2015

Small Scale Industries (SSI)

ORIGINAL NOTIFICATION

WITH ALL AMENDMENTS

INCLUDING SELECT CASE LAWS OF ICAI

Notification No. 8/2003 - Central Excise

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) (herein after referred to as the Central Excise Act) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8/2002-Central Excise, dated the 1st March, 2002, published in the Gazette of India vide number G.S.R. 129(E), dated the 1st March, 2002, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts clearances, specified in column (2) of the Table below (hereinafter referred to as the said Table) for home consumption of excisable goods of the description specified in the Annexure appended to this notification (hereinafter referred to as the specified goods), from so much of the aggregate of, -

(i)	the duty of excise specified thereon in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (herein after referred to as the First Schedule); and
(ii)	the special duty of excise specified thereon in the Second Schedule to the said Central Excise Tariff Act, 1985 (herein after referred to as the Second Schedule),

as is in excess of the amount calculated at the rate specified in the corresponding entry in column (3) of the said Table:

Provided that nothing contained in this notification shall apply to a manufacturer who has availed the exemption under notification No. 39/2001-Central Excise, dated the 31st July, 2001, published in the Gazette of India vide number G.S.R. 565 (E), dated the 31st July, 2001, in the same financial year.(1st proviso to preamble)

Provided further that exemption contained in this notification shall not apply to goods which are chargeable to nil rate of duty or are exempt from the whole of the duty of excise leviable thereon.(2nd proviso to preamble)

Table

S. No	Value of clearances	Rate of duty
(1)	**(2)**	**(3)**
1.	First clearances up to an aggregate value not exceeding 150 lakh rupees made on or after the 1st day of April in any financial year.	Nil
2.	All clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods.	Nil

2. The exemption contained in this notification shall apply subject to the following conditions, namely: -

(i)	a manufacturer has the option not to avail the exemption contained in this notification and instead pay the normal rate of duty on the goods cleared by him. Such option shall be exercised before effecting his first clearances at the normal rate of duty. Such option shall not be withdrawn during the remaining part of the financial year;

(ii)	while exercising the option under condition (i), the manufacturer shall inform in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise with a copy to the Superintendent of Central Excise giving the following particulars, namely:-	
	(a)	name and address of the manufacturer;
	(b)	location/locations of factory/factories;
	(c)	description of inputs used in manufacture of specified goods ;
	(d)	description of specified goods produced;
	(e)	date from which option under this notification has been exercised;
	(f)	aggregate value of clearances of specified goods (excluding the value of clearances referred to in paragraph 3 of this notification) till the date of exercising the option;
(iii)	the manufacturer shall **not avail** the credit of duty on inputs under rule 3 or rule 13 of the CENVAT Credit Rules, 2004 (herein after referred to as the said rules), paid on inputs used in the manufacture of the specified goods cleared for home consumption, the aggregate value of first clearances of which, as calculated in the manner specified in the said Table does not exceed rupees 150 lakhs;	
(iv)	the manufacturer also does **not utilise** the credit of duty on capital goods under rule 3 or rule 13 of the said rules, paid on capital goods, for payment of duty, if any, on the aforesaid clearances, the aggregate value of first clearances of which does not exceed rupees 150 lakhs, as calculated in the manner specified in the said Table;	
(v)	where a manufacturer clears the specified goods from one or more factories, the exemption in his case shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each factory;	
(vi)	where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer;	
(vii)	The aggregate value of clearances of **all excisable goods for home consumption** by a manufacturer from one or more factories, or from a factory by one or more manufacturers, does not exceed 400 lakhs (w.e.f 1.04.2005) in the preceding financial year. w.e.f 17.03.2012 notification no 15/2012-CE (Provided that for the purposes of availing of exemption under this notification for the financial year 2012-13, the aggregate value of clearances of articles of jewellery (other than silver jewellery) falling under Chapter heading 7113(ARTICLES OF JEWELLERY AND PARTS THEREOF, OF PRECIOUS METAL OR OF METAL CLAD WITH PRECIOUS METAL) of the First Schedule, for home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturers, for the financial year 2011-12 shall be calculated on the basis of tariff value fixed in accordance with notification no. 09/2012-Central Excise (NT), dated the 17th March, 2012.") i.e 1.tariff item 2402 20 2.Description of goods Other than filter cigarettes, of the length not exceeding 65 millimetres. 3. Rate Rs.70 per thousand.	

3. For the purposes of determining the **first clearances** upto an aggregate value **not exceeding 150** lakhs made on or after the 1st day of April in any financial year, mentioned against serial no.1 of the said Table, the following clearances **shall not be taken into account**, namely:-

(a)	clearances, which are exempt from the whole of the excise duty leviable thereon (other than an exemption based on quantity or value of clearances) under any other notification or on which no excise duty is payable for any other reason;
(b)	clearances bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4;
(c)	clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods;
(d)	~~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.~~

3A. For the purposes of determining the aggregate value of clearances of all excisable goods for home consumption, mentioned in clause (vii) of paragraph 2 of this notification, the following clearances shall not be taken into account, namely:-

(a) clearances of excisable goods **without payment of duty(WOPOD)-**

(i) to a unit in a free trade zone; or

(ii) to a unit in a special economic zone; or

(iii) to a hundred percent. export-oriented undertaking; or

(iv) to a unit in an Electronic Hardware Technology Park or Software Technology Park; or

(v) 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 erstwhile Ministry of Finance (Department of Revenue) No.108/95- Central Excise, dated the 28th August, 1995, vide number GSR. 602 (E), dated the 28th August, 1995.

(b) clearances bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4;

(c) clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods;

~~(d) 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.";~~

~~(ii) in the Annexure, after serial No. (xx) and entries relating thereto, the following serial No. and entry shall be inserted, namely:-~~

~~"(xx-i) terry towels falling under Chapter 63 of the said First Schedule;".~~

(e) clearances, which are exempt from the whole of the excise duty leviable thereon under notifications No. 214/86-Central Excise, dated the 25th March, 1986 (G.S.R.547(E), dated the 25th March, 1986), or No. 83/94-Central Excise, dated the 11th April, 1994 (G.S.R. 375(E), dated the 11th April, 1994), or No. 84/94-Central Excise, dated the 11th April, 1994 (G.S.R. 376 (E), dated the 11th April, 1994).".

4. The exemption contained in this notification shall not apply to specified goods bearing a brand name or trade name, whether registered or not, of another person, except in the following cases: -

(a)	where the specified goods, being in the nature of components or parts of any machinery or equipment or appliances, are cleared for use as original equipment in the manufacture of the said machinery or equipment or

	appliances by following the procedure laid down in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001:	
	Provided that manufacturers, whose aggregate value of clearances of the specified goods for use as original equipment does not exceed rupees one hundred lakhs in the financial year 2002-2003 as calculated in the manner specified in paragraph 1, may submit a declaration regarding such use instead of following the procedure laid down in the said Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001;	
(b)	where the specified goods bear a brand name or trade name of-	
	(i)	the Khadi and Village Industries Commission(KVIC); or
	(ii)	a State Khadi and Village Industry Board(SKVIB); or
	(iii)	the National Small Industries Corporation(NSIC); or
	(iv)	a State Small Industries Development Corporation(SSIDC); or
	(v)	a State Small Industries Corporation(SSIC);
(c)	where the specified goods are manufactured in a factory located in a rural area;	
(d)	where the specified goods are account books, registers, writing pads and file folders falling under heading 4820 or 4821 of the said First Schedule." **4820 -** REGISTERS, ACCOUNT BOOKS, NOTE BOOKS, ORDER BOOKS, RECEIPT BOOKS, LETTER PADS, MEMORANDUM PADS, DIARIES AND SIMILAR ARTICLES, EXCISE BOOKS, BLOTTING-PADS, BINDERS (LOOSE-LEAF OR OTHER), FOLDERS, FILE COVERS, MANIFOLD BUSINESS FORMS, INTERLEAVED CARBON SETS AND OTHER ARTICLES OF STATIONERY, OF PAPER OR PAPERBOARD; ALBUMS FOR SAMPLES OR FOR COLLECTIONS AND BOOK COVERS, OF PAPER OR PAPERBOARD **4821 -** PAPER OR PAPERBOARD LABELS OF ALL KINDS, WHETHER OR NOT PRINTED	
(e)	where the specified goods are in the nature of packing materials and are meant for use as packing material by or on behalf of the person whose brand name they bear." (W.e.f 29.04.2010) Explanation- For the removal of doubts, it is hereby clarified that “packing material” includes labels of all kinds.” (W.e.f 24.03.2011)	

“4A. Notwithstanding anything contained in the preceding paragraphs, the exemption in respect of goods specified in entries (xi), (xii) and (xiv) of the Annexure, contained in this notification, shall be restricted to rupees ten lakhs during the month of March of the financial year 2005-06.”;

4B Notwithstanding anything contained in the preceding paragraphs, the exemption in respect of goods specified in clause (e) of paragraph 4, contained in this notification, shall be restricted to rupees ninety lakhs for the remaining part of the financial year 2008-09.”

5. This notification shall come into force on the 1st day of April, 2003.

Explanation.- For the purposes of this notification,-

(A)	"brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person;	
(B)	where the specified goods manufactured by a manufacturer bear a brand name or trade name, whether registered or not, of another manufacturer or trader, such specified goods **shall not**, merely by reason of that fact, be deemed to have been manufactured by such other manufacturer or trader;	
(C)	"value" means,-	
	(i)	in respect of specified goods which have been notified under **section 4A** of the Central Excise Act, the value as determined in accordance with the provisions of that section, and
	(ii)	in respect of specified goods other than those referred to in sub clause (i), the value as determined in accordance with the provisions of **section 4** of the Central Excise Act, or the tariff value fixed under **section 3** of the said Act;
(D)	in the determination of the value of clearances of Chinaware or Porcelainware or both, where a manufacturer gets Chinaware or Porcelainware or both fired in a kiln belonging to or maintained by a Pottery Development Centre run by the Central Government or a State Government or by the Khadi and Village Industries Commission, the value of the Chinaware or Porcelainware or both, belonging to the said manufacturer and fired in such kiln shall be taken into account;	
(E)	where the specified goods are manufactured in a factory belonging to or maintained by the Central Government or by a State Government, or by a State Industries Corporation, or by a State Small Industries Corporation or by the Khadi and Village Industries Commission, then the value of excisable goods cleared from such factory alone shall be taken into account;	
(F)	"normal rate of duty" means the aggregate of duty of excise specified in the said First Schedule and the special duty of excise specified in the said Second Schedule read with any relevant notification (other than this notification or a notification in which exemption is based on the value or quantity of clearance) issued under sub-section (1) of section 5A of the Central Excise Act;	
(G)	"clearances for home consumption", wherever referred to in this notification, shall include clearances for export to Bhutan and Nepal;	
(H)	"rural area" means the area comprised in a village as defined in the land revenue records, **excluding-**	
	(i)	the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee, or
	(ii)	any area that may be notified as an urban area by the Central Government or a State Government.
(I)	In respect of goods falling under chapter 61, 62 or 63 of the First Schedule, the expression “manufacturer” shall include a person who is liable to pay the duty of excise leviable on such goods under sub-rule (1A) of rule 4 of the Central Excise Rules, 2002.”; 61- Articles of apparel and clothing accessories, knitted or crocheted 62- Articles of apparel and clothing accessories, not knitted or crocheted	

	63- Other made up textile articles; sets; worn clothing and worn textile articles; rags
(J)	“retail sale price” means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration of such sale. - (notification no 24/2004-CE 19.07.2004)

“ANNEXURE w.e.f 1.03.2006 notification dated 08/2006 to provide new 8-digit classification code for the goods covered under SSI exemption

Description of excisable goods falling under Chapter, heading, sub-heading or tariff items of the First

Schedule to the Central Excise Tariff Act, 1985, namely:-

(i) all goods falling under Chapter 2, 3, 4 and 5;

2-Meat and edible meat offal

3-Fish and crustaceans, molluscs and other aquatic invertebrates

4-Dairy produce; edible products of animal origin, not elsewhere specified or included

5-Products of animal origin, not elsewhere specified

(ii) all goods falling under Chapter 7 or 8;

7-Edible vegetables and roots and tubers

8-Edible fruit and nuts; peel of citrus fruit or melons

(iii) all goods falling under Chapter 9 (except heading 0902);

9- Coffee, tea, and spices

0902 - TEA, WHETHER OR NOT FLAVOURED

(iv) all goods falling under sub-heading 2101 ~~30~~;

2101 - EXTRACTS, ESSENCES AND CONCENTRATES, OF COFFEE, TEA OR MATE AND PREPARATIONS WITH A BASIS OF THESE PRODUCTS OR WITH A BASIS OF COFFEE, TEA OR MATE; ROASTED CHICORY AND OTHER ROASTED COFFEE SUBSTITUTES, AND EXTRACTS, ESSENCES AND CONCENTRATES THEREOF

(v) all goods falling under heading 2102, 2103 or 2104;

2102- YEASTS (ACTIVE OR INACTIVE); OTHER SINGLE CELL MICRO-ORGANISMS, DEAD (BUT NOT INCLUDING VACCINES OF HEADING 3002); PREPARED BAKING POWDERS

2103- SAUCES AND PREPARATIONS THEREFOR, MIXED CONDIMENTS AND MIXED SEASONINGS; MUSTARD FLOUR AND MEAL AND PREPARED MUSTARD

2104 - SOUPS AND BROTHS AND PREPARATIONS THEREFOR; HOMOGENISED COMPOSITE FOOD PREPARATIONS

(vi) all goods falling under tariff item 2105 00 00;

2105 00 00 - ICECREAM AND OTHER EDIBLE ICE, WHETHER OR NOT CONTAINING COCOA

(vii) all goods falling under heading 2106 (except tariff item 2106 90 20);

2106 - FOOD PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED

2106 90 20 - Pan masala

(viii) all goods falling under heading 2201 or 2202;

2201 - WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW

2202- WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES, NOT INCLUDING FRUIT OR VEGETABLE JUICES OF HEADING 2009

(ix) all goods falling under tariff item 2207 20 00;

2207 20 00 - Ethyl alcohol and other spirits, denatured, of any strength.

(x) all goods falling under heading 2209;

2209- VINEGAR AND SUBSTITUTES FOR VINEGAR OBTAINED FROM ACETIC ACID

(xi) Tobacco, used for smoking through ‘hookah’ or ‘chilam’, commonly known as ‘hookah’ tobacco or ‘gudaku’ falling under tariff item 2403 11 10;

2403 11 10 - Hukkah or gudaku tobacco

(xii) Other smoking tobacco falling under tariff item 2403 11 90, other than those bearing a brand name;

2403 11 90 - Other

(xiii) Chewing tobacco, chewing tobacco preparations and tobacco extracts and essences, falling under heading 2403, other than those bearing a brand name;

2403 - OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; “HOMOGENISED” OR “RECONSTITUTED” TOBACCO; TOBACCO EXTRACTS AND ESSENCES

(xiv) Other manufactured tobacco and manufactured tobacco substitutes falling under 2403 99 90, other than those bearing a brand name

2403 99 90 - Other

(xv) all goods falling under Chapters 25, 26, 27, 28, 29, 30 (except sterile absorbable surgical or dental yarns and sterile surgical or dental adhesion barriers), 31 or 32";

25- Salt; sulphur; earths and stone; plastering materials, lime and cement

26- Ores, slag and ash

27-Mineral fuels, mineral oils and products of their distillation; bituminous substances, mineral waxes

28-Inorganic chemicals; organic or inorganic compounds of precious metals, of rare earth metals, of radio-active elements or of isotopes

29-Organic chemicals

30-Pharmaceutical products

31-Fertilizers

32-Tanning or dyeing extracts; tannins and their derivatives; dyes, colours, paints and varnishes; putty, fillers and other mastics; inks

(xvi) all goods falling under Chapter 33 (except tariff item 3301 29 37);

33- Essential oils and resinoids; perfumery, cosmetics or toilet preparations

3301 29 37 -Ginger grass oil

(xvii) all goods falling under Chapter 34 or 35;

34-Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, dental waxes and dental preparations with a basis of plaster

35-Aluminoidal substances; modified starches; glues; enzymes

(xviii) all goods falling under heading 3601, 3602, 3603 or 3604;

3601-PROPELLANT POWDERS

3602-PREPARED EXPLOSIVES, OTHER THAN PROPELLANT POWDERS

3603-SAFETY FUSES; DETONATING FUSES; PERCUSSION OR DETONATING CAPS; IGNITERS; ELECTRIC DETONATORS

3604-FIREWORKS, SIGNALLING FLARES, RAIN ROCKETS, FOG SIGNALS AND OTHER PYROTECHNIC ARTICLES

(xix) Bengal lights falling under heading 3605;

3605-MATCHES, OTHER THAN PYROTECHNIC ARTICLES OF HEADING 3604

(xx) all goods falling under heading 3606;

3606-FERRO-CERIUM AND OTHER PYROPHORIC ALLOYS IN ALL FORMS; ARTICLES OF COMBUSTIBLE MATERIALS AS SPECIFIED IN NOTE 2 TO THIS CHAPTER

(xxi) all goods falling under heading 3703 (except photographic paper and paper board);

3703-PHOTOGRAPHIC PAPER, PAPERBOARD AND TEXTILES SENSITISED, UNEXPOSED

(xxii) all goods falling under heading 3704, 3705, 3706 or 3707;

3704-PHOTOGRAPHIC PLATES, FILM, PAPER, PAPERBOARD AND TEXTILES, EXPOSED BUT NOT DEVELOPED.

3705-PHOTOGRAPHIC PLATES AND FILM, EXPOSED AND DEVELOPED, OTHER THAN CINEMATOGRAPHIC FILM

3706-CINEMATOGRAPHIC FILM, EXPOSED AND DEVELOPED, WHETHER OR NOT INCORPORATING SOUND TRACK OR CONSISTING ONLY OF SOUND TRACK

3707-CHEMICAL PREPARATIONS FOR PHOTOGRAPHIC USES (OTHER THAN VARNISHES, GLUES, ADHESIVES AND SIMILAR PREPARATIONS); UNMIXED PRODUCTS FOR PHOTOGRAPHIC USES, PUT UP IN MEASURED PORTIONS OR PUT UP FOR RETAIL SALE IN A FORM READY FOR USE

(xxiii) all goods falling under Chapter 38;

38-Miscellaneous chemical products

(xxiv) all goods falling under Chapter 39 (other than polyurethane foam and articles of polyurethane foam) of the said First Schedule;”.

39-Plastics and articles thereof

(xxv) all goods falling under Chapter 40, 41, 42, 43, 44, 45, 46, 47, 48 or 49;

40-Rubber and articles thereof

41-Raw Hides and Skins (other than Fur skins) and Leather

42-Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)

43-Furskins and artificial fur; manufacturers thereof

44-Wood and articles of wood, wood charcoal

45-Cork and articles of cork

46-Manufactures of straw, of esparto or of other plaiting materials; Basket-ware and wickerwork

47-Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard

48-Paper and paperboard; articles of paper pulp, of paper or of paperboard

49-Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans

(xxvi) “all goods falling under-

(a) Chapter 57, 61, 62, 63, 64, 65, 66, 67 or 68;

57-Carpets and other textile floor coverings

61-Articles of apparel and clothing accessories, knitted or crocheted

62-Articles of apparel and clothing accessories, not knitted or crocheted

63-Other made up textile articles, sets, worn clothing and worn textile articles; rags

64-Footwear gaiters and the like; parts of such articles

65-Headgear and parts thereof

66-Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof

67-Prepared feathers and down and articles made of feather or of down - artificial flowers; articles of human hair

68-Articles of stone, plaster, cement, asbestos, mica or similar material

(b) Headings 5805, 5807;

5805-HAND-WOVEN TAPESTRIES OF THE TYPE GOBELINS, FLANDERS, AUBUSSON, BEAUVAIS AND THE LIKE, AND NEEDLE-WORKED TAPESTRIES (FOR EXAMPLE, PETIT POINT, CROSS STITCH), WHETHER OR NOT MADE UP

5807-LABELS, BADGES AND SIMILAR ARTICLES OF TEXTILE MATERIALS, IN THE PIECE, IN STRIPS OR CUT TO SHAPE OR SIZE, NOT EMBROIDERED

(c) Tariff item 5601 10 00"

5601 10 00- Omitted (Wadding; other articles of wadding)

(xxvii) all goods falling under Chapter 69 (excluding ceramic tiles other than those subjected to the process of printing, decorating or ornamenting in a factory which does not have the facilities (including plant and equipment) of producing ceramic tiles)"

69-Ceramic products

(xxviii) all goods falling under Chapter 70 or 71;

70-Glass and glassware

71-Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin.

(xxix) all goods falling under Chapter 72 (except stainless steel patties /pattas);

72-Iron and steel

(xxx) all goods falling under Chapters 73;

73-Articles of iron or steel

(xxxi) all goods falling under headings 7401 and 7402;

7401-COPPER MATTES; CEMENT COPPER (PRECIPITATED COPPER)

7402-UNREFINED COPPER; COPPER ANODES FOR ELECTROLYTIC REFINING

(xxxii) following goods falling under tariff item 7403 21 00, namely:-

7403 21 00- Copper-zinc base alloys (brass)

(a) cast brass bars/rods of a length not exceeding three feet;

(b) cast brass bars/rods of a length not exceeding ten feet used in the factory of production for making wires of copper alloys falling under sub-heading 7408 (other than wire of which the maximum cross-sectional dimension exceeds 6 mm and wire of which the maximum cross-sectional dimension does not exceed 0.315 mm and used for manufacture of Zari);

7408- COPPER WIRE

(c) copper flats of a weight not exceeding two kilograms used for making copper strips falling under heading.7409;

7409-COPPER PLATES, SHEETS AND STRIP, OF A THICKNESS EXCEEDING 0.15 MM

(d) brass billets weighing up to five kilograms;

(xxxiii) all goods falling under heading 7404, 7405 or 7406;

7404-COPPER WASTE AND SCRAP

7405-MASTER ALLOYS OF COPPER

7406-COPPER POWDERS AND FLAKES

(xxxiv) all goods falling under heading 7407 (except bars and rods of refined copper and copper alloys);

7407-COPPER BARS, RODS AND PROFILES

(xxxv) all goods falling under heading 7408 (except wire of which the maximum cross-sectional dimension exceeds 6 mm and);

7408-COPPER WIRE

(xxxvi) copper strips produced from copper flats of a weight not exceeding two kilograms, falling under heading 7409;

7409-COPPER PLATES, SHEETS AND STRIP, OF A THICKNESS EXCEEDING 0.15 MM

(xxxvii) all goods falling under headings 7410, 7411, 7412, tariff item 7413 00 00, headings 7415, 7418 or 7419 (except copper circles, whether or not trimmed);".

7410-COPPER FOIL (WHETHER OR NOT PRINTED OR BACKED WITH PAPER, PAPERBOARD, PLASTICS OR SIMILAR BACKING MATERIALS) OF A THICKNESS (EXCLUDING ANY BACKING) NOT EXCEEDING 0.15 MM

7411-COPPER TUBES AND PIPES

7412-COPPER TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)

7413 00 00-STRANDED WIRE, CABLES, PLAITED BANDS AND THE LIKE, OF COPPER, NOT ELECTRICALLY INSULATED

7415-NAILS, TACKS, DRAWING PINS, STAPLES (OTHER THAN THOSE OF HEADING 8305) AND SIMILAR ARTICLES, OF COPPER OR OF IRON OR STEEL WITH HEADS OF COPPER; SCREWS, BOLTS, NUTS, SCREW HOOKS, RIVETS, COTTERS, COTTER-PINS, WASHERS (INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF COPPER

7418-TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF COPPER; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF COPPER; SANITARY WARE AND PARTS THEREOF, OF COPPER

7419-OTHER ARTICLES OF COPPER

(xxxviii) all goods falling under Chapter 75 or 76 (except aluminium circles, whether or not trimmed);

75-Nickel and articles thereof

76-Aluminium and articles thereof

(xxxix) all goods falling under Chapters 77, 78, 79, 80, 81, 82 or 83;

77- KEPT BLANK

78-Lead and articles thereof

79-Zinc and articles thereof

80-Tin and articles thereof

81-Other base metals; cermets; articles thereof

82-Tools, implements, cutlery, spoons and forks of base metal; parts thereof of base metal

83-Miscellaneous articles of base metal

(xl) all goods falling under Chapter 84 {other than power driven pumps primarily designed for handling water which do not conform to standards specified by BIS (Bureau of Indian Standards) for such pumps}.”.

84- Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof

(xli) all goods falling under Chapter 85 or 86;

85- Electrical machinery and equipment and parts thereof; sound recorders and re-producers, television image and sound recorders and reproducers, and parts and accessories of such articles

86- Railway or tramway locomotives, rolling-stocks and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds

(xlii) all goods falling under headings 8707, 8708, 8709, 8710, 8712, 8713, 8714, 8715 or 8716

8707-BODIES (INCLUDING CABS), FOR THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705

8708-PARTS AND ACCESSORIES OF THE MOTOR VEHICLES OF HEADINGS 8701 TO 8705

8709-WORKS TRUCKS, SELF-PROPELLED, NOT FITTED WITH LIFTING OR HANDLING EQUIPMENT, OF THE TYPE USED IN FACTORIES, WAREHOUSES, DOCK AREAS OR AIRPORTS FOR SHORT DISTANCE TRANSPORT OF GOODS; TRACTORS OF THE TYPE USED ON RAILWAY STATION PLATFORMS; PARTS OF THE FOREGOING VEHICLES

8710-

8712-BICYCLES AND OTHER CYCLES (INCLUDING DELIVERY TRICYCLES), NOT MOTORISED

8713-CARRIAGES FOR DISABLED PERSONS, WHETHER OR NOT MOTORISED OR OTHERWISE MECHANICALLY PROPELLED

8714-PARTS AND ACCESSORIES OF VEHICLES OF HEADINGS 8711 TO 8713

8715-BABY CARRIAGES AND PARTS THEREOF

8716- - TRAILERS AND SEMI-TRAILERS; OTHER VEHICLES, NOT MECHANICALLY PROPELLED; PARTS THEREOF

(xliii) powered cycles and powered cycle rickshaw (“powered cycle” or powered rickshaw

means a mechanically propelled cycle or, as the case may be, mechanically propelled

cycle rickshaw, which may also be peddled, if any necessity arises for so doing) falling

under heading 8711;

8711-MOTORCYCLES (INCLUDING MOPEDS) AND CYCLES FITTED WITH AN AUXILIARY MOTOR, WITH OR WITHOUT SIDE-CARS;

(xliv) all goods falling under Chapters 88, 89 or 90;

88-Aircraft; spacecraft and parts thereof

89-Ships, boats and floating structures

90-Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof

(xlv) watches of retail sale price not exceeding Rs.500 per piece and parts thereof, falling

under heading 9101 or 9102;

9101-WRIST-WATCHES, POCKET-WATCHES AND OTHER WATCHES, INCLUDING STOP-WATCHES, WITH CASE OF PRECIOUS METAL OR OF METAL CLAD WITH PRECIOUS METAL

9102-WRIST-WATCHES, POCKET-WATCHES AND OTHER WATCHES, INCLUDING STOP WATCHES, OTHER THAN THOSE OF HEADING 9101

(xlvi) all goods falling under headings 9103, 9104, 9105, 9106, 9107, 9108, 9109, 9110, 9111,

9112, 9113 or 9114;

9103-CLOCKS WITH WATCH MOVEMENTS, EXCLUDING CLOCKS OF HEADING 9104

9104-

9105-OTHER CLOCKS

9106-TIME OF DAY RECORDING APPARATUS AND APPARATUS FOR MEASURING, RECORDING OR OTHERWISE INDICATING INTERVALS OF TIME, WITH CLOCK OR WATCH MOVEMENT OR WITH SYNCHRONOUS MOTOR (FOR EXAMPLE, TIMEREGISTERS, TIME-RECORDERS)

9107-

9108-WATCH MOVEMENTS, COMPLETE AND ASSEMBLED

9109-CLOCK MOVEMENTS, COMPLETE AND ASSEMBLED

9110-COMPLETE WATCH OR CLOCK MOVEMENTS, UNASSEMBLED OR PARTLY ASSEMBLED (MOVEMENT SETS); INCOMPLETE WATCH OR CLOCK MOVEMENTS, ASSEMBLED; ROUGH WATCH OR CLOCK MOVEMENTS

9111-WATCH CASES AND PARTS THEREOF

9112- CLOCK CASES AND CASES OF A SIMILAR TYPE FOR OTHER GOODS OF THIS CHAPTER, AND PARTS THEREOF

9113- WATCH STRAPS, WATCH BANDS AND WATCH BRACELETS, AND PARTS THEREOF

9114-OTHER CLOCK OR WATCH PARTS

(xlvii) all goods falling under Chapters 92;

92-Musical instruments; parts and accessories of such articles

(xlviii) all goods falling under headings 9301 or 9305;

9301-MILITARY WEAPONS, OTHER THAN REVOLVERS, PISTOLS AND THE ARMS OF HEADING 9307

9305-PARTS AND ACCESSORIES OF ARTICLES OF HEADINGS 9301 TO 9304

(xlix) parts falling under heading 9306 or 9307;

9306-BOMBS , GRENADES, TORPEDOES, MINES, MISSILES, AND SIMILAR MUNITIONS OF WAR AND PARTS THEREOF; CARTRIDGES AND OTHER AMMUNITION AND PROJECTILES AND PARTS THEREOF, INCLUDING SHOT AND CARTRIDGE WADS

9307-

(l) air guns, air rifles and air pistols which are exempt from the provisions of the Arms Act,

1959 (54 of 1959), falling under tariff item 9304 00 00;

9304 00 00-OTHER ARMS (FOR EXAMPLE, SPRING, AIR OR GAS GUNS u 12.5% AND PISTOLS, TRUNCHEONS), EXCLUDING THOSE OF HEADING 9307

(li) all goods falling under Chapters 94 or 95;

94-Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings

95-Toys, games and sports requisites; parts and accessories thereof (lii) all goods falling under Chapters 96 (except tariff item 9605 00 10).”.

96-Miscellaneous manufactured articles

9605 00 10- For personal toilet

Select case laws of ICAI

1.Where clearances of a dubious company are clubbed with clearances of the original company, whether penalty can be imposed on such dubious company if all the clearances have been made by the original company? SCL-1

CCEx v Xenon 2013 (296) ELT 26 (Jhar.)

<u>Decision:</u> The High Court held that when it had been established that dubious company did not undertake any transactions, penalty could not be levied on the same for the transactions undertaken by the original company. The High Court emphasized that penalty could not be imposed upon the company who did not undertake any transaction.

2. Can the brand name of another firm in which the assessee is a partner be considered as the brand name belonging to the assessee for the purpose of claiming SSI exemption? SCL-2

Commissioner v. Elex Knitting Machinery Co. 2010 (258) E.LT. A48 (P & H)

<u>Decision:</u> The Tribunal held that since the assessee was a partner in the firm of whose brand name it was using, he was the co-owner of such brand name. Hence, he could not be said to have used the brand name of another person, in the manufacture and clearance of goods in his individual capacity. Thus, assessee was eligible for benefit of SSI exemption in the given case.

The said decision of the Tribunal was affirmed by the High Court in the instant case.

3. Whether the clearances of two firms with common brand name, common management, accounts etc. and goods being manufactured in the same factory premises, can be clubbed for the purposes of SSI exemption? SCL-3

CCE v. Deora Engineering Works 2010 (255) ELT 184 (P & H)

Decision: The High Court held that indisputably, in the instant case, the partners of both the firms were common and belonged to same family. They were manufacturing and clearing the goods by the common brand name, manufactured in the same factory premises, with common management and accounts etc. Therefore, High Court was of the considered view that the clearance of the common goods under the same brand name manufactured by both the firms had been rightly clubbed.

4. Whether the manufacture and sale of specified goods, not physically bearing a brand name, from branded sale outlets would disentitle an assessee to avail the benefit of small scale exemption? SCL-4

CCEx vs. Australian Foods India (P) Ltd 2013 (287) ELT 385 (SC)

Decision: The Supreme Court held that it is not necessary for goods to be stamped with a trade or brand name to be considered as branded goods for the purpose of SSI exemption. A scrutiny of the surrounding circumstances is not only permissible, but necessary to decipher the same; the most important of these factors being the specific outlet from which the good is sold. However, such factors would carry different hues in different scenarios. There can be no single formula to determine if a good is branded or not; such determination would vary from case to case.

5. M/s Bonanza Engineering & Chemical Pvt Ltd Vs CCE (SC) (2012) – OTHERS

merely because the assessee, maybe, by mistake pays duty on exempted goods, does not mean that the goods would become goods liable for duty under the Act:

The sum and substance of the reasoning of the Tribunal appears to be that merely because the assessee has paid the excess duty on those items which he was not supposed to pay in view of the exemption notification dated 1.3.1988 and merely because the assessee has not claimed the refund of the excess duty paid, that amount paid by him under the Notification dated 1.3.1988 requires to be taken for the purpose of computing the aggregate value of the clearances under the notification No.175 /86-CE.

Merely because the assessee, maybe, by mistake pays duty on the goods which are exempted from such payment, does not mean that the goods would become goods liable for duty under the Act. Secondly, merely because the assessee has not claimed any refund on the duty paid by him would not come in the way of claiming benefit of the Notification No.175 /86-CE dated 1.3.86.

6. [Commissioner v. Grand Card Industries – 2014 (305) ELT 19 (Del.)

SSI exemption is optional -Duty payment after utilizing credit, correct:

Delhi High Court has held that SSI exemption is optional and the assessee may decide not to claim such exemption and pay duty after utilization of Cenvat credit. The dispute pertained to option to avail exemption under Notification No. 1/93-C.E. or credit under Rule 57A of erstwhile Central Excise Rules, 1944. The High Court in this regard observed that the scheme of Cenvat credit and notification granting exemption to SSIs are beneficial in nature and that such beneficial legislations are to be strictly interpreted initially to determine eligibility, but once eligibility is determined, they have to be read liberally to grant benefit to the assessee. The court also said that if the contention of the department is accepted, it would be against the intention of the legislation of granting benefit to small manufacturers and will become disadvantageous to some manufacturers.

7. **M/s. Meghraj Biscuits Industries Ltd. Versus Commissioner of Central Excise (SC) (2007)**

grant of registration certificate under the Trade Marks Act will not automatically provide benefit of exemption to the SSI Unit.

if the SSI unit wrongly affixes a trade mark of another person, be it registered or not, or if it uses the trade mark of an ineligible person then such default would not be eliminated by the above principle of deemed equivalence embodied in Section 28 of the Trade Marks Act, 1999 as that principle is based on a deeming fiction which fiction is confined only to the provisions of the Trade Marks Act.

8. BHALLA ENTERPRISE

Fortuitous use of brand name- Brand name belongs to two persons equally – Exemption available to both