

CENTRAL EXCISE RULES, 2001

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CENTRAL EXCISE RULES, 2001

In exercise of the powers conferred by Sec. 37 of the Central Excise Act, 1944 (1 of 1944), and in supersession of the Central Excise Rules, 1944, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes

the following rules, namely:-

1. Short title, extent and commencement :-

(1) These rules may be called the Central Excise Rules, 2001.

(2) They extend to the whole of India.

(3) They shall come into force on the 1st day of July, 2001.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Central Excise Act, 1944 ;

(b) "assessment" includes self-assessment of duty made by the assessee and provisional assessment under Rule 7;

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

(d) "Board" means the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 (54 of 1963);

(e) "duty" means the duty payable under Section 3 of the Act;

(f) "notification" means the notification published in the Official Gazette;

(g) "proper form" means the appropriate form as may be notified;

(h) "warehouse" means any place or premises registered under Rule 9; and

(i) words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Appointment and jurisdiction of Central Excise Officers :-

(1) The Board may, by notification, appointed such Central Excise Officers as it may deem fit to exercise all or any of the powers conferred by or under the Act and the rules made thereunder.

(2) The Board may, by notification, specify the jurisdiction of a Chief Commissioner, Commissioner or Commissioner (Appeals) for

the purposes of the Act and the rules made thereunder.

4. Duty payable on removal :-

(1) Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse, shall pay the duty leviable on such goods in the manner provided in Rule 8 or under any other law, and no excisable goods, on which any duty is payable, shall be removed without payment of duty from any place, where they are produced or manufactured, or from a warehouse, unless otherwise provided.

(2) Notwithstanding anything contained in sub-rule (1), where molasses are produced in a khandsari sugar factory, the person who procures such molasses, whether directly from such factory or otherwise, or use in the manufacture of any commodity, whether or not excisable, shall pay the duty leviable on such molasses, in the same manner as if such molasses have been produced by the procurer.

5. Date for determination of duty and tariff valuation :-

(1) The rate of duty or tariff value applicable to any excisable goods, other than khandsari molasses, shall be the rate or value in force on the date when such goods are removed from a factory or a warehouse, as the case may be.

(2) The rate of duty in the case of khandsari molasses, shall be the rate in force on the date of receipt of such molasses in the factory of the procurer of such molasses. Explanation.-If any excisable goods are used within the factory, the date of removal of such goods' shall mean the date on which the goods are issued for such use.

6. Assessment of duty :-

The assessee shall himself assess the duty payable on any excisable goods: Provided that in case of cigarettes, the Superintendent or Inspector of Central Excise shall assess the duty payable before removal by the assessee.

7. Provisional assessment :-

(1) Where the assessee is unable to determine the value of excisable goods or determine the rate of duty applicable thereto, he may request the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, in

writing giving reasons for payment of duty on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, may allow payment of duty on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of duty on provisional basis may be allowed, if the assessee executes a bond with such surety or security in such amount as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, deem fit, binding the assessee for payment of difference between the amount of duty as may be finally assessed and the amount of duty provisionally assessed.

(3) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall pass order for final assessment, as soon as may be, after all the relevant information, as may be required for finalizing the assessment, is available.

8. Manner of payment :-

(1) The duty on the goods removed from the factory or the warehouse during the first fortnight of the month shall be paid by the 20th of that month and the duty on the goods removed from the factory or the warehouse during the second fortnight of the month shall be paid by the 5th of the following month : Provided that in the case of goods removed during the second fortnight of the month of March, the duty shall be paid by 31st day of March : Provided further that where an assessee is availing of the exemption under a notification based on the value of clearances in a financial year, the duty on goods cleared during a calendar month shall be paid by the 15th day of the following month. Explanation.- For removal of doubts, it is hereby clarified that the duty liability shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the specified date.

(2) The duty of excise shall be deemed to have been paid for the purpose of these rules on the excisable goods removed in the manner provided under sub-rule (1) and the credit of such duty allowed, as provided by or under any rule.

(3) If the assessee fails to pay the amount of duty by due date, he shall be liable to pay the outstanding amount alongwith 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.

(4) If the assessee defaults,-

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

(ii) in payment of installment by the date in a financial year, whether in succession or otherwise, then, the assessee shall forfeit the facility to pay the dues in installments under this rule for a period of two months, starting from the date of communication of the order passed by the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, in this regard or till such date on which all dues are paid, whichever is later, and during this period the assessee shall be required to pay excise duty for each consignment by debit to the account current and in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules shall follow.

9. Registration :-

(1) Every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods, shall get registered and shall not engage in the production, manufacture, trade, storing in private store room or warehouse or use excisable goods without having applied for such registration to the jurisdictional Superintendent of Central Excise in proper form.

(2) The Superintendent of Central Excise shall grant a Registration Certificate under this rule within thirty days of the receipt of an application and if registration certificate is not granted within the said period, the registration shall be deemed to have been granted.

(3) The Board may, by notification, and subject to such conditions or limitation as may be specified in such notification, specify person or class of persons who may not require such registration.

(4) If the person specified under sub-rule (1) make use of more than one premises, he shall obtain separate registration certificate for such of each premises.

(5) Every registration certificate granted shall be in the proper form

and shall be valid only for the premises specified in such certificate.

(6) Where a registered person transfers his business to another person the transferee shall have to obtain a fresh certificate.

(7) Where a registered person is a firm or a company or association of persons, any change in the constitution of such firm, company or association, shall be intimated to the Superintendent of Central Excise within thirty days of such change for incorporation in the certificate.

(8) In case a registered person intend to manufacture a new product, he shall get the product endorsed on his registration certificate.

(9) Every registered person, who ceases to carry on the operation or operations for which he is registered, shall deposit his registration certificate immediately with the Superintendent of Central Excise.

(10) Every registered person shall exhibit his registration certificate or a certified copy thereof in a conspicuous part of the registered premises.

(11) A registration certificate granted under this rule may be revoked or suspended by the Superintendent of Central Excise, if the holder of such certificate or any person in his employment, is found to have committed a breach of any of the provision of the Act or these rules or has been convicted of an offence under Sec. 161 , read with Sec. 109 or with Sec. 116 of the Indian Penal Code, 1860 (45 of 1860).

10. Daily stock account :-

(1) Every assessee shall maintain proper records, on a daily basis, a legible manner indicating the particulars regarding description of the goods produced or Manufactured, opening balance, quantity produced or manufactured, inventory of goods, quantity removed. assessable value, the amount of duty payable and particulars regarding amount of duty actually paid.

(2) The first page and the last page of each such account book shall be duly authenticated by the producer or the manufacturer or his authorised agent.

(3) All such records shall be preserved for a period of five years

immediately after the financial year to which such records pertain.

11. Goods to be removed on invoice :-

(1) No excisable goods shall be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorized agent and in the case of cigarettes, each such invoice shall also be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the cigarettes are removed from the factory.

(2) The invoice shall be serially numbered and shall contain the description, quantity and value of goods and the duty payable thereon.

(3) The invoice shall be prepared in triplicate in the following manner, namely:-

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

(ii) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;

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

(4) Only a copy of invoice book shall be in use at a time, unless otherwise allowed by the Assistant Commissioner of Central Excise, or the Deputy Commissioner of Central Excise, as the case may be, in the special facts and circumstances of each case.

(5) The owner or working partner or Managing Director or Company Secretary shall authenticate each foil of the invoice book, before being brought into use.

(6) Before making use of the invoice book, the serial numbers of the same shall be intimated to the Superintendent of Central Excise having jurisdiction.

12. Monthly return :-

Every assessee shall submit to the Superintendent of Central Excise, a monthly return of production and removal of goods and other relevant particulars in the proper form within ten days after the close of the month to which the return relates.

13. Duty on matches :-

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 shall be reckoned by the manufacturer as his minimum unit of distribution and shall bear the manufacturer's trade label and a mark clearly showing the class of matches contained in the package.

14. Procedure for procurement of central excise stamps and maintenance of records for production and removal of matches :-

The Board may, by notification, specify the procedure for procurement, accounting and disposal of Central Excise Stamps and matters pertaining to production, storage, control, removal and payment of duty on matches.

15. Special procedure for payment of duty :-

(1) The Central Government/may, by notification, specify the goods in respect of which an assessee shall have the option to pay the duty of excise on the basis of such factors as may be relevant to production of such goods and at such rate as may be notified for this purpose.

(2) The Central Government may also specify by notification the manner of making an application for availing of the special procedure for payment of duty, the abatement, if any, that may be allowed on account of closure of a factory during any period, and any other matter incidental thereto.

16. Credit of duty on goods returned to the factory :-

(1) Where any goods on which duty has been paid at the time of removal thereof are subsequently returned to the factory for being remade, refined, re-conditioned or for any other reason, the assessee shall state the particulars of such return in his record and shall be entitled to have CENVAT credit of the duty paid as if such goods are received as inputs under the CENVAT Rules.

(2) The assessee shall be liable to pay the duty on goods returned under sub-rule (1) when removed subsequently at the rate applicable on the date of removal and on the value determined under Section 4 of the Act.

17. Removal of goods by a unit in the Free Trade Zone or by a Hundred per cent Export-Oriented-undertaking for

Domestic Tariff Area :-

(1) Where any goods are removed from a unit in a Free Trade Zone or a hundred per cent. export-oriented unit or a unit in the Special Economic Zone, to domestic tariff area, such removal shall be made under an invoice by following the procedure specified in Rule 11, and on payment of appropriate duty by debiting the account current required to be maintained for this purpose.

(2) The unit shall maintain, in proper form, appropriate account relating to production, description of goods, quantity removed, duty paid and each removal shall be made on an invoice.

(3) The unit shall submit a monthly return to the Superintendent of Central Excise, within ten days from the close of the month to which the return relates, in respect of the goods removed to domestic tariff area in such form as may be notified by the Board for this purpose.

18. Rebate of duty :-

Where any excisable goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture of such excisable goods and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.

Explanation.-"Export" includes goods shipped as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.

19. Export in bond :-

(1) Any excisable goods may be exported in bond without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, as may be approved by the Commissioner.

(2) The export under sub-rule (1) shall be subject to such conditions, safeguards and procedure as may be notified by the Board.

20. Warehousing provisions :-

(1) The Central Government may by notification, extend the facility of removal of the excisable goods from the factory of production to

a warehouse, or from one warehouse to another warehouse without payment of duty.

(2) The facility under sub-rule (1) shall be available subject to such conditions (including penalty and interest), limitations (including limitation with respect to the period for which the goods may remain in the warehouse) and safeguards and procedure (including in the matters relating to dispatch, movement, receipt, accountal and disposal of such goods) as may be specified by the Board in this behalf.

(3) The responsibility for payment of duty on the goods that are removed from the factory of production to a warehouse or from one warehouse to another warehouse shall be upon the consignee.

(4) If the goods dispatched for warehousing or re-warehousing are not received in the warehouse, the responsibility for payment of duty shall be upon the consignor.

21. Procedure for availing of end-use exemptions :-

Where a producer or a manufacturer intends to avail of an exemption notified by the Central Government in respect of any clearances of goods on end-use basis, the producer or the manufacturer of such goods and the end-user thereof to whom the goods are supplied shall follow the procedure as may be specified by the Board.

22. Access to registered premises :-

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

23. Power to stop and search :-

Any Central Excise Officer, not below the rank of an Inspector of Central Excise, may search any conveyance carrying excisable goods in respect of which he has reason to believe that the goods are being carried with the intention of evading duty.

24. Power to detain goods or seize the goods :-

If a Central Excise Officer, not below the rank of an Inspector of Central Excise, has reason to believe that any goods, which are liable to excise duty but no duty has been paid thereon or the said goods were removed with the intention of evading the duty payable thereon, the Central Excise Officer may detain or seize such goods.

25. Confiscation and penalty :-

Subject to the provisions of Section 11AC of the Act, if any producer, manufacturer, registered person of a warehouse or a registered dealer,-

(a) removes any excisable goods in contravention of any of the provision of these rules; or

(b) does not account for any excisable goods produced or manufactured or stored by him; 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 producer or manufacturer or 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 (c) or clause (d) has been committed, or rupees ten thousand, whichever is greater.

26. 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 rupees ten thousand, whichever is greater.

27. 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.

28. On confiscation, property to vest in the Central Government :-

(1) when any goods are confiscated under these rules, such thing shall thereupon vest in the Central Government.

(2) The Central Excise Officer adjudging confiscation shall take and

hold possession of the things confiscated, and every Officer of Police, on the requisition of such Central Excise Officer, shall assist him in taking and holding such possession.

29. Disposal of goods confiscated :-

Goods 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.

30. Storage charges in respect of goods confiscated and redeemed :-

If the owner of the goods, the confiscation of which has been adjudged, exercises his option to pay fine in lieu of confiscation, he may be required to pay such storage charges as may be determined by the Commissioner.

31. Power to issue supplementary instructions :-

The Board or the Chief Commissioner or the Commissioner, may issue written instructions providing for any incidental or supplemental matters consistent with the provisions of the Act and these rules.