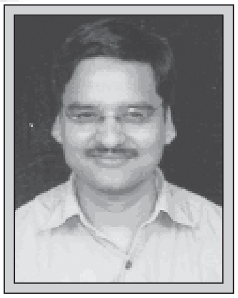

# Highlights of Central Excise Laws and Procedures

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*Manufacturer or Producer of any article or thing attracts the incidence of excise duty. The excise procedures are also complicated. This article briefly outlines the basic excise procedures.*

## The Levy

Central Excise is a tax on act of manufacture or production and levied at the time of their removal of goods from the factory.

## Registration

The following categories of persons require registration : –

1. Every Manufacturer,
2. First and Second stage dealer,
3. Persons holding warehouses for storing non-duty paid goods,
4. Export manufacturer under rebate/bond procedures,EOU,EPZ, which have interaction with domestic economy,
5. Persons who obtains excisable goods for availing end-used based exemption,
6. Persons who get yarns, fabrics, readymade garments etc. manufactured on job work under Rule 12B.

Separate registration is required in respect of separate premises (Factory, depot, godown etc.) except in cases where two or more premises are actually part of same factory, where processes are inter linked but are segregated by public roads, canal or railway line.

## Registration procedure

Application for registration has to be filed in Form A1 (A2/A3 in case of specified classes of manufacturer) along with copy of PAN to DC or AC of Central Excise. A PAN based RC will be issued within 7 days and verification of premises will be done later.A1 is also used for any change in RC subsequently.

## Dutiability/Excisability

Before central excise duty can be imposed on any article, it must satisfy two basic conditions :

1. The Article should be Goods,
2. It should have come into existence as a result of Manufacture.

Liability of payment of duty is on the manufacturer who actually undertakes the manufacturing activity.

## Tariff and classification of goods

Tariff Rates of central excise duty are specified in the first schedule and special excise duty in second schedule to the Central Excise Tariff Act, 1985.The first schedule contains 96 chapters grouped in 20 sections. It is selectively aligned with Harmonised System of Nomenclature (HSN), which is an international nomenclature,adopted by more than 130 countries including India for international trade between the member countries.

Classification of goods is referred to choosing the right heading or subheading of the tariff and determination of the applicable rate of excise duty. For determination of duty for a product the assessee has to first ascertain the tariff heading or sub heading and against each tariff heading or

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sub heading rates of excise duties is specified which is known as scheduled rate of duty or simply as tariff rates.

### Determination of date of duty and tariff valuation

Levy is on the date when such goods are removed from a factory or warehouse. Goods manufactured when they were exempt from duty but removed from the factory when the exemption stood withdrawn are liable to duty.

### Valuation of good for the purpose of excise duty

Tariff value is applicable when the Central Government has fixed tariff values for the goods, but in practice it is rarely fixed.

M.R.P. value is applicable for packaged commodities and assessment is done on the basis of MRP less abatement as notified.

Transaction value following requirement should be satisfied for the same

- The goods are sold by the assessee for delivery at the time and place of removal,
- The assessee and the buyer should not be related,
- The price is the sole consideration for the sale.

### Provisional Assessment

Where an assessee is unable to determine the value of the excisable goods or rate of duty applicable thereto, he can request the AC/CD of central excise. It is allowed when the assessee executes a B-2 Bond. The bond is normally executed for an amount equal to 3 times of estimated differential duty backed by 25% security/bank guarantee.

## ACCOUNTS TO BE KEPT BY ASSESSEE, SCRUTINY OF ASSESSMENT RETURN BY OFFICERS

### *Records*

Daily stock account under rule 10 of Central Excise Rule 2002,

CENVAT account under rule 9 of Cenvat Credit Rule 2004,

Assessee has to provide a list of all records, accounts and returns maintained to the Range Officer.

### *Returns*

ER-1/2/3 monthly return by end of 10$^{th}$ of the next month,

As per rule 12 all assessee who have paid duty of Rs. One crore or more in cash through PLA during the financial year should submit the following additional returns:

ER-4, an annual financial information statement by 30th November,

ER-5, giving principal input output relations once in a year by 30th April,

ER-6, monthly return by end of 10$^{th}$ of the next month,

E-file the weekly returns.

The records should be preserved for 5 years after the close of financial year to which it relates.

### *Scrutiny of returns by the officers*

By Range officer – All returns,

By AC/DC- Every six months for the units paying duty 1-5 crore per annum,

By Addl. /Joint Commissioner- Every six months for the units paying duty 5 crore or more per annum.

### *Manner of payment of duty*

Duty has to be paid every 5$^{th}$ of the succeeding month except for the month of March when it has to be paid by 31$^{st}$ March.

### *Invoice system*

Excisable goods shall be removed from a factory or warehouse under an invoice signed by the owner of the factory or his authorized agent. Invoice shall be prepared in triplicate one is original for buyer, duplicate for transporter and triplicate for assessee.

It will contain serial number, registration number, name of consignee, classification, time and date of removal, mode of transport, vehicle registration no, rate of duty, quantity and value of goods and duty payable thereon.

### CENVAT Credit

Cenvat scheme is now covered all capital goods and all inputs except Petrol, LDO, HSD.

Cenvat credit is available for ED, AED, SED, Additional custom duty, Education Cess, Service tax.

Utilisation of Cenvat credit is allowed for payment of excise duty on final product including waste and scrap, for payment of input or capital goods removed as such and payment of service tax on any output service.

### Conditions for allowing CENVAT Credit

- Credit of Cenvat on input is allowed immediately on receipt in premises.
- Credit of service tax is allowed immediately on payment of invoice of service and service tax thereon.
- Credit of Cenvat on capital goods is allowed to the extent of 50% in the same financial year and rest 50% in the next financial year.
- Cenvat credit is allowed even if purchased on lease, hire purchase or loan agreement with finance company.
- Cenvat credit on capital goods is not allowed on the value which represents the amount on which depreciation is claimed by the manufacturer under section 32 of Income Tax Act.

- Cenvat credit is allowed even input or capital goods as such or partially processed sent to job worker for further processing, testing, repair etc. provided the goods is received back within 180 days from the date of dispatch.

### Refund of CENVAT Credit

For export under bond credit of Cenvat credit can be utilized for payment of final product cleared for home consumption or export on payment of duty. If such adjustment is not possible then refund of such credit is allowed subject to conditions notified under rule 5, provided duty drawback or rebate claim of duty under Customs and Central Excise Duties Drawback Rules 1995 is not availed.

### Documents and Accounts

Cenvat credit is allowed on the invoice issued by manufacturer, importer, first and second stage dealer, a supplementary invoice, bill of entry, a certificate issued by appraiser of customs in respect of goods imported through a foreign post office, service tax invoice.

### Transfer of CENAVT Credit

If manufacturer shifts his factory to another site or transfers the factory on account of change in ownership, he can transfer the CENVAT credit lying unutilized in the transferred factory after taking approval of the AC/DC.

### Audit

Schedule of Audit by Central Excise Department is as follows on the basis of payment of excise duty.

| | | |
|---|---|---|
| Units paying excise duty more than Rs. 3.00 crores | - | Every Year |
| Units paying excise duty between Rs. 1.00 to 3.00 crores | - | Once in Two Years |
| Units paying excise duty between Rs. 0.50 to Rs.1.00 crore | - | Once in Five Years |
| Units paying below Rs.50 lacs | - | Only 10% of the Units will be audited every year ❑ |