything contained in subrule (12) or rule 57A, any credit of specified duty lying unutilised,

(a) on the sixteenth day of March, 1995, with the manufacturer of tractors falling under heading No. 87.01 or motor vehicles falling under heading Nos. 87.02 and 87.04 or chassis of such tractors or such motor vehicles falling under heading No.87.06 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export: Provided that nothing contained in this clause shall apply to credit of duty, if any, in respect of inputs lying in stock or contained in finished products lying in stock on the sixteenth day of March, 1995;

(b) on the first day of March, 1997, with the manufacturer of bulk drugs falling under Chapter 28 or 29 and with the manufacturers of black and white picture tubes falling under subheading No. 8540.12 shall lapse and shall not be allowed to be utilised for

⁶[(c) on the first day of August, 1997, with the manufacturer of ingots and billets of nonalloy steel falling under heading Nos. 7206.90 and 7207.90 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), and who is required to pay duty under section 3A of the Central Excise Act, 1944 (1 of 1944), shall lapse and shall not be allowed to be utilised for payment of duty on any

excisable goods, whether cleared for home consumption or for export;

(d) on the first day of August, 1997, with the manufacturer of hot rerolled products of nonalloy steel falling under heading Nos. 7211.11, 7211.19, 7211.30, 7211.52, 7211.59, 7211.60, 7211.92, 7211.99, 7213.90, 7214.90, 7215.90, 7216.10 and 7216.90 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), and who is required to pay duty under section 3A of the Central Excise Act, 1944 (1 of 1944) , shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export.]

⁷ [(e) on the first day of October, 1997, with the manufacturer of tooth powder and tooth paste, falling under subheading No. 3306.10 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, cleared for home consumption or for export: Provided that nothing contained in this clause shall apply to credit of duty, if any, in respect of inputs lying in stock or contained in finished products lying in stock on the first day of October, 1997.]

(18) Any waste, arising from the processing of inputs, in respect of which credit has been taken may be

(a) removed on payment of duty as if such waste is manufactured in the factory; or

(b) removed without payment of duty, where such waste belongs to such class or category of wastes as the Central Government may, from time to time, by notification in the Official Gazette, specify for the purpose of being used in the manufacture of the class or categories of goods as may be specified in the said notification, subject to the procedure under Chapter X being followed; or

(c) destroyed in the presence of the proper officer on the application by the manufacturer and if found unfit for further use, or not worth the duty payable thereon, the duty payable thereon being remitted.

(19) The waste as referred to in subrule (18) may be destroyed by the manufacturer governed by Chapter VIIA after informing the proper officer in writing indicating therein the quantity of such waste and the date on which he proposes to destroy the waste, at least seven days in advance and after observing such further conditions as may be specified by the Commissioner by a general or special order with regard to the manner of disposal of such waste.

(20) On an application made by a manufacturer of the final

products, the Commissioner may, subject to such conditions and limitations as he may impose, permit a manufacturer having credit in his account in Form RG 23A maintained under rule 57G and lying unutilised, on account of shifting of the factory belonging to the manufacturer, to another site, or on account of change in ownership, or change in the site of a factory resulting from sale, merger, amalgamation or transfer to a joint venture with the specific provision for transfer of liabilities of the old factory, to transfer such unutilised credit to such transferred, sold, merged or amalgamated factory.

(21) The credit under subrule (20) shall be allowed only if the stock of inputs as such or in process is also transferred along with the factory to the new site or ownership and the inputs on which credit has been availed of are duly accounted for to the satisfaction of the Commissioner.

1. The words "after intimating the Assistant Commissioner of Central Excise concerned in writing" omitted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/1/1998.

2. Substituted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/1/1998.

3. Substituted by M.F. (D.R.) Notification No. 46/97C.E. (N.T.), dated 19/1/1997.

4. Substituted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/1/1998.

5. Inserted by Corrigendum F. No. 334/6/96TRU, dated 13/1/1997.

6. Inserted (w.e.f. 18/1/1997) by M.F. (D.R.) Notification No. 33/97C.E. (N.T.), dated 18/1/1997.

7. Inserted (w.e.f. 11/01/1997) by M.F. (D.R.) Notification No. 57/97C.E. (N.T.), dated 18/9/1997.

57G. Procedure to be observed by the manufacturer :-

(1) Every manufacturer intending to take credit of the duty paid on inputs under ¹[rule 57A or rule 57B] shall file a declaration with the Assistant Commissioner of Central Excise having jurisdiction over his factory, indicating the description of the final products manufactured in his factory and the inputs intended to be used in the said final products and such other information as the said Assistant Commissioner may require, and obtain a dated

acknowledgement of the said declaration.

(2) A manufacturer who has filed a declaration under subrule (1) may, after obtaining the acknowledgement aforesaid, take credit of the duty on the inputs received by him.

(3) No credit under subrule (2), shall be taken by the manufacturer unless the inputs are received in the factory under the cover of any of the following documents, namely :

(a) an invoice issued by a manufacturer of inputs under rule 52A or Rule 100E of the said rules;

(b) an invoice issued by the manufacturer of inputs from his depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer provided the depot or the premises, as the case may be, is registered under rule 174;

(c) triplicate copy of a bill of entry;

(d) a certificate issued by an Appraiser of Customs posted in foreign post office;

(e) an invoice issued by a first stage dealer of excisable goods, registered under rule 174;

(f) an invoice issued by a second stage dealer of excisable goods registered under rule 174 and duly authenticated by the proper officer;

(g) an invoice issued by a dealer on or before the 31st day of August, 1996;

(h) an invoice issued by an importer registered under rule 174 and duly authenticated by the proper officer;

(i) an invoice issued by an importer from his depot or from the premises of the consignment agent of the said importer provided the said depot or the premises, as the case may be, is registered under rule 174, and duly authenticated by the proper officer;

(j) an invoice issued by a first stage or second stage dealer of imported goods registered under rule 174 and duly authenticated by the proper officer;

(k) duplicate copy of a bill of entry generated on Electronic Data Interchange System installed in any Customs or Central Excise Commissionerate;

(l) a certificate issued by the Superintendent of Central Excise or by the proper officer in the Customs area under rule 57E; and

(m) an invoice issued by a manufacturer of final products under subrule (3) of rule 57F or subrule (1) of rule 57S.

Explanation. For the purposes of this section,

(i) "first stage dealer" means a dealer who purchases the goods

directly from

(a) the manufacturer under the cover of an invoice issued under rule 52A or rule 100E or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice issued under rule 57G; or

(b) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice issued under rule 57G.

(ii) "second stage dealer" means a dealer who purchases the goods from a first stage dealer.

(4) No credit shall be taken by the manufacturer in respect of invoices referred to in clause (g) of subrule (3) after the 30th September, 1996.

(5) Credit shall also not be taken by the manufacturer after six months of the date of issue of any document specified in subrule (3) and where the intermediate products manufactured by the user of inputs specified under rule 57J are received by the manufacturer, after nine months.

²[(6) Notwithstanding anything contained in subrule (3) of rule 52A

(i) a manufacturer may take credit on inputs received in his factory; or

(ii) a person registered under rule 174 for issue of invoice under rule 57G, or as the case may be, under rule 57T may make receipt entries in register maintained under rule 57GG, on the basis of

(a) original invoice, if duplicate copy of the invoice has been lost in transit; or

(b) a certificate issued by the proper officer of Customs at the port/airport of the importation of such goods, if triplicate copy of bill of entry or duplicate copy of bill of entry generated on Electronic Data Interchange System installed in any Customs or Central Excise Commissionerate, as the case may be, has been lost in transit, subject to the satisfaction of the Assistant Commissioner of Central Excise that the inputs have been received in the factory of the said manufacturer or, as the case may be, the said person registered under rule 174, and the duty was paid on such inputs. Provided that no credit or receipt entry, shall be allowed under this subrule after six months of the date of issue of the said invoice or bill of entry, as the case rule 57J are received by the manufacturer, after nine months.]

(7) A manufacturer of the final products shall maintain,

(a) an account in Form RG 23A, Parts I and II;
(b) in respect of duty payable on final products, an account current with adequate balance to cover the duty of excise payable on the final products cleared at any time.

(8) A manufacturer of final products shall submit within five days after the close of each month to the Superintendent of Central Excise, a monthly return indicating the particulars of inputs received during the month and the amount of credit taken. The manufacturer shall also submit original duty paying documents and extracts of Part I and Part II of Form RG 23A maintained along with the monthly return 1 [to the Superintendent of Central Excise, who shall after verifying their genuineness, deface such documents and return the same to the manufacturer]: Provided that the Commissioner may, having regard to the nature, variety and extent of production or manufacture or frequency of removals

(i) fix in relation to any assessee or class of assessees a period shorter than one month for filing the aforesaid return;

(ii) permit that the aforesaid return may be filed by the assessee within a period not exceeding twentyone days after the close of each month: Provided further that in respect of a manufacturer availing of any exemption based on the value or quantity of clearances in a financial year, the provisions of this subrule shall have effect in that financial year as if for the expression "month", the expression "quarter" were substituted.

(9) Where a manufacturer was, for sufficient reasons, not in a position to make a declaration under subrule (1) and makes the declaration subsequently, the Assistant Commissioner may, subject to the provisions of subrule (10) and for reasons to be recorded in writing, condone the delay in filing of such declarations and allow the manufacturer to take credit of the duty already paid on the inputs.

(10) The Assistant Commissioner shall not condone the delay unless he is satisfied that:

(i) the inputs were received in the factory not before a period of six months from the date of filing of such declaration;

(ii) the amount of duty for which credit is sought has actually been paid on such inputs; and

(iii) the inputs have actually been used or are to be used in the manufacture of final products.

(11) Credit under subrule (2) shall not be denied on the grounds that

(i) any of the documents, mentioned in subrule (3) do not contain

all the particulars required to be contained therein under these rules, if such document contains details of payment of duty, description of the goods, assessable value, name and address of the factory or warehouse;

(ii) the declaration filed under subrule (1) does not contain all the details required to be contained therein or the manufacturer fails to comply with any other requirements under subrule (1): Provided that the Assistant Commissioner of Central Excise having jurisdiction over the factory of manufacturer intending to take credit is satisfied that duty due on the inputs has been paid and such inputs have actually been used or are to be used in the manufacture of final products, and such Assistant Commissioner shall record the reasons for not denying the credit so in each case.

1. Substituted by M.F. (D.R.) Notification No. 46/97C.E. (N.T.), dated 191997.

2. Substituted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 261998.

57GG. Procedure to be followed by persons issuing invoices under rule 57G or rule 57T :-

(1) Every person, who issues invoices under rule 57G or, as the case may be, under rule 57T, shall get registered under rule 174.

(2) Every person registered for the purposes of this rule (hereafter in this section referred to as the registered person) shall maintain a stock account in Form R.G. 23D.

(3) The registered person shall maintain the R.G. 23D register at the end of the day of receipt and issue of excisable goods, and shall

(a) at the time of making any entry, insert the date when the entry is made;

(b) correctly keep such book, account or register in the manner required, under these rules and shall not cancel, obliterate, or alter any entry therein,

(c) keep the book, account or register ready for inspection by the officers, and shall permit any officer to inspect it and make such minute therein or take any extract therefrom, as such officer may think fit;

(d) at any time, if demanded by the officer, send the records referred to in clause (c), to the proper officer.

(4) The registered person shall issue an invoice containing such details as may be specified by the Central Board of Excise and

Customs or the Commissioner.

(5)

(a) The invoice shall be made out in quadruplicate. The copies of the invoice shall be marked at the top in bold capital letters in the following manner, namely :

(i) The original copy shall be marked as ORIGINAL FOR BUYER and that copy shall be given to the buyer.

(ii) The duplicate copy shall be marked as DUPLICATE FOR TRANSPORTER and that copy shall be used for taking credit under rule 57G or, as the case may be, for making receipt entries in register maintained under this rule.

(iii) The triplicate copy shall be marked as TRIPLICATE FOR CENTRAL EXCISE and that copy shall be sent to the proper officer.

(iv) The quadruplicate copy shall be marked as QUADRUPPLICATE FOR REGISTERED PERSON and that copy shall be retained by the registered person for his record.

(b) The copies of the invoices issued by a first stage dealer and a second stage dealer shall also be marked at the top in bold capital letters as FIRST STAGE DEALER and SECOND STAGE DEALER respectively. (6)

(i) Each invoice shall bear a printed serial number running for the whole financial year beginning on the 1st April of each year.

(ii) The registered person shall use only one invoice book at any one time unless otherwise permitted by the Commissioner in writing.

(7)

(i) Each foil of the invoice book shall be authenticated by the owner or the working partner or the Managing Director or the Company Secretary, before being used by the registered person.

(ii) The registered person shall intimate the serial number of the invoice before being used to the Assistant Commissioner of Central Excise and the dated acknowledgement of receipt of such intimation shall be retained by the said registered person.

(8)

(i) It shall be permissible to use records and invoices generated through computers.

(ii) When the invoice is generated through a computer, the registered person shall intimate the serial number likely to be used in the forthcoming quarter and as soon as the same is exhausted, a revised intimation shall be sent.

(iii) The registered person shall also send details of the software used including the format used for information of the Assistant

Commissioner.

(9)

(i) The registered person shall issue only one invoice in respect of the consignment if all the packages comprising the said consignment are despatched in one lot at any one time.

(ii) If a consignment is split up into two or more lots and each such consignment is despatched separately either on the same day or on different days, a separate invoice shall be made out in respect of each lot.

(iii) Separate invoice shall be issued in case a consignment is loaded on more than one vehicle, vessel, pack animal or other means of conveyance which do not travel together but travel separately or at intervals.

(10) The registered person shall, within seven days after the close of each month, submit to the Range Superintendent, a monthly return and other documents as the Central Board of Excise and Customs or the Commissioner may specify, for the purpose of verification by the said Range Superintendent.

(11) The registered person shall preserve documents specified under rule 57GG for a period of five years and shall, on demand, produce the same to the Central Excise officer.

(12) The registered person shall, within seven days of close of each month, submit duplicate copies of the invoices issued under rule 52A or Rule 57G to the Superintendent of Central Excise with whom such person is registered, and

(a) where the entire quantity shown in the invoice has been sold, deface the same with the remarks MODVAT ALLOWED NOT TO BE USED AGAIN; and

(b) where the entire quantity has not been sold, the Range Superintendent shall endorse on the back of the invoice, details relating to the quantity received, quantity issued, total amount of duty available as input stage credit (hereafter referred to as the said duty), amount of the said duty for which invoices have been issued, and the balance quantity and the balance amount of the said duty available for issuing invoices.

57H. Transitional provisions :-

(1) Notwithstanding anything contained in rule 57G, a manufacturer intending to avail of ¹[credit of duty paid of inputs received by him] immediately before obtaining the dated acknowledgment of the declaration made under that rule, shall file

a declaration under this subrule with the jurisdictional Assistant Commissioner of Central Excise stating that

(a) such inputs are lying in stock, or are received in the factory after filing the declaration made under rule 57G; or

(b) such inputs are used in the manufacture of final products which are cleared from the factory after filing the declaration made under rule 57G, and that no credit has been taken by the manufacturer in respect of such input under any other rule or notification.

(2) The credit under subrule (1) shall not be available in case the fin. product is exempt from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty.

(3) Every manufacturer who, immediately before filing a declaration under rule 57G, has been availing of,

(a) the special procedure under rule 56A, in respect of materials or component parts for use in the manufacture of finished excisable goods; or

(b) an exemption for giving credit with respect to the duty paid on the materials or component parts used in the manufacture of finished excisable goods, shall file a declaration under this subrule with the Assistant Commissioner of Central Excise having jurisdiction over his factory, stating that he intends to transfer credit of duty paid on the said materials or component parts received by such manufacturer and lying unutilised immediately before obtaining the dated acknowledgment of the declaration made under rule 57G in his account in R.G. 23 to his account in R.G. 23A.

(4) Transfer of credit under subrule (3) shall be allowed if the materials and component parts and the finished excisable goods have been specified as inputs and final products, respectively, in the notification issued under rule 57A.

(5) A manufacturer who has filed a declaration under subrule (1) or subrule (3) may, after obtaining the dated acknowledgment as aforesaid, take credit of the duty paid on the inputs received by him.

(6) The manufacturer shall take credit under subrule (5) only if the inputs were received in the factory under the cover of a document as specified under rule 57G evidencing the payment of duty on such inputs and such evidence is made available by the assessee to the Assistant Commissioner of Central Excise.

(7) A manufacturer who opts for exemption from the whole of the duty of excise leviable on goods manufactured by him under a notification based on the value or quantity of clearances in a

financial year, and who has been availing of the credit of the duty paid on inputs before such option is exercised, shall be required to pay an amount equivalent to the credit, if any, allowed to him in respect of inputs lying in stock or used in any finished excisable goods lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export.

²(7A) An independent texturiser who has availed of the credit of duty paid on inputs, shall be required to pay an amount equivalent to the credit, if any, allowed to him in respect of inputs lying in stock, or used in any finished excisable goods lying in stock as on the 1st of March, 2000, and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export. Explanation. For the purposes of this subrule, "independent texturiser" shall mean a manufacturer engaged in the manufacture of texturised yarn of polyesters falling under subheading No. 5402.32, and who does not have the facility (including plant and machinery) for manufacture of partially oriented yarn of polyesters falling under subheading No. 5402.42."

³ (8) The Assistant Commissioner of Central Excise may allow credit of duty paid on inputs used in the manufacture of final product notwithstanding that an intermediate product was produced during such manufacture and such intermediate product was not specified as input or final product under Rule 57A, prior 21st October, 1994, if he is satisfied that

- (a) the inputs and final products were specified under Rule 56A prior to its omission, and
- (b) the inputs and the final products were specified as on 21st October, 1994 under Rule 57A.

1. Substituted by Corrigendum F. No. 334/6/96TRU, dated 13/1/1997.

2. Inserted for SubRule 7A by the Central Excise (Second Amendment) Rules, 2000

3. Inserted vide " THE CENTRAL EXCISE RULES, 1944" Dt. 9th February, 1999 Published in [100] Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 78(E), No. 7/99CE(NT), dated February 9, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 9th February, 1999, p. 2, No. 58 [F. No. 267/102/98CX.

57I. Recovery of credit wrongly availed of or utilised in an irregular manner :-

(1)

(i) Where credit of duty paid on inputs has been taken on account of an error, omission or misconstruction, on the part of an officer or a manufacturer, or an assessee, the proper officer may, within six months from the date of filing the return as required to be submitted in terms of subrule (8) of rule 57G, and where no such return as aforesaid is filed, within six months from the last date on which such return is to be filed under the said rule, serve notice on the manufacturer or the assessee who has taken such credit requiring him to show cause why he should not be disallowed such credit and where the credit has already been utilised, why the amount equivalent to such credit should not be recovered from him.

(ii) Where a manufacturer has taken the credit by reason of fraud, wilful misstatement, collusion, or suppression of facts, or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the provisions of clause (i) shall have effect as if for the words six months, the words five years were substituted.

(iii) The proper officer, after considering the representation, if any, made by the manufacturer or the assessee on whom notice is served under clause (i), shall determine the amount of such credit to be disallowed (not being in excess of the amount specified in the show cause notice) and thereupon such manufacturer or assessee shall pay the amount equivalent to the credit disallowed, if the credit has been utilised, or shall not utilise the credit thus disallowed.

Explanation. Where the service of the notice is stayed by an order of a court of law, the period of such stay shall be excluded from computing the aforesaid period of six months or five years, as the case may be.

(2) If any inputs in respect of which credit has been taken are not fully accounted for as having been disposed off in the manner specified in this section, the manufacturer shall, upon a written demand being made by the Assistant Commissioner of Central Excise, pay the duty leviable on such inputs within three months from the date of receipt of the notice of demand.

(3) Where a manufacturer or an assessee fails to pay the amount determined under subrule (1) or subrule (2) within three months from the date of receipt of demand notice, he shall pay, in addition to the amount so determined, interest at such rate, as may be fixed, by the Central Board of Excise and Customs under section 11AA of the Act, from the date immediately after the expiry of the said period of three months till the date of payment.

(4) Where the credit of duty paid on inputs has been taken wrongly by reason of fraud, wilful misstatement, collusion or suppression of facts, or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the person who is liable to pay the amount equivalent to the credit disallowed as determined under clause (iii) of subrule (1) shall also be liable to pay a penalty equal to the credit so disallowed.

Explanation I. Where the credit disallowed is reduced by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or, as the case may be, a court of law, the penalty shall be payable on such reduced amount of credit disallowed. Explanation II. Where the credit disallowed is increased or further increased by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or, as the case may be, a court of law, the penalty shall be payable on such increased or further increased, amount of credit disallowed..

(5) Notwithstanding anything contained in clause (iii) of subrule (1) or subrule (3), where the credit of duty paid on inputs has been taken wrongly on account of fraud, wilful misstatement, collusion, or suppression of facts, or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the person who is liable to pay the amount equivalent to the credit disallowed, as determined under clause (iii) of subrule (1), shall also be liable to pay interest at such rate as may be fixed by the Board under section 11AA of the Act from the first day of the month succeeding the month in which the credit was wrongly taken, till the date of payment of such amount.

Explanation I. For the removal of doubts, it is hereby declared that the provisions of this subrule shall not apply to cases where the credit disallowed became payable before the 23rd day of July, 1996.

Explanation II. Where the credit disallowed is reduced by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or, as the case may be, a court of law, the interest shall be payable on such reduced amount of credit disallowed.

Explanation III. Where the credit disallowed is increased, or further increased, by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or, as the case may be, a court of law, the interest shall be payable on such increased, or further increased, amount of credit disallowed.

57J. Credit of duty in respect of inputs used in an intermediate product :-

(1) Notwithstanding anything contained in these rules, the manufacturer shall be allowed to take credit of the specified duty paid on inputs described in column (2) of the Table below and used in the manufacture of intermediate products described in column (3) of the said Table received by the said manufacturer for use in or in relation to the manufacture of final products described in the corresponding entry in column (4) of the said Table :

(2) The manufacturer of final products shall take credit under subrule (1) only if the intermediate products are manufactured in a factory as a job work in respect of which the exemption contained in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 214/86 Central Excises, dated the 25th March, 1986, has been availed of.

(3) The credit under subrule (1) shall be allowed only if the intermediate products received by the manufacturer of the said final products are accompanied by any of the documents as specified under rule 57G evidencing the payment of duty on such inputs.]

57JJ. Special dispensation in respect of inputs manufactured in factories located in specified areas of NorthEast Region :-

Notwithstanding anything contained in these rules, where a manufacturer has cleared any of the specified inputs notified under Rule 57A, in terms of notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 32/99 Central Excise, dated the 8th July, 1999, or Notification No. 33/99 Central Excise, dated the 8th July, 1999, the credit of specified duty under the said rule paid on such inputs shall be admissible as if no portion of the duty paid on such inputs was exempted under any of the said notifications.

57K. Applicability and extent of credit :-

(1) The Central Government may, by notification in the Official Gazette¹, specify

(a) the finished excisable goods (hereinafter referred to as "final products") and the raw materials used in the manufacture of such final products (hereinafter referred to as "inputs"), to which alone the provisions of this section shall apply; and

(b) the rates at which the credit of money is to be given for use of such inputs in the manufacture of final products.

(2) When a notification has been so issued under subrule (1), credit at rates specified therein may be allowed for use of such inputs in the manufacture of such final products and the credits so allowed may be utilised for payment of duty on the final products, subject to the provisions in this section and the conditions if any, stipulated in the said notification.

1. For Notifications issued under this rule, see Part 6.

57L. Credit not to be allowed if final products are exempt :-

No credit of money on the inputs used in the manufacture of the final products shall be allowed if the final products are exempt from the whole of the duty of excise leviable thereon or is chargeable to nil rate of duty.

57M. Credit not to be denied or varied in certain circumstances :-

(1) Credit of money in respect of any inputs shall not be denied or varied on the ground that part of the inputs is contained in any waste, refuse or byproduct arising during the manufacture of the final products, whether or not such waste, refuse or byproduct is exempted from the whole of the duty of excise leviable thereon or is chargeable to nil rate of duty or is not specified as final products; and

(2) Credit of money allowed in respect of any inputs shall not be denied or varied on the ground that any intermediate product has come into existence during the course of manufacture of the final products and that such intermediate products are for the time being exempted from the whole of the duty of excise leviable thereon or is chargeable to nil rate of duty : Provided that such intermediate products are used within the factory of production in the manufacture of final products on which duty of excise is leviable whether in whole or in part.

57N. Manner of utilisation of the credit :-

(1) Credit of money allowed in respect of any inputs may be utilised towards payment of duty of excise on the final products in or in relation to the manufacture of which such inputs are intended to be used in accordance with the provisions of the declaration filed under rule 57O: Provided that the credit in respect of inputs used in the final products cleared for export under bond shall be allowed to be utilised towards the payment of duty of excise on similar final products cleared for home consumption on payment of duty.

(2) No part of the credit allowed shall be utilised save as provided in subrule (1).

¹ [(3) On an application made by a manufacturer, the Commissioner of Central Excise may, subject to such conditions and limitations as he may impose, permit a manufacturer having credit in his account in Form RG23B maintained under Rule 57O and lying unutilised on account of change in ownership or change in site of a factory resulting from sale, merger, amalgamation or transfer to a joint venture with the explicit provision for transfer of liabilities of the old factory to transfer such unutilised credit to such sold, merged, amalgamated or transferred factory : Provided that the stock of inputs as such or in process are also transferred along with the factory to the new site or ownership : Provided further that all inputs in respect of which credit of duty has been availed of are duly accounted for to the satisfaction of the Commissioner of Central Excise.]

1. Substituted by M.F. (D.R.) Notification No. 34/95C.E. (N.T.), dated 16/8/1995.

57O. Procedure to be observed by the manufacturer :-

(1) Every manufacturer intending to take credit under this section shall file a declaration with the ¹[Assistant Commissioner of Central Excise] having jurisdiction over his factory, indicating the description of the final products manufactured in his factory and the inputs intended to be used in each of the said final products and such other information as the said ²[Assistant Commissioner of Central Excise] may require and obtain a dated acknowledgement of the said declaration.

(2) A manufacturer who has filed a declaration in subrule (1) may, after obtaining the acknowledgement aforesaid, take credit of

money on the inputs : Provided that no credit shall be taken unless the inputs are manufactured in the factory of manufacture of the final product or are received in the factory under a proper invoice or despatch note indicating the name and address of the supplier of the inputs: Provided further that the manufacturer shall ensure that the supplier is normally manufacturing or trading in such inputs and the name and address shown on the invoices are correct.

(3) A manufacturer of the final product shall maintain an account in Form RG 23B, Parts I and II.

³[(4) A manufacturer of the final products shall submit, within five days after the close of each month, to the Superintendent of Central Excise a monthly return indicating the particulars of the inputs used during the month and the amount of credit taken, along with extracts of Parts I and II of Form R.G. 23B : Provided that the 4 [Commissioner] may, having regard to the nature, variety and extent of production or manufacture or frequency of removals

(i) fix in relation to any assessee or class of assessees a period shorter than one month for filing the aforesaid return;

(ii) permit that the aforesaid return may be filed by the assessee within a period not exceeding twenty one days after the close of each month : Provided further that in respect of a manufacturer availing of any exemption based upon the value or quantity of clearances in a financial year, the provisions of this subrule shall have effect in that financial year as if for the expression "month" the expression "quarter" were substituted.]

(5) A manufacturer of final products shall, on demand by the proper officer, submit the invoices under which the inputs have been received.

1. Substituted by M.F. (D.R.) Notification No. 26/95C.E. (N.T.), dated 661995.

2. Substituted by M.F. (D.R.) Notification No. 26/95C.E. (N.T.), dated 661995.

3. Substituted by M.F. (D.R.) Notification No. 11/95C.E. (N.T.), dated 1631995.

4. Substituted by M.F. (D.R.) Notification No. 26/95C.E. (N.T.), dated 661995.

57P. Disallowance of credit :-

¹[(1)If

(a) the credit on inputs has been taken wrongly; or

(b) inputs in respect of which credit has been taken are not used in the manufacture of the final products for which such goods have been declared under rule 57O, the credit so taken may be disallowed by the proper officer and the amount so disallowed shall be adjusted in the credit account or the accountcurrent maintained by the manufacturer under rule 9 or subrule (1) of rule 173G, or if such adjustments are not possible for any reason, by cash recovery from the manufacturer of the final products: Provided that such manufacturer may make such adjustments on his own in the credit account or accountcurrent maintained by him under intimation to the proper officer ²[within 3 months].]

³ [(2) where a manufacturer or an assessee fails to pay the amount disallowed in terms of subrule (1) within three months from the date of receipt of communication of such disallowance, he shall pay, in addition to the amount so disallowed, interest at such rate as may be fixed by the Board under section 11AA of the Act, from the date immediately after the expiry of the said period of three months till the date of payment.]

1. Renumbered by M.F. (D.R.) Notification No. 25/95C.E. (N.T.), dated 3151995.

2. Inserted by M.F. (D.R.) Notification No. 25/95C.E. (N.T.), dated 3151995.

3. Inserted by M.F. (D.R.) Notification No. 25/95C.E. (N.T.), dated 3151995.

57Q. Applicability :-

(1) The provisions of this section shall apply to goods (hereafter in this section, referred to as the "final products") described in column (3) of the Table given below and to the goods (hereafter, in this section, referred to as "capital goods"), described in the corresponding entry in column (2) of the said Table, used in the factory of the manufacturer of final products. TABLE S. Description of capital goodsDescription of final products No. falling within the First Schedule to the Central Excise Tariff Act, 1985 and used in the factory of the manufacturer. (1) \ \ (2) \ \ \ \ \ \ \ \ (3) 1. \1. All goods falling under Chapter 82, \All goods specified in the First Schedule to \Chapter 84, Chapter 85 and Chapter 90; \the Central

Excise Tariff Act, 1985, other than the following, namely: \2. Components, spares and accessories \ (i) all goods falling under heading Nos. \ of the goods specified at S. No. 1 above; 36.05; \3. Moulds and dies; (ii) ingots and billets of nonalloy steel 4. Refractories and refractory falling under subheading Nos. 7206.90 materials; and 72.07.90, manufactured in an 5. Tubes and pipes and fittings thereof, induction furnace unit, whether or not used in the factory; any other goods are produced in such 6. Pollution control equipment; induction furnace, and hot rerolled 7. Grinding wheels and the like goods products of nonalloy steel falling under falling under subheading No.6801.10; subheading Nos. 72.11.11, 7211.19, 8. Goods falling under heading No. 7211.30 7211.52. 7211.59 7211.60 68 02; and 7211.92, 7211.99, 7213.90, 7214.90, 9. Lubricating oils, greases, cutting oils 7215.90, 7216.10 and 7216.90 on which and coolants, duty is paid under sec. 3A of the Central Excise Act, 1944

(2)

(i) The manufacturer of the final products shall be allowed credit of the duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as "specified duty") paid on the capital goods.

(ii) The manufacturer availing of the credit may utilise the same for payment of duty of excise payable on the final products manufactured in his factory.

(3) Notwithstanding anything contained in subrule (1), the manufacturer of the final products shall be allowed credit of additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) on goods falling under Chapter heading No. 98.01 of the first schedule to the said Customs Tariff Act, to the extent of the said additional duty paid on such goods.

(4) A manufacturer of the final products purchasing capital goods from a unit situated in a Free Trade Zone or from a hundred per cent export-oriented undertaking or from a unit in an Electronic Hardware Technology Park or Software Technology Parks and using them in the manufacture of final products, shall be allowed to take the credit of the specified duty paid on such capital goods only to the extent of duty which is equal to the additional duty leviable on like goods under section 3 of the Customs Tariff Act, 1975 (51 of 1975), equivalent to the duty of excise paid on such capital goods.

(5) The credit of the specified duty on capital goods (other than those capital goods in respect of which credit of duty was allowable under any other rule or notification prior to the 1st day of March,

1997) shall not be allowed if such capital goods were received in the factory before the 1st day of March, 1997.

(6) A manufacturer shall be allowed credit of specified duty paid on capital goods manufactured by him for the manufacture of final products in his factory.

(7) The credit of the specified duty on capital goods [other than those capital goods covered under S. Nos. 5, 7, 10, 11 and 12 of column (2) of the Table below subrule (1)] and received in the factory on or after the 1st day of January, 1996, shall not be taken on a date prior to the date on which such capital goods are installed or, as the case may be, used for manufacture of excisable goods, in the factory of the manufacturer as certified by such manufacturer or a person designated by him for this purpose.

(8) Notwithstanding anything contained in subrule (7), a manufacturer intending to remove the capital goods from his factory for home consumption or for export, prior to their being installed or used, as the case may be, shall be allowed to take credit on the date on which such capital goods are so removed by him from his factory on payment of the appropriate duty of excise leviable thereon as provided in rule 57S.

57R. Credit of duty not to be allowed or denied or varied in certain circumstances and adjustment in duty credit :-

(1) No credit of the specified duty shall be allowed on ¹[capital goods which are used exclusively in the manufacture of final products] (other than final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year) ² [which are exempt from the whole of the duty of excise leviable thereon or are chargeable to nil rate of duty] except when the final product is either,

(i) cleared to a unit in a Free Trade Zone; or

(ii) cleared to a hundred per cent export-oriented undertaking; or

(iii) cleared to a unit in an Electronic Hardware Technology Park or Software Technology Parks;

(2) Credit of the specified duty allowed in respect of any capital goods shall not be denied or varied on the ground that any intermediate products have come into existence during the course of manufacture of the final product and that such intermediate products are, for the time being, exempt from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty :

Provided that such intermediate products are specified as final products in column (3) of the Table below subrule (1) of rule 57Q.

(3) The credit of the specified duty paid on the capital goods shall be allowed to a manufacturer if the capital goods are acquired by the manufacturer on lease, hirepurchase or loan agreement, from a financing company subject to the following procedure, namely :

(i) The manufacturer shall file a declaration before the Assistant Commissioner of Central Excise as required under rule 57T;

(ii) The manufacturer availing credit of the specified duty paid on capital goods, who has entered into a financial arrangement,

(a) for financing the cost of such capital goods excluding the specified duty, shall produce a copy of the invoice referred to in rule 57T, evidencing payment of specified duty along with a copy of the agreement entered into by him with the said financing company; or

(b) for financing the cost of such capital goods including the specified duty, shall produce a certificate from the financing company to the effect that the duty specified on such capital goods has been paid by the said manufacturer to such financing company, prior to payment of first lease rental instalment or first hirepurchase instalment or first instalment of repayment of loan, as the case may be, along with a copy of the agreement entered into with the said financing company.

(iii) The manufacturer and the financing company shall not claim depreciation under the Incometax laws on that part of the value of capital goods which represents the amount of specified duty paid on such capital goods.

(iv) The relevant documents required for the purpose of availing credit of the specified duty paid on such capital goods under rule 57T shall bear the name of the manufacturer along with that of the financing company.

(4) If a manufacturer of final products has taken credit on any capital goods and subsequently it so happens that any refund of the duty paid by the manufacturer of capital goods or importer of capital goods, as the case may be, is allowed to him for any reason, then the user manufacturer shall accordingly adjust the amount of credit in his credit account and if such adjustment is not possible for any reason, the user manufacturer shall pay the amount in cash equal to the amount of refund allowed to the manufacturer or, as the case may be, to importer of capital goods.

(5) If a user manufacturer has taken credit on any capital goods and subsequently it so happens that any additional amount of duty

is recovered from the manufacturer of such capital goods or importer of such capital goods, as the case may be, then the user manufacturer shall be allowed an additional credit equal to the amount of such additional amount recovered.

(6) The provisions of subrule (5) shall not apply in cases where the duty on capital goods has been short levied or short paid or has been erroneously refunded by reason of fraud, collusion or any wilful misstatement or suppression of facts or contravention of any provisions of the Act or the rules made thereunder with the intent to evade payment of duty.

(7)

(i) The additional credit as per subrule (5) shall be allowed by the proper officer on the basis of a certificate issued by the Superintendent of Central Excise having jurisdiction over the factory, or as the case may be, by the proper officer in the customs area, from where such capital goods were originally cleared.

(ii) The said certificate shall indicate full description of the capital goods, original duty paid and particulars of the documents under which the capital goods were cleared from the factory or, as the case may be, from the customs area and also the differential duty recovered from the manufacturer or the importer.

(8) No credit of the specified duty paid on the capital goods shall be allowed, if the manufacturer, claims depreciation under section 32 of the Incometax Act, 1961 (43 of 1961), or as revenue expenditure under any other provisions of the said Incometax Act, in respect of that part of the value of capital goods which represents the amount of specified duty on such capital goods.

1. Substituted by M.F. (D.R.) Notification No. 46/97C.E. (N.T.), dated 191997.

2. Substituted by Corrigendum F. No. B42/1/97TRU, dated 1031997.

57S. Manner of utilisation of the capital goods and the credit allowed in respect of duty paid thereon :-

(1) The capital goods in respect of which credit of specified duty has been allowed under rule 57Q may be

- (i) used in the factory of the manufacturer of the final products; or
- (ii) removed, after intimating the Assistant Commissioner of Central Excise, having jurisdiction over the factory and after obtaining dated acknow ledgment of the same, from the factory for home

consumption or for export, on payment of appropriate duty of excise leviable thereon or for export under bond, as if such capital goods have been manufactured in the said factory.

(2) In a case,

(a) where capital goods are removed without being used from the factory for home consumption, on payment of duty, or for export on payment of duty of excise, such duty of excise shall in no case be less than the amount of credit that has been allowed in respect of such capital goods under rule 57Q;

(b) where capital goods are removed after being used in the factory for home consumption on payment of duty of excise or for export under rebate on payment of duty of excise, such duty of excise shall be calculated by allowing deduction of 2.5 per cent of credit taken for each quarter of a year of use or fraction thereof, from the date of availing credit under rule 57Q; and

(c) where capital goods are sold as waste and scrap, the manufacturer shall pay the duty leviable on such waste and scrap.

(3) Credit of the specified duty allowed in respect of any capital goods may be utilised towards payment of duty of excise,

(i) on any of the final products manufactured in the factory of the manufacturer; or

(ii) on the waste, if any, arising in the course of manufacture of the final products; or

(iii) on the capital goods themselves if such capital goods are removed under subrule (1).

(4) No part of the credit of duty allowed, shall be utilised save as provided in subrule (3) or, shall be refunded in cash or by cheque.

(5) On an application made by a manufacturer of the final products, the Commissioner may, subject to such conditions and limitations as he may impose, permit a manufacturer having credit in his account in Form RG 23C maintained under rule 57T and lying unutilised, on account of shifting of the factory belonging to the manufacturer, to another site, or on account of change in ownership, or change in the site of a factory resulting from sale, merger, amalgamation or transfer to a joint venture with the specific provision for transfer of liabilities of the old factory, to transfer such unutilised credit to such transferred, sold, merged or amalgamated factory.

(6) Transfer of unutilised credit under subrule (5) shall be allowed only if the stock of inputs as such or in process, if any, is also transferred along with the factory to the new site or ownership and that the stock of such inputs is duly accounted for to the

satisfaction of the Commissioner.

(7) Notwithstanding anything contained in subrule (1), a manufacturer may, after intimating the Assistant Commissioner of Central Excise having jurisdiction over the factory and obtaining dated acknowledgement of the same, remove the capital goods to a place for test, repairs or reconditioning of such capital goods and return the same to his factory, after the said purpose has been carried out, for further use as such capital goods by following the procedure as may be specified by [* * *] the Commissioner.

(8) Notwithstanding anything contained in subrule (1), a manufacturer

(9) The Commissioner shall not permit a manufacturer to remove the moulds and dies under subrule (8) unless the manufacturer undertakes to bring back the said moulds and dies and the goods so manufactured, within a period of ["one year"] from the date of their removal or such extended period as the Commissioner may permit.

(10) In case where moulds and dies removed under subrule (8) are not received back within a period of ["one year"] from the date of removal of such moulds and dies or within such extended period as the Commissioner may permit, duty shall be paid equivalent to the credit taken on the said moulds and dies.

¹ [(11) Notwithstanding anything contained in subrule (3) of rule 57Q, any credit of specified duty lying unutilised,

(a) on the first day of August, 1997, with the manufacturer of ingots and billets of nonalloy steel falling under subheading Nos. 7206.90 and 7207.90 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), and who is required to pay duty under section 3A of the Central Excise Act, 1944 (1 of 1944), shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export;

(b) on the first day of August, 1997, with the manufacturer of hot rerolled products of nonalloy steel falling under subheading Nos. 7211.11, 7211.19, 7211.30, 7211.52, 7211.59, 7211.60, 7211.92, 7211.99, 7213.90, 7214.90, 7215.90, 7216.10 and 7216.90 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), and who is required to pay duty under section 3A of the Central Excise Act, 1944 (1 of 1944), shall lapse and shall not be allowed to be utilised for payment of duty on any excisable goods, whether cleared for home consumption or for export.]

1. Inserted (w.e.f. 181997) by M.F. (D.R.) Notification No. 33/97C.E. (N.T.), dated 181997.

57T. Procedure to be observed by the manufacturer :-

(1) Every manufacturer intending to take credit of the duty paid on the capital goods under rule 57Q shall, before receipt of the capital goods, file a declaration with the Assistant Commissioner of Central Excise having jurisdiction over his factory, indicating therein the particulars of the capital goods, description of the final products manufactured in his factory and such further information as the Assistant Commissioner may require, and shall obtain a dated acknowledgement of the said declaration.

(2) The manufacturer shall also file a declaration in accordance with the provisions of subrule (1) of rule 57R to the Assistant Commissioner of Central Excise having jurisdiction over his factory to the effect that such capital goods shall not be used exclusively for production of a final product which is exempt from the whole of the duty of excise leviable thereon (other than a final product which is exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year) or is chargeable to nil rate of duty and also that he shall not claim depreciation under section 32 of the Incometax Act, 1961 (43 of 1961), or as revenue expenditure under any other provision of the said Incometax Act, in respect of that part of the value of capital goods which represents the amount of specified duty paid on such capital goods.

(3) In case where a manufacturer was not in a position to make declarations under subrules (1) and (2) and makes the declaration subsequent: but ordinarily within a period of one month or in exceptional cases, within a further period not exceeding, in any case, more than another two months from the date of receipt of the said capital goods in the factory, the Assistant Commissioner of Central Excise may, on sufficient cause being shown to him, allow the filing of the declaration.

1(4) * * * *]

1(5) * * * *]

(6) The manufacturer shall be allowed to take the credit of specified duty only if the capital goods are received in the factory premises of the manufactur under the cover of a document specified under rule 57G evidencing the payment of duty on such

capital goods.

(7) The Assistant Commissioner may, on sufficient cause being shown to him, allow the manufacturer to take credit of the specified duty on capital goods paid by a contractor or job worker who undertakes the job of initial setting up renovation, modernisation or expansion of the plant on behalf of the manufacturer of final products, subject to such procedure and conditions as may be specified by the Commissioner ³[* * *].

⁴[(8) If the Assistant Commissioner of Central Excise is satisfied that the duplicate copy of the invoice, or duplicate copy of bill of entry generated on Electronic Data Interchange System installed in any Customs or Central Excise Commissionerate or triplicate copy of bill of entry in other cases, as the case may be, has been lost in transit, he may allow the manufacturer of final product to take credit under subrule (6) on the basis of the original copy of the invoice or a certificate issued by the proper officer of Customs at the port/airport of the importation of such goods, as the case may be.]

(9) A manufacturer of the final products shall maintain an account in Part and II of Form RG 23C.

(10) A manufacturer of the final products shall, within five days after the close of each month, submit to the Superintendent of Central Excise a return indicating the particulars of the capital goods received during the month and the amount of credit taken along with the original duty paying documents and extracts of Parts I and II of Form RG 23C, and the Superintendent of Central Excise shall after verifying their genuineness, deface such documents and return the same to the manufacturer.

(11) Notwithstanding anything contained in subrule (10), the Commissioner may, having regard to the nature, variety and extent of production or manufacture or frequency of removals

(i) fix in relation to any assessee or class of assessees a period shorter than one month for filing the return as required to be filed under subrule (10); or

(ii) permit that the return may be filed by the assessee within a period not exceeding twenty one days after the close of each month.

(12) In the case of a manufacturer availing of any exemption based upon the value or quantity of clearances in a financial year, the provisions of subrule (10) shall have effect in that financial year as if for the expression "month" occurring therein, the expression "quarter" were substituted.

5 (13) Credit under subrule (6) shall not be denied on the grounds that

(i) any of the documents specified under subrule (3), of Rule 57G does not contain all the particulars required to be contained therein under these rules, if such document contains details of payment of duty, description of the capital goods, assessable value, name and address of the factory or warehouse;

(ii) the declaration filed under subrule (1) does not contain all the details required to be contained therein or the manufacturer fails to comply with any other requirements under subrule (1): Provided that the Assistant Commissioner of Central Excise having jurisdiction over the factory of the manufacturer intending to take credit is satisfied that the duty due on the capital goods have been paid and such capital goods have actually been used or are to be used in the manufacture of final products, and such Assistant Commissioner shall record the reasons for not denying the credit so in each case.

1. Omitted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/11/1998.

3. Omitted by M.F. (D.R.) Notification No. 61 /97C.E. (N.T.), dated 11/12/1997.

4. Substituted by M.F. (D.R.) Notification No. 15/98C.E. (N.T.), dated 26/11/1998.

5. Substituted for "three months ", vide " THE CENTRAL EXCISE RULES, 1944" Dt.28th February, 1999 Published in [129]Ministry of Finance, Noti. No. G.S.R. 179(E), No. 18/99CentralExcise (N.T.), dated February 28, 1999, published in the Gazette of India, Extra., Part II, Section 3(i), dated 28th February, 1999, pp. 188190, No. 115 [F. No. 334/I/99TRU] [L]

57U. Recovery of credit wrongly availed of or utilised in an irregular manner :-

(1) Where credit of the specified duty paid on capital goods under rule 57Q has been taken on account of an error, omission or misconception, on the part of an officer or a manufacturer, or an assessee, the proper officer may, within six months from the date of filing the return required to be submitted in terms of subrule (10) of rule 57T, and where no such return as aforesaid is filed, within six months from the last date on which such return is to be filed under the said rules, serve notice on the manufacturer or the assessee who has taken such credit requiring him to show cause

why he should not be disallowed to such credit and where the credit has already been utilised, why the amount equivalent to such credit should not be recovered from him.

(2) Where the credit under rule 57Q has been taken by reason of fraud, wilful misstatement, collusion or suppression of facts, or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the provisions of subrule (1) shall have effect as if for the words six months occurring therein, the words five years were substituted. Explanation. Where the service of the notice is stayed by an order of a court of law, the period of such stay shall be excluded from computing the aforesaid period of six months or five years, as the case may be.

(3) The proper officer shall, after considering the representation, if any, made by the manufacturer or the assessee on whom notice is served under subrule (1), determine the amount of the credit to be disallowed (not being in excess of the amount specified in the show cause notice) and thereupon such manufacturer or assessee shall pay the amount equivalent to the credit disallowed, if the credit has been utilised, or shall not utilise the credit thus disallowed.

(4) If any capital goods in respect of which credit has been taken are not fully accounted for as having been disposed off in the manner specified in this section, the manufacturer shall, upon a written demand being made by the Assistant Commissioner of Central Excise, pay the duty leviable on such capital goods within three months of the receipt of the notice of demand.

(5) Where a manufacturer or an assessee fails to pay the amount determined under subrule (3) or under subrule (4), as the case may be, within three months from the date of receipt of notice of demand, he shall pay, in addition to the amount so determined, interest at such rate as may be fixed by the Board under section 11AA of the Act, from the date immediately after the expiry of the said period of three months till the date of payment.

(6) Where the credit of duty paid on capital goods has been taken wrongly by reason of fraud, wilful misstatement, collusion or suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder, with intent to evade payment of duty, the person who is liable to pay the amount equivalent to the credit disallowed as determined under subrule (3) shall also be liable to pay a penalty equal to the credit so disallowed.

(7)

(i) Where the credit disallowed is reduced by the Commissioner of

Central Excise (Appeals), the Appellate Tribunal or a court of law, the penalty under subrule (6) shall be payable on such reduced amount of credit disallowed.

(ii) Where the credit disallowed is increased or further increased by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or, as the case may be, a court of law, the penalty shall be payable on such increased or further increased, amount of credit disallowed.

(8) Notwithstanding anything contained in subrule (3) or subrule (5), where the credit of duty paid on capital goods has been taken wrongly on account of fraud, wilful misstatement, collusion or suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder with intent to evade payment of duty, the person who is liable to pay the amount equivalent to the credit disallowed, as determined under subrule (3), shall also be liable to pay interest at such rate as may be fixed by the Board under section 11AA of the Act from the first day of the month succeeding the month in which the credit was wrongly taken, till the date of payment of such amount. Explanation. For the removal of doubts, it is hereby declared that the provisions of this subrule shall not apply to cases where the credit disallowed became payable before the 23rd day of July, 1996.

(9) Where the credit disallowed is reduced by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or a court of law, the interest under subrule (8) shall be payable on such reduced amount of credit disallowed.

(10) Where the credit disallowed is increased, or further increased, by the Commissioner of Central Excise (Appeals), the Appellate Tribunal or a court of law the interest under subrule (8) shall be payable on such increased, or further increased, amount of credit disallowed.]

57V. Special dispensation in respect of inputs manufactured in factories located in specified areas of NorthEast Region :-

Notwithstanding anything contained in these rules, where a manufacturer has cleared any of the capital goods described in Rule 57Q, in terms of notification of the Government of India in the Ministry of Finance, (Department of Revenue) No. 32/99Central Excise, dated the 8th July, 1999, or Notification No. 33/99Central Excise, dated the 8th July, 1999, the credit of specified duty referred to in the said rule paid on such capital goods shall be

admissible as if no portion of the duty paid on such capital goods was exempted under the said notifications.

58. XXX XXX XXX :-

59. XXX XXX XXX :-

60. XXX XXX XXX :-

61. XXX XXX XXX :-

62. Finished matches to be kept in a secure place :-

Finished matches which have not been packed shall, except during working hours, be kept in the manufacturing room, or in a closed part of the premises under lock and key.

63. Number of matches which may be packed in boxes :-

All matches, other than matches of the type known as "Bengal Lights" or packed in booklets, which are issued by the manufacturers for home consumption shall be packed in boxes containing on the average 50 sticks:

Provided that matches made of bamboo splints and produced in a factory the annual output of which does not exceed 500 million matches, may also be packed in boxes containing on the average 40 sticks:

Provided further that the Commissioner may, by an order in writing and subject to such limitations and conditions as may be prescribed by him in the order permit a manufacturer to pack matches in boxes containing a higher or lower number of match sticks.

64. Each box or booklet to bear a Central Excise Stamp :-

The duty on matches shall be paid by affixing to each box or booklet a Government Central Excise Stamp of a value appropriate to the rate of duty, and where such boxes or booklets are issued in packages, each package reckoned by the manufacturer as his minimum unit of distribution shall bear the manufacturers trade label and a mark clearly showing the class of matches contained in the package :

Provided that, where the matches are intended for export out of India Central Excise Stamps need not be affixed thereto and, unless they are to be exported under bond in accordance with rule 13, the duty shall be paid in accordance with rule 52:

Provided further that where the Central Government is satisfied that by reason of the fact that the necessary Central Excise Stamps are not available or for any other relevant reason it is necessary or expedient so to do, it may, by general or special order, allow the duty on matches to be paid, without affixing Central Excise Stamps to such box or booklet, in accordance with rule 52 in respect of-

(i) any manufacturer or classes of manufacturers, or (ii) matches manufactured in any area or areas, or (iii) any categories of matches.

65. Procurement of Central Excise Stamps :-

(1) All Central Excise Stamps shall be procured from a District Revenue Treasury or a sub-Treasury.

(2) (i) A registered person wishing to obtain Central Excise Stamps shall submit to the treasury a challan in quintuplicate for the amount to be paid, specifying on the reverse the number and class of Central Excise Stamps required, together with their price. The treasury shall accept the amount specified in the challan and shall return the duplicate, triplicate and quintuplicate copies of the receipted challan to the registered person.

(ii) The registered person shall present duplicate and quintuplicate copies of the challan to the proper officer who, after satisfying himself about the correctness of the amount remitted, shall return the quintuplicate copy to the assessee with an endorsement to the District Revenue Treasury Officer or Sub-Treasury Officer to issue the appropriate number of Central Excise Stamps. The registered person shall present quintuplicate copy with such endorsement to the District Revenue Treasury Officer or Sub-Treasury Officer, who shall thereafter supply the Central Excise Stamps to the registered person.

(3) A registered person wishing to obtain Central Excise Stamps on credit shall execute a trust receipt and a bond in the proper Form with such surety or sufficient security as the Commissioner may require.

(4) When the provisions of sub-rule (3) have been complied with, the proper Officer shall, after due enquiry, authorise the issue of Central Excise Stamps on credit to the registered person and shall communicate to the District Revenue Treasury Officer or Sub-Treasury Officer concerned and to the proper officer full particulars of the security deposited and the extent of credit granted.

The number of Central Excise Stamps to be supplied at a time shall

not exceed the average out-turn of the factory for a number of days, not exceeding ten, to be fixed by the Commissioner:

Provided that the total price of unused Central Excise Stamps in balance with the registered person and of those indented for shall not exceed the amount of security furnished by the registered person.

(5) A registered person authorised to obtain Central Excise Stamps on credit shall for each supply submit to the proper officer a requisition in quadruplicate in the proper Form. If satisfied that the details stated in the requisition are correct the officer shall retain the triplicate for his own record and send the original, duplicate and quadruplicate to the District Revenue Treasury Officer or Sub-Treasury Officer concerned, who shall retain the original in his office, issue the number of Central Excise Stamps required, return the duplicate, duly endorsed to the proper officer and send the quadruplicate copy to the Chief Accounts Officer of the Commissionerate.

(6) A registered person claiming assessment of the matches produced in his factory in accordance with the notification issued under rule 8 shall, at the time of purchasing Central Excise Stamps present to the District Revenue Treasury Officer or Sub-Treasury Officer a challan or R.Q.I., duly countersigned by the proper officer. The proper officer shall certify that duty has been calculated on the matches at the appropriate rate.

Form B.3(Sur./Sec.)

Form B.3(T.R.)

Form:RQ1

Form:RQ.1

66. Central Excise Stamps to be kept in a secure place and periodically inspected :-

The manufacturer shall keep all his Central Excise Stamps, whether procured for cash or on credit, in a secure place within the factory premises, and shall keep them open for inspection at any time by any officer. The proper officer may at any time examine the stock of the Central Excise Stamps on any working day and check the balance with that shown in the register and shall record the result in the register. If any Central Excise Stamps procured on credit are missing or unaccounted for, he shall call on the registered person to pay immediately into the Treasury the full price thereof and to produce the treasury challan within a week.

67. Manufacturer to keep account of Central Excise Stamps purchased and used :-

(1) The manufacturer shall maintain an account of quantity and value of-

- i. receipts of Central Excise Stamps purchased for cash and on credit;
- ii. Central Excise Stamps affixed on boxes or booklets;
- iii. Central Excise Stamps damaged and handed over to the proper officer, and
- iv. Central Excise Stamps lost in the process or not otherwise accounted for.

(2) The manufacturer shall submit to the proper officer monthly returns in the proper Form before the 10th day of the month following that to which the return relates.

68. Manner of affixing Central Excise Stamps :-

Every Central Excise Stamp shall be so affixed that-

- (a) the box or booklet on which the Central Excise Stamp is affixed cannot be opened without tearing the Central Excise Stamp;
- (b) when it is affixed to a box, the Central Excise Stamp shall cover one side of the inner tray and a part of the rear or bottom or front or top of the outer box, and the Central Excise Stamp itself shall not be covered by either the factory's label or any advertisement label.

69. Affixing of Central Excise Stamps to matches redeemed after confiscation :-

If matches confiscated under the Act or these Rules are returned to the owner on payment of a fine in lieu of confiscation, or are otherwise disposed of in a manner admitting of their passing into consumption, the proper officer shall, if the containers do not bear proper Central Excise Stamps, cause Central Excise Stamps of the requisite value to be affixed thereto and may allow them to be affixed over the manufacturer's label.

70. Matches to be packed, affixed with Central Excise Stamps and transferred to store. Room immediately after finishing :-

As soon as possible after matches are finished they shall, unless

intended for export, be put into boxes or booklets which shall then save as otherwise provided by these rules be affixed with Central Excise Stamps and enclosed in packets or other outer coverings and deposited in the factory's bonded store-room.

71. Method of packing :-

(1) No packet or case containing boxes or booklets of matches other than those intended for export out of India and those to which the provisions of the second proviso to rule 64 apply shall be closed and reckoned as a unit unless a Central Excise Stamp of the appropriate class has been affixed to each box or booklet in the manner laid down in rule 70.

(2) Each case or packet shall contain only an integral number whether one hundred boxes or booklets of matches or multiples thereof. The boxes or booklets in each case or packet shall contain the same number of matches on the average and shall, except where the matches are exempted from bearing Central Excise Stamps, bear Central Excise Stamps of the same class.

(3) Every packet, box or booklet, or the manufacturer's label affixed thereto shall bear in clearly discernible characters, the name of the factory or a distinguishing mark, which may take the form of a special design whereby the origin of the matches can be traced. Specimens of all such labels shall be submitted to the Commissioner for his approval and record, before they are brought into use:

Provided that the Commissioner may by an order in writing and subject to such limitations and conditions as may be prescribed by him in the order relax the provisions of this sub-rule.

(4) On each case or packet of matches shall be legibly marked in ink or oil colour a progressive number, commencing with No. 1, for each year and in different series for each class of matches, the number of boxes or booklets in hundreds contained in each case or packet and the grade of Central Excise Stamps affixed thereto.

(5) Every box or booklet of matches, other than matches of the type known as Bengal Lights, issued for home consumption, shall have on the box or booklet, or on the manufacturer's label affixed thereto, a statement in clearly discernible character, of the retail price at which the manufacturer intends that the box or booklet should be sold:

Provided that the Commissioner may by an order in writing and subject to such limitations and conditions as may be prescribed by

him in the order relax the provisions of this sub-rule.

72. Examination by proper officer at the factory :-

If the proper officer is in doubt whether Central Excise Stamps have been affixed or whether boxes or booklets contain the proper number of matches or whether cases or packets contain the proper number of boxes or booklets, he may require the registered person to open the case, packet, boxes or booklets for examination and in the event of any discrepancy, he may detain the goods.

73. Test-check of contents of boxes and booklets :-

In order to verify the average number of matches contained in a box or booklet the proper officer or any other officer specially deputed by him in this behalf may, after giving notice of his intention to the registered person, determine this number by taking samples, consisting of at least one box or booklet in every ten hundred thereof, and the duty payable shall be assessed on the result of this sampling.

74. Disposal of matches examined under rule 72 or 73 and of Central Excise Stamps damaged during examination :-

(1) If any Central Excise Stamps are torn during examination under rule 72 or rule 73, the proper officer may order that the containers to which they are affixed shall be returned to the registered person for re-stamping and shall be replaced immediately by an equal number of boxes or booklets of the same class from the finished sk.

(2) If examination under rule 72 or rule 73 shows that Central Excise Stamps of insufficient value have been affixed, the proper officer may order the boxes or booklets in question to be returned to the factory, where the Central Excise Stamps shall be removed and replaced by others of the proper value.

75. Deposit of matches in store-room :-

(1) Immediately after affixing Central Excise Stamps, the matches shall be deposited in a storeroom approved under rule 47

(2) The store-room shall be secured by the registered person to the satisfaction of the proper officer and it shall remain open for transaction during such hours and days on which the factory is working, as the Commissioner may approve.

76. Matches intended for export may also be deposited in the store-room. :-

All boxes or booklets containing matches intended for export and on which no Central Excise Stamps have been affixed and all loose matches to be exported shall, before they are removed to the store-room, be packed into cases or packets on which shall be pasted labels inscribed "Matches not affixed with Central Excise Stamps for Export" and shall be entered in daily sk account maintained under rule 53.

Form E.B.4(Matches)

77. XXX XXX XXX :-

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78. Manner of storage in the store-room :-

(1) Separate compartments or separate divisions in the same compartment shall be allotted in the store-room for-

- (i) packages containing matches bearing Central Excise Stamps purchased for cash;
- (ii) packages containing matches bearing Central Excise Stamps purchased on credit;
- (iii) packages of matches not affixed with Central Excise Stamps intended for export.

(2) To facilitate inspection, check and delivery from the store-room, the matches shall be stored in separate stacks, according to their class and the size of the case or packet in which they are contained.

79. Removal of defective matches for reconditioning :-

Defective matches may, under the supervision of the proper officer, be removed from the store-room to any other part of the factory for reconditioning. Matches not affixed with Central Excise Stamps originally intended for export and no longer required for that purpose may also be returned to the finishing room for affixation of Central Excise Stamps. Full particulars of matches so removed, shall be entered in the store-room register.

80. XXX XXX XXX :-

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81. XXX XXX XXX :-

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82. Removal of matches bearing Central Excise Stamps purchased on credit :-

When it is desired to remove matches, bearing Central Excise Stamps purchased on credit the Registered person shall, unless he maintains an account-current with the Commissioner under rule 9 pay the price of the Central Excise Stamps in the manner prescribed in rule 52 and no such matches may be removed until after the price of the Central Excise Stamps has been so paid or has been debited to such account-current, if any.

82A. Storage of duty paid matches near the factory premises :-

The Commissioner of Central Excise may prohibit a Registered person to whom Registration Certificate has been granted under these rules for the manufacture of matches and who has at any time been punished for any offence under the Central Excises and Salt Act, 1944 (1 of 1944), or the rules made thereunder, from storing matches, removed after payment of duty, in any godown, or place or premises of storage, situated within a distance of two kilometres from the factory of such Registered person.

83. XXX XXX XXX :-

84. XXX XXX XXX :-

85. XXX XXX XXX :-

86. XXX XXX XXX :-

87. XXX XXX XXX :-

88. XXX XXX XXX :-

89. XXX XXX XXX :-

90. XXX XXX XXX :-

91. XXX XXX XXX :-

92. XXX XXX XXX :-

92A. XXX XXX XXX :-

92B. XXX XXX XXX :-

92C. XXX XXX XXX :-

92D. XXX XXX XXX :-

92E. XXX XXX XXX :-

92F. XXX XXX XXX :-

93. Manufacture and disposal of excisable tobacco products

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No excisable tobacco products shall be delivered from any factory except under the following conditions: -

(a) Such products shall be made into separate packets.

(b) Each such packet, whether retail or wholesale, shall be enclosed by, and at the expense of, the manufacturer, in a wrapper or other outer covering, and, unless exempted by the Central Board of Excise and Customs, by general or special order, each such packet, or the manufacturers label affixed thereto, shall bear in clearly discernible characters, the following particulars -

(i) the name and address of the factory;

(ii) the number of his Registration Certificate in Form L4; and

(iii) the trade brand of the product.

Specimens of all such wrappers, outer covering or labels shall be submitted to the Commissioner for his approval before they are brought into use.

(c) An application for clearance in the proper form shall be delivered to the officer-in-charge of the factory at least 12 hours (or such other period as the Commissioner may in any particular case require or allow), before it is intended to remove the goods:

Provided that where removals from a factory are frequent and the manufacturer maintains a sufficient credit balance in his account-current maintained under rule 9 for payment of duty, the Assistant Commissioner of Central Excise may, on a request by the manufacturer, permit, by an order in writing, removal of goods on presentation of a gate-pass as prescribed under rule 52A, subject to the observance of such procedure as may be prescribed in this regard by the Commissioner.

(d) No cigars and cheroots mentioned in Heading No. 24.02 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) shall be delivered from any factory unless-

(1) they are put into packets containing 5,10, 25, 50 or 100 cigars

or cheroots, as the case may be;

(2) each such packet consists of a wooden, tin or cardboard box opening only at the top or of a paper wrapper top completely closed on all sides and with all outer edges gummed down.

Form:A.R.1

94. Daily account of tobacco products manufactured :-

(1) Every manufacturer of excisable tobacco products including raw biri, whether loose, labelled or unlabelled, shall maintain proper records and shall enter in such account the following particulars, namely:-

(i) the weights, quantities and particulars of all tobacco and other materials and ingredients received by him for the purpose of being manufactured;

(ii) the weight and quantities thereof consumed in such manufacture;

(iii) the weight, quantities and particulars of tobacco, materials, ingredients, stalks, waste, and other refuse remaining after or caused by such manufacture;

(iv) the quantity of each product so produced;

(v) the quantity thereof made up into packets, wrapped, labelled and cleared from the factory, with the number of packets of each size or weight respectively.

(vi) receipt of raw biris from the contractors, sattedars or agents, quantity issued for grading or sorting, quantity of biris destroyed, quantity of tobacco recovered from damaged biris.

(2) Every assessee shall furnish to the proper officer, a list in duplicate, of all the records prepared or maintained by him for accounting of transactions in regard to receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and capital goods.

Explanation.--

For the purposes in this rule,-

i. the expression "records" shall include account, agreement, invoice, pricelist, return, statement or any other source document, whether in writing or in any other form;

ii. the expression "source documents" means all documents which form the basis of accounting of transactions and includes sales invoice, purchase invoice, journal voucher, delivery challan and debit or credit note.

(3) Where an assessee maintains or generates such records by using computer, such assessee shall submit the following information to the proper officer, namely:-

- i. documentation including policy and procedure manuals, instructions to record the flow and treatment of transactions through accounting system, from the stage of initiation to closure and storage;
- ii. account of the audit trail and inter-linkages including the source document, whether paper or electronic, and the financial accounts; and
- iii. record layout, data dictionary and explanation for codes used and total number of records in each field alongwith sample copies of documents and whenever changes are made in the aforesaid systems adopted by the assessee, he shall inform the proper officer and submit the relevant document.

(4) The assessee shall be responsible for keeping, maintaining, retaining and safeguarding records.

(5) Every assessee shall, on demand makes available to the Central Excise Officer or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, the following, namely:-

- i. The records maintained or prepared by him in terms of sub-rule (2);
- ii. The cost audit reports, if any, under section 223B of the Companies Act, 1956 (1 of 1956);
- iii. The income-tax audit report, if any, under section 44AB of Income-tax Act, 1961 (43 of 1961), for the scrutiny of the officer or audit party, as the case may be.

(6) Every assessee who is having more than one factory and maintains separate records in respect of every factory for the purpose of audit, then, he shall produce the said records for audit purposes.

(7) Where the Commissioner or the Comptroller and Auditor General of India decides to undertake the audit of the records of any assessee, the said assessee shall be given notice thereof at least fifteen days before the commencement of such audit. The audit party deputed for the purpose shall also call for in writing the records, which are required to be produced by the assessee, either before or during the course of audit.

(8) Every assessee, who maintains or generates his records by using computer, shall provide the required records in the form of tapes or floppies or cartridges or compact disk or any other media

in an electronically readable format as specified by the Commissioner at the time of audit. The copies of records, so furnished, shall be duly authenticated by the assessee.

(9) All records submitted to audit party in electronic format shall be used only for verification of payment of duties of excise or for verification of compliance of the provisions of the Act or the rules made thereunder and shall not be used for any other purpose without the written consent of the assessee.

(10) Every assessee shall preserve the records, including books of accounts and source documents and data in any electronic media, where any document is generated on computer, for five financial years immediately after the financial year to which the records pertain.

95. XXX XXX XXX :-

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95A. Special procedure for removal in bond of biris to other premises :-

The Commissioner may, by special or general order and subject to such conditions as may be specified by him, permit a manufacturer to remove biris manufactured by him to his another registered premises or to the premises of another assessee for completion of certain manufacturing processes and allow the finished biris to be removed on payment of duty or without payment of duty for export from such other premises:

Provided that such permission shall be granted only subject to the execution of a bond either by the manufacturer or by the assessee.

96. Abatement of duty on defective tyres :-

If a manufacturer desires that certain tyres should, in consequence of damage sustained during the course of manufacture, be assessed on a value less than the standard selling price he shall declare in writing on the application for clearance of the goods, that such damage has been sustained and each such tyre shall be clearly and legibly embossed or indelibly stamped with the words "Second", "Clearance" or "Defective".

E-I (a). COTTON FABRICS, JUTE MANUFACTURES AND MAN-MADE FABRICS

96A. XXX XXX XXX :-

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96B. XXX XXX XXX :-

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96C. XXX XXX XXX :-

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96D. XXX XXX XXX :-

[***]

96DD. Procedure for removal of cotton fabrics or man-made fabrics from one factory to another without payment of duty for embroidery :-

(1) Cotton fabrics or man-made fabrics, may be removed without payment of duty from one factory to another factory for the purpose of embroidery, subject to the observance of the procedure hereinafter prescribed.

(2) When cotton fabrics or man-made fabrics, are removed from the factory where they are manufactured to another factory for embroidery, the consignor shall follow the procedure as required by rules 156A and 156B, as modified by rule 173N.

(3) If cotton fabrics or man-made fabrics, after being embroidered, are cleared for home consumption from the embroidery factory, the duty payable at the time of such clearance and such other dues that may be payable in respect of such goods may be paid either by the owner of the embroidery factory or by the owner of the originating factory.

(4) If cotton fabrics or man-made fabrics, after being embroidered, are removed without payment of duty to one or more factories for the purpose of further embroidery, or to the originating factory, such removal shall be subject to, and in accordance with, the provisions of sub-rule (2).

E-I (b). COTTON YARN, JUTE TWIST, YARN, THREAD, ROPES AND TWINE AND YARN (OTHER THAN COTTON YARN OR JUTE YARN)

96E. Procedure for removal of cotton yarn or jute twist, yarn, thread, ropes and twine from one factory to another without payment of duty :-

(1) Cotton yarn or jute twist, yarn, thread, ropes and twine may be removed without payment of duty from one factory to another for the purpose of processing or packing or for the purpose of manufacture of cotton fabrics or jute manufactures subject to the observance of the procedure hereinafter prescribed.

(2) For the purpose of this rule, "factory" means a factory working with the aid of power in which-

(a) cotton yarn or jute twist, yarn, thread, ropes and twine is spun and cotton fabrics or jute manufactures are woven; or

(b) only cotton fabrics or jute manufactures are woven and the duty thereon is paid on square metre, ad valorem or weight basis, as the case may be; or

(c) only cotton yarn or jute twist, yarn, thread, ropes and twine is spun, or otherwise manufactured.

(3) When cotton yarn or jute twist, yarn, thread, ropes and twine is removed from one factory to another, the consignor shall, follow the procedure as required by rules 156A and 156B, as modified by rule 173N.

(4) If cotton yarn, after being processed, is removed without payment of duty to one or more factories for the purpose of further processing, or to the originating factory, such removal shall be subject to and in accordance with the provisions of sub-rule (3).

96EE. Procedure for removal of yarn (other than cotton yarn or jute yarn) from one factory to another without payment of duty :-

(1) Any yarn, other than cotton yarn or jute yarn, as may be specified by the Central Government by notification in the Official Gazette (hereinafter referred to as the said yarn), may be removed without payment of duty from one factory to another factory of the same manufacturer for the purpose of manufacture of cotton fabrics subject to the observance of the procedure hereinafter prescribed.

(2) For the purposes of this rule, "factory" means a factory working with the aid of power in which

(a) the said yarn is spun; or

(b) the said yarn is spun and cotton fabrics are woven; or

(c) only cotton fabrics are woven and the duty thereon is paid on square metre, ad valorem or weight basis, as the case may be.

(3) When the said yarn is removed from one factory to another factory of the same manufacturer, the consignor shall follow the

procedure required by rules 156A and 156B as modified by rule 173N.

E. II-TEA

96F. Fixation of areas for the purpose of excise duty :-

Having regard to the weighted average sale price in the internal and export auctions of tea in India, the Central Government may, by notification in the Official Gazette, from time to time, group areas into zones for the purpose of assessment of tea produced in such areas.

96G. XXX XXX XXX :-

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96H. XXX XXX XXX :-

[***]

E-III.--Cotton fabrics produced on powerlooms-Special Procedure

96I. XXX XXX XXX :-

96J. XXX XXX XXX :-

96K. XXX XXX XXX :-

96L. XXX XXX XXX :-

96M. XXX XXX XXX :-

96MM. XXX XXX XXX :-

96MMM. XXX XXX XXX :-

96MMMM. XXX XXX XXX :-

96MMMMM. XXX XXX XXX :-

E-IV.--Vegetable product

96N. xxx xxx xxx :-

E-V.--Vegetable non-essential oils - Produced with the aid of power
- Special procedure

96O. to 96ZZZZ. [***]

E - VI. STAINLESS STEEL PATTIS OR PATTAS, ALUMINIUM

CIRCLES

96ZA. Application to avail of special procedure :-

(1) Where a manufacturer who subjects stainless steel pattis or pattas, falling under Chapter 72, or aluminium circles falling under Chapter 76 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), to the process of cold rolling with the aid of cold rolling machines, makes in the proper form, an application to the Commissioner, in this behalf, the special provisions contained in this section shall, on such application being granted by the Commissioner, apply to such manufacturer in substitution of the provisions contained elsewhere than in this section for the period in respect of which the application has been so granted.

(2) Such application shall be made so as to cover a period of not less than twelve consecutive calendar months, but permission may be granted for a shorter period in the discretion of the Commissioner.

(3) If at any time during such period the manufacturer fails to avail himself of the special provisions contained in this section, he shall, unless otherwise ordered by the Commissioner, be precluded from availing himself of such provisions for a period of six months from the date of such failure.

(4) If the manufacturer desires to avail himself of the special provisions contained in this section on the expiry of the period for which his application was granted, he shall, before such expiry, make an application to the Commissioner under sub-rule (1) and on his failure to do so, he shall, unless otherwise ordered by the Commissioner, be precluded from availing himself of such provisions for a period of six months from the date of such expiry.

Form : A.S.P

96ZB. Discharge of liability for duty on payment of certain sum :-

(1) Having regard to the average production of cold rolled stainless steel pattis or pattas, falling under Chapter 72, or aluminium circles falling under Chapter 76 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), in India per month or per year for cold rolling machines installed for the processing of stainless steel pattis/pattas, or aluminium circles and any other relevant factor, the Central Government may, by notification in the Official Gazette, fix, from time to time, the rate of duty per month or per year, per

each such cold rolling machines, subject to such conditions and limitations hereinafter laid down, and if a manufacturer whose application has been granted under rule 96ZA pays a sum calculated according to such rate of duty in the manner and subject to the conditions and limitations hereinafter laid down, such payment shall be a full discharge of his liability for duty leviable on his production of such cold re-rolled stainless steel pattis/pattas, or aluminium circles during the period for which the said sum has been paid:

Provided that if there is an alteration in the rate of duty, the sum payable shall be recalculated on the basis of the revised rate, from the date of alteration and liability for duty leviable on the production of stainless steel pattis/pattas, or aluminium circles from that date shall not be discharged unless the differential duty is paid; should, however, the amount of duty so recalculated, be less than the sum paid, the balance shall be refunded to the manufacturer:

Provided further that no credit of duty paid on any material, component part, machinery or finished products used for cold rolling of stainless steel pattis/pattas, or aluminium circles shall be allowed under this section for making payment of duty referred to in this sub-rule above:

Provided also that when a manufacturer makes an application for the first time under rule 96ZA for availing of the special provisions contained in this section, the duty liability for the month in which the application is granted shall be calculated pro-rata on the basis of the total number of days in that month and the number of days remaining in the months from the date of such grant.

(2) The sum payable under sub-rule (1) shall be calculated by application of such rate to the maximum number of cold rolling machines installed by or on behalf of such manufacturer in one or more premises at any time during three calendar months immediately preceding the calendar month in which the application under rule 96ZC is made.

(3) Such sum shall be tendered by such manufacturer along with such application.

Form:D.D.2

96ZC. Manufacturers declaration and accounts :-

(1) Such manufacturer shall, at any time during the calendar month immediately preceding any month or part thereof, as the

case may be, in respect of which he has been permitted to avail himself of the provision of this section, make an application to the proper officer in the proper Form for leave to remove stainless steel pattis/pattas, or aluminium circles from his premises during the ensuing month, declaring therein the maximum number of cold rolling machines installed by him or on his behalf, in one or more premises at any time during three calendar month immediately preceding the said calendar month.

(2) If such application is not made to the proper officer within the time limit laid down in sub-rule (1), the manufacturer shall, unless, otherwise directed by the Commissioner, and in exceptional circumstances, be liable to pay duty on his entire production of stainless steel pattis/pattas, or aluminium circles during the month or part thereof in respect of which the application was to be made, at the rate prescribed in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) read with any relevant notification or notifications issued under sub-section (1) of section 5A of the Act.

(3) Such manufacturer shall also intimate the proper officer in writing of any proposed change in the number of cold rolling machines installed by him or on his behalf, and obtain the written approval of such officer before making any such change.

Form:A.R.8AA

96ZD. Exemption from certain provisions, no rebate of excise duty on export :-

(1) During the period in respect of which any manufacturer has been permitted to avail himself of the provisions of this section, he shall be exempt from the operation of all the provisions of rules 9 [except the third proviso to sub-rule (1) thereof] , 47,49, 50, 51, 51A, 52,52A, 53,54,55, 223, 223A, 223B, 224,224A and 229.

(2) Except in accordance with such special terms, conditions and limitations as the Central Board of Excise and Customs may hereafter by notification specify in this behalf, no rebate of excise duty shall be paid under rule 12 in respect of any stainless steel pattis/pattas, or aluminium circles exported out of India, out of the sk produced by such manufacturer during such period.

96ZE. XXX XXX XXX :-

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96ZF. Provisions regarding new factories and closed

factories resuming production :-

In the case of a manufacturer who commences production for the first time or who recommences production after having ceased production for a continuous period of not less than three months, and who has been permitted by the Commissioner under sub-rule (1) of rule 96ZA to avail of the special provisions contained in this section, the amount payable by him for the first month or part thereof, as the case may be, shall be provisionally calculated on the basis of his declaration of the maximum number of cold rolling machines that are or are likely to be installed by him or on his behalf during such period. At the expiry of the period, the amount payable shall be recalculated on the basis of the maximum number of cold rolling machines actually installed and if the initial payment falls short of the total liability so determined, the deficiency shall be recovered from the manufacturer. If, however, the total liability is less than the initial deposit, the balance shall be refunded to the manufacturer.

96ZG. Power to condone failure to apply for special procedure :-

Notwithstanding anything contained in this section, the Commissioner may, at his discretion for reasons to be recorded in writing and subject to such conditions as he may lay down, apply the provisions contained in this section to a manufacturer who has failed to avail himself of the special procedure, or to comply with any condition laid down in this section within the specified time limit.

96ZGG. Provision regarding factories ceasing to work or reverting to the normal procedure :-

Notwithstanding anything contained in rules 96ZA to 96ZG, where a manufacturer who had availed himself of the special provisions contained in this section ceases to work or reverts to the normal procedure, the duty payable by him in the month during which he has availed himself of the special provisions shall be calculated on the basis of the maximum number of cold rolling machines installed during the last month in the manner prescribed in rule 96ZF and the amount already paid for the month in accordance with rule 96ZB shall be adjusted towards the duty so calculated and on such adjustment if there is any excess payment it shall be refunded to

the manufacturer and any deficiency in duty shall be recovered from the manufacturer.

Explanation.-A manufacturer, who ceases to work his factory for one or two shifts only, shall not be deemed to cease to work within the meaning of this rule.

E-IX. EMBROIDERY IN THE PIECE, IN STRIPS OR MOTIFS-SPECIAL PROCEDURE

96ZH. Application to avail of special procedure :-

(1) Where a manufacturer who manufactures embroidery in the piece, in strips or in motifs (hereinafter referred to as "the embroidery") with the aid of vertical type automatic shuttle embroidery machine or machines (hereinafter referred to as "the machine" or "the machines", as the case may be) makes in the proper form an application to the Commissioner in this behalf, the special provisions contained in this section shall, on such application being granted by the Commissioner, apply to such manufacturer in substitution of the provisions contained elsewhere than in this section for the period in respect of which the application has been so granted.

(2) Such application shall be made so as to cover a period of not less than six consecutive calendar months, but may be granted for a shorter period for reasons to be recorded in writing by the Commissioner.

(3) If, at any time during such period, the manufacturer does not desire to avail himself of the special provisions contained in this section, he shall give a notice in writing to the proper officer of his intention at least one week in advance; once the manufacturer has ceased to avail himself of such special provisions, from any date, he shall be precluded from availing himself of such provisions for a period of six months from that date.

(4) If the manufacturer desires to avail himself of the special provisions contained in this section on the expiry of the period for which his application was granted, he shall, not later than a week before such expiry, make an application to the Commissioner under sub-rule (1);

and on his failure to do so, he shall, except as provided in rule 96ZM, be precluded from availing himself of such provisions for a period of six months from the date of such expiry.

(5) The Commissioner may permit the manufacturer to avail himself of the special provisions contained in this section for any period

before the commencement of the Central Excise (Fourth Amendment) Rules, 1968 but not earlier than 1st March, 1968, if the Commissioner is satisfied that the manufacturer has maintained proper records and accounts of the machines employed and the embroidery manufactured in each shift during that period.

Form : A.S.P

96ZI. Discharge of liability for duty on payment of certain sum :-

(1) Having regard to the average production of the embroidery per machine, and any other relevant factor, the Central Government may, by notification in the Official Gazette, fix from time to time, the rate per metre length of such machine, per shift, or per day, or per week, subject to such conditions and limitations as it may think fit to impose, and may fix different rates for such machines employed in the manufacture of different varieties of the embroidery or of the embroidery done on different varieties of base fabrics or for machines working at different speeds or for machines installed during different periods; and if a manufacturer whose application has been granted under rule 96ZH pays before the commencement of any shift a sum calculated according to such rate, in the manner and subject to the conditions hereinafter laid down, such payment shall be full discharge of his liability for the duty leviable on his production of the embroidery during the said shift:

Provided that if there is an alteration in the rates of duty, the sum payable shall be recalculated on the basis of the revised rates from the date of alteration and liability for duty leviable on the production of the embroidery from that date shall not be discharged unless the differential duty is paid; if, however, the amount of duty so recalculated be less than the sum paid, the balance shall be refunded to the manufacturer:

Provided further that no credit of duty paid on inputs used in the manufacture of the embroidery and capital goods used within the factory of manufacture of such embroidery shall be allowed under rule 57A, 57B or 57Q, as the case may be.

(2) The sum payable under sub-rule (1) shall be calculated by application of the appropriate rate to the metre length of each of the machines intended to be employed by the manufacturer during the shift.

(3) Such sum shall be paid by such manufacturer by debit in the

account-current maintained under rule 96ZJ before commencement of the shift.

(4) If such payment is not made in the manner and within the time-limit laid down in this rule, the manufacturer shall, unless otherwise directed by the Commissioner, and in exceptional circumstances, be liable to pay duty on his entire production of the embroidery during the shift or shifts, in respect of which the payment was to be made, at the rate specified in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

(5) Where the Commissioner has permitted the manufacturer to avail himself of the special provisions contained in this section in respect of any period referred to in sub-rule (5) of rule 96ZH, the manufacturer shall file with the proper officer a duly signed statement showing in respect of every shift worked on each day during that period-

(a) the brand name and other identifying particulars of each of the machines employed.

(b) month and year of installation of each such machine,

(c) maximum revolutions per minute which each such machine is capable of working at, and

(d) metre length of each such machine;

and shall, on demand, produce before such officer all his records and accounts to enable that officer to verify the statement so filed.

After the proper officer has completed the verification, the sum payable under sub-rule (1) in respect of such period shall be calculated by application of the appropriate rate to the metre length of all the machines employed by the manufacturer in each of the shifts during that period; and such sum shall be paid by the manufacturer in one lump sum into the Government treasury.

(6) In this rule-

(a) "metre length", in relation to a machine, means the distance between the points provided for the first needle and the last needle of only one roller of such machine;

(b) "shift" means a period not exceeding eight hours working in a day, exclusive of rest interval, provided the work of the same kind is carried out by the same set of workers.

96ZJ. Manufacturers declaration and accounts :-

(1) Such manufacturer shall keep account-current with the Commissioner, in the proper form, of the sums payable under rule 96ZI; such account-current shall be maintained in triplicate by

using indelible pencil and double-sided carbon and the assessee shall periodically make credit in such account-current by cash payment into the treasury so as to keep the balance in such account-current sufficient to cover the sums payable under rule 96ZI for the day.

(2) Such manufacturer shall also-

(a) maintain a daily account in the proper form in triplicate (by using indelible pencil and double-sided carbon) of the number, year of installation, speed and metre length of the machines actually employed by him in each shift in the production of the embroidery, and other particulars;

(b) inform the proper officer in writing of any change in the number, metre length and speed of the machines installed by him;

(c) append to his monthly return in Form R.T.3 made under rule 54, two duly signed carbon copies of the account maintained under this rule.

Form:R.G.25

96ZK. Exemption from certain provisions; no rebate of excise duty on export :-

(1) During the period in respect of which any manufacturer has been permitted to avail himself of the provisions of this section, he shall be exempt from the operation of all the provisions of rule 9 except the third proviso to sub-rule (1) thereof and rules 47, 49,50, 51, 51A, 52,52A, 53, 55, 223, 223A, 223B, 224, 224A and 229.

(2) Except in accordance with such special terms, conditions and limitations as the Central Board of Excise and Customs may thereafter by notification specify in this behalf, no rebate of excise duty shall be paid under rule 12 in respect of any embroidery exported out of India out of the sk produced by such manufacturer during such period.

96ZL. XXX XXX XXX :-

[***]

96ZM. Power to condone failure to apply for special procedure :-

Notwithstanding anything contained in this section, the Commissioner may, at his discretion and subject to such conditions

as he may lay down, apply the provisions contained in this section to a manufacturer who has failed to avail himself of the special procedure, or to comply with any condition, laid down in this section within the prescribed time-limit.

E-X. PATENT OR PROPRIETARY MEDICINES

96ZN. Markings on labels :-

(1) There shall be marked on the label and container of each drug or medicinal preparation which is sought to be classified under sub-heading No. 3003.20 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) by reason of such drug or medicinal preparation bearing on itself and its container a name which is specified in a monograph in a Pharmacopoeia, Formulary or other publications listed in the Note 2(ii) to Chapter 30 of the said Schedule and by reason of such drug or medicinal preparation being classified under the said sub-heading by virtue of any other criteria laid down in the said Note -

(i) if such name is specified in the latest edition of such Pharmacopoeia, Formulary or other publications, the recognised abbreviation for the relevant Pharmacopoeia, Formulary or other publications, such as I.P., B.P., U.S.P.;

(ii) if such name is specified in any earlier edition of such Pharmacopoeia, Formulary or other publications, the recognised abbreviation and the year of publication or number of edition or revision of the relevant Pharmacopoeia, Formulary or other publications, such as I.P. 1955, B.P. 1958, U.S.P. XV.

(2) The markings specified in clauses (i) and (ii) shall be mentioned immediately after the name of the drug or medicinal preparation.

E-XA.--PROCESSED TEXTILE FABRICS

96ZNA. Application to avail of special procedure :-

(1) Where an independent processor of textile fabrics, who is engaged exclusively in the manufacture or production of 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 (hereinafter in this section referred to as the "said goods") of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), with the aid of a hot-air stenter (hereinafter in this section referred

to as "independent textile processor"), makes in the proper form, an application to the Commissioner, in this behalf, the special provisions contained in this section shall, on such application being granted by the Commissioner, apply to such independent textile processor in respect of the said goods in substitution of the provisions contained elsewhere than in this section, subject to such conditions and limitations as hereinafter laid down.

(2) The independent textile processor, who wants to avail the special provisions contained in this section for the period from 1st May, 2001 to 31st March, 2002, in respect of his processing factory existing as on the 1st May, 2001, shall make the application to the Commissioner of Central Excise in the prescribed format, by the 20th May, 2001. If such application made by the 20th May, 2001, is granted by the Commissioner of Central Excise, the facility to avail the provisions under this section shall be deemed to be available from 1st May, 2001. Pending grant of such application by the Commissioner of Central Excise, the independent textile processor may avail the provisions of this section on a provisional basis. However, if the application is rejected by the Commissioner of Central Excise, then he shall not be eligible to avail the provisions of this section from the 1st May, 2001 and he shall discharge the duty liability as per the provisions contained elsewhere than in this section and the duty, if any, paid under the provisions of this section or the notifications issued thereunder, shall be adjusted against the duty payable on such goods.

Provided that an independent textile processor commencing production for the first time in a new processing factory coming into existence after the 1st May, 2001, shall make the application prior to the commencement of commercial production so as to cover the period upto 31st March, 2002.

Explanation I.--

For the purposes of this section, " independent textile processor" means a manufacturer who undertakes bleaching, dyeing or printing or any one or more of these processes with the aid of power or steam 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 exclusively in a hot air stentor 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 1st day of May, 2001.

Explanation II.--

For the removal of doubt, it is hereby clarified that the provisions of

this section shall not apply to an independent processor who carries out heat setting or drying with the aid of an open-air stenter installed in his factory.

96ZNB. Conditions for availing of special procedure :-

(1) The original value of the investment in the plant and machinery installed in the factory of the independent textile processor of the said goods, as on the 1st March, 2001 or on the 1st of May, 2001, whichever is higher, for an existing factory of the independent textile processor or on the date of making the application under rule 96ZNA in the case an independent textile processor commencing production for the first time in a new factory coming into existence after the 1st of May, 2001, shall not exceed three crore rupees, irrespective of whether such plant and machinery is in use or not, or is in working condition or not, and the independent textile processor shall declare the original value of investment in such plant and machinery installed in his factory, on the dates mentioned above, in the prescribed format duly certified by a Chartered Accountant or Cost Accountant. The Commissioner of Central Excise may require any such documentary evidence as he considers appropriate in respect of such original value before granting the application.

(2) If any additional plant and machinery is installed by the independent textile processor at any point of time, he shall intimate the same to the Commissioner of Central Excise within 7 days of such installation and the original value of investment in plant and machinery together with the original value of investment in such additional plant and machinery shall not exceed three crore rupees. Where such original value of investment exceeds the limit of three crore rupees, the provisions of this section shall not apply from the first day of the month in which such investment exceeded the said limit of three crore rupees.

(3) The independent textile processor shall not remove any unstentored textile fabrics from his factory.

(4) An independent textile processor of the said goods who has made the application under rule 96ZNA to pay the sum of duty in accordance with rule 96ZNC shall not be allowed any abatement on account of closure of factory, except as provided under rule 96ZND.

(5) The independent textile processor opting for the provisions of this section shall not be eligible to avail of any credit of duty paid on inputs or capital goods under these Rules or any notification

issued thereunder.

(6) The provisions of this section shall apply to the said goods which are manufactured or produced on or after the 1st day of May, 2001.

(7) Nothing contained in this section shall apply to-

a. the said goods which are manufactured or produced prior to the 1st day of May, 2001 and cleared on or after that date;

b. a composite mill, i.e., a manufacturer or processor, who is engaged in the processing of fabrics with the aid of power along with the spinning of yarn from fibres and weaving or knitting or crocheting of fabrics within the factory and includes a multi-locational composite mill, i.e., a public limited company which is engaged in the processing of fabrics with the aid of power along with the spinning of yarn from fibres and weaving or knitting or crocheting of fabrics in one or more factories owned by the same public limited company; or

c. fabrics other than the said goods produced or manufactured by the independent textile processor.

96ZNC. Discharge of liability for duty on payment of certain sum, etc :-

(1) Having regard to the average production of the said goods per month per chamber of a hot-air stenter installed for the processing of the said goods and any other relevant factor, the Central Government may, by notification in the Official Gazette, fix, from time to time, the rate of duty per such chamber of a hot-air stenter per month, subject to such conditions and limitations as it may think fit to impose, and may fix different rates for different varieties of the said goods; and if a manufacturer whose application has been granted under rule 96ZNA pays a sum calculated according to such rate of duty in the manner and subject to the conditions and limitations hereinafter laid down or in any notification issued under any of the provisions of this section, such payment shall be a full discharge of his liability for duty leviable on his production of the said goods during the period for which the said sum has been paid:

Provided that if there is any alteration in the rates of duty, the sum payable shall be recalculated on the basis of the revised rates, from the date of alteration and liability for duty leviable on the production of the said goods from that date shall not be discharged unless the differential duty is paid, and where the amount of duty

so recalculated, is less than the sum paid, the balance shall be refunded to the manufacturer:

(2) The sum payable under sub-rule (1) read with any notification issued thereunder shall be debited by the independent textile processor in the account current maintained by him under sub-rule (1) of rule 173 G of the Central Excise Rules, 1944.

(3) Fifty per cent. of the sum payable for a calendar month under sub-rule (1) read with any notification issued thereunder shall be paid by the 20th of that month and the remaining sum shall be paid by the 5th of the immediately succeeding month.

(4) The independent textile processor shall maintain records, and file returns, pertaining to production or manufacture, clearance, storage, delivery or disposal of goods, including the materials received for or consumed in the manufacture of the said goods or other goods, the goods and materials in stock with him and the duty paid by him, as prescribed under these Rules or any notification issued thereunder:

Provided that the independent textile processor of the said goods shall further declare in the monthly return required to be filed under these Rules that the original value of investment in the plant and machinery installed in his factory for the month to which the said return pertains has not exceeded three crore rupees.

(5) If an independent textile processor fails to pay the sum under sub-rule (1) or any part thereof by the date specified in sub-rule(3), he shall be liable to,-

(i) pay the outstanding sum along with interest at the rate of twenty-four per cent. per annum calculated for the outstanding period on the outstanding sum; and

(ii) a penalty equal to the sum outstanding from him for a month payable by the 5th of the succeeding month or rupees five thousand, whichever is greater.

(6) If an independent textile processor removes the said goods without complying with any of the requirements contained in sub-rule (4), then, the said goods shall be liable to confiscation and the independent textile processor shall be liable to a penalty not exceeding ten thousand rupees.

96ZND. Procedure for claiming abatement :-

(1) Where an independent textile processor does not produce or manufacture the said goods during any continuous period of not less than fifteen days may claim abatement of the sum payable by

him under rule 96 ZNC read with any notification issued thereunder, and such abatement shall be allowed by an order passed by the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be, of such amount as may be specified in such order, subject to fulfilment of the following conditions, namely:-

a. the abatement shall be applicable only on complete closure of the factory and not on closure of any one or more hot-air stenters;

b. during the period of closure no manufacturing activity, whatsoever, including bleaching, dyeing or printing, in respect of the said goods shall be undertaken and no removal of the said goods shall be effected by the independent textile processor;

c. the independent textile processor shall inform, in writing, about the closure of the factory to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, with a copy to the Superintendent of Central Excise, at least three days prior to the date of closure;

d. the stenter or stenters shall be sealed in such manner as may be prescribed by the Commissioner of Central Excise;

e. the independent textile processor, when he starts production again, shall inform in writing about the date of starting of production to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, with a copy to the Superintendent of Central Excise, at least three days prior to the date of starting production, and get the seal opened in such manner as may be specified by the Commissioner of Central Excise before recommencing production;

f. the independent textile processor shall, while sending information under condition (e), declare that his factory remained closed for a continuous period starting from the hour and date to the hour and date, such hours and dates to be specified in the declaration;

fa. when the claim for abatement by the independent textile processor is for a period of less than one month, he shall be required to pay the duty, as applicable, for the entire period of the month and may subsequently seek such claim after payment of such duty;

fb. where the claim for abatement by the independent textile processor is for a period of one month or more, he shall not be required to pay the duty for that period in advance;

g. if the claim for abatement by the independent textile processor has been disallowed by the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be,

by a written order made in this regard, the independent textile processor shall pay the sum of duty, and interest if any applicable, prior to getting the stenter or stenters sealed under condition (d) reopened for resuming production;

Provided that the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be, where he is satisfied that the delay in giving information under condition (c) was caused due to unavoidable circumstances, may, for reasons to be recorded in writing, condone such delay.

E - XI NON ALLOY STEEL INGOTS AND BILLETS/ HOT-ROLLED PRODUCTS

96ZO. XXX XXX XXX :-

[***]

96ZP. XXX XXX XXX :-

[***]

E. XIA. PROCESSED TEXTILE FABRICS

96ZQ. XXX XXX XXX :-

[***]

96ZR. XXX XXX XXX :-

96ZUU. XXX XXX XXX :-

E-XII. CEMENT

96ZV. Damaged cement may be returned for reprocessing or for further manufacture to the original factory of production or to any other cement factory :-

Cement, which has been damaged after deposit in the storeroom of the approved premises, of a factory or after its delivery on payment of duty, may be returned to the same or any other cement factory to be re-processed or for further manufacture, and, where duty has been paid on such cement, its equivalent to the recoverable weight of the reprocessed cement based on the chemical analysis of the damaged cement may be delivered without payment of duty:

Provided that -

(i) information of the receipt of each consignment of damaged cement into the receiving factory is given in writing by the

manufacturer to the proper officer twenty-four hours before such receipt;

(ii) the damaged cement received in the receiving factory is stored separately unless otherwise permitted by the Commissioner by an order in writing and such goods before being taken for reprocessing or for further manufacture are made available to the proper officer for inspection and for drawal of samples;

(iii) a detailed account of the cement damaged in the store-room or, as the case may be, of its delivery on payment of duty and the processes to which it is subjected, is kept in the factory records:

Provided further that the provisions of this rule shall not apply to cement manufactured,

(i) in a free trade zone and returned to a cement factory in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking and returned to another cement: factory in any place in India.

E-XIII. - Marble slabs

96ZW. XXX XXX XXX :-

96ZZZZ. XXX XXX XXX :-

F. REFUNDS

GENERAL

97. Refund of duty on goods returned to factory :-

(1) The Commissioner may grant refund of the duty paid on manufactured excisable goods issued for home consumption from a factory which are returned to the same or any other factory for being remade, refined, reconditioned, or subjected to any other similar process in the factory:

Provided that-

(i) the goods are returned to the factory within one year of the date of payment of duty or within such further period or periods not exceeding one year in the aggregate as the Commissioner may, on sufficient cause being shown, permit in any particular case;

(ii) at least 48 hours notice, or in exceptional circumstances beyond the control of the manufacturer a shorter notice, of the re-entry of excisable goods into the factory is given to the proper officer before the goods are received into the factory:

Provided further that where the proper officer is not on duty at the

time, of the receipt of the goods into the factory, the manufacturer stores the goods separately and reports full details of the goods to the proper officer as soon as it is possible to do so;

(iii) the goods are presented, before they are taken into sk, to the proper officer for inspection, and if necessary, for taking samples;

(iv) the goods are identified to the satisfaction of the Commissioner;

(v) the majority of the unit or smallest packages, as the case may be, meant for retail sale are intact and unopened, and in the case of opened packages, the goods are identified, to the satisfaction of the Commissioner, on the basis of marking on the individual articles or containers and on other collateral evidence, if any:

Provided that the opened packages shall not be admitted in respect of commodities with concessional rates of duty or partial exemption for the small or cottage sector, as set forth in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) or by a notification issued under rule 8 or section 5A of the Act;

(vi) the value of the goods at the time of their return to the factory is in the opinion of the Commissioner not less than the amount of duty originally paid upon them at the time of their clearance from the factory.

Explanation.-In this clause, "value" means the market value of the excisable goods and not the ex-duty value thereof.

(vii) the amount of refund payable on the goods is not less than Rupees fifty;

(viiia) the amount of refund payable shall in no case be in excess of the duty payable on such goods after being re-made, refined, reconditioned or subjected to any other similar process in the factory;

(viii) a detailed account of the returned goods, and the processes to which they are subjected after their return to the factory, is kept in the factory records; and

((ix) the manufacturer proves to the satisfaction of the Commissioner that the defect or deterioration resulted from defective manufacture or storage or due to some accident while in transit, and that the goods have not been made use of in any manner except for trial purpose:

Provided further that no refund shall be admissible in respect of the duty paid

(a) on goods which are disposed of in any manner other than for production of goods of the same class,

(b) on the unmanufactured tobacco from which cigars, cheroots,

cigarettes, chewing tobacco, snuff or biris so returned to the factory have been produced,

(c) on cigarettes.

(2) No refund under sub-rule (1) shall be paid until the processes mentioned therein have been completed and an account under clause (viii) of the first proviso thereof has been rendered to the satisfaction of the Commissioner within six months of the return of the goods to the factory:

Provided that the Central Government may, for reasons to be recorded in writing, relax the provisions of this rule for the purpose of admitting a claim for refund.

(3) The provisions of this rule shall not apply to excisable goods manufactured,-

(i) in a free trade zone and returned to a factory in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking and returned to another factory in any place in India.

97A. Goods cleared for export may be allowed to be returned to factory :-

(1) The Commissioner may allow manufactured excisable goods cleared for export under claim for rebate or in bond, but not exported for any reason, to be returned to the same or any other factory for being remade, refined, reconditioned, or subjected to other similar process in the factory, provided that-

(i) the goods are returned to the factory within one year of the date of payment of duty or within such further period or periods not exceeding six months in the aggregate as the Commissioner may, on sufficient cause being shown, permit in any particular case;

(ii) at least 48 hours notice is given to the proper officer before the goods are received into the factory;

(iii) the goods are presented, before they are taken into sk to the proper officer for inspection, and if necessary, for taking samples;

(iv) the goods are identified to the satisfaction of the Commissioner;

(v) the goods, as originally issued from the factory are not found to have been tampered with in any way, and the smallest packages meant for retail sale are intact and unopened;

(vi) the value of the goods at the time of their return to the factory is in the opinion of the Commissioner not less than the amount of

duty originally paid upon them or covered by the bond entered into by the owner under rule 13 at the time of their clearance from the factory;

Explanation.-In this clause "value" means the market value of the excisable goods and not the ex-duty value thereof;

(vii) the amount of, duty originally paid or covered by the bond is not less than rupees fifty; and

(viii) a detailed account of the returned goods, and the processes to which they are subjected after their return to the factory is kept in the factory records.

(2) (i) No refund shall, however, be admissible in respect of the duty paid-

(a) on goods which are disposed of in any manner otherwise than for production of goods of the same class;

(b) on the unmanufactured tobacco from which cigars, cheroots, cigarettes, chewing tobacco, snuff or biris, so returned to the factory have been produced.

(ii) No refund shall be paid until the processes mentioned in sub-rule (1) have been completed, and an account under clause (viii) of the proviso thereto has been rendered, to the satisfaction of the Commissioner within six months of the return of the goods to the factory:

Provided that the Central Government may, for reasons to be recorded in writing, relax the provisions of this rule for the purpose of admitting a claim for refund.

(3) Where the goods were cleared for export in bond, full duty shown on the clearance document shall be recovered if such goods are disposed of in any manner otherwise than for production of goods of the same class.

(4) After the processes mentioned in sub-rule (1) have been completed, the goods shall be cleared subject to the procedure prescribed in these rules in this regard.

(5) The provisions of this rule shall not apply to excisable goods manufactured,-

(i) in a free trade zone and returned to a factory in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking and returned to another factory in any place in India.

97B. Excisable goods exported may be allowed to be returned to the factory :-

Exported excisable goods which are re-imported for carrying out-

(a) repairs,

(b) re-conditioning,

(c) refining,

(d) re-making, or

(e) subjecting to any process similar to the process referred to in clauses (a) to (d), may be returned to the factory of manufacture for carrying out the said processes and subsequent re-export subject to such conditions and procedure as shall be prescribed by the Commissioner in this regard:

Provided that any waste or refuse arising as a result of the said process shall be destroyed or otherwise disposed of in the manner and in accordance with the conditions as may be prescribed by the Commissioner by a general or special order and thereupon the proper officer may remit the duty on such waste or refuse.

98. Goods not affixed with Central Excise Stamps and unlabelled goods removed for export may be returned to the factory :-

Where goods to which Central Excise Stamps or excise labels have not been affixed are removed for export out of India, whether under claim for rebate of duty under rule 12 or under bond, as provided in rule 13, such goods may, subject to the approval of the proper officer, be returned to the factory if for any reason they are not exported. The manufacturer shall produce to the officer at the factory the application under which the consignment was originally removed for export and if the officer is satisfied that the consignment is identical with the one described in the application, he shall permit it to be taken into the storeroom. The manufacturer shall then be entitled to refund of the duty, if any, paid on the consignment and no deduction will be made on account of any goods in the consignment which may have become unserviceable.

99. Refund of purchase price of unused or damaged Central Excise Stamps :-

(1) A manufacturer may obtain a refund of the purchase price of unused Central Excise Stamps or labels on returning them to the proper officer:

Provided that where a manufacturer ceases to manufacture goods, or a particular tariff category of goods, no refund shall be granted unless a written claim therefor is lodged with, and such Central

Excise Stamps or labels are also returned to the proper officer within three months from the date of such cessation.

(2) A manufacturer may obtain a refund of the purchase price of any Central Excise Stamps or labels accidentally rendered unfit for use or of any Central Excise Stamps torn in the course of examination under rule 72, or the test-check under rule 73, or of reconditioning as provided in rule 79, if the proper officer is satisfied that the damaged Central Excise Stamp or label has not been used previously and that in the case of Central Excise Stamps, the first figure of the number of matches printed thereon has not been damaged or torn.

(3) If any goods contained in packages to which Central Excise Stamps or labels have been affixed are proved to the satisfaction of the proper officer to have become unserviceable before they are issued from a factory, such officer may permit the packages with their contents to be destroyed under excise supervision and the manufacturer shall receive a refund of the purchase price of the Central Excise Stamps or labels so destroyed.

100. Refund of duty on sugar received for refining :-

Any manufacturer, who receives into his factory for the purpose of further refinement or manufacture, sugar on which duty has been paid, shall, on production of satisfactory evidence before the Commissioner that the duty has been paid in respect of such sugar, receive a refund of that duty:

Provided that the provisions of this rule shall not apply to sugar manufactured,-

(i) in a free trade zone and received by a factory in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking, and received by to another factory in any place in India.

1. Inserted by the Finance Act, 2010 w.e.f. 01.04.2010.

CHAPTER 5A REMOVAL FROM A FREE TRADE ZONE OR FROM A HUNDRED PER CENT EXPORT-ORIENTED UNDERTAKING OF EXCISABLE GOODS FOR HOME CONSUMPTION

100A. Application :-

(1) The provisions of this Chapter shall apply to a person permitted under any law for the time being in force to produce or manufacture excisable goods,-

- (i) within a free trade zone, and who has been permitted by the proper officer to remove such excisable goods to any other place in India on payment of duty of excise leviable thereon; or
- (ii) in a hundred per cent export-oriented undertaking, and who has been allowed by the proper officer to remove such excisable goods for being sold in India, on payment of duty of excise leviable thereon.

(2) Where there is a conflict between the provisions of this Chapter and the provisions contained in any other Chapter in relation to such excisable goods, the provisions of this Chapter shall prevail.

100B. Daily Sk Account :-

Where a manufacturer is required to maintain accounts of raw material or component parts or finished excisable goods, as the case may be, under the provisions of the Customs Act, 1962 (52 of 1962) or rules, regulations, orders or notifications made or issued thereunder, then, notwithstanding anything contained elsewhere in these rules, such accounts shall be deemed to be the accounts maintained for the purposes of these rules:

Provided that the Commissioner may require a manufacturer to provide such additional information in the said accounts or maintain such additional accounts as he may deem necessary.

100C. Maintenance of account-current :-

(1) The Commissioner may, either on a written request made by a manufacturer or on his own accord, instead of requiring payment of duty in respect of each separate consignment of excisable goods removed from a free trade zone or from a hundred per cent export-oriented undertaking, as the case may be, keep with the manufacturer of such goods an account-current of the duties payable thereon and such account shall be settled at intervals not exceeding one month, and the account holder shall periodically make deposits therein sufficient in the opinion of the Commissioner to cover the duty due on the excisable goods intended to be removed from the free trade zone or from a hundred per cent export-oriented undertaking, as the case may be: Provided that the Commissioner may allow a manufacturer who manufactures excisable goods falling under two or more Chapters of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) to maintain, subject to such conditions as the Commissioner may specify in this behalf, a single account-current for payment of duty

due on all such goods:

Provided further that where a manufacturer maintains separate account-current for each excisable goods, he may, in the event of an insufficient balance in any of the account-current, transfer, subject to such conditions as the Commissioner may specify in this behalf, an amount of such account-current from another account-current which has enough balance on the date of such transfer.

(2) Where a manufacturer keeping an account-current under sub-rule (1) makes an application to the Commissioner for withdrawing an amount from such account-current, the Commissioner may, for reasons to be recorded in writing, permit such manufacturer to withdraw the amount in accordance With such procedure as the Commissioner may specify in this behalf.

100D. Removal of goods on payment of duty :-

When a manufacturer desires to remove excisable goods,-

- (i) from a free trade zone to any other place in India; or
- (ii) from a hundred percent export-oriented undertaking to any place in India, he shall remove such goods under an invoice signed by the owner of the factory or his authorised agent:

Provided that-

- (a) such invoice shall indicate the value of goods and duty involved separately (both in words and figures);
- (b) such other particulars as may be specified by the Commissioner;
- (c) Triplicate copy of the invoice shall be forwarded to the proper officer within twenty-four hours of the removal of goods.

Form:A.R.1-A

100E. Issue of invoice :-

- (1) No excisable goods shall be removed,- (i) from a free trade zone to any other place in India; or
- (ii) from a hundred percent export-oriented undertaking to any place in India,

except in the manner specified in sub-rule (1) of rule 49 leviable on such goods and under an invoice signed by the manufacturer or his authorised agent.

(2) (a) The invoice shall be made in quadruplicate with indelible pencil, using double-sided carbon and shall contain no mutilation, overwritings, corrections, or erasures.

(b) The three copies of such invoice shall be marked as under,-

- (i) original copy for buyer;
 - (ii) duplicate copy for transporter;
 - (iii) triplicate copy for Central Excise; and
 - (iv) quadruplicate copy for the assessee.
- (c) The said original copy shall accompany the consignment to its destination and shall be produced by the carrier on demand by any Central Excise Officer while the goods are en route to its destination and through the free trade zone or from a hundred per cent export-oriented undertaking, as the case may be.
- (3) (a) If all the packages comprising a consignment are despatched in one lot at any one time, only one invoice shall be made out in respect of the consignment.
- (b) Where a consignment is split into two or more lots, each of which is despatched separately either on the same day or on different days, a separate invoice shall be made out in respect of each such lot.
- (c) In case a consignment is loaded in more than one vehicle, vessel, pack animal or other means of conveyance, which do not travel together but separately or at intervals, a separate invoice shall be made out in respect of each vehicle, vessel, pack animal or other means of conveyance.

100F. Monthly Return :-

Within ten days after the close of the month to which the return related or within such extended period as the Commissioner may allow, a manufacturer shall file with the proper officer in quadruplicate a monthly return in the proper form, in respect of the excisable goods removed, -

- (i) from a free trade zone to any other place in India; or
- (ii) from a hundred per cent export-oriented undertaking to any place in India, on payment of duty.

Form:R.T.13

100G. Restrictions on removal of goods :-

(1) No excisable goods shall be removed from a factory in a free trade zone or from hundred per cent export-oriented undertaking, to any place in India outside such zone or outside the premises of such undertaking, as the case may be, between appointed time to 12.00 (midnight) on the appointed date unless, -

- i. the assessee has obtained permission of the Commissioner under sub-rule (2) of this rule; and

ii. an application for such removal in the Form A.R.1-A specified in Appendix-I to these rules, has been presented by the assessee to the proper officer and such an application has been acknowledged by the proper officer before 5.00 P.M. on the working day immediately preceding the appointed date:

Provided that no such application for the removal of goods which may come into existence at any time after the appointed time shall be acknowledged under this clause unless the terms, conditions and limitations imposed by the Commissioner in this behalf are complied with.

(2) Where an assessee intends to remove goods from a factory or warehouse under sub-rule (1), he may make an application in this behalf in writing to the Commissioner undertaking to pay duty at the enhanced rate, if any, that may be applicable to such goods with effect from the date immediately following the appointed date and to comply with such conditions as the Commissioner may specify and thereupon the Commissioner may, if he considers it necessary or expedient in the public interest so to do, permit the removal of such goods.

Explanation. - For the purposes of this rule, "goods" include goods which may come into existence at any time after the appointed time."

100H. Exemption from certain provisions :-

(1) The provisions contained in rules 43, 44, 45, 46, 47, 52, 52A, 53, 54, 56B, 57AB, Chapter VII, Chapter VIII, rules 223A, 224, 228 and 229 shall not apply to a manufacturer who produces or manufactures excisable goods in a free trade zone.

(2) The provisions contained in rules, 43, 44, 45, 46, 47, 52, 52A, 53, 54, 56B, 57AB, Chapter VII, rules rules 223A, 224, 228 and 229 shall not apply to excisable goods produced or manufactured by a hundred per cent export-oriented undertaking.

Explanation.- For the purpose of this chapter the term "invoice" means the assessee's own document such as invoice, challans, advice or other document of similar nature generally used for the sale or removal of excisable goods.

CHAPTER 6 SALT

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102. XXX XXX XXX :-

103. XXX XXX XXX :-

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138. XXX XXX XXX :-

CHAPTER 7 WAREHOUSING

139. Warehousing provisions to apply only to goods specially notified in the Official Gazette :-

The provisions of this Chapter shall apply only to excisable goods to which they are extended by the Central Government by notification in the Official Gazette, and the provisions relating to the removal from one warehouse to another shall not apply to such goods:

Provided that the Central Government may by notification in the Official Gazette direct that the provisions relating to the removal from one warehouse to another shall extend to such goods subject to such limitations and conditions as may be specified therein.

140. Appointment and registration of warehouses :-

(1) The Commissioner shall, by order in writing, from time to time, approve and appoint public warehouses and may in like manner register private warehouses for the storage of excisable goods on which duty has not been paid, and may direct in what parts or divisions of such warehouses, and in what manner and on what terms, such goods may be stored and how and in what manner such warehouses, or parts or divisions thereof, shall be secured by locks, fastenings or otherwise. The Commissioner may revoke his approval of a warehouse; and upon such revocation all goods warehoused therein must be removed as the Commissioner directs, and no abatement of duty or allowance shall be made in respect of any such goods for deficiency of quantity, strength or quality after notice of the revocation has been given to the proprietor or

occupier of the warehouse.

(2) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by a general or special order, declare any premises or group of premises to be a refinery, either permanently or for a specified period, and on such declaration, such refinery shall be deemed to be a warehouse appointed or registered under sub-rule (1) and the provisions of this Chapter shall apply in relation to the goods processed or manufactured in such refinery as they apply in relation to the goods stored in a warehouse appointed or registered under sub-rule (1).

Form:D.D.2

141. Receipt of goods at warehouse :-

All goods brought for warehousing shall be produced to the officer-in-charge of the warehouse together with the relative transport permit or certificate and shall be weighed, measured or gauged in his presence, and assessed to duty prior to entry into the warehouse; and the quantity and description of the goods, the marks and numbers of the packages, the number and date of the permit or certificate and the amount of duty leviable thereon shall be noted in the warehouse register. All goods received into a warehouse shall be kept separate from other goods until the receipt account has been taken by the officer.

142. XXX XXX XXX :-

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143. Owners power to deal with warehoused goods :-

With the sanction of the proper officer and in accordance with such instructions as the Commissioner may, from time to time, issue in writing in this behalf, any owner of goods lodged in a warehouse may sort, separate, pack and repack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof. After the goods have been so separated and repacked in such manner as may be ordered by the Commissioner, the proper officer may, at the owners request, cause or permit any refuse or damaged goods remaining after such repacking to be destroyed subject to such limitations as the Commissioner may from time to time impose, and may remit the duty assessed thereon.

143A. Special provisions with respect to goods processed and manufactured in refineries :-

With the sanction of the proper officer and in accordance with such instructions as the Commissioner may, from time to time, issue in writing in this behalf, the owner of the goods processed or manufactured in a refinery, declared under sub-rule (2) of rule 140, may blend or treat or make such alterations or conduct such further manufacturing processes in the aforesaid goods in such manner and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify.

144. Goods not to be taken out of warehouse except as provided by these rules :-

No goods shall be removed from any warehouse except as on payment of duty or, where so permitted by the Central Government by notification in this behalf, for removal to another warehouse or for export, from India and on presentation of the written application prescribed in rule 158 or in rule 185, as the case may be.

Owner of goods may take samples.- Provided that, subject to such conditions and limitations as the Commissioner may impose the owner may remove samples sufficient to enable him to conduct his business. Such samples shall be duly ticketed and certified by an officer and shall be entered in the warehouse register and included in the total quantity of such goods liable to duty when an account of the sk in the warehouse is taken as prescribed in rule 223A and duty shall be levied thereon when such account is taken and not at the time of removal of the samples from the warehouse.

Form:D.D.2

145. Period for which goods may remain warehoused :-

Any goods warehoused may be left in the warehouse in which they are deposited, or in any warehouse to which such goods may, in manner hereinafter provided, be removed, till the expiry of three years, from the date on which such goods were first warehoused. The owner of any such goods remaining in a warehouse on the expiry of such period shall clear the same either for home consumption after payment of duty in the manner provided in rule 157, or for exportation in bond in the manner laid down in rule 13 or rule 14:

Provided that in the case of tobacco this rule shall have effect as if for the words "three years" the words "two years" were substituted: Provided further that if the goods (other than tobacco) have not deteriorated and the Commissioner on sufficient cause being shown is satisfied about the condition of the goods and the genuineness of the reasons advanced for claiming extension, he may-

(a) permit such goods to remain in any warehouse for a further period not exceeding one year, in extension of the period of three years referred to in this rule;

(b) permit such goods to remain warehoused in such warehouse for a further period not exceeding one year in addition to the extension granted under clause (a) of this proviso:

Provided also that in the case of tobacco if the goods have not deteriorated and on sufficient cause being shown, the Commissioner may, if he is satisfied about the condition of the goods and the genuineness of the reasons advanced for claiming extension,-

(a) permit such goods to remain in any warehouse for a further period not exceeding one year, beyond the period of two years referred to in this rule;

(b) in the case of flue-cured tobacco, permit such goods to remain warehoused in such warehouse for such further period as may be specified by him in addition to the extension granted under clause (a) of this proviso:

Provided further that if the said period of three years or two years, as the case may be, or such extended period as may have been allowed under the aforesaid provisos to this rule expires at any time during which the Central Government have imposed quantitative restrictions on the clearance of excisable goods from a warehouse for home consumption, the restrictions on removal of goods laid down in sub-rule (3) of rule 224 shall apply to the clearance of such goods in the same manner and to the same extent as they apply to all other goods in the warehouse, and any quantity of such goods remaining uncleared at the end of the period of restriction shall be cleared on the day immediately following the date of expiry of such period and where any such goods are not likely to deteriorate the Central Board of Excise and Customs may, on application, permit the goods to remain for such extended period as it may specify if it is satisfied that the period allowed by the Commissioner under the aforesaid provisions is inadequate under the circumstances of the case.

145A. Goods in private warehouse to be cleared on cancellation of Registration Certificate :-

Notwithstanding anything contained in rule 145, when the Registration Certificate for any private warehouse is cancelled, and the registration authority gives notice of such cancellation to the registered person of such warehouse, the registered person shall in manner hereinafter provided and within fourteen days from the date on which such notice is given or such extended time as the registration authority may in his discretion allow, remove such goods to a public warehouse, or sell them to the registered person of another private warehouse, or clear them for home consumption after payment of duty in the manner provided in rule 157, or export them in bond as provided in rule 13 or rule 14.

146. Mode of calculating quantity of goods warehoused :-

The quantity of goods contained in any package warehoused may be calculated by weight, measure, gauge, or in such other manner as the Central Board of Excise and Customs may direct.

147. Power to remit duty on warehoused goods lost or destroyed :-

If any goods lodged in a warehouse are lost or destroyed by unavoidable accident, the Commissioner may in his discretion remit the duty due thereon:

Provided that if any goods be so lost or destroyed in a private warehouse, notice thereof shall be given to the officer-in-charge of the warehouse within forty-eight hours after the discovery of such loss or destruction.

148. Responsibility of warehouse-keeper :-

The warehouse-keeper in respect of goods lodged in a public warehouse, and the registered person of the warehouse, in respect of goods lodged in a private warehouse, shall be responsible for their due reception thereon and delivery therefrom and for their safe custody while deposited therein, according to the quantity or weight reported by the officer who has assessed the goods, allowance being made, if necessary, for wastage and losses as provided in rule 223A.

Compensation for loss or damage.- Provided that no owner of goods

shall be entitled to claim from the Commissioner, or from any keeper of a public warehouse, compensation for any loss or damage occurring to the goods while they are being passed into or out of such warehouse, unless it is proved that such loss or damage was occasioned by the wilful act or neglect of the warehouse-keeper or of an officer.

149. Destruction of unusable material, waste and other refuse :-

Every owner of the goods stored in a warehouse who wishes to claim immunity from duty in respect of any goods unfit for consumption or manufacture shall destroy them in the presence of an officer or shall show to the satisfaction of the officer that they are being applied to some purpose which render them eligible for remission of duty.

150. Excisable goods may be lodged in Customs bonded warehouse under certain conditions :-

(1) Subject to such terms, conditions and limitations as the Central Board of Excise and Customs may, from time to time, make in this behalf, excisable goods of any description may be warehoused in any Customs warehouse approved by the Commissioner for the purpose.

(2) All the powers, provisions and penalties, contained in or imposed by these rules, as to warehousing, custody and delivery out of warehouse of excisable goods, and as to any deficiencies therein or allowance thereon, shall, where applicable, be observed, applied, enforced and put into execution with reference to such goods warehoused in Customs warehouses.

151. XXX XXX XXX :-

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152. Goods may be removed from one warehouse to another :-

(1) Subject to the limitation imposed by rule 139, any goods warehoused under these rules may at any time within the period during which such goods can be left, or are permitted to remain in a warehouse under rule 145, may be removed from one warehouse to another subject to the observance of the procedure hereinafter

prescribed.

(2) For the purpose of such procedure-

(a) "consignor" shall be deemed to be -

(i) if the goods are to be removed from a public warehouse, the owner of such goods;

(ii) if the goods are to be removed from a private warehouse, the Registered person of such warehouse;

(b) "consignee" shall be deemed to be-

(i) if the goods are to be removed to a public warehouse, the owner of such goods;

(ii) if the goods are to be removed to a private warehouse, the Registered person of such warehouse.

153. XXX XXX XXX :-

154. XXX XXX XXX :-

155. XXX XXX XXX :-

156. Certificate regarding consignee to be produced :-

Along with his application for the removal of the goods, the consignor shall produce before the proper officer a certificate in the proper Form stating the particulars of the Central Excise licences held by the consignee.

Form:C.T.1

156A. Procedure in respect of goods removed from one warehouse to another :-

(1) The application for removal of goods from one warehouse to another shall be presented by the consignor in triplicate, and in the proper Form, to the officer-in-charge of the warehouse of removal, at least 24 hours before the intended removal, together with such other information as the Commissioner may by general or special order require.

(2) Such officer shall then take account of the goods, and after completing the removal certificate on all the copies of the application, shall send the duplicate to the officer-in-charge of the warehouse of destination, and hand over the triplicate to the consignor for despatch to the consignee. He shall also deliver to the consignor a transport permit in the proper Form.

(3) On arrival of the goods at the warehouse of destination, the consignee shall present them together with the triplicate application

and the transport permit to the officer-in-charge of such warehouse, who shall, after taking account of the goods, complete the rewarehousing certificate on the duplicate and the triplicate application, return the duplicate to the officer-in-charge of the warehouse of removal, and triplicate to the consignee for despatch to the consignor.

(4) The consignor shall present the triplicate application duly endorsed with such certificate to the officer-in-charge of the warehouse of removal within ninety days of the date of issue of the transport permit under sub-rule (2).

Form:A.R.3

Form:T.P.2

156B. Failure to present triplicate application :-

(1) If the consignor fails to present the triplicate application to the officer-in-charge of the warehouse of removal in the manner laid down in sub-rule (4) of rule 156A, and the duplicate application endorsed with the rewarehousing certificate has also not been received by such officer from the officer-in-charge of the warehouse of destination, the consignor shall, upon a written demand being made by the former officer, pay the duty leviable on such goods within ten days of the notice of demand and if the duty is not so paid he shall not be permitted to make fresh removals of any warehoused goods from one warehouse to another until the duty is paid or until the triplicate application is so presented or the duplicate application is so received.

(2) Where such duty has been paid, it shall be refunded to the consignor either on his presentation of the triplicate application to or on the receipt of the duplicate application by the officer at the warehouse of removal, duly endorsed, as provided in sub-rule (3) of rule 156A, with a certificate by the officer-in-charge of the warehouse of destination that the goods covered by the application have been satisfactorily rewarehoused.

Form:D.D.2

Removal of goods from a warehouse

157. Clearance of goods for home consumption :-

Any owner of goods warehoused may, at any time within the period during which such goods can be left or are permitted to remain in a warehouse under rule 145 clear the goods for home consumption by paying-

(a) the duty thereon assessed prior to entry or re-assessed under rule 159; and

(b) all rent, penalties, interest and other charges payable in respect of such goods.

The goods shall then be assessed and cleared in the manner described in rule 52.

158. Form of application for clearance of goods :-

Applications to clear goods from a warehouse on payment of duty or for transfer to another warehouse or for export from India shall be in the proper Form, or in such modified reproduction of such Form as the Commissioner may in any particular case allow, and shall be delivered to the officer-in-charge of the warehouse at least twenty-four hours before it is intended to remove the goods.

Form:A.R.1

Form:A.R.3

Form:A.R.4

159. Re-assessment :-

(1) If, after any goods are entered for warehousing-

(a) any alteration is made in the rate of duty leviable thereon, or in the tariff valuation (if any) applicable thereto, or

(b) the goods are sorted, separated, crushed, or subjected to any other process which causes the goods or any part thereof to become liable to duty at a rate other than that at which they were assessed on entry into the warehouse, the goods shall be re-assessed in accordance with such alteration.

(2) Where the rate of duty leviable upon any goods is determined by the use to which the goods are to be put after clearance from the warehouse, the goods shall be re-assessed to duty at such rate if such rate be different from the rate at which goods were assessed to duty when they were received in the warehouse.

160. If goods are improperly removed from warehouse or allowed to remain beyond time fixed, or lost, or destroyed, Commissioner may demand duty, etc :-

If any goods are removed from the warehouse without permission, or if any goods are not removed from the warehouse within the period during which such goods can be left or are permitted to remain in a warehouse under rule 145, or if any goods are lost or

destroyed otherwise than as provided in rules 143,147 or 149, or are not accounted for to the satisfaction of the proper officer, that officer may thereupon demand and the owner of the goods shall forthwith pay, the full amount of duty chargeable thereon, together with all rent, penalties, interest and other charges payable on account of the goods.

Form:D.D.2

161. Procedure on failure to pay duty, etc :-

(1) If any owner fails to pay any sum demanded under rule 160, the proper officer shall forthwith cause the goods (if any) in the warehouse or, as the case may be, such portion thereof, on account of which the amount is due, to be detained with a view to the recovery of the demand, and if the demand be not discharged within ten days from the date of such detention due notice thereof being given to the owner (if his address be known) the goods so detained may be sold by public auction duly advertised in the Official Gazette, or in such other manner as the Central Board of Excise and Customs may in any particular case direct.

(2) The sum demanded under rule 160 and the expenses (if any) incurred on account of the public auction of the goods shall be defrayed from the proceeds of the sale and the surplus proceeds (if any) shall be paid to the owner of the goods:

Provided that application for the same shall be made within one year from the sale, or that sufficient cause be shown for not making the application within that period.

162. Noting removal of goods :-

When any goods are taken out of any warehouse, the proper officer shall cause the fact to be noted in the warehouse register.

(2) Every note so made shall specify the quantity and description of the goods, the marks and numbers of the packages, the name of the person removing them, the number and date of the application for clearance and the amount of duty paid (if any).

162A. XXX XXX XXX :-

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Public Warehouses

163. Warrant to be given when goods are lodged in a public warehouse :-

The owner of goods, which are to be deposited in a public warehouse shall, after they have been duly assessed to duty as provided in rule 141, deliver the goods to the keeper of the warehouse and the latter shall, after comparing the packages with the description entered in the warehouse register, grant him a warrant in the proper Form.

Form:W1

164. Owner of goods to pay such dues when demanded :-

The owner of goods, who has deposited the goods in a public warehouse, shall,-

(a) pay, on demand, all duties, rent and charges claimable on account of such goods under the Act or these rules, together with interest on the same from the date of demand, at such rate not exceeding six per cent per annum as may for the time being be fixed by the Central Board of Excise and Customs;

(b) discharge all penalties imposed for contravention of the provisions of the Act or these rules in respect of such goods.

Form:D.D.2

165. Access of owner to warehoused goods :-

(1) Any owner of goods lodged in a public warehouse shall, at any time within the hours of business, have access to his goods in the presence of an officer and an officer shall, upon application for the purpose being made in writing to the proper officer be deputed to accompany such owner.

(2) When an officer is specially employed to accompany such owner a sum sufficient to meet the expense thereby incurred shall, if the Commissioner so require, be paid by such owner to the proper officer, and such sum shall, if the Commissioner so directs, be paid in advance.

166. Keeper of public warehouse solely responsible for safety of goods stored therein :-

The keeper of a public warehouse shall be alone responsible to the proprietor of any goods warehoused therein for the safety of the goods.

167. Payment of rent and warehouse dues :-

(1) The owner of goods lodged in a public warehouse shall pay monthly, on receiving a bill or written demand for the same from the proper officer, rent and warehouse dues at such rates as the Commissioner may fix.

(2) A table of rates of rent and warehouse dues so fixed shall be placed in a conspicuous part of the warehouse.

(3) If any bill for rent or warehouse dues presented under this rule is not discharged within ten days from the date of presentation, the proper officer may, in the discharge of such demand, cause to be sold by public auction after due notice in the Official Gazette, or in such other manner as the Central Board of Excise and Customs may in any particular case direct, such sufficient portion of the goods as he may select.

(4) Out of the net proceeds of such sale, the proper officer shall first satisfy the demand for the discharge of which the sale was ordered and shall then pay over the surplus (if any) to the owner of the goods:

Provided that application for such surplus be made within one year from the date of sale of the goods or that sufficient cause be shown for not making it within such period.

168. Keeper of public warehouse to keep record of all entries into, operations in, and removals from his warehouse :-

The public warehouse-keeper shall maintain proper records of all entries into, operations in, and removals of goods from his warehouse indicating among other particulars, the quantity, value, rate and amount of duty, marks and numbers, as the case may be, in regard to such receipts, manufacture or any other processing as are carried on the goods received including re-packing, storage, and delivery of the goods.

169. Public warehouse to be locked :-

Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Commissioner.

170. Expenses of carriage, packing, etc., to be borne by owner :-

The expenses of carriage, packing and storage of such goods on their reception into or removal from a public warehouse shall, if

paid by the proper officer or the warehouse keeper, be chargeable on the goods and be defrayed by and recoverable from the owner in the manner prescribed in rule 167.

Private Warehouses

171. Wholesale dealer in excisable goods may receive such goods into a private warehouse without payment of duty :-

Notwithstanding the provisions of rule 40, any wholesale dealer in excisable goods who is also the Registered person of an approved warehouse may receive into such warehouse, goods on which duty has not been paid provided that such goods are covered by a valid permit in the proper Form granted by an officer, or by a certificate in the proper Form signed by a registered curer, or by such wholesale dealer or by his broker or commission agent, and are duly assessed to duty as provided in rule 141:

Provided further that such wholesale dealer shall not receive into the warehouse any unmanufactured products which do not belong to him, unless he is also the holder of Registration Certificate granted under these rules to act as a broker or commission agent in respect of such products.

172. Private warehouses to contain only goods belonging to warehouse owner or held by him as a broker or a commission agent and only goods on which duty has not been paid :-

A private warehouse shall be used solely for warehousing excisable goods belonging to the Registered person himself, or held by him as a broker or a commission agent; and the Registered person shall not admit to or retain in the warehouse any goods on which duty had been paid:

Provided that, where the goods are held by a broker or commission agent, he shall be deemed to be the owner of such goods for all the purposes of these rules in so far as they relate to warehousing of goods in a private warehouse.

173. Registered person of private warehouse to keep record of all entries into, operations in, and removals from his warehouse :-

Every registered person of a private warehouse shall maintain

proper records of all entries into, operations in, and removals of goods from his warehouse indicating among other particular, the quantity, value, rate and amount of duty, marks and numbers, as the case may be, in regard to such receipts, manufacture or any other processing as are carried on the goods received including repacking, storage, and the delivery of the goods.

CHAPTER 7A REMOVAL OF EXCISABLE GOODS ON DETERMINATION OF DUTY BY PRODUCERS, MANUFACTURERS OR PRIVATE WAREHOUSE LICENSEES

173A. Application :-

(1) Except as hereinafter provided, the provisions of this Chapter shall apply to such excisable goods as the Central Government may, by notification in the Official Gazette, specify in this behalf, and where there is a conflict between the provisions of this Chapter and the provisions contained in any other Chapter, in relation to such excisable goods, the provisions of this Chapter shall prevail:

Provided that from amongst the excisable goods as are specified under this sub-rule, the Central Government may, by notification in the Official Gazette, declare certain excisable goods as declared excisable goods and the provisions of this Chapter shall, subject to such modifications as are indicated in relation to such declared goods in any rule under this Chapter, apply.

Explanation.-The expression declared excisable goods, wherever it occurs, in this Chapter means the goods declared under this proviso.

(2) Nothing in this Chapter shall apply to a manufacturer or producer who has been allowed to discharge his duty liability in accordance with the provisions contained in section C-1, E-III, E-VI or E-IX of Chapter V or to whom the provisions of Chapter V-A apply.

173B. . :-

to file declaration of goods produced or manufactured in the factory.--

(1) Every assesses, shall file with the Superintendent of Central Excise, having jurisdiction over the factory, a declaration (in quadruplicate) showing,-

(a) the full description of-

(i) all excisable goods produced or manufactured by him,

(ii) all other goods produced or manufactured by him and intended

to be removed from his factory, and

(iii) all the excisable goods already deposited or likely to be deposited from time to time without payment of duty in his warehouse;

(b) the Chapter, heading No. and sub-heading No., if any, of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) under which each goods fall;

(c) the rate of duty leviable on each such goods;

(d) the exemption notification availed or proposed to be availed, if any; and

(e) such other particulars as the Commissioner may direct, and obtain a dated acknowledgement of the said declaration:

Provided that such declaration shall be filed on or before the 15th May, 1995 or such extended period as the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise may permit:

Provided further that an assessee producing or manufacturing excisable goods for the first time shall be required to submit the said declaration within thirty days of commencing the production of such excisable goods.

(2) If in the declaration so filed under sub-rule (1), any alteration becomes necessary in respect of any goods because of-

(a) the assessee commencing production, manufacture or warehousing of goods not mentioned in that declaration, or

(b) the assessee intending to remove from his factory any non-excisable goods not mentioned in that declaration, or

(c) a change in the rate or rates of duty in respect of the goods mentioned in that declaration or, by reason of any amendment to the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), a change in the Chapter, heading No. or sub-heading No. the assessee shall likewise file a fresh declaration or an amendment of the declaration already filed within thirty days of any alteration mentioned above, in the same manner as is provided in sub-rule (1).

(3) The proper officer, duly empowered by the Central Government under section 14 of the Act, may, where he considers it necessary during the course of any enquiry in connection with the declaration filed under sub-rule (1) by an assessee,-

(a) require any person to produce or deliver any document or thing relevant to the enquiry; and

(b) examine any person acquainted with the facts and circumstances of the particulars given in the declaration or other

records, in the manner provided in section 14 of the Act.

(4) The proper officer may after such further enquiry as he may consider necessary, reassess the correct amount of duty payable following the provisions of section 11A of the Act and the assessee shall pay the deficiency, if any.

173C. Procedure regarding valuation of goods assessable ad valorem :-

(1) Every assessee who produces, manufactures or warehouses goods which are chargeable with duty at a rate dependent on the value of the goods and removes or clears such goods as provided in rules 9, 49, 144, 152 and 157, shall declare the value under section 4 of the Act of such goods in the documents such as sales invoice, invoice-cum-challan or like documents used by him for sale or removal of goods

Provided that-

(i) such documents shall indicate separately the value of goods under section 4 of the Act and the duty paid as provided under section 12A of the Act;

(ii) that such documents also contain a declaration of the price;

(iii) that such documents also indicate, wherever applicable, individually the central excise duty, other taxes, all discounts and other consideration if any, for the difference between the price and the value of the goods under section 4 of the Act;

(iv) that such documents also indicate the date and time of removal of the goods:

Provided further that where an assessee,-

(i) sells goods to or through related persons as defined in section 4 of the Act; or

(ii) uses such goods for manufacture or production of other goods in his factory; or

(iii) removes such goods for free distribution; or

(iv) removes such goods in any other manner which does not involve sale; or

(v) removes goods of the same kind and quality from his factories located in the jurisdiction of different Commissioners of Central Excise or Assistant Commissioners of Central Excise or Deputy Commissioner of Central Excise he shall file, with the proper officer a declaration, in such form and in such manner and at such interval as the Central Board of Excise and Customs or Commissioner of Central Excise may require, declaring the value of the goods under

section 4 of the Act, the duty and other elements constituting the price of such goods along with such other particulars as the Central Board of Excise and Customs or the Commissioner of Central Excise may specify.

(2) The assessee shall certify in each such document that the amount indicated in such document represents the price actually charged by him and that there is no additional consideration flowing directly or indirectly from such sales over and above what has been declared.

(2A) Every assessee who produces, manufactures or warehouses goods notified under Section 4A of the Act shall file with the proper officer a declaration in such form and in such manner and at such interval as the Central Board of Excise and Customs may specify, declaring the retail sale price of such goods, amount of abatement, if any on such sale price and such other particulars as may be specified by the said Board.

(3) The proper officer, duly empowered by the Central Government under section 14 of the Act, may, where he considers it necessary during the course of any enquiry in connection with the declaration made in the documents referred to in sub-rule (1) or sub-rule (2A) by an assessee,-

(a) require any person to produce or deliver any document or thing relevant to the enquiry ; and

(b) examine any person acquainted with the facts and circumstances of the particulars declared in such documents or other records, in the manner provided in section 14 of the Act.

(3A) The assessee shall declare to the proper officer his marketing pattern, discount structure and such other particulars in such form and in such manner and at such intervals as the Central Board of Excise and Customs or Commissioner of Central Excise may require.

(4) The proper officer may after such further enquiry as he may consider, reassess following the provisions of section 11A of the Act and the assessee shall pay the deficiency, if any.

173CC. XXX XXX XXX :-

[***]

173D. XXX XXX XXXX :-

[***]

173E. Determination of normal production :-

(1) Any officer duly empowered by the Commissioner in this behalf may fix the quantum and period of time when the production in the assessee's factory was considered normal by such officer having regard to the installed capacity of the factory, raw material utilisation, labour employed, power consumed and such other relevant factors as he may deem appropriate. The normal quantum of production during a given time so determined by such officer shall form the norm. The assessee shall, if so required by the said officer, be called upon to explain any shortfall in production during any time, as compared to the norm. If the shortfall is not accounted for to the satisfaction of the said officer, he may assess the duty due thereon to the best of his judgment, after giving the assessee a reasonable opportunity of being heard.

(2) The officer empowered as aforesaid may revise the norm as determined by him at any time, if after such further inquiry as he may consider necessary, he has reason to believe that any factor affecting the production of factory, has undergone a material change:

Provided that the norm as determined by the officer empowered as aforesaid shall not be revised to the disadvantage of the assessee unless such assessee has been given a reasonable opportunity of being heard.

173F. Assessee to determine the duty due on the goods and to remove them on payment thereof :-

Where the assessee has complied with the provisions of rules 173B, 173D, and, where applicable, 173C, he shall himself assess the duty due on the excisable goods intended to be removed and shall not, except as otherwise expressly provided in these rules, remove such goods unless he has paid the duty so determined.

173FF. XXX XXX XXX :-

[***]

173G. Procedure to be followed by the assessee :-

(I) (a) Every manufacturer, other than a manufacturer who is availing of the exemption under a notification based on the value of clearances in a financial year, shall discharge his duty liability in respect of clearances of excisable goods from the place or premises

specified under rule 9 or from a store room or other place of storage approved by the Commissioner under rule 47 made :

- i. during the first fortnight of the month, by the twentieth day of that month;
- ii. during the second fortnight of the month, other than the month of March, by the fifth day of the succeeding month, and
- iii. during the second fortnight of March, by the 31st day of the said March

(a a) Every manufacturer availing of the exemption under a notification based on the value of clearances in the financial year shall discharge his duty liability in respect of clearances made during a calendar month, by the 15th day of the succeeding month. Explanation - For removal of doubts, it is hereby clarified that the duty liability under clause (a) or clause (aa) shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the date specified.

b. the manufacturer shall maintain an account current with the Commissioner and shall discharge his duty liability by debiting such account-current or by utilising CENVAT credit, in the following manner:

- i. the manufacturer shall assess the duty due on the excisable goods intended to be removed, for each consignment and shall enter the particulars of such consignments in daily sk account maintained under rule 53;
- ii. the manufacturer shall indicate on each invoice, issued under rule 52A, the amount of duty payable.
- iii. at the end of each fortnight, the manufacturer shall determine the total amount of excise duty payable on the excisable goods removed during the fortnight, and he shall discharge the total duty liability so payable by making debit entry in the account current or by utilising CENVAT credit, as the case may be

c. The duty of excise shall be deemed to have been paid, for the purpose of these rules, on excisable goods removed in the manner prescribed in this sub-rule, and credit of such duty, as may be prescribed, under any rule, will be permissible.

d. If the manufacturer fails to pay the amount of duty payable by the due date, he shall be liable to pay the outstanding amount along with interest at the rate of twenty four per cent. Per annum on the outstanding amount, for the period starting with the first day after due date till the date of actual payment of the outstanding amount.

e. If the manufacturer defaults on account of any of the following

reasons, namely:-

- i. full payment of any one installment is discharged beyond a period of thirty days from the date on which the installment was due in a financial year, or
- ii. the due date on which full payment of installments are to be made is violated for the third time in a financial whether in succession or otherwise,

then the manufacturer shall forfeit the facility to pay the dues in installments under this sub-rule for a period of two months, starting from the date of communication of an order passed by the proper officer in this regard or till such date on which all the dues are paid, whichever is later and during this period the manufacturer shall be required to pay excise duty for each consignment by debit to the account current referred to in clause (b) and in the event of any such failure it will be deemed as if such goods have been cleared without payment of duty and the consequences and penalties as provided in the Central Excise Rules shall follow."

(1A) Where an assessee keeping an account-current under sub-rule (1) makes an application to the Commissioner for withdrawing an amount from such account-current, the Commissioner may, for reasons to be recorded in writing, permit such assessee to withdraw the amount in accordance with such procedure as the Commissioner may specify in this behalf.

(2) Notwithstanding the provisions of sub-rule (1) of rule 224 but subject to the other provisions of that rule and the provisions of rule 173FF, every assessee shall except as otherwise expressly provided in these rules, forthwith remove the goods on which duty has been determined and paid; every such removal shall take place under an invoice or invoices in accordance with the provisions of rule 52A but without the proper officers counter-signature, and such invoice or invoices shall also show the rate and the amount of duty paid on such goods and the time of actual removal of the goods from the factory:

Provided that-

- (i) a single invoice may be issued at the end of the factory day to cover removal of goods consumed within the factory in a continuous process;
- (ii) the Commissioner may, having regard to the nature of the goods manufactured or frequency of removals permit an assessee or a class of assessees not to enter the rate and/or the amount of duty on the invoices under which such goods are removed from the factory;

(iii) [Omitted]

(iv) in respect of removal of any excisable goods between appointed time and 12.00 (midnight) on the appointed date, the provisions of sub-rule (1) of rule 224 shall apply;

(v) [Omitted]

(vi) where any correction, other than one relating to the date or the time of removal of goods or to the description of the goods (including the variety of goods, the number and description of packages and the identification marks thereon), becomes necessary in any invoice before removal of the goods, such correction may be made by the assessee provided this is done neatly and over his dated signature in all copies of the invoice; and

(vii) where the assessee, after he has debited the duty due on the goods in the account-current referred to in sub-rule (1), finds it necessary to cancel any invoice, he shall send an intimation thereof in writing to the proper officer not later than the working day next following the day on which such invoice is cancelled, and may thereupon take credit of the duty in that account.

(2A) Every assessee shall file with the proper officer the triplicate copies of the invoices or like documents issued,

(a) during first ten days of a month, on or before the twelfth day of the same month;

(b) during the next ten days of the month, on or before the twenty-second day of the same month; and

(c) during the remaining days of that month, on or before the fifth day of the following month,

along with a covering list showing the serial number of such invoices as well as opening balance, credit, debit and closing balance in his account-current and in his account maintained in form R.G. 23A, Part II and form R.G. 23C Part II.

Provided that an assessee availing of the exemption under a notification based on the value or quantity of clearances in a financial year, shall file with the proper officer the triplicate copies of the invoices or like documents issued during a quarter, on or before the fifth day of the following quarter along with a covering list showing the said number of such invoices as well as opening balance, credit, debit and closing balance in his account current and in his account maintained in Form RG 23A, Part II and Form RG 23C Part-11.

(3) Within ten days after the close of each month every assessee shall, in lieu of the returns prescribed under rule 54, file with the proper officer in quintuplicate a monthly return in the proper Form

showing the quantity of excisable goods manufactured or received under bond during the month, the quantity (if any) used within the factory for the manufacture of another commodity, the quantity removed on payment of duty from the place or premises specified under rule 9 or from the store-room or other place of storage approved by the Commissioner under rule 47, duty paid on such quantity, particulars of invoices or like documents under which such quantity was removed, the quantity removed without payment of duty for export or otherwise and such other particulars as may be elsewhere prescribed or as the Commissioner may, by general or special order, require, and where so required by the Commissioner, by written notice, shall submit a similar return in the proper Form showing all the other products manufactured in and issued from the factory during the same month. Every such return in respect of excisable goods shall be accompanied by-

(a) [Omitted]

(b) receipted treasury challans on which deposits in the account-current were made by payment into the Government treasury; and

(c) original and duplicate copies of the account-current and also of the account in form R.G.23, and RG 23C, as the case may be, maintained by the assessee during the period covered by the return;

(d) any other document or documents as the Commissioner may require,

and if there was no sk, production and removal of excisable goods during the said period the assessee shall file with the proper officer a nil return, unless otherwise directed by the Commissioner:

Provided that the Commissioner may, having regard to the nature, variety and extent of production or manufacture or frequency of removals-

(i) fix in relation to any assessee or class of assessee a period shorter than one month for filing the aforesaid return;

(ii) permit that the aforesaid return may be filed by the assessee within a period not exceeding 21 days after the close of each month.

(4) (a) Every assessee shall maintain such accounts, as the Commissioner may from time to time require or permit, subject to such conditions as may be specified by him of the production, manufacture, storage, delivery or disposal of the goods, including the materials received for or consumed in the manufacture of excisable goods or other goods, the goods and materials in sk with him and duty determined and paid by him.

(b) Unless specially exempted by the Commissioner by order in writing, all books of accounts maintained under clause (a) shall be sent by him, before these are brought into use, for authentication by the proper officer in such manner and at such time as the Commissioner may direct.

(c) In respect of any assessee, or class of assessees, the Commissioner may direct that all books of accounts maintained under clause (a), subject to what has been stated in clause (b), shall be deemed to be the proper form for the respective purpose.

(5) (a) Every assessee shall furnish to the proper officer, a list in duplicate, of all the records prepared or maintained by him for accounting of transactions in regard to receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and capital goods.

Explanation. - For the purposes of this rule, -

(i) the expression records shall include account, agreement, invoice, price-list, return, statement or any other source document, whether in writing or in any other form;

(ii) the expression source documents means all documents which form the basis of accounting of transactions and include sales invoice, purchase invoice, journal voucher, delivery challan and debit or credit note.

(b) Where an assessee maintains or generates such records by using computer, such assessee shall submit the following information to the proper officer, namely: -

(i) documentation including policy and procedure manuals, instructions to record the flow and treatment of transactions through accounting system, from the stage of initiation to closure and storage;

(ii) account of the audit trail and inter-linkages including the source document, whether paper or electronic, and the financial accounts; and

(iii) record layout, data dictionary and explanation for codes used and total number of records in each field along with sample copies of documents. Whenever changes are made in the systems adopted by the assessee, he shall inform the proper officer and submit the relevant document.

(c) The assessee shall be responsible for keeping, maintaining, retaining, and safeguarding records.

(6) (a) Every assessee shall, on demand make available to the Central Excise Officer or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, -

- (i) the records maintained or prepared by him in terms of clause (a) of sub-rule (5);
- (ii) the cost audit reports, if any, under section 233B of the Companies Act, 1956; and
- (iii) the Income-tax audit report, if any, under section 44AB of Income-tax Act, 1961, for the scrutiny of the officer or audit party, as the case may be.
- (b) Every assessee who is having more than one factory and maintains separate records in respect of every factory for the purpose of audit then, he shall produce the said records for audit purposes.
- (c) Where the Commissioner or the Comptroller and Auditor General of India decide to undertake the audit of the records of any assessee, the said assessee shall be given notice thereof at least fifteen days before the commencement of such audit. The audit party deputed for the purpose shall also call for in writing the records, which are required to be produced by the assessee, either before or during the course of audit.
- (d) Every assessee, who maintains or generates his records by using computer, shall provide the required records in the form of tapes or floppies or cartridges or compact disk or any other media in an electronically readable format as prescribed by the Commissioner at the time of audit. The copies of records, so furnished, shall be duly authenticated by the assessee.
- (e) All records submitted to audit party in electronic format shall be used only for verification of payment of duties of excise or for verification of compliance of the provisions of the Central Excise Act, 1944 or the rules made thereunder and shall not be used for any other purpose without the written consent of the assessee.
- (7) Notwithstanding the provisions of sub-rules (1) and (3), an assessee manufacturing excisable goods specified in this behalf by the Central Government by notification in the Official Gazette, whose duty liability in the preceding financial year did not exceed five hundred rupees or who being a new assessee does not expect to be liable to pay more than five hundred rupees as duty in the relevant financial year, may, after informing the proper officer in writing, pay duty in respect of each separate consignment at the time of removal instead of keeping an account-current with the Commissioner, and may also file the return prescribed in sub-rule (3) for a quarter within seven days after the close of every quarter instead of filing the monthly return.
- (8) In respect of a manufacturer availing of the exemption under a

notification based on the value or quantity of clearances in a financial year, the provisions of this rule shall have effect in that financial year as if for the word "month", wherever it occurs, the word "quarter", and for the word "monthly", wherever it occurs, the word "quarterly" were substituted.

(9) Every assessee shall preserve the records including book of accounts, and source documents and data in any electronic media, where any document is generated on computer, for five financial years immediately after the financial year to which the records pertain.

Form:R.T.12

173GG. XXX XXX XXX :-

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173H. Retention in, or bringing into, a factory or warehouse, of duty paid goods :-

(1) Except as hereinafter provided, no excisable goods or parts thereof on which duty has been paid shall be brought into, or retained in, a factory or a warehouse.

(2) An assessee may, subject to such conditions as may be specified by the Commissioner, retain in, or bring into, his factory or warehouse, excisable goods or parts thereof, accompanied by duty paying documents, if such goods or parts thereof,-

(a) are required for use in the manufacture of other goods in the factory; or

(b) are required in the factory for construction, repairs or for use as fittings or equipment or for any other purpose for which such goods are normally consumed; or

(c) need to be re-made, refined, reconditioned, repaired or subjected to any similar process in the factory; or

(d) cannot be transported due to circumstances beyond the assessee's control, such as, the suspension of booking on railways, non-availability of railway wagons or the break-down of carriers; or

(e) are required for test or for study of designs or methods of construction:

Provided that where such goods or parts thereof are required to be brought into the factory or warehouse of an assessee for any of the purposes specified in clause (c), such goods or parts thereof shall be brought into such factory or warehouse within a period of one year from the date of their initial removal from the factory or

warehouse or within the period of warranty or guarantee provided in respect of such goods by the manufacturer thereof, whichever is more:

Provided further that the Commissioner may, on a representation being made to him in this regard, if he is of opinion that having regard to the circumstances of the case, it is necessary so to do, by order extend the period specified in the first proviso to such period as he may consider necessary:

Provided also that in the case of goods or parts thereof which are not accompanied by duty paying documents, if the Commissioner is satisfied that the identity of the goods can be established by other collateral evidence, he may by order and subject to such conditions as he may impose, relax the requirement of the production of duty paying documents.

(3) The Chief Commissioner may, by a general or special order, and subject to such conditions and limitations as may be specified in such order, permit any other duty paid goods or parts thereof not specified in sub-rule (2), to enter, or to be retained in, a factory or a warehouse.

(4) The goods or parts thereof retained in, or brought into, a factory or warehouse in accordance with the provisions of sub-rule (2) or sub-rule (3) may, if not subjected to any process amounting to manufacture, be removed from the factory or warehouse without payment of duty subject to such conditions as may be specified by the Commissioner or Chief Commissioner as the case may be.

173I. Scrutiny by the proper officer :-

(1) The proper officer may on the basis of information contained in the return filed by the assessee under sub-rule (3) of rule 173G, and after such further enquiry as he may consider necessary, scrutinize the correctness of the duty assessed by the assessee on the goods removed.

(2) The proper officer may require the assessee to produce invoices and other documents for verification as and when required.

(3) If on scrutiny or otherwise, the proper officer is of the opinion that duty of excise leviable on any goods has not been levied or paid or has been short levied or short paid or duty has not been correctly, legally or properly self-assessed and paid by the assessee, he may require the assessee to produce any document or records in his possession considered relevant to the determination of the duty payable on the goods and may pass such order of

assessment as he thinks fit provided that duty so assessed shall be recovered in accordance with the provisions of section 11A of the Act.

(4) If on scrutiny by the proper officer or otherwise, he is of the opinion that the duty assessed by the assessee is paid in excess than what was payable, the said duty shall be refunded in accordance with section 11B of the Act.

(5) Interest on delayed payment shall be paid by the assessee at such rate as may be fixed by the Board in accordance with section 11AA. In addition, interest shall be paid, where duty is short levied or short paid or erroneously refunded by reason of fraud, collusion or any willful mis-statement or suppression of facts or contravention of any of the provisions of the Act in accordance with provisions of section 11AB of the Act. Interest on refund shall be paid to the assessee in accordance with section 11BB and at such rate as may be fixed by the Board in terms of that section.

173J. XXX XXX XXX :-

173K. XXX XXX XXX :-

173L. Refund of duty on goods returned to factory :-

(1) The Commissioner may grant refund of the duty paid on manufactured excisable goods issued for home consumption from a factory, which are returned to the same or any other factory for being re-made, refined, reconditioned or subjected to any other similar process in the factory:

Provided that-

(i) such goods are returned to the factory within one year of the date of payment of duty or within such further period or periods not exceeding one year, in the aggregate, as the Commissioner may, on sufficient cause being shown, permit in any particular case;

(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper form within twenty-four hours of such re-entry or within such further period not exceeding ten days, as the Commissioner may, on sufficient cause being shown, permit in any particular case,] to enable the proper officer to verify the particulars of such goods within forty-eight hours of receipt of the information;

(iii) the assessee stores the said goods separately pending their

being remade, refined, reconditioned or subjected to any other similar process in the factory unless otherwise permitted by the Commissioner by an order in writing and makes such goods available for inspection by the proper officer when so required;

(iv) the amount of refund payable shall in no case be in excess of the duty payable on such goods after being re-made, refined re-conditioned or subjected to any other similar process in the factory: Provided further that in relation to the declared excisable goods, for clause (ii) of the first proviso, the following clause shall be substituted, namely:-

(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper form within twenty-four hours of such re-entry or within such further period not exceeding ten days, as the Commissioner may, on sufficient cause being shown, permit in any particular case.

(2) The assessee shall maintain a detailed account of the returned goods and the processes to which they are subjected, after their return to the factory in the proper form.

(3) No refund under sub-rule (1) shall be paid until the processes mentioned therein have been completed and an account under sub-rule (2) having been rendered to the satisfaction of the Commissioner within six months of the return of the goods to the factory. No refund shall be admissible in respect of the duty paid,-

(i) in respect of opened packages containing goods with concessional rates of duty or partial exemption for the small or cottage sector, as set forth in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), or by a notification issued under rule 8 or section 5A of the Act;

(ii) if the amount of refund payable on the goods is less than rupees fifty;

(iii) on goods which are disposed of in any manner other than for production of goods of the same class;

(iv) on the unmanufactured tobacco from which cigars, cheroots and cigarettes so returned to the factory have been produced;.

(v) if the value of the goods at the time of their return to the factory is, in the opinion of the Commissioner, less than the amount of duty originally paid upon them at the time of their clearance from the factory.

Explanation.-In this clause, "value" means the market value of the excisable goods and not the ex-duty value thereof.

(4) The Commissioner may, for reasons to be recorded in writing,

relax the provisions of this rule for the purpose of admitting a claim for refund.

(5) The provisions of this rule shall not apply to excisable goods manufactured,-

(i) in a free trade zone and returned to a factory in any other place in India; or

(ii) by a hundred per cent export-oriented undertaking and returned to another factory in any place in India.

Form:D.3

173M. Goods cleared for export to be returned to the factory :-

(1) After intimating the Assistant Commissioner or Deputy Commissioner of Central Excise, the manufactured excisable goods cleared for export under claim for rebate or in bond, but not exported for any reasons may be returned to the same factory or any other factory for being re-made, refined, reconditioned, or subjected to other similar processes in the factory:

Provided that-

(i) such goods are returned to the factory within one year of the date of payment of duty or within such further period or periods, not exceeding six months in the aggregate, as the Commissioner may, on sufficient cause being shown, permit in any particular case;

(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper form within twenty-four hours of such re-entry or within such further period not exceeding ten days, as the Commissioner may, on sufficient cause being shown, permit in any particular case, to enable the proper officer to verify the particulars of such goods within forty-eight hours of receipt of the information;

(iii) such goods are stored separately pending being re-made, refined, reconditioned or subjected to other similar processes in the factory unless otherwise permitted by the Commissioner by an order in writing and are made available for inspection by the proper officer, if so required by him;

(iv) a detailed account of the returned goods and the processes to which they are subjected after their return to the factory, is kept in the proper form:

Provided further that in relation to the declared excisable goods, for

clause (ii) of the first proviso, the following clause shall be substituted, namely:-

"(ii) the assessee gives information of the re-entry of each consignment of such excisable goods into the factory to the proper officer in writing in the proper form within twenty-four hours of such re-entry or within such further period not exceeding ten days, as the Commissioner may, on sufficient cause being shown, permit in any particular case."

(1 A) After intimating the Assistant Commissioner or Deputy Commissioner of Central Excise, the manufactured excisable goods cleared for export in bond, but not exported for any reasons, may be returned to the same factory for storage purposes:

Provided that-

(i) the conditions specified under items (i) and (ii) of the proviso to sub-rule (1) are observed;

(ii) such goods are stored separately and made available for inspection by the proper officer, if so required by him;

(iii) a separate account of the returned goods is kept in the production account.

(2) No refund shall be paid until the processes mentioned in sub-rule (1) have been completed and an account under clause (iv) of that sub-rule has been rendered to the satisfaction of the Commissioner within six months of the return of the goods to the factory. No refund shall be admissible in respect of duty paid-

(i) if the amount of duty originally paid or covered by the bond is less than rupees fifty;

(ii) if the value of goods at the time of their return to the factory is less than the amount of duty paid originally upon them or covered by the bond entered into by the owner under rule 13 at the time of their clearance from the factory;

Explanation.-In this clause, "value" means the market value of the excisable goods and not the ex-duty value thereof.

(iii) on goods which are disposed of in any manner other than for production of goods of the same class;

(iv) on the un-manufactured tobacco from which cigars, cheroots and cigarettes, so returned to the factory, have been produced.

(3) The Central Government may, for reasons to be recorded in writing, relax the provisions of this rule for the purpose of admitting a claim for refund.

(4) The provisions of this rule shall not apply to excisable goods manufactured,-

(i) in a free trade zone and returned to a factory in any other place

in India; or

(ii) by a hundred per cent export-oriented undertaking and returned to another factory in any place in India.

173MM. Procedure in respect of exported goods subsequently re-imported and returned to the factory :-

In relation to excisable goods covered by this Chapter the provisions of rule 97B shall apply subject to the following modification, namely:-

In rule 97B, for the proviso, the following proviso shall be substituted, namely:-

"Provided that any waste or refuse arising as a result of the said processes shall be destroyed after informing the proper officer in writing at least seven days in advance and after observing such conditions and procedure as may be prescribed by the Commissioner and thereupon the duty payable on such waste or refuse may be remitted by the proper officers."

Form:D.3

173N. Procedure in respect of warehoused goods :-

In relation to such excisable goods as are covered by this Chapter and are notified under rule 139, the provisions of Chapter VII of these rules shall apply subject to the following modifications, namely:-

(1) For rule 141, the following rule shall be substituted, namely:-

"141. Receipt of goods in warehouse. All goods brought for warehousing shall be weighed, measured or gauged and assessed to duty by the registered person himself prior to entry into the warehouse, and the quantity and description of goods, the marks and numbers of the packages, the number and date of the permit, gate pass or certificate and the amount of duty leviable thereon, shall be noted in the warehouse register by the registered person. All goods received into a warehouse shall be kept separate from other goods until such goods have been taken into account by the registered person as aforesaid. The registered person shall inform the proper officer in writing in the proper form regarding receipt of each consignment in the warehouse within twenty-four hours of its receipt or within such further period not exceeding ten days, as the Commissioner may, on sufficient cause shown, permit in any particular case."

(2) For rules 143 and 144, the following rules shall be substituted,

namely:-

"143. Owners power to deal with warehoused goods.--

In accordance with such instructions as the Commissioner may, from time to time, issue in writing in this behalf and after informing the proper officer in writing at least twenty-four hours in advance any owner of goods lodged in a warehouse may sort, separate, pack and repack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof. After the goods have been so separated and repacked, any refuse or damaged goods remaining after such sorting, packing and repacking shall be stored separately. The owner shall inform the proper officer in writing the quantity of such refuse or damaged goods and the date on which he proposes to destroy them at least seven days in advance and may destroy or otherwise dispose of such refuse or damaged goods in the manner and in accordance with the conditions as may be prescribed by the Commissioner by a general or special order. Thereupon the proper officer may remit the duty on such refuse or damaged goods.

144. Goods not to be taken out of warehouse except as provided by these rules.--

No goods shall be removed from any warehouse except on payment of duty or, where so permitted by the Central Government by notification in this behalf, for removal to another warehouse or for export from India and accompanied by a gate pass under rule 52A and/or on written application prescribed in rule 158 or in rule 173-O as the case may be."

(3) In rule 148, for the words "quantity or weight reported by the officer who has assessed the goods", the words "quantity or weight as recorded by the Registered person at the time of warehousing or re-warehousing" shall be substituted.

(4) For rule 149, the following rule shall be substituted, namely:-

"149. Destruction of unusable material, waste and other refuse.--

Every owner of the goods stored in a warehouse who wishes to claim immunity from duty in respect of any goods unfit for consumption or manufacture shall inform the proper officer in writing the quantity of such goods and the date on which he proposes to destroy them at least seven days in advance, and may destroy or otherwise dispose of such goods in the manner and in accordance with the conditions as may be prescribed by the Commissioner by a general or special order in writing, or shall show, if so required to the satisfaction of the proper officer that such goods are being applied to some purpose which renders them

eligible for remission of duty.".

(5) [Omitted]

(6) For rules 156A, 156B and 157, the following rules shall be substituted, namely:-

"156A. Procedure in respect of excisable goods removed from one factory or a warehouse to another.--

(1) The consignor shall prepare an application for removal of goods from a factory or a warehouse to another warehouse in quadruplicate in the proper form, mentioning clearly such information as the Commissioner may by general or special order, require.

(2) The consignor shall also prepare a gate pass in the proper form in respect of the goods proposed to be removed from his factory or warehouse.

(3) The consignor shall send the original, duplicate and triplicate application and original gate pass along with the consignment to the warehouse of destination.

(4) The consignor shall send quadruplicate application along with a copy of the gate pass to the Officer-in-charge of his factory or warehouse within twenty-four hours of the removal of the consignment.

(5) On arrival of the goods at the warehouse of destination, the consignee shall, within twenty-four hours of the arrival of goods, verify the same with all the three copies of the application. The consignee shall send the original application to the Officer-in-charge of his warehouse, duplicate to the consignor and retain the triplicate for his record.

(6) The Officer-in-charge of the warehouse of destination shall countersign the application received by him and send it to the Officer-in-charge of the factory or warehouse of removal.

(7) The consignor shall retain the duplicate application duly endorsed by the consignee for his record.

156B. Failure to receive re-warehousing certificate.--

(1) In case the certificate of re-warehousing is not received back by the consignor within ninety days of the removal of the goods or such extended period as the Commissioner may allow to an assessee or class of assessee, the consignor shall pay the duty leviable on the consignment by a debit in his account-current:

Provided that where such duty has been paid and proof of re-warehousing is produced by the consignor to the satisfaction of the proper officer, such consignor shall, on making an application to the

proper officer, be entitled to a refund of the duty so paid.

(2) If the original application endorsed with the re-warehousing certificate is not received by the Officer-in-charge of the factory or warehouse of removal or if received, it shows a shortage not explained to the satisfaction of the proper officer, the consignor shall, on demand by the proper officer, pay the duty leviable on such goods within ten days of the notice of demand and if the duty is not so paid, he shall not be permitted to make fresh removals of any warehoused goods from his factory or warehouse to another warehouse until the duty is paid or until the certificate of re-warehousing is presented to the Officer-in-charge of the factory or warehouse of removal to his satisfaction.

157. Clearance of goods for home consumption.--

Any owner of goods warehoused may, at any time within the period during which such goods can be left or are permitted to remain in a warehouse under rule 145, clear the goods for home consumption by paying-

(a) the duty thereon assessed prior to entry or reassessed under rule 159, and

(b) all rent, penalties, interest and other charges payable in respect of such goods.

The goods shall then be assessed and cleared in the manner described in rule 173F read with rule 173G."

(7) For rule 162, the following rule shall be substituted, namely:-

"162. Noting removal of goods.--

(1) When any goods are taken out of any warehouse, the owner of such goods shall note the fact in the warehouse register.

(2) Every note so made shall specify the quantity and description of the goods, the marks and numbers of the packages, the name of the person removing them, the number and date of application for clearance and/or of gate pass and the amount of duty paid, if any."

(8) After rule 162, the following rule shall be inserted, namely:-

"162A. Power to relax conditions.--

The Central Board of Excise and Customs may, by order in writing, relax any of the provisions of this Chapter in respect of excisable goods falling under Chapter 27 and the goods of the following description, namely, benzene, toluene and xylene, falling within Chapter 29 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)."

Form:D.3

1730. XXX XXX XXX :-

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173P. Remission of duty on goods used for special industrial purposes :-

In relation to the excisable goods covered by this Chapter, the provisions of Chapter X of these rules shall apply subject to the following modifications, namely:-

(1) For rule 195, the following rule shall be substituted, namely:-

"195. Disposal of refuse of excisable goods.--

All refuse of excisable goods obtained under rule 192, which may remain after the completion of the industrial process shall be stored separately and the manufacturer shall inform the proper officer in writing the quantity of such refuse and the date on which he proposes to destroy them at least seven days in advance and may destroy or otherwise dispose of such refuse in the manner and in accordance with the conditions as may be prescribed by the Commissioner by a general or special order."

(2) For rule 196A, the following rule shall be substituted, namely:-

"196A. Surplus excisable goods.--

If any excisable goods obtained under rule 192 become surplus to the needs of the applicant for any reason, the applicant may, after informing the proper officer in writing at least 24 hours in advance:

(i) clear the goods on payment of duty, the rate of duty and the tariff valuation, if any, applicable to such goods being the rate and valuation, if any, in force on the date of actual removal of the goods from the applicants premises; or

(ii) return the goods to the original manufacturer of the goods from whom the applicant had obtained them under bond and every such returned goods shall be added to the non-duty paid stock of the original manufacturer and dealt with accordingly. The applicant shall be accountable for the loss or deficiency, if any, during transport of the goods from the applicants premises to the place of the original manufacturer; or

(iii) clear the goods for export in the manner provided in rule 12 or 13 or 14, as the case may be."

(2A) For rule 196AA, the following rule shall be substituted, namely:-

"196AA. Transfer of excisable goods.--

The applicant may, after informing the proper officer in writing at

least twenty-four hours in advance, despatch the excisable goods obtained under rule 192 to another manufacturer who is eligible to the concession in respect of such goods and to whom a registration Certificate has been granted under rule 192 for obtaining such goods."

(3) For rule 196B, the following rule shall be substituted, namely:-

"196B. Disposal of defective or damaged excisable goods.--

If any excisable goods obtained under rule 192 are on receipt found to be defective or damaged or unsuitable to the needs of the applicant for any reason, such goods shall be stored separately and the applicant may,-

(a) after informing the proper officer in writing at least 24 hours in advance,-

(i) return such goods to the original manufacturer of the goods from whom the applicant had obtained them under bond within such period and subject to such conditions as may be prescribed by the Commissioner in this behalf, and every such returned goods shall be added to the non-duty paid sk of the original manufacturer and dealt with accordingly. The applicant shall be accountable for the loss or deficiency, if any, during transport of the goods from the applicants premises to the place of the original manufacturer; or

(ii) clear such goods on payment of duty, the rate of duty and the tariff valuation if any, applicable to such goods being the rate and valuation, if any, in force on the date of actual removal of such goods from the applicants premises; or

(b) after informing the proper officer in writing at least seven days in advance the quantity of such goods and the date on which he proposes to destroy them and after observing such conditions as may be prescribed by the Commissioner by general or special order, destroy such goods where the duty payable thereon has been remitted."

173PP. XXX XXX XXX :-

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173PPP. XXX XXX XXX :-

173PPP XXX XXXX XXX

[***]

173Q. Confiscation and penalty :-

(1) Subject to the provisions contained in section 11AC of the Act

and rule 57AH, if any manufacturer, producer, registered person of a warehouse or a registered dealer,-

(a) removes any excisable goods in contravention of any of the provisions of these rules; or

(b) does not account for any excisable goods manufactured, produced or stored by him; or

(bb) takes credit of duty or money in respect of inputs or capital goods for being used in the manufacture of final products or capital goods for use in the factory of the manufacturer of final product, as the case may be, wrongly or without taking reasonable steps to ensure that appropriate duty on the said inputs or capital goods has been paid as indicated in the invoice or any other document approved under these rules evidencing the payment of excise duty or the countervailing duty, as the case may be, accompanying thereof, or takes credit of duty or money which he knows or which he has reason to believe, is not permissible under these rules, or does not utilise the inputs or capital goods in the manner provided for in these rules, or utilises credit of duty or money in respect of inputs or capital goods in contravention of any of the provisions of these rules, or does not render proper and true account of the receipt and disposal of the said inputs or capital goods and the credit of duty or money taken thereon as required under these rules, or contravenes any of the provisions contained in Section AA or AAA of Chapter V of these rules; or

(bbb) enters wilfully any wrong or incorrect particulars in the invoice issued for the excisable goods dealt by him with intent to facilitate the buyer to avail of credit of the duty of excise or the additional duty under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of such goods which is not permissible under these rules; or

(c) engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act; or

(d) contravenes any of the provisions of these rules with intent to evade payment of duty, then, all such goods shall be liable to confiscation and the manufacturer, producer, registered person of a warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (bb) or clause (c) or clause (d) has been committed, or ten thousand rupees, whichever is greater. then, all such goods shall be liable to confiscation and the

manufacturer, producer, registered person of a warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (bb) or clause (c) or clause (d) has been committed, or ten thousand rupees, whichever is greater.

Explanation.-For the purposes of clause (bb) of sub-rule (1), a person availing of credit of duty on inputs received by him shall be deemed to have taken "reasonable steps" if he satisfies himself about the identity and address of the manufacturer or supplier, as the case may be, issuing the invoice or any other document approved under these rules evidencing the payment of excise duty or the countervailing duty, as the case may be, either-

(a) from his personal knowledge; or

(b) on the strength of a certificate given by a person with whose handwriting or signature he is familiar; or

(c) on the strength of a certificate issued to the manufacturer or the supplier, as the case may be, by the Superintendent of Central Excise within whose jurisdiction such manufacturer has his factory or the supplier has his place of business:

Provided that where the identity and address of the manufacturer or the supplier is satisfied on the strength of a certificate, the person availing of credit of duty shall retain such certificate for production before the proper officer on demand.

CHAPTER 7B REFUND

173S. Application for refund of duty :-

(1) Any person claiming refund of any duty of excise shall make an application in duplicate, for refund of such duty in the proper form to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or the warehouses appointed and registered under rule 140, to which goods are moved and from where such goods are cleared for home consumption on payment of duty, as the case may be.

(2) An application for refund shall be made in accordance with the provisions of section 11B of the Act.

CHAPTER 8 REGISTRATION

174. Registration of certain persons :-

(1) Every person , including a person liable to pay the duty of excise under rule 7AA, who cures, produces, manufactures, carries on trade, deals as a broker or commission agent, holds private store-room or warehouse or otherwise uses excisable goods, or a person who issues invoice or invoices under rule 57AE, shall get registered and shall not engage in the curing, production, manufacture, trade, dealing as broker or commission agent, storing in private store room or warehouse or use excisable goods without having applied for such registration to the jurisdictional range officer or such officer in such forms as may be specified by the Board.

Explanation.- In the case of a person liable to pay the duty of excise under rule 7AA, other than the job worker who has been authorized to pay the duty of excise, the premises for registration shall be the private store-room or warehouse where the inputs required for the manufacture of the goods specified in the said rule are received and distributed to the job worker and the said goods are received from the job worker for further distribution or sale.

(2) The Central Board of Excise and Customs, may, by notification in the Official Gazette, and subject to such conditions or limitations as may be specified in such notification, specify person or class of persons from amongst the persons specified in sub-rule (1) who need not obtain such registration.

(3) If there are more than one premises requiring registration he shall obtain separate registration certificate for each of the premises.

(4) Every registration certificate granted shall be in the specified form and shall be valid only for the premises specified in such certificate.

(5) Where a registered person transfers his business to another person the transferee shall obtain a fresh certificate.

(6) Where a registered person is a firm or a company or association of persons, any change in the constitution of such a firm, company or association of persons, shall be intimated to the Central Excise Officer within thirty days of such a change for incorporation in the certificate.

(7) In case a registered person desires to manufacture a new product, he shall get the product endorsed on his registration certificate.

(8) Every registered person, who ceases to carry out the operation or operations he is registered for, shall surrender his registration certificate immediately.

(9) The proper officer shall proceed to grant a Registration Certificate under this rule within thirty days of the receipt of an application. If registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted.

(10) Every registered person shall exhibit his registration certificate (or a certified copy thereof) in a conspicuous part of the registered premises.

(11) Any registration certificate granted under this rule may be revoked or suspended by the proper officer, if the holder or any person in his employ, is found to have committed a breach of any conditions of the Act or these rules or has been convicted of an offence under section 161, read with section 109 or with section 116 of the Indian Penal Code (45 of 1860).

Form:R-1

Form:R-2

174A. XXX XXX XXX :-

175. XXX XXX XXX :-

176. XXX XXX XXX :-

177. XXX XXX XXX :-

178. XXX XXX XXX :-

179. XXX XXX XXX :-

180. XXX XXX XXX :-

181. XXX XXX XXX :-

182. XXX XXX XXX :-

183. XXX XXX XXX :-

184. XXX XXX XXX :-

CHAPTER9 EXPORT UNDER CLAIM FOR REBATE OF DUTY OR UNDER BOND

185. Proper numbering of packages meant for export :-

(1) Packages in which goods to be exported are packed shall be legibly marked in ink or oil colour or in such other durable manner as the Commissioner of Central Excise may allow, with a progressive number commencing with No. 1 for each calendar year

and with the exporters name and special mark, if any:

Provided that if the Commissioner of Central Excise is of opinion that having regard to the nature of the goods or the trade practice it is necessary so to do, he may, by order, for reasons to be recorded in writing, exempt any or all of the requirements of sub-rule (1) above.

(2) When both indigenous and foreign motor spirit or kerosene are simultaneously held in sk at the depot from which export is to be made, each class of motor spirit or kerosene shall be stored in a separate tank and the transfer to containers shall be authenticated by the exporter or his authorised agent at the end of each transfer.

Form:A.R.4

186. XXX XXX XXX :-

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187. Sealing of goods and examination at place of despatch

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(1) Where the exporter desires the sealing of goods intended for export at the place of despatch, he shall present the goods along with application prepared in the proper form in sixuplicate duly signed by him for removal, to the proper officer for examination at least twenty-four hours before the intended removal or within such shorter period as the Commissioner of Central Excise may allow. The application in the proper form shall contain the amount of duty and value of goods in figures as well as in words.

(2) When the goods are presented before the proper officer under sub-rule (1), the proper officer, after verifying that the goods are identifiable with those cited in the application including the particulars of the duty paid or payable, shall seal each package in the manner and method as specified by the Commissioner of Central Excise and endorse each copy of the application in token of having such examination done.

(3) The proper officer shall return the original, duplicate and sixuplicate copies to the exporter. The triplicate copy shall be sent by the proper officer to the Commissioner of Central Excise having jurisdiction over the factory or warehouse or as the case may be Maritime Commissioner of Central Excise either by post or by handing over to the exporter in a tamper proof sealed cover. The proper officer shall send the quadruplicate copy to his Chief Accounts Officer and retain the quintuplicate for his record. The

exporters shall use the sixuplicate copy for the purposes of claiming drawback:

Provided where goods are not exported directly from the factory of manufacture, the triplicate and quadruplicate copies shall be sent by the proper officer to the Superintendent having jurisdiction over the factory of manufacture, who shall after verification, forward the triplicate copy to the Maritime Commissioner either by post or by handing over to the exporter in a tamper-proof sealed cover or, as the case may be, to the Commissioner of Central Excise having jurisdiction over the factory and the quadruplicate copy to his Chief Account Officer.

(4) In case of export by parcel post after the goods intended for export has been sealed, the exporter shall affix to the duplicate application sufficient postage stamps to cover postal charges and shall present the documents, together with the package or packages to which it refers, to the postmaster at the Office of booking.

(5) A separate application shall be submitted in respect of each consignment.

187A. Despatch of goods without examination :-

Where the exporter desires examination of goods at the place of export, he shall send the original, duplicate and sixuplicate copies of the application along with the goods at the place of export, and shall send the triplicate, quadruplicate and quintuplicate copies of the application to the proper officer within twenty four hours of removal of the consignment. The proper officer shall after verifying the particulars of the duty paid or duty payable, send the triplicate copy of application to the Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or as the case may be the Maritime Commissioner of Central Excise either by post or by handing over to the exporter in a tamper-proof sealed cover, quadruplicate copy to his Chief Accounts Officer and retain the quintuplicate copy for his records. The application shall contain the amount of duty and value of goods in figures as well as in words:

Provided that where goods are not exported directly from the factory of manufacture, the triplicate and quadruplicate copies shall be sent by the proper officer to the Superintendent having jurisdiction over the factory of manufacture, who shall after verification forward the triplicate copy to the Maritime

Commissioner of Central Excise either by post or by handing over to the exporter in a tamper proof sealed cover or, as the case may be, to the Commissioner of Central Excise having jurisdiction over the factory and the quadruplicate copy to his Chief Accounts Officer:

Provided further that a manufacturer-exporter who paid duty exceeding rupees ten crores in cash or through account current in the preceding financial year or a manufacturer-exporter who had been accorded status of Super Star Trading House, Star Trading House, Trading House or Export House under the provisions of the Export and Import Policy, notified by the Central Government under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), containing the goods may seal the packages or containers himself at the place of despatch and remove them for export subject to the conditions that-

(i) an intimation to proper officer shall be given by the manufacturer-exporter at least twenty four hours before the intended removal or within such shorter period as the Commissioner of Central Excise having jurisdiction over the factory of manufacture of the goods may allow, and

(ii) the owner, the working partner, the Managing Director or the Company Secretary, of the manufacturing unit of the goods or a person duly authorised by the Board of Directors of such Company, as the case may be, shall certify on the application that the goods have been sealed in his presence.

187B. Examination of goods at the place of export :-

(1) On arrival at the place of export, the goods shall be presented together with original, duplicate and sixtuplicate copies of the application to the Commissioner of Customs or other duly appointed Officer.

(2) The Commissioner of Customs or other duly appointed officer shall carefully examine the consignments with the particulars as cited in the application and if he finds that the same are correct and exportable in accordance with the laws for the time being in force, shall allow export thereof and certify on copies of the application that the goods have been duly exported citing the shipping bill number and date and other particulars of export:

Provided that if packages containing the consignments were sealed at the place of despatch by the Officer in the manner provided in rule 187, such Commissioner of Customs or other duly appointed officer shall examine and check weighed the consignment with

reference to exportability of such consignments and if they correspond with description given in application and seals are found intact, shall allow export thereof.

(3) The Commissioner of Customs or other duly appointed officer shall return the original and sixuplicate copies of application to the exporter and forward the duplicate copy of application either by post or by handing over to the exporter in a tamper proof sealed cover to the officer specified in the application for removal, from whom exporter wants to claim rebate. The exporter shall use the sixuplicate copy for the purposes of claiming drawback.

188. Examination of goods at the place of export :-

188 XXX XXX XXX

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189. Presentation of claim for rebate :-

(1) Claim of the rebate of duty in the proper form shall be lodged along with original copy of the application of removal to the Commissioner of Central Excise having jurisdiction over the factory of manufacture or, as the case may be, the Maritime Commissioner of Central Excise under whose jurisdiction the port, airport, or post office of export, from which goods were exported, are located.

(2) The Commissioner of Central Excise having jurisdiction over the factory of manufacture or, as the case may be. Maritime Commissioner of Central Excise shall compare the duplicate copy of application received from the Officer of Customs with the original copy received from the exporter and with the triplicate copy received from the Central Excise Officer and if satisfied that the claim is in order, he shall sanction the rebate either in whole or in part.

189A. XXX XXX XXX :-

190. XXX XXX XXX :-

191. XXX XXX XXX :-

191A. XXX XXX XXX :-

191B. XXX XXX XXX :-

191BB. XXX XXX XXX :-

CHAPTER 10 REMISSION OF DUTY ON GOODS USED FOR SPECIAL INDUSTRIAL PURPOSES

192. Application for concession :-

Where the Central Government has, by notification under rule 8 or section 5A of the Act, as the case may be, sanctioned the remission of duty on excisable goods, other than salt, used in a specified industrial process, any person wishing to obtain remission of duty on such goods, shall make application to the Commissioner in the proper Form stating the estimated annual quantity of the excisable goods required and the purpose for and the manner in which it is intended to use them and declaring that the goods will be used for such purpose and in such manner. If the Commissioner is satisfied that the applicant is a person to whom the concession can be granted without danger to the revenue, and if he is satisfied, either by personal inspection or by that of an officer subordinate to him that the premises are suitable and contain a secure store-room suitable for the storage of the goods, and if the applicant agrees to bear the cost of such establishment as the Commissioner may consider necessary for supervising operation in his premises for the purposes of this Chapter, the Commissioner may grant the application, and the applicant shall then enter into a bond in the proper Form with such surety or sufficient security, in such amount and under such conditions as the Commissioner approves. Where, for this purpose, it is necessary for the applicant to obtain an Excise registration certificate, he shall submit the requisite application along with the proof for payment of registration certificate fee and shall then be granted a registration certificate in the proper Form. The concession shall, unless renewed by the Commissioner, cease on the expiry of the registration Certificate:

Provided that, in the event of death, insolvency or insufficiency of the surety or where the amount of the bond is inadequate, the Commissioner may, in his discretion, demand a fresh bond; and may, if the security furnished for a bond is not adequate, demand additional security.

Form:R-1

Form:R-2

Form:B.8(sur.)

Form:B.8(sec.)

Form:B.16(Gen.sur./Gen.sec.)

Form:B.17(Gen.sur./Gen.sec.)

Form:C.T.2

193. Packing and transport of concessional goods :-

Goods obtained under rule 192 shall be transported immediately from the place of procurement to the applicants premises. They shall be packed in such manner as the Commissioner may direct, and the weight of the goods in each package shall be marked on it, and where necessary, the good shall be covered by a transport document.

194. Storage and accounts :-

(1) The goods so obtained shall be stored in a store-room, the key of which shall remain in personal custody of the applicant or his manager and the applicant or his manager shall maintain proper records indicating among other particulars, the, quantity, value, rate and amount of duty, marks and numbers, as the case may be, in regard to receipts, manufacture or any other processing as are carried on the goods received, packaging, storage and delivery of the goods.

(2) Each consignment of excisable goods procured under this concession shall be stored separately in the store-room, and goods of each distinct variety shall be kept together in distinct lots and shall be distinctively marked. The applicant shall not use goods of any variety from such consignment, until goods of the same variety previously procured have been expended and entered as expended in the accounts

Provided that the Commissioner may, by order and for reasons to be recorded therein, exempt any applicant or any class of goods from the operation of this sub-rule.

(3) Within seven days after the close of each quarter, every person registered to obtain, excisable goods for special industrial purposes shall submit to the proper officer a quarterly return in the proper Form, showing the nature and quantity of such goods used and of commodities manufactured, the manner of manufacture, and such other particulars as the Commissioner may, by general or special order, require.

Form:R.G.16

Form:R.T.11

195. Disposal of refuse of excisable goods :-

All refuse of, excisable goods obtained under rule 192 which may remain after the completion of the industrial process shall be stored separately, and shall not be disposed of except after examination

by, and with the written permission, and in accordance with the instructions of, the proper officer.

196. Duty leviable on excisable goods not duly accounted for :-

(1) If any excisable goods obtained under rule 192 are not duly accounted for as having been used for the purpose and in the manner stated in the application or are not shown to the satisfaction of the proper officer to have been lost or destroyed by natural causes or by unavoidable accident during transport from the place of procurement to the applicants premises or during handling or storage in the premises approved under rule 192, the applicant shall, on demand by the proper officer, immediately pay the duty leviable on such goods. The concession may at any time be withdrawn by the Commissioner if a breach of these rules is committed by the applicant, his agent or any person employed by him. In the event of such a breach, the Commissioner may also order the forfeiture of the security deposited under rule 192 and may also confiscate the excisable goods, and all goods manufactured from such goods, in store at the factory.

(2) Where the duty becomes chargeable in terms of sub-rule (1) on any excisable goods, the rate of duty and the tariff valuation, if any, applicable to such goods shall be the rate and valuation in force-

(i) in the case of actual removal of goods from the premises, on the date of such removal;

(ii) in the case of loss of goods in transit during transport from the place of procurement to the applicants premises, on the date on which goods are received in the applicants premises;

(iii) in the case of loss of goods while in storage or during handling in premises approved under rule 192, on the date on which such loss is discovered by the proper officer or made known to him;

(iv) in all other cases, on the date on which the notice for demand of duty is issued or on the date on which duty is paid, whichever is earlier.

Form:D.D.2

196A. Surplus excisable goods :-

If any excisable goods obtained under rule 192 become surplus to the needs of the applicant for any reason, the applicant may, with the previous approval of the proper officer.-

- (i) clear the goods on payment of duty, the rate of duty and the tariff valuation, if any, applicable to such goods being the rate and valuation, if any, in force on the date of actual removal of the goods from the applicants premises; or
- (ii) return the goods to the original manufacturer of the goods from whom the applicant had obtained them under bond and every such returned goods shall be added to the non-duty paid sk of the original manufacturer and dealt with accordingly. The applicant shall be accountable for the loss or deficiency, if any, during transport of the goods from the applicants premises to the place of the original manufacturer; or
- (iii) clear the goods for export in the manner provided in rule 12 or 13 or 14, as the case may be.

196AA. Transfer of excisable goods :-

The applicant may, with the previous approval of the proper officer, despatch the excisable goods obtained under rule 192 to another manufacturer who is eligible to the concession in respect of such goods and to whom a registration certificate has been granted under rule 192 for obtaining such goods.

196B. Disposal of defective or damaged excisable goods :-

If any excisable goods obtained under rule 192 are on receipt found to be defective or damaged or unsuitable to the needs of the applicant for any reason, such goods shall be stored separately and the applicant may, after examination by, and with the written permission of, the proper officer.-

- (i) return such goods to the original manufacturer of the goods from whom the applicant had obtained them under bond within such period and subject to such conditions as may be prescribed by the Commissioner in this behalf, and every such returned goods shall be added to the non-duty-paid sk of the original manufacturer and dealt with accordingly. The applicant shall be accountable for the loss or deficiency, if any, during transport of the goods from the applicants premises to the place of the original manufacturer; or
- (ia) clear such goods on payment of duty, the, rate of duty and the tariff valuation, if any, applicable to such goods being the rate and valuation, if any, in force on the date of actual removal of such goods from the applicants premises; or
- (ii) destroy such goods, where the duty payable thereon has been remitted.

196BB. Movement of excisable goods :-

(1) The applicant may apply to the Commissioner for removal of the excisable goods obtained under rule 192 as such, or the excisable goods which have been partially processed during the use in the industrial process, to a place outside for purposes of test, repair, refining, reconditioning or carrying out any other operations necessary for the completion of the industrial process and return thereafter to his premises for further use in the industrial process: Provided that the waste, if any, is also returned to the applicants premises after such operation and disposed of in the manner laid down in rule 195.

(2) The Commissioner may on receipt of an application under sub-rule (1), permit such removal and return subject to such terms, conditions and limitations, as he may impose.

CHAPTER 11 ENTRY, SEARCH, SEIZURE AND INVESTIGATION

197. Authorized Officers to have free access to premises, equipment, sks and accounts of dealers in excisable goods :-

Any officer duly empowered by the Commissioner in this behalf shall have access, at all reasonable times, to any premises registered under these rules and to any place where excisable goods are grown, processed or stored, sold or manufactured or to any place where composition of match heads or salt petre for manufacture of matches are made, processed or stored, for carrying out such scrutiny, verification and checks subject to such conditions and limitations as may be specified in the instructions issued by the Commissioner from time to time.

198. Penalty for obstruction or giving false or misleading information :-

If any person, by himself or by any person in his employ-

(1) voluntarily obstructs, or offers any resistance to, or impedes, or otherwise interferes with; or

(2) refuses or fails to give or wilfully gives false or misleading information to the officer duly appointed under rule 197, who is acting in accordance with his duty thereunder, such person shall be liable to a penalty which may extend to one thousand rupees.

199. Power to detain person and examine goods :-

(1) Any officer duly empowered by the Commissioner may stop and detain any person found carrying or removing any excisable goods for the transport of which a permit or other transport document is required by these rules, and may examine the goods and may require the production of a permit or other document authorising the removal thereof.

(2) If a permit or other prescribed document is produced agreeing with the goods in all respects, the officer may endorse thereon the time and place of his examination thereof.

200. Power to stop and search vessels, carts, etc., and to seize goods which appear to be contraband :-

(1) Any officer, who is in Central Excise uniform, or who possesses a card showing his identity, may, if duly empowered by the Commissioner, require any person who is in immediate possession, control or use of any vessel, cart, or other means of conveyance, to stop such vessel, cart, or other means of conveyance, and search it, for excisable goods, saltpetre or composition for match-heads for the manufacture of matches, and may seize and remove or detain any such goods or articles in respect of which it appears to him that duty should have, but has not, been levied, or that any contravention of the provisions of the Act or these rules has occurred.

(2) If any such person fails to comply with such requirement, such officer may use any reasonable means to compel compliance, and the said person shall be punishable with a penalty which may extend to two thousand rupees.

201. Power to enter and search :-

The Central Government may empower any officer of any department under its control to-

(1) enter and search at any time by day or by night any land, building, enclosed place, premises, vessel, conveyance or other place upon or in which he has reason to believe that excisable goods, saltpetre or composition for match-heads for the manufacture of matches are processed, sorted, stored, manufactured, or carried in contravention of the provision of the Act or these Rules; and

(2) in case of resistance break open any door and remove any other obstacle to his entry upon or into and search of such land, building,

enclosed place, premises, vessel, conveyance or other place.

202. Power to require access to place, vessel or conveyance for inspection or examination of goods :-

(1) Any officer duly empowered under rule 200 or rule 201, as the case may be, may require any person who has the immediate possession, control or use of any land, building, enclosed place, premises, vessel, conveyance or other place which he desires to search under these rules, or of any excisable goods, composition for match-heads or saltpetre, for the manufacture of matches, processed, sorted, stored, manufactured or carried thereupon or therein to open or allow access to inspect or examine such place or conveyance, or to open, unload, unpack or allow the inspection or examination of such articles.

(2) If such person fails to comply with any such requirement, such officer may cause anything to be done which he may deem necessary in order to exercise his powers, under these rules in a proper manner, and the cost incurred in this behalf, unless paid to such officer, shall be recoverable from the said person as an arrear of land revenue.

203. Police to take charge of articles seized :-

All officers in charge of police stations shall take charge of and keep in safe custody, pending the orders of the Magistrate or of the adjudicating Central Excise Officer, all things seized under the Act or these Rules which may be delivered to them, and shall allow any officer who may accompany such goods to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such things or to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

204. Issue of summons :-

Every summons issued under the Act shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it and shall also bear his official seal, if he has any.

205. XXX XXX XXX :-

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206. Disposal of things seized :-

(1) The owner or person having the charge of any animal seized and detained shall provide from day-to-day to its keep while detained, and, if he fails so to do, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale.

(2) The surplus proceeds of a sale under this rule shall, if not claimed by the owner of the animal seized within a period of three months, be forfeited, to the Central Government.

(3) Anything seized by a Central Excise Officer may, pending the orders of the adjudicating Central Excise Officer, be released to the owner on taking a bond from him in the proper Form, with such security as the Commissioner may require

Form:B.11(sec.)

207. Charge by whom to be preferred :-

A charge of an offence under section 9 of the Act shall not be made except by an officer not inferior in rank to an Inspector.

208. Customs Officers to exercise the same powers as Central Excise Officers :-

Every officer customs duly empowered by the Commissioner shall have use, and exercise all such and the like powers and authorities for the search, examination, seizure, detention, removal and prosecution of any vessel, cart, or other means of conveyance, or any horse or other animal, or any goods liable to confiscation under the Act or these rules as are, or may be, conferred on the like Officer of Excise.

CHAPTER 12 PENALTIES AND CONFISCATIONS

209. Confiscation and penalty :-

(1) Subject to the provisions contained in section 11 AC of the Act and notwithstanding anything contained in any other provision of these rules (save and except rule 57AH and rule 173Q), if any manufacturer, producer, registered person of a warehouse or a registered dealer, -

(a) removes any excisable goods in contravention of any of the provisions of these rules; or

(b) does not account for any excisable goods manufactured,

produced or stored by him; or

(bb) takes credit of duty in respect of inputs or capital goods used in the manufacture of final products or in respect of capital goods for use in the factory of manufacture of final product, as the case may be, wrongly or without taking reasonable steps to ensure that appropriate duty on the said inputs or capital goods has been paid as indicated in the invoice or any other document approved under these rules evidencing the payment of excise duty or the countervailing duty, as the case may be, accompanying thereof, or takes credit of duty which he knows, or which he has reason to believe, is not permissible under these rules, or does not utilise the inputs or capital goods in the manner provided for in these rules or utilises credit of duty in respect of inputs or capital goods in contravention of any of the provisions of these rules, or does not render proper and true account of the receipt and disposal of the said inputs or capital goods and the credit of duty taken thereon as required under these rules, or contravenes any of the provisions contained in Section AA or AAA of Chapter V of these rules; or

(bbb) enters willfully any wrong or incorrect particulars in the invoice issued for the excisable goods dealt by him with intent to facilitate the buyer to avail of credit of the duty of excise in respect of such goods which is not permissible under these rules; or

(c) engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act; or

(d) contravenes any of the provisions of these rules with intent to evade payment of duty,

then all such goods shall be liable to confiscation and the manufacturer, producer, registered person of the warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (bb) or clause (bbb) or clause (c) or clause (d) has been committed, or ten thousand rupees, whichever is greater.

Explanation.- For the purposes of clause (bb) of sub-rule (1), a person availing of credit of duty on inputs received by him shall be deemed to have taken "reasonable steps" if he satisfies himself about the identity and address of the manufacturer or supplier, as the case may be, issuing the invoice or any other document approved under these rules evidencing the payment of excise duty or the countervailing duty; as the case may be, either-

(a) from his personal knowledge; or

(b) on the strength of a certificate given by a person with whose handwriting or signature he is familiar; or

(c) on the strength of a certificate issued to the manufacturer or the supplier, as the case may be, by the Superintendent of Central Excise within whose jurisdiction such manufacturer has his factory or the supplier has his place of business:

Provided that where the identity and address of the manufacturer or the supplier is satisfied on the strength of a certificate, the person availing of credit of duty shall retain such certificate for production before the proper officer on demand.

209A. Penalty for certain offences :-

Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or ten thousand rupees, whichever is greater.

210. General penalty :-

A breach of these Rules shall, where no other penalty is provided herein or in the Act , be punishable with a penalty which may extend to five thousand rupees and with confiscation of the goods in respect of which the offence is committed.

210A. Composition of offences :-

The Commissioner may accept from any person whose property is liable to confiscation under the Act or who is reasonably suspected of having committed an offence under the Act or under the Rules a sum of money not exceeding two thousand rupees in lieu of confiscation of goods or punishment for breach of any provision of the Act or of the Rules.

211. On confiscation, property to vest in Central Government :-

(1) When. anything is confiscated under these rules, such things shall thereupon vest in Central Government .

(2) The officer adjudging confiscation shall take and hold possession of the things confiscated, and every Officer of Police, on

the requisition of such officer, shall assist him in taking and holding such possession.

212. Disposal of goods confiscated :-

Articles of which confiscation has been adjudged and in respect of which the option of paying a fine in lieu of confiscation has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the Commissioner may direct.

212A. Storage charges in respect of goods confiscated and redeemed :-

If the owner of the articles, confiscation of which has been adjudged, exercises his option to pay fine in lieu of confiscation, he may be required by the Commissioner to pay such storage charges as may be deemed proper by him.

CHAPTER 12A APPEALS TO COMMISSIONER (APPEALS)

213. Form of appeal to Commissioner (Appeals) :-

(1) An appeal under sub-section (1) of section 35 to the Commissioner (Appeals) shall be made in Form No. E.A.-I.

Form E.A.1

(2) The grounds of appeal and the form of verification as contained in Form No. E.A.-I. shall be signed-

(a) in the case of an individual, by the individual himself or where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or some person competent to act on his behalf.

(3) The form of appeal in Form No. E.A.-1 shall be filed in duplicate and shall be accompanied by a copy of the decision or order appealed against.

214. Form of application to the Commissioner (Appeals) :-

(1) An application under sub-section (4) of section 35E to the Commissioner (Appeals) shall be made in Form No. E.A.-2.

(2) The form of application in Form No. E.A.-2 shall be filed in duplicate and shall be accompanied by two copies of the decision or order passed by the adjudicating authority (one of which at least shall be a certified copy) and a copy of the order passed by the Commissioner of Central Excise directing such authority to apply to the Commissioner (Appeals).

Form E.A.2

215. Production of additional evidence before Commissioner (Appeals) :-

(1) The appellant shall not be entitled to produce before the Commissioner (Appeals) any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority except in the following circumstances, namely:-

(a) where the adjudicating authority has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by adjudicating authority; or

(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority any evidence which is relevant to any ground of appeal; or

(d) where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the Commissioner (Appeals) records in writing the reasons for its admission.

(3) The Commissioner (Appeals) shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity-

(a) to examine the evidence or document or to cross-examine any

witness produced by the appellant, or

(b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).

(4) Nothing contained in this rule shall affect the power of the Commissioner (Appeals) to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal.

CHAPTER 12B APPEALS TO APPELLATE TRIBUNAL

216. Form of appeal, etc., to the Appellate Tribunal :-

(1) An appeal under sub-section (1) of section 35B to the Appellate Tribunal shall be made in Form No. E.A.-3.

Form E.A.3

(2) A memorandum of cross-objections to the Appellate Tribunal under sub-section (4) of section 35B shall be made in Form No. E.A.-4.

Form E.A.4

(3) Where an appeal under sub-section (1) of section 35B or a memorandum of cross-objections under sub-section (4) of that section is made by any person other than the Commissioner of Central Excise, the grounds of appeal, the grounds of cross-objections and the forms of verification as contained in Form Nos. E.A-3 and E.A-4, as the case may be, respectively shall be signed by the person specified in sub-rule (2) of rule 213.

(4) The form of appeal in Form No. E.A.-3 and the form of memorandum of cross-objections in Form No. E.A.-4 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).

217. Form of application to the Appellate Tribunal :-

(1) An application under sub-section (1) of section 35E to the Appellate Tribunal shall be made in Form No. E.A.-5.

(2) The form of application in Form No. E.A.-5 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the decision or order passed by the Commissioner of Central Excise (one of which at least shall be a certified copy) and a copy of the order passed by the Board directing such Commissioner to apply to the Appellate Tribunal.

Form E.A.5

218. Form of application to the High Court :-

(1) An application under sub-section (1) of section 35H requiring the High Court to direct the Appellate Tribunal to the High Court any question of law shall be made in Form No. E.A.-6 and such application shall be filed in quadruplicate.

Form E.A.6

(2) A memorandum of cross-objections under sub-section (3) of section 35H to the High Court shall be made in Form No. E.A.-7 and such memorandum shall be filed in quadruplicate.

Form E.A.7

(3) Where an application under sub-section (1) of section 35H or a memorandum of cross-objections under sub-section (3) of that section is made by any person other than the Commissioner of Central Excise, the application, the memorandum or form of verification, as the case may be, contained in Form NO. E.A.-6 or Form No. E.A.-7 shall be signed by the person specified in sub-rule (2) of Rule 213.

CHAPTER 12BB REVISION BY CENTRAL GOVERNMENT

218A. Form of revision application to the Central Government :-

(1) A revision application under sub-section (3) of section 35EE to the Central Government shall be in Form No. E.A.-8.

(2) The grounds of revision application and the form of verification, as contained in Form E.A.-8, shall be signed by the person specified in sub-rule (2) of rule 213.

(3) Where the revision application is signed by the authorised representative of the applicant, the document authorising the representative to sign and appear on behalf of the applicant shall be appended to such revision application.

(4) The form of revision application in Form No. E.A.-8 shall be filed in duplicate and shall be accompanied by an equal number of copies of the following documents, namely:-

(i) order referred to in the first proviso to sub-section (1) of section 35B; and

(ii) decision or order passed by the Central Excise Officer, which was the subject matter of the order referred to in clause (i) of this sub-rule.

Form E.A.8

218B. Procedure for filing revision application :-

(1) The revision application in Form E.A.-8 shall be presented in person to the Under Secretary, Revision Application Unit, Government of India, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Sansad Marg, New Delhi-110 001, or sent by registered post to such officer.

(2) The revision application sent by registered post under sub-rule (1) shall be deemed to have been submitted to the said Under Secretary on the date on which it is received in the office of such officer.

CHAPTER 12C OTHER MATTERS RELATING TO APPEALS

219. Procedure for filling appeals etc :-

(1) An appeal in Form No. E. A.-3 or a memorandum of cross-objections in Form No, E.A.-4 or Form No. E.A.-7 or an application in Form No. E.A.-5 or Form No. E.A.-6 shall be presented in person to the Registrar or an officer authorized in his behalf by the Registrar, or sent by registered post addressed to the Registrar or such officer.

(2) An appeal or a memorandum of cross-objections or an application sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorized by the Registrar on the date on which it is received in the office of the Registrar, or, as the case may be, in the office of such officer.

CHAPTER 13 OTHER MATTERS RELATING TO APPEALS

220. Form and manner of Application :-

(1) An application under sub-section (1) of section 32E of the Act, to the Customs and Central Excise Settlement Commission shall be made in Form SC (E)-1 and shall be accompanied by a fee of one thousand rupees.

(2) The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be filled in quintuplicate and be signed by the person specified in sub-rule (2) of Rule 213.

Form SC(E)1

220A. Disclosure of information in the application for settlement of cases :-

(1) The Settlement Commission may, while calling for a report from the Commissioner of Central Excise under sub-section (1) of section 32F of the Act, forward a copy of the application referred to in sub-rule (1) of Rule 220 (other than the annexure and the statement and other documents accompanying such annexure).

(2) Where an order under sub-section (1) of section 32F of the Act, has been made to proceed with the application by the Settlement Commission, the information contained in the Annexure to the application in Form SC(E)-1 and the statements and other documents accompanying such annexure shall be sent to the Commissioner of Central Excise along with a copy of the said order.

220B. Manner of Provisional Attachment of Property :-

(1) Where the Settlement Commission, orders attachment under sub-section (1) of section 32G of the Act, it shall send a copy of such order to the Commissioner of Central Excise having jurisdiction over the place in which the applicant owns any movable or immovable property or resides or carries on his business or has his bank account.

(2) On receipt of the order referred to in sub-rule (1). the Commissioner may authorise any officer subordinate to him and not below the rank of an Assistant Commissioner of Central Excise to take steps to attach such property of the applicant.

(3) The officer authorised under sub-rule (2) shall prepare an inventory of the property attached and specify in it, in the case of the immovable property the description of such property sufficient to identify it and in case of the movable property the place where such property is lodged or kept and shall hand over a copy of the same to the applicant or to the person from charge the property is attached.

(4) The officer authorised under sub-rule (2) shall send a copy of the inventory so prepared each to the Commissioner of Central Excise and the Settlement Commission.

220C. Fee for Copies of reports :-

Any person who, under section 32J of the Act, makes an application for obtaining copies of reports made by any Central Excise Officer, shall pay a fee of five rupees per page of each report or part thereof.

CHAPTER 14 MISCELLANEOUS

221. Responsibility of a corporate body for making declaration and obtaining Registration Certificate :-

(1) Where any trade or business in respect of which declaration is required to be made by these rules is carried on by a corporation, the declaration shall be under the seal of the corporation and signed by the chairman or some director of the corporation or by its secretary or other principal officer.

(2) Any person signing a declaration, and also the corporation under whose seal the declaration is made, shall be liable for the payment of all duties charged and to all penalties and confiscations incurred, in respect of the trade or business to which the declaration relates.

(3) A declaration in respect of a trade or business carried on by a corporation shall be treated as being under the seal of the corporation if it is signed by some person authorised in that behalf by the corporation under its seal.

221A. Exemption from execution of bonds by Central Government undertakings and furnishing of security or surety by State Government undertakings :-

Notwithstanding anything contained elsewhere in these rules, every undertaking owned and managed directly through any Ministry, Department or Directorate by-

(a) the Central Government, is exempt from the execution of any bond;

(b) a State Government, is exempt from furnishing any security or surety or bond,

where the execution of such bond, or, as the case may be, furnishing of such security or surety, is required by or under any other provision of these rules.

Explanation.-For the avoidance of doubts, it is hereby declared that for the purposes of this rule, an undertaking owned or controlled by the Central Government or State Government does not include-

(i) any undertaking belonging to a corporation owned or controlled by the Central Government or a State Government and established by or under a Central, Provincial or State Act; or

(ii) any undertaking belonging to a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956).

222. XXX XXXX XXX :-

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223. Sk of excisable goods to be stored in an orderly manner :-

All excisable goods stored in the premises of a person registered under these rules or stored in a public warehouse, whether without or after payment of duty, shall be sked in an orderly manner, so as to facilitate their counting and verification by the Central Excise Officer with reference to Entry Book or warehouse register.

223A. Account of sk of goods in a factory or warehouse to be taken and balance to be struck :-

As often as the Commissioner may deem it necessary or proper, the sk of excisable goods remaining in a factory, warehouse or store-room registered or approved for the storage of such goods shall be weighed, measured, counted or otherwise ascertained in the presence of the proper officer; and if the quantity so ascertained is less than the quantity which ought to be found in such premises (after taking into account receipts and deliveries, and making such allowance for waste by evaporation, or other natural causes, as the proper officer may consider reasonable, and as may be in accordance with any instructions issued by the Central Board of Excise and Customs) the owner of such goods, or if the premises be a public warehouse, the keeper thereof, shall, unless the deficiency be accounted for to the satisfaction of the proper officer be liable to pay the full amount of duty chargeable on such goods as are found deficient and also a penalty which may extend to two thousand rupees.

Form:D.D.2

223B. XXX XXX XXX :-

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224. Restrictions on removal of goods :-

(1) Goods , other than those to which the provisions of Chapter VII-A of these rules apply, may not be delivered from a factory registered under these rules, or from a warehouse, before six o clock in the forenoon or after six oclock in the afternoon, nor at any

hour on Sundays and public holidays except by permission of the Commissioner, and under such conditions, and on payment of such fees, as the Commissioner may by general or special order require.

(2) Notwithstanding anything contained in these rules, no goods shall be removed from a factory or warehouse between appointed time and 12.00 (midnight) on the appointed date unless, -

i. the assessee has obtained permission of the Commissioner under sub-rule (2A) of this rule.

ii. an application for such removal in the Form A.R.1 specified in Appendix-I to these rules has been presented by the assessee to the proper officer and such an application has been acknowledged by the proper officer before 5.00 P.M. on the working day immediately preceding the appointed date:

Provided that no such application for the removal of goods which may come into existence at any time after the appointed time shall be acknowledged under this clause unless the terms, conditions and limitations imposed by the Commissioner in this behalf are complied with;

Explanation. - For the purposes of this sub-rule and sub-rule (2A), "goods" include goods which may come into existence at any time after the appointed time.

(2A) Where an assessee intends to remove goods from a factory or warehouse under sub-rule (2), he may make an application in this behalf in writing to the Commissioner undertaking to pay duty at the enhanced rate, if any, that may be applicable to such goods with effect from the date immediately following the appointed date and to comply with such conditions as the Commissioner may specify and thereupon the Commissioner may, if he considers it necessary or expedient in the public interest so to do, permit the removal of such goods.

(3) No excisable goods shall, in excess of the quota determined in the manner provided for in sub-rule (4), be removed for home consumption from a factory registered under these rules or from a warehouse during any week in such period not exceeding four weeks in a year as the Central Government may, by notification in the Official Gazette, from time to time specify:

Provided that the Central Government may, if it is satisfied that it is necessary or expedient in public interest so to do, permit, by general or special order, any assessee or class of assessee to remove, subject to such conditions as it may specify, such goods for home consumption in excess of the said quota from the factory or, as the case may be, from the warehouse.

(4) The quota referred to in sub-rule (3) shall, in a case where excisable goods are liable to duty-

(i) at a rate dependent on the value thereof, be one hundred and twenty per cent of the weekly average value of such goods;

(ii) with reference to the quantity thereof, be one hundred and twenty per cent of the weekly average quantity of such goods, removed for home consumption from the factory or, as the case may be, from the warehouse, during the twelve months immediately preceding the month in which the removal of such goods is subject to the provisions of sub-rule (3); and if, in any case the quota is not determinable in the aforesaid manner, it shall be determined by the Commissioner in such manner as he may deem fit.

(5) For the purposes of sub-rules (3) and (4).- (i) the expression "excisable goods" shall include-

(a) goods initially removed from the factory or warehouse for being warehoused or for being exported under bond, but subsequently diverted for home consumption on payment of duty; and

(b) goods manufactured prior to the imposition of duty thereon and removed without payment of duty from the factory during the period of twelve months referred to in sub-rule (4);

(ii) the expression "twelve months" shall mean-

(a) in the case where a factory starts production or manufacture of excisable goods or a warehouse is established for lodging excisable goods, for the first time during the twelve months preceding the month in which the removal of such goods is subject to the provisions of sub-rule (3), the number of complete weeks commencing from the date of production or from the date of establishment of the warehouse, as the case may be, and ending on the day before the first day of such month;

(b) in a case where a factory is closed on account of any lockout or strike during the period of twelve months referred to in sub-clause (a), fifty-two weeks less the number of completed weeks of such lockout and strikes; and

(c) in any other case, fifty-two weeks.

(6) The Central Government may, if it is satisfied that it is necessary or expedient in public interest so to do, relax, by general or special order, the provisions of sub-rules (1), (2) and (2A) and the provisions of clause (iv) of sub-rule (2) of rule 173G, subject to such conditions as it may specify in such order.

224A. Cancellation of Central Excise documents :-

Where goods in respect of which an application for clearance or removal has been made under rules 52,158 or 185, are not cleared or removed within ten days of the proper officers completing,-

(i) in the case of clearances for home consumption, the assessment memorandum; and

(ii) in the case of removal from one warehouse to another or for export, the examination or check-weighment;

the goods shall be liable to re-examination or re-weighment before the proper officer allows clearance or removal thereof:

Provided that if the applicant does not require such clearance of removal he shall apply in writing to the proper officer for cancellation of the application therefor and shall, unless the applicant shows to the satisfaction of such officer that the application had to be cancelled due to circumstances beyond his control, pay a fee of rupee one only for every such application, and thereupon the duty, if any, paid by the applicant shall be refunded:

Provided further that no application for clearance for home consumption presented at any time before the date appointed for the presentation of the annual budget of the Central Government to Parliament shall be cancelled without the prior approval of the Central Board of Excise and Customs , if a request in respect of the cancellation for such application is received after 5.00 P.M. on that date.

224B. Duplicates of documents may be granted on payment of fees :-

A duplicate of any certificate, registration certificate , transport permit or other document issued to any person may, at the discretion of the proper officer on payment of a fee of rupees thirty be furnished to such person, if the proper officer is satisfied that no fraud has been committed or is intended by the applicant.

224C. Duplicates of documents may be granted on payment of fees :-

224C XXX XXX XXX

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225. Producer or manufacturer liable for removal of goods by any person :-

If any excisable goods are, in contravention of any condition

prescribed in these rules, removed by any person from the place where they are produced, manufactured or warehoused, the producer or manufacturer or the registered person or keeper of the warehouse shall be held responsible for such removal, and shall be liable to be dealt with according to the provisions of the Act or the rules as if he had removed the goods himself.

226. XXX XXX XXX :-

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226A. Electronic maintenance or generation of records, returns and documents using computer :-

(1) Any person may electronically maintain or generate all or many of the records, returns, invoices and other documents prescribed under these rules, using a computer, in electronically readable format:

Provided that-

(i) printouts of each record and document are taken at the end of each calendar month;

(ii) printouts of such records, returns, and documents, and copies of invoices, are kept in bound folder;

(iii) each page of the record bears a running serial number and name and address of the person;

(2) The Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise may, for reasons to be recorded in writing, prohibit any person from maintaining or generating any records, returns, invoices or other documents in the manner prescribed under sub-rule (1) above.

227. Provision and maintenance of weighing and measuring apparatus :-

(1) Every person registered to deal in excisable goods shall render all necessary assistance to officers in taking account of such goods in his possession and shall, where so required by the Commissioner by written order, provide sufficient and just scales and weights, or a correct weighing machine, capable of weighing the largest package of such goods which may be packed on his premises and, where necessary, a set of standard measures, for the purpose of weighing, measuring and taking an account of the goods in his warehouse, or possession, and of any vessel used for the

purpose of containing any such goods.

(2) [***]

(3) [***]

(4) [***]

(5) For any refusal or neglect on the part of a registered dealer to comply with any of the provisions of this rule he shall be liable to a penalty which may extend to one thousand rupees.

228. Provision and maintenance of locks :-

(1) Where any warehouse, room, place, vessel, or fitting belonging to any person registered to deal in excisable goods is by these rules, or by any general or special order of the Central Board of Excise and Customs, or of the Commissioner, directed to be secured or locked, the registered person and, in the case of a public warehouse, the warehouse keeper, shall, to the satisfaction of the proper officer, provide, affix, repair and renew all fastenings requisite for the purpose of enabling officers to affix locks thereto or otherwise to secure them.

(2) If the registered person or warehouse-keeper fails so to do, the proper officer may provide, affix, repair, or renew the fastenings, and the expense thereof shall be paid on demand by the registered person or warehouse-keeper, as the case may be.

(3) All requisite locks or keys shall be provided by the Central Government at the expense of the Revenue.

(4) If any registered person or warehouse-keeper fails on demand to pay the expense of providing, affixing, repairing or renewing fastenings, as prescribed in sub-rule (2), or if any registered person or warehouse-keeper or his servant or workman, wilfully destroys or damages any such fastening, or any lock or key belonging thereto, or any lock label, or improperly obtains access into any warehouse, room, place, vessel, or fitting, or has any fastening, vessel or fittings so constructed that the security intended to be obtained by any lock or fastening may be defeated, the registered person or warehouse-keeper shall be liable to a penalty which may extend to two thousand rupees.

229. Provision of accommodation at factory or warehouse :-

(1) Every person manufacturing or storing goods on which excise duty is to be levied shall provide and maintain to the satisfaction of the Commissioner, for the use of the officers in attendance at the factory or warehouse, furniture and sufficient and proper

accommodation and sanitary accommodation within the factory or warehouse premises; and every manufacturer of excisable goods shall, where so required by the Commissioner, provide suitable lodging conveniently situated to the factory premises at a rent not exceeding ten per cent of the pay of each officer so accommodated: Provided that where the limit of rent specified above for such lodging falls short of the rent prevailing in the area the rent payable may be increased by an amount not exceeding Rs. 20 in each case.

(2) A breach of this rule shall be punishable with a penalty which may extend to one thousand rupees.

230. Goods, plant and machinery chargeable with duty and not paid :-

(1) When the duty leviable on any goods is owing from or by any person carrying on trade or business, whether as a producer, manufacturer or as dealer in such goods, all excisable goods, and all materials and preparations, from which any such goods are made, and all plant, machinery, vessels, utensils, implements and articles for making or manufacturing or producing any such goods, or preparing any materials, or by which the trade or business is carried on, in the custody or possession of the person carrying on such trade or business, or in the custody or possession of any agent or other person in trust for or for the use of the person carrying on such trade or business, may be detained for the purpose of exacting such duty; and any officer duly authorised by general or special order of the Central Board of Excise and Customs or the Commissioner may detain such goods, materials, preparations, plant, machinery, vessels, utensils and articles until such duties or any sums recoverable in lieu thereof are paid or recovered.

(2) Where any such person transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or trade or part thereof by any other person or persons, all excisable goods, materials, preparations, plant, machinery, vessels, utensils, implements and articles in the custody or possession of the person or persons succeeding may also be detained for the purpose of exacting duty due from the producer, manufacturer or dealer up to the time of such transfer, disposal or change, whether such duty has been assessed before such transfer, disposal or change, but has remained unpaid, or is assessed thereafter.

231. Matches and excisable tobacco products not to be sold except in prescribed containers bearing a Central Excise Stamp or label :-

Save as otherwise provided by these rules, if any matches or excisable tobacco products are found in the possession of any dealer in or retailer of such goods, not being affixed with Central Excise Stamp , wrapped or labelled as hereinbefore prescribed or of which the Central Excise Stamp , wrapper or label is cut or torn, or the wrapper or other container bears any other mark or appearance of having been opened or tampered with, such goods shall be liable to confiscation and such dealer or retailer shall be liable to a penalty which may extend to one thousand rupees.

232. Officer shall not disclose information learned in his official capacity :-

If any officer except in the discharge in good faith of his duty as such officer or in pursuance of such special or general directions as may be issued by the Central Board of Excise and Customs, discloses any particulars learned by him in his official capacity in respect of any goods, he shall be liable to a penalty not exceeding one thousand rupees.

232A. Publication of names and other particulars of persons :-

(1) Subject to the provisions of sub-rule (5), the Commissioner shall, once in every three months, cause to be published in the Official Gazette the names and addresses and other particulars specified in sub-rule (2), of the following categories of persons, namely:-

(a) persons who have been convicted by a court under section 9 of the Act;

(b) persons who have been found by an officer referred to in section 33 of the Act to have contravened any of the provisions of the Act or rules made thereunder and on whom a penalty of ten thousand rupees or more has been imposed by such officer.

(2) The other particulars referred to in sub-rule (1) are:-

(a) the provisions of the Act or rules made thereunder contravened;

(b) the amount of penalty imposed;

(c) the value of excisable goods or other property ordered to be forfeited by a court under section 10 of the Act or adjudged by the

officer referred to in section 33 to be confiscated;

(d) amount of fine in lieu of confiscation, if any, imposed under section 34 of the Act;

(e) particulars of any registration certificate revoked under rule 181.

Explanation.-In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, the circumstances of the case justify such publication.

(3) Notwithstanding anything contained in sub-rule (1), the Central Government may, if it is satisfied that it is necessary or expedient so to do, direct the Commissioner to publish the names, addresses and other particulars specified in sub-rule (2) of any other person who has been found guilty of contravention of the Act or of any rule made thereunder.

(4) Notwithstanding anything contained in this rule, the Central Government may, if it is satisfied that it is necessary or expedient in the interest of investigations under the Act, security of State or friendly relations with foreign States or otherwise in the interest of general public, so to do, direct the Commissioner that names of any persons may not be published.

(5) No publication under sub-rule (1) shall be made in respect of a person until the period for preferring an appeal under section 35 of the Act or to the first Appellate Court has expired without an appeal having been preferred or such appeal having been filed, has been disposed of.

232B. Qualifications for authorized representatives :-

For the purposes of clause (c) of sub-section (2) of section 35Q , an authorized representative shall include a person who has acquired any of the following qualifications namely:-

(a) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or

(b) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959); or

(c) a Company Secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980) who has obtained a certificate of practice under section 6 of that Act; or

(d) a post-graduate or an Honours degree holder in Commerce or a

post-graduate degree or diploma holder in Business Administration from any recognised university; or

(e) a person formerly employed in the Department of Customs and Central Excise or Narcotics and has retired or resigned from such employment after having rendered service in any capacity in one or more of the said departments for not less than ten years in the aggregate.

Explanation.-In this rule "recognised University" means any of the Universities specified below, namely:-

I. Indian Universities

Any Indian University incorporated under any law for the time being in force in India;

II. Rangoon University;

III. English and Welsh Universities

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales;

IV. Scottish Universities

The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews;

V. Irish Universities

The Universities of Dublin (Trinity College), the Queens University, Belfast and the National University of Dublin;

VI. Pakistan Universities

Any Pakistan University incorporated by any law for the time being in force;

VII. Bangladesh Universities

Any Bangladesh University incorporated by any law for the time being in force.

232C. Authority under section 35Q(5)(b) :-

The Commissioner of Central Excise having jurisdiction in the proceedings in which a person who is not a legal practitioner is found guilty of misconduct in connection with that proceeding under the Act shall be the authority for the purposes of clause (b) of sub-section (5) of section 35Q.

233. Power to issue supplementary instructions :-

The Central Board of Excise and Customs Chief Commissioners and Commissioners, may issue written instructions providing for any supplemental matters arising out of these rules.

233A. Issue of show cause notice before confiscation of any property or imposition of any penalty :-

No order confiscating any property, or imposing any penalty on any person shall be made under these rules, unless-

(a) a written notice stating the grounds on which it is proposed to confiscate such property or to impose such penalty; and

(b) a reasonable opportunity of making a representation in writing within such time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein and of being heard in the matter; are given-

(i) Where the order relates to confiscation of any property, to the person-in-charge of such property and, where such person-in-charge is not the owner of such property, also to the owner thereof; or

(ii) where the order relates to the imposition of any penalty, to the person on whom such penalty is to be imposed:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person or persons concerned, be oral.

233B. Procedure to be followed in cases where duty is paid under protest :-

Where an assessee desires to pay duty under protest he shall deliver to the proper officer a letter to this effect and give grounds for payment of the duty under protest.

(2) On receipt of the said letter, the proper officer shall give an acknowledgement to it.

(3) The acknowledgement so given shall, subject to the provisions of sub-rule (4), be the proof that the assessee has paid the duty under protest from the day on which the letter of protest was delivered to the proper officer.

(4) An endorsement "Duty paid under protest" shall be made on all copies of the gate pass, the Application for Removal and Form R.T.12 or Form R.T. 13, as the case may be .

(5) In cases where the remedy of an appeal or revision is not available to the assessee against any order or decision which necessitated him to deposit the duty under protest, he may, within three months of the date of delivery of the letter of protest, give a detailed representation to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.

(6) In cases where the remedy of an appeal or revision is available to the assessee against an order or decision which necessitated him to deposit the duty under protest, he may file an appeal or revision within the period specified for filing such appeal or revision, as the case may be.

(7) On service of the decision on the representation referred to in sub-rule (5) or of the appeal or revision referred to in sub-rule (6) the assessee shall have no right to deposit the duty under protest: Provided that an assessee shall be allowed to deposit the duty under protest during the period available to him for filing an appeal or revision, as the case may be, and during the pendency of such appeal or revision, as the case may be.

(8) If any of the provisions of this rule has not been observed, it shall be deemed that the assessee has paid the duty without protest.

234. Cancellation of former rules, orders and notifications
:-

The following rules, orders and notifications are hereby cancelled, namely:-

1. The Motor Spirit (Duties) Order, 1917.
2. The Kerosene (Duties) Order, 1922.
3. The Silver (Excise Duty) Order, 1930.
4. The Sugar (Excise Duty) Order, 1934.
5. The Matches (Excise Duty) Order, 1934.
6. The Mechanical Lighters (Excise Duty) Order, 1934.
7. The Steel Ingots (Excise Duty) Order, 1934.
8. The Northern India Motor Spirit (Duties) Order, 1938.
9. The Northern India Kerosene (Duties) Order, 1938.
10. The Northern India Sugar (Excise Duty) Order, 1938.
11. The Northern India Matches (Excise Duty) Order, 1938.
12. The Northern India Mechanical Lighters (Excise Duty) Order, 1938.
13. The Northern India Steel Ingots (Excise Duty) Order, 1938.
14. The Northern India Silver (Excise Duty) Order, 1938.
15. The Bombay Sugar (Excise Duty) Supplementary Order, 1938.
16. The Madras Sugar (Excise Duty) Supplementary Order, 1938.
17. The Northern India Matches (Excise Duty) Supplementary Order, 1938.
18. The Bombay Matches (Excise Duty) Supplementary Order, 1938.

19. The Madras Matches (Excise Duty) Supplementary Order, 1938.
20. The Motor Spirit and Kerosene Export (Nepal) Rules, 1939.
21. The Sugar Export (Afghanistan) Rules, 1939.
22. The Motor Spirit and Kerosene Export (Kashmir) Rules, 1940.
23. The Motor Spirit and Kerosene Export (Afghanistan) Rules, 1940.
24. The Tyres (Excise Duty) Order, 1941.
25. The Sugar Export (Confectionery) Rules, 1941.
26. The Matches Export (Afghanistan) Rules, 1941.
27. The Tyres Export (Afghanistan and Nepal) Rules, 1941.
28. The Sugar Exports (Iran) Rules, 1942.
29. The Tobacco (Excise Duty) Rules, 1943.
30. The Vegetable Product (Excise Duty) Rules, 1943.
31. The notifications of the Government of India in Finance Department (C.R.)
 - (i) No. 13-Customs dated 12th April, 1930.
 - (ii) No. 5-Exc., dated 3rd May, 1934.
 - (iii) No. 13-Exc., dated 30th June, 1934.
 - (iv) No. 7-Exc., dated 1st March, 1941.
 - (v) No. 67-Exc., dated 27th September, 1941.
 - (vi) No. 32-Exc., dated 18th September, 1943.
 - (vii) No. 33-Exc., dated 18th September, 1943.