SSI Exemption Scheme
Job Work Schemes
Excise Free Zones

CA Jayesh Gogri

A PASSION FOR SOLUTIONS

A PASSION FOR SOLUTIONS

Exemption available to:

Only Small Scale Units (SSI)

Meaning of Small Scale Units (SSI):

Not as understood in common parlance under The Industries Development and Regulation (IDR) Act, 1951.

Under Excise laws, unit whose clearances in preceding F.Y does not exceed Rs. 400 lacs.

Introduced by way of:

Notifications

Notifications

- Exemption started with Notification No. 175/86 and continued with similar Notifications.
- Two new Notifications 8/2003 and 9/2003 dated 1.03.2003 were notified by the Department.
- W.e.f 1.04.2005 Notification No. 9/2003 rescinded by the Department vide Notification No. 11/2005.
- At present Notification applicable is only Notification No. 8/2003.

Products eligible for exemption

- Not applicable to all products.
- Applicable to products mentioned in the Notification No. 8/2003.
- Some of the products on which exemption is not available:
  - Tobacco products
  - Pan masala
  - Watches
  - Tea
  - Residues and waste from the food industries; prepared animal fodder

A Passion For Solutions

Products eligible for exemption

- Sterile absorbable surgical or dental yarns and sterile surgical or dental adhesion barriers
- Sandalwood oil
- Photographic paper & paper board
- Polyurethane foam and articles of polyurethane foam
- Textile and textile articles falling under Chapter 50 to 63
- Ceramic tiles
- Stainless steel patties/pattas
- Copper circles, whether or not trimmed
- Aluminium circles, whether or not trimmed
- Bars and rods of refined copper and copper alloys
- Travel sets for personal toilets etc.

Notification No. 8/2003 – mode of exemption:

Based on clearances in current F.Y

Value of clearances	Rate of duty
Upto 150 lacs	NIL
Beyond 150 lacs	Normal rate

CENVAT Credit

- For Inputs
  - No credit available upto clearances of Rs. 150 lacs.
  - Credit available beyond clearances of Rs. 150 lacs.
- For Capital goods
  - Credit available but can be utilized only after clearances of Rs. 150 lacs,

A PASSION FOR SOLUTIONS

Conditions for availing exemption (Contd)

- Should not avail CENVAT Credit on inputs upto clearances of Rs. 150 lacs.
- Should not utilize CENVAT Credit on capital goods upto clearances of Rs. 150 lacs.
- If more than one factory, exemption applicable after aggregating turnover of all factories.
- If more than one manufacturers in a factory then exemption applies to manufacturers till aggregate value of clearances does not exceed 150 lacs.

A PASSION FOR SOLUTIONS

Conditions for availing exemption (Contd)

- In following cases the manufacturer’s clearances shall be calculated per manufacturer wise and not factory wise:
  - for Chinaware or Porcelainware

    filed in a kiln belonging to or maintained by

    Pottery Development Center run by the Central

    Government or State Government or by Khadi

    and village Industrial Commission
  - If specified goods manufactured in a factory belonging to or maintained by
    - Central Government or
    - a State Government or
    - State Industrial Corporation or
    - State Small Industries Corporation or
    - Khadi and village Industries Commission.

Calculation of limit of Rs. 150 lacs : Following clearances to be excluded

- Clearances exempt from whole of duty of excise (other than an exemption based on quantity or value of clearances) under any other notification or on which no excise duty is payable.
- Clearances bearing brand name or trade name of another person which are ineligible for grant of this exemption
- Clearances of specified goods used as inputs for further manufacture of specified goods within the factory of production of specified goods.

Calculation of limit of Rs. 150 lacs : Following clearances to be excluded

- Clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene.

A PASSION FOR SOLUTIONS

Calculation of clearances of Rs. 400 lacs: Following clearances shall be excluded

- Clearances of excisable goods without payment of duty –
  - To a unit in free trade zone
  - To a unit in special economic zone
  - To a hundred percent, export oriented undertaking or
  - To a unit in an Electronic Hardware Technology Park or Software Technology Park or
  - Supplied to 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 No. 108/95 – C.E dated 28.08.1995

Calculation of clearances of Rs. 400 lacs: Following clearances shall be excluded

- Clearances bearing brand name or trade name of another person which are ineligible for grant of this exemption.
- Clearances of specified goods used as inputs for further manufacture of specified goods within the factory of production of specified goods.
- Clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene.
- Clearances which are exempt from whole of the excise duty leviable thereon under specific job work notifications.

Goods bearing brand name or trade name – Exemption available only in following cases:

- Components or parts of machinery or equipment or appliances cleared for use as original equipment by following procedure laid down in Central Excise (Removal of goods at Concessional Rate of duty for manufacture of Excisable goods) Rules, 2001.

Goods bearing brand name or trade name – Exemption available only in following cases:

- Goods bearing brand name or trade name of:
  - Khadi and village industries commission or
  - State khadi and village industry board or
  - National small industries corporation or
  - State small industries development corporation or
  - State small industries corporation
- Specified goods manufactured in a factory located in rural area
- Specified goods are account books, registers, writing pads and file folders falling under Chapter 4820 or 4821

Goods bearing brand name or trade name – Exemption available only in following cases:

- Benefit of this notification available to specified packing materials, namely, printed cartons of paper or paper board, metal containers, HDPE woven sacks, adhesive tapes, stockers, PP caps, crown corks, metal labels, plastic bags, printed laminated rolls, plastic containers and plastic bottles, bearing brand name or trade name of another person.
- As per recent amendment, benefit of this notification is available to plastic bottles and plastic containers which are meant for use as packing material by the person whose brand name appears on such goods.

Option of not availing exemption

- Option of not availing exemption once exercised cannot be withdrawn during remaining part of F.Y.
- Inform to AC / DC of Central Excise with following particulars, if this option is not exercised-
  - Name and address
  - Location / locations of factories
  - Description of inputs used in manufacture of specified goods
  - Description of specified goods produced
  - Date of exercising option
  - Aggregate value of clearances till the date of exercising option

Comparison for calculation of limits

Particulars	Calculation of limit of 150 lacs	Calculation of limit of 400 lacs
Clearances which are exempted under Section 5A (other than goods falling under Notification No. 8/2003)	Not to be included	To be included
Clearances which are chargeable to NIL rate of duty	Not to be included	To be included
Clearances bearing brand name or trade name of others if are cleared for use as original equipment	To be included	To be included
Clearances bearing brand name or trade name of others if Khadi & village Industries Commission, State Khadi & village Industry Broad etc.	To be included	To be included

A Passion For Solutions

Comparison for calculation of limits

Particulars	Calculation of limit of 150 lacs	Calculation of limit of 400 lacs
Clearances bearing brand name or trade name of others if are cleared from factory situated in RURAL area	To be included	To be included
Clearances bearing brand name or trade name of others if clearances of Accounts, books, register, file folders etc.	To be included	To be included
Clearances bearing brand name or trade name of others if clearances of packing materials	To be included	To be included
Clearances of intermediate goods	Not to be included	Not to be included

A Passion For Solutions

Comparison for calculation of limits

Particulars	Calculation of limit of 150 lacs	Calculation of limit of 400 lacs
Clearances by availing job work exemption	To be included	Not to be included
Clearances to SEZ, FTZ, 100% EOU, EHTP/STP Units, United Nations or any international organization	Not to be included	Not to be included

Cases / Issues

- In case of MRP based valued products under excise, whether SSI limit of 150 lacs has to be taken at transaction value or at MRP.

  The limit of 150 lacs has to be calculated with respect to MRP valuation.

- Whether exports to Nepal or Bhutan is eligible for calculating limit of 150 lacs.

  No. Exports to Nepal or Bhutan are not considered to be exports in terms of this notification.

- Whether SSI is eligible to claim CENVAT Credit on Input services.

  Yes

Cases / Issues

- If a manufacturer manufactures goods on his own account as well as branded goods, whether exemption available? If yes, whether on entire clearance or only on goods manufactured on own account?

  Yes. Only on goods manufactured on own account

  Shailesh Surgicals Vs. CCE, Ahemdabad (2009 (245) ELT 277 (Tri.-Ahemdabad))

- Whether CENVAT Credit would be available on such branded goods.

  Yes as excise duty is leviable on such goods

  Commissioner Vs. Nebulae Health Care Ltd. (2008 (221) ELT A82 (SC))

Cases / Issues

- If same brand name used by two different persons, whether SSI exemption available.

  Yes provided same brand name is used without the intention of indicating a connection with such brand.

  CCE, Chandigarh – II Vs. Bhalla Enterprises (2004 (173) ELT 225 (SC))

- If one person owns a factory and is a partner in another factory, can production of both factories be clubbed?

  Yes

  Modern Engineering Plastics Pvt. Ltd. Vs. CCE, Trichy (2009 (243) ELT 289 (Tri.-Chennai))

Cases / Issues (Contd.)

- Can factors like common location of factories, common expenses, common partners, common trade mark, sharing machinery usage, mutual financial transaction be the basis for clubbing?

  No provided no interest between the two units.

  Jagjivandas & Co. Vs. CCE 1985 (19) ELT 441 (T) affirmed by Supreme Court in 1989 (44) ELT A24

- Can turnover of limited companies where there is no financial flow back be clubbed?

  No.

  Spring Fresh Drinks Vs. CCE 1991 (54) ELT 333 (T)

Cases / Issues (Contd.)

- Can income of units which are separately incorporated be clubbed because few directors are common?

  No.

  Alpha Toyo Ltd. Vs. CCE 1994 (71) ELT 689 (T)

- Can manufacture of same products in factory as well as in job workers factory be clubbed?

  Yes.

Compliances and relaxations for SSI units

- **Registration**

  SSI unit needs to file a declaration form only when the aggregate value of clearances exceeds 90 lacs in immediate preceding financial year.

  Notification no. 36/2001 CE (NT) dated 26th June, 2001

- **Invoice Book**

  SSI unit shall state in their invoice that they are not liable to pay excise duty by virtue of exemption notification no. 8/2003

- **Visit**

  SSI units can be visited by Central Excise Inspectors and superintendents only after getting specific permission from Assistant Collector.

  Circular No. 9/9/94 CX-6 dated 31st January, 1994

Relaxation to SSI units in recent budget

The assessee, who is eligible to avail exemption under a notification based on value of clearances in a financial year, would be given following facilities with effect from 1st April, 2010:

Facility	Remarks	Relevant Rule
Payment on quarterly basis	By 5th of next month E-payment: 6th of next month March month: By 31st March	Rule 8 of Central Excise Rules, 2002
Return on quarterly basis	By 10th of next month	Rule 12 of Central Excise Rules, 2002
100% Cenvat credit on capital goods in the year of receipt of such capital goods in factory		Rule 4 of Cenvat Credit Rules, 2004

Excise free zones

- No excise duty leviable on manufacturing.
- Exemption available to units located in SEZ.
- Approval of development commissioner required to set up a unit.
- Goods and services can be sold in Domestic Tariff Area subject to certain restrictions and on payment of Customs duties.
- Packing materials and computer donated to education institutions can be cleared without payment of duty.

Excise free zones

- Entry into SEZ shall be on identity cards issued by Development Commissioner.
- Exit from SEZ on approval of Development Commissioner and on payment of appropriate duties.
- Unit has to maintain proper accounts in terms of value of goods imported or procured from DTA and their utilization for export / disposal for seven years.
- Unit has to submit Annual Performance reports, quarterly reports on import and procurement of goods from DTA, their disposal and stock in hand.

Excise free zones

- Exemption from Customs duty on goods imported into or Exported from SEZ.
- Exemption from Service Tax.

Excise Free Zones

- Notification No. 22/2003 CE dated 31/03/2003:
  - Exemption from Excise Duty, additional duty of excise under goods of special importance Act and additional duty of excise under textile and textile articles Act
  - Exemption to specified goods, in connection with manufacture or packaging of goods or services for export, when brought to a 100% EOU
  - Exemption subject to certain conditions:
    - The specified goods are brought directly from factory of manufacture or warehouse
    - Such goods are used as specified in this notification
    - Disposal of said goods as provided in Foreign Trade Policy or in this notification
    - Execution of bond with AC/DC to achieve positive NFE

Excise Free Zones

- Notification No. 23/2003 CE dated 31/03/2003

  Exemption to DTA clearances of specified goods produced in EOU/EHTP/STP

- Notification No. 24/2003 CE dated 31/03/2003

  Exemption to all excisable goods produced in an EOU from

  a) Whole excise Duty

  b) Additional duty of excise under Goods of Special Importance Act

  c) Additional duty of excise under Textile and Textile Articles Act

  Exemption not available if goods are brought to DTA

Job work schemes

Meaning of job work: Rule 2 (n) of CENVAT Credit Rules, 2004 defines job work as "processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression "job worker" shall be construed accordingly".

Job work schemes (Contd.)

- Meaning of job worker: Job-worker means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer, from any inputs or goods supplied by the said principal manufacturer or by any other person authorized by him.

Salient features of the scheme (Rule 4 (5) and Rule 4 (6) of Cenvat Credit Rules, 2004)

- Goods can be removed for further processing without payment of duty.
- CENVAT credit on inputs and capital goods can be taken, if the goods are returned within 180 days from date of removal.
- CENVAT credit can be taken on moulds, dies, jigs and fixtures sent to job worker.
- Goods can be sold directly from the premises of job worker on obtaining approval of AC / DC of Central Excise.

Valuation (Rule 10A of Central Excise Valuation (Determination of price of Excisable Goods) Rules, 2000)

Particulars	Valuation
Goods sold by principal manufacturer from premises of job worker to unrelated buyer	Transaction value of goods sold by principal manufacturer.
Goods are transferred to other place , from where such goods are sold to unrelated buyer	Transaction value of goods at the other place at or about same time and if such goods are not sold at or about same time then at the time nearest to the removal of goods from the factory of job worker.
In other cases (i.e not covered above)	Above provisions shall mutatis mutandis apply.

Valuation (Contd.)

- Exclusions:
  - Cost of transportation from premises to place of delivery.

Note: If the value cannot be determined as per Rule 10A then value shall be determined using reasonable means consistent with the principles and general provisions of valuation Rules and Section 4(1) of Excise Act, 1944.

A Passion For Solutions

Exemptions

- 83/94 CE dated 11/04/1994
  - Exemption applicable to Job Worker
  - Exemption to goods specified in Exemption Notification Nos. 8/2003 and certain other specified goods
  - Exemption from whole excise duty
  - Supplier of raw materials or semi-finished goods has to give an undertaking to proper officer having jurisdiction over the factory of supplier
  - Such undertaking should state that the specified goods received from job worker shall be used in or in relation to manufacture of specified goods exempted from whole excise duty under the said notifications
  - Supplier shall pay excise duty on failure to use such goods as specified above

Exemptions

- 83/94 CE dated 11/04/1994
  - Exemption available to waste or bye-product provided it is used by job worker or returned to supplier and used in or in relation to manufacture of specified goods

Exemptions

- 84/94 CE dated 11/04/1994
  - Exemption to SSI unit when goods cleared for job work to a place outside the manufacturer's factory for getting job work done on specified goods
  - Exemption to goods specified in Exemption Notification Nos. 8/2003 and certain other specified goods
  - Exemption from whole excise duty
  - Supplier of raw materials or semi-finished goods has to give an undertaking to proper officer having jurisdiction over the factory of supplier
  - Such undertaking should state that the specified goods received from job worker shall be used in or in relation to manufacture of specified goods exempted from whole excise duty under the said notifications
  - Supplier shall pay excise duty on failure to use such goods as specified above

Exemptions

- 214/86 CE dated 25/03/1986
  - Exemption to specified goods (inputs) manufactured in factory as a job work
  - Inputs to be used in relation to manufacture of excisable final products, goods to be removed in a free trade zone or 100% EOU or Electronic Hardware Technology Parks or Software Technology Parks etc., used by a manufacturer of dutiable and exempted final products
  - Exemption from whole excise duty, additional excise duty and national calamity contingent duty
  - Supplier of raw materials or semi-finished goods has to give an undertaking to AC/DC having jurisdiction over the factory of job worker

Exemptions

- 214/86 CE dated 25/03/1986
  - Such undertaking should state that the specified goods would be used in or in relation to manufacture of final product in his factory
  - Supplier shall undertake to pay excise duty if leviable on final product

Exemptions

- 70/92 CE dated 17/06/1992
  - Exemption to job worker
  - Exemption only to specified undertakings like
    - Hindustan Aeronautics Ltd.
    - Bharat Electronics Ltd.
  - Exemption to mostly all the goods except certain goods specified
  - The goods to be supplied to Ministry of Defence
  - Exemption from whole excise duty

Questions ???

Thank You

Indirect Taxation

SKP Crossborder Consulting Pvt Ltd