BONDS UNDER CENTRAL EXCISE ACT, 1994

CA Vinay Gandhi.B

Central Excise is a tax on 'manufacture/production'. The Central excise is governed by Central Excise Act, 1944. Central Excise is collected on goods manufactures at the time of removal from factory. The Act derives its authority from entry 84 of Union List (List-I), seventh schedule read with Article 246 of the Constitution of India. The present rate of excise duty is 12.36% including education cess and Secondary & higher education cess. This article brings out the various bonds required to be executed by the manufacturer as per Central Excise Act, 1944.

What is Bond?
Bond is an instrument by which the obligation to pay money is created expressly.

Bonds under Central Excise
B1 bond –
B1 bond is to be executed for 'Removal for export of excisable goods without payment of duty'
Bond amount = Duty liability

CBEC notified conditions and procedures for export of all excisable goods except to Nepal and Bhutan without payment of duty vide Notification No. 42/2001 – CE (NT) dated 26-06-2001.
The Procedure in brief:-
<u>Step 1</u>:- Assessee is required to execute bond
<u>Step 2</u>:- Sealing Procedure (i.e. either self-sealing or sealing under supervision of central excise officer) and submission of 5 copies of A.R.E-1 form
<u>Step 3</u>:- Submission of goods and Form ARE-1 for Verification at the place of export
<u>Step 4</u>:- Export within 6 months from the date of removal from factory for export

B2 bond – (Under Rule 7 of CER, 2002)
This bond is to be executed at time of 'Provisional assessment of goods' to excise duty
Bond amount = Estimated differential duty as determined by Assistant Commissioner/Deputy Commissioner.

Provisional Assessment provisions are mentioned in Rule 7 of Central Excise Rules, 2002 –

- Where the assessee is unable to determine the value of excisable goods or determine the rate of duty applicable thereto,
- he may request the AC/DC in writing giving reasons for payment of duty on provisional basis
- and the AC/DC may order allowing payment of duty on provisional basis at such rate or on such value as may be specified by him.
- The Assessee executes a B2 bond binding the assessee for payment of difference between the amount of duty as may be finally assessed and the amount of duty provisionally assessed.
- The AC/DC shall pass order for final assessment within a period not exceeding 6 months from the date of the communication of the order of provisional assessment. Further may be extended by another 6 months by commissioner and by Chief Commissioner for the period as he deem fit.
- The assessee shall be liable to pay interest on any amount payable to Central Government, consequent to order for final assessment.

- Where the assessee is entitled to a refund consequent to order for final assessment, there shall be paid an interest on such refund.

B3 bond – (under Rule 20 (1) of Central Excise Rules, 2002)

B3 bond is for 'Due dispatch of excisable goods removed for re-warehousing and export therefrom without payment of duty'

Bond amount = Duty liability.

Rule 20 (1) of Central Excise Rules, 2002 empowers Central Government to extend the facility of removal of any excisable goods from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty.

The procedure is as follows:-

Step 1:- Registration of warehouse

Step 2:-

a) Consignor shall prepare application in A.R.E 3 in quadruplicate (i.e. 4 copies)
b) Consignor also prepares Invoice
c) Consignor shall send 'Original', 'Duiplicate' and 'Triplicate' copies along with goods to warehouse
d) Quadruplicate copy to be sent to superintendent-in-charge of consignor's factory within 24 hours of removal
e) On arrival of goods at warehouse,
    - Consignee verifies the goods with A.R.E. -3 forms
    - He shall send original A.R.E.3 to superintendent-in-charge of the warehouse, duplicate copy to Consignor and he retains triplicate copy with himself.
f) Superintendent-in-charge of consignee warehouse shall counter-sign the A.R.E.3 and send it to superintendent-in-charge of Consignor's factory.

Step 3:- Accountal of goods at warehouse is responsibility of person who registered the warehouse

B11 bond – (under Rule 24 of Central Excise Rules, 2002)

This bond is for 'Provisional release of seized goods'

Bond amount = Value of goods seized

Rule 24 of central Excise Rules, 2002 - If a Central Excise Officer, 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.

Goods seized may be released provisionally under B11 bond by officer normally competent to adjudicate the case. Wherever necessary, sample may also be drawn.

B17 bond –

This is a Composite bond of EPZ/100% EOUs for assessment, export, accounting and disposal of excisable goods obtained free of duty.

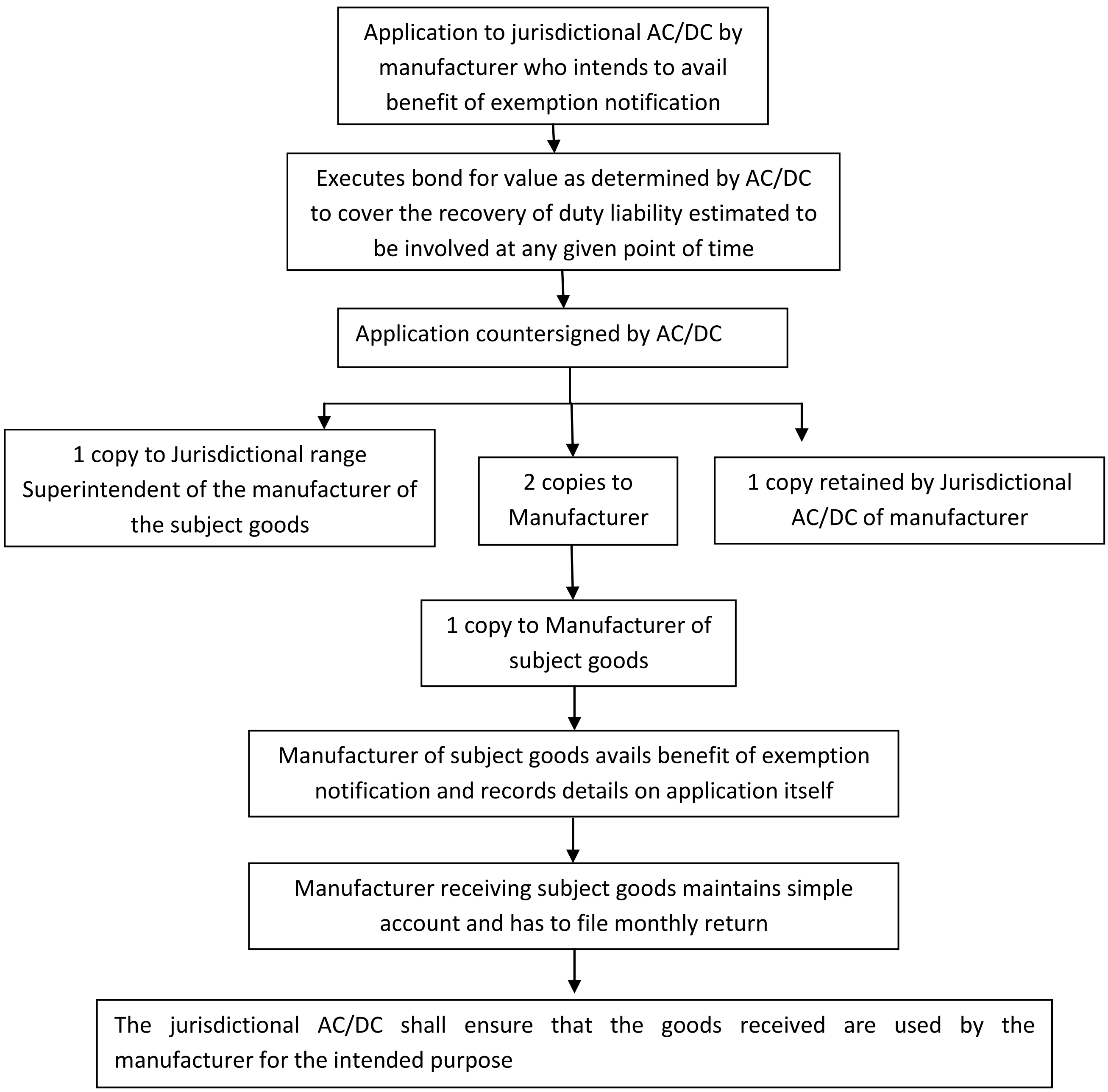
Bond amount = Duty liability.

Providing Surety/Security is exempted in case of SEZ whose turnover exceeds Rs. 1 Crore

General bond with surety or security under Rules 3(3) and 3(4) of Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001

Bond amount = Such amount as considered appropriate by the said Assistant Commissioner or Deputy Commissioner, to cover the recovery of duty liability estimated to be involved at any given point of time.

Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001



Guidelines for execution of bonds:-

- Bond should be executed on non-judicial stamp paper
- Bond shall be signed by obligor or his authorized agent
- Bond shall be executed in favour of and in name of 'President of india'
- Surety should be for full amount and person standing as surety should be solvent to the extent of that surety amount
- In case of exporters, certain special categories viz. Super star trading house, Star trading house, exporters registered with export promotion council need not furnish bank guarantee/cash security while executing export bonds.
- Presently, status holders are exempt from furnishing security or surety with the bond executed by them for export of goods without payment of duty
- An undertaking owned and managed directly through any ministry, directorate by the Central Government is exempt from execution of any bond.
- Security might be Cash, Government promissory notes, post office savings, bank deposits, NSCs, National Defence Bonds.
- Surety bond should be signed by obligor and surety

Verification of sureties: - Periodical verification, preferably on annual basis by jurisdictional central excise officers to ensure sureties are financially sound, solvent and alive.

- By reference to surety's bankers
- By making personal enquiries
- By reference to revenue officer not below the rank of tahsildar or mamalatdar