

Excise Procedures

Excise Procedures include

- Registration
- Maintaining proper production and stock registers.
- Procedures to be followed when removing of goods
- Payment of duty and
- Filing of Returns
- Special procedure for large tax payer.

Coverage of excise procedures. The procedures are covered in

- Excise Rules 2002
- Cenvat Credit Rules 2004
- Excise Manual 2001
- Excise removal of goods At concession rate Rules 2001
- Excise Circulars Notifications

Registration of factory/warehouse Sec 6 Rule 9

Notification NO 35 &36/2001

Persons requiring registration

- Every manufacturer of excisable goods (including Govt, autonomous corporations) on which excise duty is leviable.
- An importer / Dealers who desire to issue CENVATABLE invoices
- Persons holding private warehouses.
- Persons who obtain excisable goods for availing end-use based exemption notification.
- Exporters manufacturing or processing export goods intending to claim rebate of such duty
- EOU units procuring goods from DTA or supplying goods to DTA

Persons Exemption from Registration Notification No. 36/2001- dt.26.6.2001,

- Persons who manufacture the excisable goods, which are chargeable to nil rate of duty or are fully exempt from duty by a notification
- SSI units availing the slab exemption based on value of clearances under a notification. Only declaration when the value of their clearances touches Rs.40 lakhs.
- job-worker of ready-made garments need not get registered if the principal manufacturer undertakes to discharge the duty liability
- Persons manufacturing excisable goods by following the warehousing procedure under section 65 of Customs Act,
- The person who carries on wholesale trade or deals in excisable goods (except first and second stage dealer, as defined in Cenvat Credit Rules, 2004).
- 100% EOU/SEZ licensed under the provisions of the Customs Act

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Procedure for Registration

- Application in form A-1 duly filled up and signed along with self-attested copy of PAN should be submitted to Jurisdictional AC/DC.
- EOU located in port towns, application should be submitted to DC/AC Customs,
- If PAN is not available, copy of application made for PAN should be submitted
- AC/DC will scrutinize the application
- Registration certificate will be granted within 7 working days
- Reg. No is based on 15 digit PAN (E C C No.)

- Range Officer and Sector Officer shall verify address and premises within 5 working days after registration

Other Provisions with regard to registration

- Separate registration is required in respect of separate premises except in cases where two or more premises are actually part of the same factory
- Registration Certificate may be granted to minors if guardians conduct business
- Registration is not transferable.
- Any Change in constitution to be intimated within 30 days of change. No fresh registration required.
- If there is any change in information given in form A-1, the change should be informed in form A-1

Closure of business

- Apply for de-registration. Surrender original RC and pay duty up to date.
- Registration can be revoked or suspended if manufacturer or his employee breach of any of the provisions of Central Excise Act or Rules or has been convicted under section 161 of Indian Penal Code.

Penalty for non-registration

- Up to duty of contravening goods or Rs.2,000 whichever is higher
- In addition, Confiscation
- It is also an offence under section 9 of CEA imprisonment up to seven years (minimum 6 months) can be imposed

Factory' under Central Excise - Section 2(e)

- Factory means as any premises, including the precincts thereof, wherein or in any part of which, excisable goods are manufactured
- Precincts mean area enclosed by compound wall. A Canteen, a recreation club, a shed a cycle stand located in side the compound wall will be a factory
- Whole premises will be 'factory' if in any of its part, excisable goods are manufactured.
- It is not necessary that factory registered under factories act.
- Whole premises will be 'factory' if in any of its part, excisable goods are manufactured

Records for storage of goods

Daily Stock Account of stored goods Rule 10

- A daily stock has to be maintained by every assessee.
- DSA should be maintained on daily basis, in a legible manner,
- Entry in DSA to be made after goods are fully manufactured, duly tested and packed

Particular of DSA

- Date
- Description of goods manufactured or produced
- Opening Balance
- Quantity produced or manufactured
- Inventory of goods
- Quantity Removed
- Assessable Value
- Amount of duty payable
- Particulars regarding amount of duty actually paid.
- Manufacturer or his authorized agent authenticates the first page and last page of such book.

Period

- All such records shall be preserved for 5 years.

Penalty will be levied

- for not maintaining or Overwriting and cutting, or
- Difference between DSA stock and Physical Stocks

Penalty will be duty payable on goods or Rs. 2000 whichever is higher and Confiscation

Clearance of Goods for home consumption Rule 11

- 'Clearance' means removal of excisable goods from the factory.
- Excisable goods can be removed from factory only under Invoice'.

Requirements of Invoice Rule 11(2)

- Invoice should be serially numbered. Serial No by printing or by franking machine.
- The serial number should start from 1st April and will continue for the whole financial year.
- Before using serial numbers, the serial number shall be intimated to Range Superintendent

Invoice to be prepared in triplicate with suitable marks

- Original shall be marked 'ORIGINAL FOR BUYER'
- Duplicate copy shall be marked 'DUPLICATE FOR TRANSPORTER'
- Triplicate shall be marked 'TRIPLICATE FOR ASSESSEE'.
- Additional Copies if any can be maintained and they should be marked as 'NOT FOR CENVAT PURPOSES'.
- Only one invoice book should be used at a time
- Separate series of invoice for export and home consumption permitted. Assessee has to just intimate AC / DC.
- Invoice to be authenticated by owner or authorized person (Pre-authentication before used is not required Wef 01.04.2010)
- Invoice should be in book form
- The invoices can be 'loose leaf' only if Invoices are computerized.
- Non Compliance of above goods can be detained or Cenvat credit can be denied –
- In invoice duty payable should be rounded to in nearest rupee (sec 37 D) -

Contents of Invoice

- Name address, Registration Number of Manufacturer
- Name of proprietor in case of proprietor ship firm, Karta, Head in case of HUF
- Name and address of consignee
- Description and classification of goods
- Time and date of removal
- Quantity and Assessable Value of goods
- Rate of duty
- Duty payable on the goods.
- Mode of transport
- Name and Address of the jurisdictional Central Excise Division of assessee

Supplementary Invoice for differential duty –

- Prepared when Assessee may have to pay differential duty
- Should contain cross-reference to the original invoice

Computerization of Invoices

No permission is required.

Requirements

(1) In Case of running stationery

- the stationary should be pre-printed with all details
- After invoices are prepared, triplicate copy shall be retained in bound book form.

(2) If case of Blank stationery

- Computer software should generate serial number automatically
- Same number cannot be generated more than once. –

Price of goods should indicate amount of duty paid there on Sec 12 A

Every person liable to pay duty at the time of clearance of goods, **prominently indicate** in all documents relating to assessment and sales invoice, the amount of duty which will form part of price at which goods are sold.

Manner of Payment of Duty Rule 8**Due date for payment of Excise duty**

Nature of Assessee	Month	Due Date
All Assessee except SSI	April to Feb	5th of the following month
SSI-	April to Dec-	5th of the following Quarter (wef 01.04.2010)
All Assesses-	March (SSI -Jan to Mar)	March 31
In case of E payment	April to February SSI(April to Dec -3qtrs)	6th of the following month 6 th of the following Quarter

EOU now can pay duty on monthly basis vide notification No 23/2008 dt 23/05/2008 (earlier day basis) **e-payment mandatory** for payment of duty by all assessee who have paid excise duty of, rupees 10 lakh or more during the previous financial year or already paid Rs. 10 lakhs during the current financial year, Gross (before availing Cenvat credit) - WEF 01.04.2010

- Discharge of duty liability only if the amount payable is credited to C. G A/c
- Payment by Cheque the date of presentation of the cheque is the date of payment- subject to realization of that cheque.
- Payment of duty also include **payment of an amount** as per cenvat credit rules
- If the due date is holiday duty can be paid on next working day.

Delay in payment of duty- Interest payable @ 18% p.a starting from first day after due date till the payment of duty

If Assessee defaults payment of duty more than 30 days,

- Assessee will forego the monthly facility of payment of the duty
- Such forfeiture will be till such date on which all dues including interest thereof are paid,
- During such punishment period Payment of duty should be made on each consignment basis **without availing cenvat credit**
- in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and penalties can be levied

GAR-7 Challan

Excise duty is to be paid using G A R 7 Challan. (TR 6 challan up to 31.03.2007)

Particulars of Challan

- Name address, telephone no of Assessee
- 15 Digit ECC No of assessee
- Commissionerate code, Division code, range
- 8 digit accounting code of duty/cess payable
- Payment should be made in Designated Bank with signature of Assessee
- The challan should be serially numbered, from 1st April onwards –
- Countersignature of excise officer is not necessary in challan
- After payment assessee should ensure the counter foil should contain with bank seal, BSR code of branch (7 digits) Date of deposit (8 digits) and challan serial number (5 digits). Total 20 digits known as CIN (challan identification Number) and it should be quoted in return

Personal Ledger Account (PLA)/ Current Account

- PLA is duty payment register
- Assessee should pay duty through PLA.
- No specific permission is necessary.
- The PLA debited with duty payable and credited when duty is deposited in bank by GAR 7 challan

PLA contains following details:

- Serial No., and date,
- Details of credit like GAR 7 challan number, date and amount for each subhead of excise duty details of debit and balance.

Maintenance of PLA

- PLA has to be maintained in triplicate using indelible pencil and both sided carbon
- Each entry should be serially numbered and should be made on a separate line.
- The running serial number should start from 1 every financial year.
- Both debit and credit entry should not be on same line
- PLA and Cenvat credit should be used only for payment duty and not for other payments like rent, fines, penalties etc
- Corrections in PLA are not allowed.
- If any correction is necessary, the original entry should be neatly scored out and attested by assessee. Fresh entry to be made in next row.
- Two copies of PLA and copies of GAR 7 receipted challan shall be submitted along with Excise return

Periodical returns- Rule 12

The following are the various returns are to be filed by the assessee, the return is required *in quintuplicate*, and Assessee will have sixth copy as his record copy.

Form of Return	Description	Who is required to file	Due date for filing return
ER-1[Rule 12(1) of Central Excise Rules]	Monthly Return by large units	Manufacturers not eligible for SSI concession	10th of following month
ER-2[Rule 12(1) of Central Excise Rules]	Return by EOU	EOU units	10th of following month
ER-3[Proviso to Rule 12(1) of Central Excise Rules]	Quarterly Return by SSI	Assessees availing SSI concession	10 th of following quarter Wef 01.04.2010
ER-4[rule 12(2) of Central Excise Rules]	Annual Financial Information Statement	Assessees paying duty of Rs one crore or more per annum through PLA	Annually by 30th November of succeeding year
ER-5 [Rules 9A(1) and 9A(2) of Cenvat Credit Rules]	Information relating to Principal Inputs	Assessees paying duty of Rs one crore or more per annum through PLA and manufacturing goods under specified tariff headings	Annually, by 30th April for the current year (e.g. return for 2010-11 is to be filed by 30-4-2010].
ER-6 [Rule 9A(3) of Cenvat Credit Rules]	Monthly return of receipt and consumption of each of Principal Inputs	Assessees required to submit ER-5 return	10th of following month
ER-7 [Rule 9A(4) of Cenvat Credit Rules]	Annual Installed Capacity production Statement	Assessees required to submit ER-5 return	Annually, by 30th April for the current year (e.g. return for 2010-11 is to be filed by 30-4-2010].

Certain Manufacturers are exempt from filing of Annual Installed Capacity production return such as biris, manufactured without the aid of machines, matches manufactured without the aid of power & reinforced cement concrete pipes Notification dated 26/2009 dt.18.11.2009

Quarterly return for 1% Excise duty goods notified by Notification No 1/2011 dated 1.03.2011.

Where an assessee is availing the exemption under Notification No. 1/2011-CE dated 01.03.2011 and does not manufacture any other excisable goods other than those specified in the said notification, he shall file a quarterly return in the prescribed form for production and removal of goods and other relevant particulars, within 10 days after the close of the quarter to which the return relates. Notification No 8/2011 dated 24.03.2011.

Some of goods listed in notification: ready to eat food, food mixes, tooth powder, candles, nipples for feeding bottles, sewing needle, articles of Jewellery sold under brand name, water filters function without electricity, sewing machine without motor, pencil, pens, ink etc.,

Submission of list of records Rule 22(2)

Every assessee should submit, a list in duplicate of all records Prepared or maintained by him

- For receipt, purchase goods
- For Manufacture, storage of goods
- For Sale or delivery of goods
- Registers should be maintained for inputs and capital goods.
- The above records and Cost Audit Report, Income Tax Audit Report u/s 44AB of Income Tax Act Should be submitted for scrutiny in case of inspection to Range officer, Audit persons

Meaning of 'record'

■ All accounts, agreements, invoice, price list, return, statement or any other source document, whether in writing or in any other form, sales invoice, purchase invoice, journal voucher, delivery challan and debit or credit notes. -

Electronic filing of Returns mandatory when duty payment exceeds Rs. 10 lakhs

CBE&C has introduced the facility of filing the monthly/quarterly excise returns electronically.

Where the duty payment Gross (including utilization of Cenvat credit) is Rs. 10 lakhs or more during the previous financial year, returns to be filed electronically. Even the (FSD/SSD) dealer required to file electronically. It is mandatory (WEF 01.04.2010)

- To avail the facility of e filing assessee should submit an application in the prescribed form for e filing
- Assessee should Submit returns after receipt confirmation, User ID and Password from the Department,

JOB WORK

Meaning-(Notification NO 214/86)

- Processing or working upon of raw materials or semi-finished goods
- 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 the aforesaid process.

Persons eligible to send materials for job work

- (a) Manufacturers (b) Exporters (c) Units in SEZ, EOU, EHTP & STP (d) persons supplying U N O etc
- Job worker can use his own material and recover charges therefore from the principal manufacturer.

Inputs that can be sent for job work

- All inputs except diesel petrol and oil, filament yarn

Duty liability in case of Job Work

If job work process is a manufacture, job worker has to pay excise duty.

Job worker will exempt from payment of duty in the following cases

- Should not receive material from trader or buyer
- The manufacturer should give declaration to jurisdictional CEO that he will undertake duty liability
- After the job work, processed material, balance unused material and scrap should be returned to supplier.
- Goods can be cleared directly from the place of job worker with permission of Commissioner.

Exemption from duty for job worker when material received under Cenvat provisions

- Material received by a manufacturer under CENVAT can be sent to a job worker
- He should material brought back by the manufacturer for further processing.
- In such cases, there is no duty liability on the job worker and he is exempted from the same.

Large tax payer units Rule 12 BB

Meaning of Large tax payer unit

- Who is presently assessed to income tax in any of the five cities (Bangalore, Chennai, Delhi, Kolkata or Mumbai)
- has one or more registered premises under the Central Excise Act, 1944 or Service tax Act
- and an assessee under the Income Tax Act, 1961, who holds a Permanent Account Number issued under section 139A of the said Act, and

Who has paid during any in previous year to the year of filing application for option to avail STP

- excise duty in cash (account current) of Rs 5 crore or more; or
- service tax in cash (account current) of Rs 5 crore or more; or
- advance (income) tax/corporation tax of Rs 10 crore or more

A large taxpayer who satisfies the conditions mentioned above may file an application in prescribed form duly completed in all respects to the Chief Commissioner of Central Excise, indicating his willingness to be a large taxpayer. He can avail facility of all the excise, service tax and income tax at one place in single window clearance. However the scheme is only optional.

Procedure for LTP units

LTP can avail the following facility-

- Can remove excisable goods, except petrol and diesel oil without duty to any person registered premises except FSD/SSD
- Removal should be with invoice or transfer challan
- The goods can be cleared for Home consumption or export within 6 months from the date of sending the material
- If not cleared the recipient premises has to pay duty with interest u/s 11 AB
- The transfer challan or invoice should contain similar particulars of invoice Rule 11
- A large taxpayer shall submit the monthly returns, as for each of the registered premises.
- A large taxpayer, on demand, may be required to make available all records in electronic media, such as, compact disc or tape for the purposes of carrying out any scrutiny and verification as may be necessary.
- Availment of LTP scheme is optional
- A large taxpayer may, with intimation of at least thirty days in advance, opt out to be a large taxpayer from the first day of the following financial year.

Power to impose restrictions in certain types of cases.

Central Government, if necessary in the public interest to provide for certain measures

Considerations for taking measures

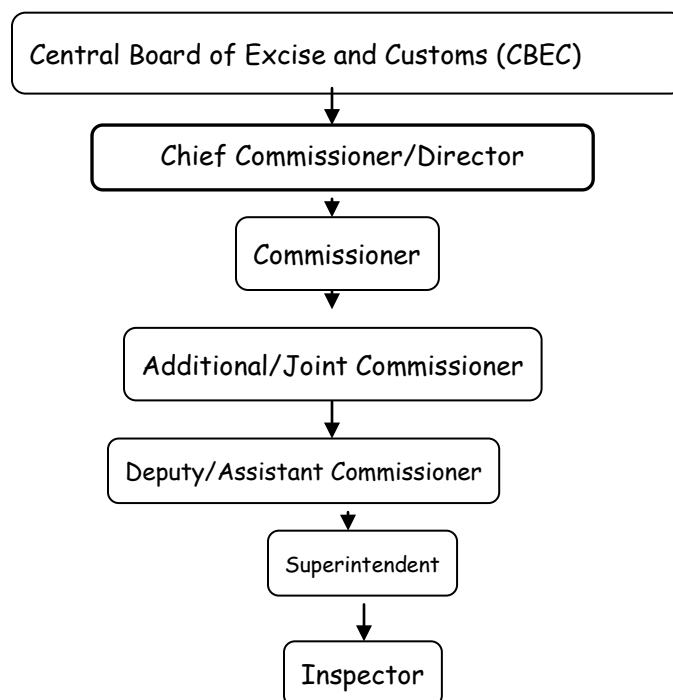
- Extent of evasion of duty,
- Nature and type of offences or
- Such other factors as may be relevant

Measures:

- May place restrictions on a manufacturer, FSD/SSD or exporter, specify nature of restrictions including suspension of registration in case of a dealer
- Types of facilities to be withdrawn
- Procedure for issue of such order by an officer authorized by the Board.

The circumstances under which the restrictions are place are

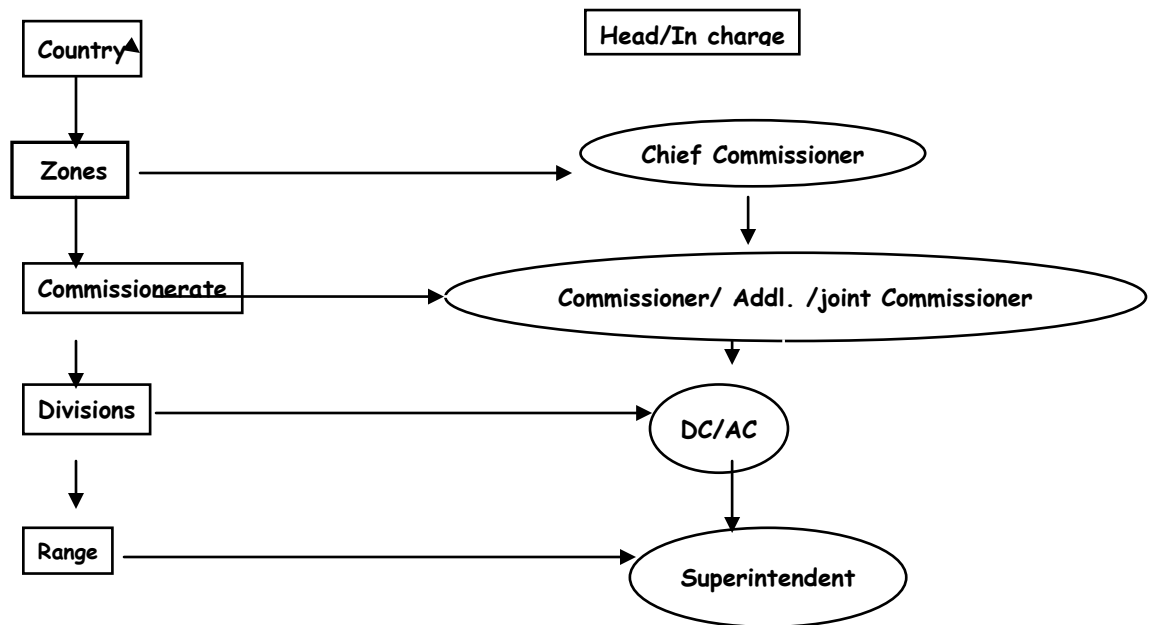
- Removal of goods without the cover of an invoice and without payment of duty;
removal of goods without Correct Value
- Excess sale price realized not accounted;
- Availing CENVAT Credit without the receipt of goods/ specified documents
- Availing CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine
- issue of excise duty invoice without delivery of goods specified in the said invoice;
- claiming of refund or rebate which are not genuine

Excise Administration

Meaning of CEO: All above in the hierarchy from Chief Commissioner to Inspector including Commissioner (Appeals) and Officer of State government if CBEC entrusted any powers to him

Meaning of Adjudicating authority: Authority who has right to pass orders decisions under Act excluding Commissioner Appeals, Appellate tribunal and CBEC

Segregation of excise functions



Board - CBE&C.

- Formed under Central Boards of Revenue Act, 1963. Head Quarter in New Delhi
- Consisting of six to seven members, headed by Chairman,
- Chairman has powers to administer the Excise Act/distribute work
- Central Excise Rules authorizes Board to appoint Central Excise Officers. Rule 3(1)
- Board can exercise all powers conferred on these officers under the Central Excise Act.
- Board can authorize CC/C/JC/DC/AC to appoint officers below rank of AC.
- Section 37B of CEA authorizes Board to issue orders, instructions and directions to Central **Excise Officers**

The Provisions with regard to Excise Officer are similar in section 4(1) and 151 A of Customs Act as below.

Chief Commissioner of Central Excise

- Country is divided in several zones.
- Each 'zone' is under supervision of '*Chief Commissioner of Central Excise*'
- Board Specify the jurisdiction of Chief Commissioner, Commissioner or Commissioner (Appeals).

Commissioner of Central Excise

- Each 'zone' covers various Commissionerate and
- Commissioner of Central Excise (CCE) is Administrative in-charge of the 'Commissionerate'.

Additional Commissioner of CE –

- There may be one or more Additional Commissioner in a Commissionerate.
- Restrictions on powers of Additional Commissioner have been placed through administrative instructions.
- Commissioner has unlimited powers of adjudication, while Addl Commissioner has restricted powers of adjudication.

Deputy Commissioner/Assistant Commissioner

- Each Commissionerate of Central Excise is divided into divisions
- Each division is under administrative control of 'Deputy Commissioner' or 'Assistant Commissioner of Central Excise'
- Assistant Commissioner (Senior Scale) is designated as 'Deputy Commissioner'
- Both Assistant Commissioner and Deputy Commissioner have same powers.

Superintendent

- The division under each Deputy / Assistant Commissioner of Central Excise is further divided into various ranges
- Each range is under control of Superintendent of Central Excise, who is of the rank of a Gazetted Officer.
- Inspectors work under Superintendent and some powers have been delegated to them. Inspectors are not a Gazetted Officers.

POWERS OF CENTRAL EXCISE OFFICERS

Excise Officer Power to Access to registered premises.

- An officer empowered by the Commissioner shall have access to any registered premises
- He can carry out any scrutiny, verification and checks.
- Every assessee, and FSD & SSD shall furnish to the officer, a list in duplicate of all the records
- Records and Audit reports make available to the officer or the audit party

Visit Book of Excise Officers

- Each factory is required to maintain a visit book in prescribed form.
- Inspector and Superintendent visiting the factory are required to fill in the book.

Restrictions on visit to SSI

- Excise Officers and departmental audit parties can visit SSI units for specific purposes only and on specific written permission of Assistant/Deputy Commissioner.

Excise officer power to stop conveyance, search and seize:

- If he has reason to believe that the goods are being carried with the intention of evading duty.

Power to detain or seize the goods -Rule 24 of Central Excise Rules.

- any goods, which are liable to excise duty but no duty is paid thereon or
- the said goods are removed with intention of evading the duty payable thereon,

Return of Seized Documents/ books Rule 24 A of Central Excise Rules (Notification No 17/2009 dt 07.07.2009

The books of accounts or other documents, seized by the Central Excise Officer or produced by an assessee or any other person, which have not been relied on for the issue of notice under the Act or the rules made there under, shall be returned within **thirty days** of the issue of said notice or within **thirty days** from the date of expiry of the period for issue of said notice:

Provided that the Commissioner of Central Excise may order for the retention of such books of accounts or documents, for reasons to be recorded in writing and the Central Excise Officer shall intimate to the assessee or such person about such retention.

Excise Officers power to issue summons sec 14

- Asking a person to appear before the named authority and give evidence and produce documents or other things.
- Person summoned is bound to attend and state the truth upon the required subject

Excise officer power to arrest a person [Section 13].

- An Excise Officer not below the rank of Inspector, to arrest a person whom they have '*reason to believe*' to be liable to be punished under provisions of the Act
- Such arrest can be only with prior approval of Commissioner of Central Excise.

Export and Other procedures for removal of goods

Export Procedures

No Excise duty on exports, but control is necessary to avoid goods diverted for Home consumption

There are basically two procedures for exporting the goods out of India

(a) In the first procedure, duties are paid and subsequently rebate (refund) is claimed after exportation of such goods (**Rule 18 of Central Excise Rules**).

(b) Another procedure is to export goods under bond without payment of excise duty. On actual exportation of goods the bond is released on presentation of necessary proofs regarding exports,. (**Rule 19 of Central Excise Rules**).

Export can be made either of the following ways

Export procedure under supervision of C E O

Export procedure under self Sealing of Manufacturer

Export procedure under supervision of C E O:

- 1 The application for removal should be made within 24 hours before removal of goods in form No. ARE I
- 2 ARE I has to be prepared in 5 copies. Original White, Duplicate Buff, Triplicate Pink. Quadruplicate Green. Quintuplicate-Yellow Color band can also used
- 3 Particulars of ARE I are Similar to that of Invoice. Additional Particulars are Duty Paid/Bond details, Amount of rebate Claim, Certification of CEO in part A., Certification of Customs officer in Part B and Rebate sanctions order.
- 4 CEO will verify Value inspect the goods Certification and endorse the ARE I
- 5 Two Copies of ARE I retain and three copies handover to assessee CEO seal the packets Out of 2 copies retain one will send by CEO to maritime commissioner
- 6 Export should be made within
 \ 6 months
- 7 At the port exporter has to submit documents. No Physical verification at port unless seals tampered.
- 8 Customs officer will certify Part B of ARE I
- 9 Manufacturer has to submit ARE I and Other documents to claim rebate

Export procedure under self Sealing of Manufacturer: The procedure is similar to that of above. Except the following

- One Copy of ARE I will be delivered to CEO with in 24 hours of export
- There is no verification and endorsement by CEO on ARE I
- Goods will be verified at customs port and certification of ARE I by Customs officer
- In case of in case of exports under free Shipping Bill, i.e., Shipping Bills wherein no export benefits are being sought, the manufacturer-exporter shall mandatorily resort to self-sealing of containers.

Export within 6 months - Goods must be exported within 6 months from date of removal from the factory, unless extension is granted. Extension can be granted by AC / DC / Maritime commissioner. -

Chapter 7 Part II Para 2.2(i) of CBE&C's CE Manual, 2001.

LOUT under excise

When goods are exported without payment of duty

- Manufacturer has to execute – **Letter of Undertaking- LOUT**

- Other Persons has to execute-Bond

LOUT

- Submitted by Manufacturer to CEO/Maritime commissioner in form UT-1

- Executed in favor of President of India through CEO

- Contains the particulars of manufacturer and registration number

In LOUT or in Bond Manufacturer/exporter has to declare that

- Export goods within 6 months

- Comply with excise rules, regulations, Act

- Export the goods to the satisfaction of AC/DC

- Duty, interest will be paid in event of failure to export

LOU should be accepted by CEO

Bonds under Excise

Bond' means an undertaking given by the assessee to Government for due fulfillment of certain obligation

Types of Bond – 2 types

Surety Bonds and Security Bonds

Surety Bonds

- Surety bonds are covered Indian of Contract Act.

- In Surety Bond, another person stands as surety to guarantee the performance

- Surety should be for full value of bond Surety should be solvent to the extent of bond amount.

- The department is at liberty to enforce the recovery of dues either from the obligor or from the surety.

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Security Bonds

- Executed where security is offered instead of guarantee

- Security can be in nature of Post Office saving deposit, NSC, Bank Deposits, Govt. Securities etc

- Bank Guarantee can also be accepted as surety/security

Particulars of Bonds

- Name address, registration no of assessee

- Declaration about compliance of rules, regulations,

- Surety liability clause, damages etc.

- Bond should be accepted by CEO

Forms/ kinds of Bonds

Bonds are of different nature and for various purposes. Forms of bond etc. have been standardized. The main bonds are as follows:

B-1 general bond

- The bond is for due dispatch of excisable goods removed for export without payment of duty.

- The bond can be with surety or security.

B-2 Bond

- This is a General Bond for provisional assessment.

- It can be with security or surety.

B-4 Bond

- The bond is for provisional release of seized goods.

- It can be only security bond.

- Bond should be for whole value of seized goods.

■ Amount of security will be as determined by adjudicating authority taking into consideration of gravity of offence (normally 25%)

B-8 Bond

■ This bond is for obtaining goods at Nil or concessional rate of duty under Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules.

B-11 Bond

■ This is not prescribed under new rules.

■ However, it has been clarified that the old B-11 form should be used to clear seized goods on provisional basis. –

B-17 Bond

■ This is a general surety / security bond to be executed by EOU, EHTP/ STP units.

■ It is for provisional assessment of goods for export of goods to foreign countries without payment of duty and for account / disposal of excisable goods procured without payment of duty.

Bringing goods for repairs, re making, Recondition etc .Rule 16

■ Assessee can take Cenvat credit of duty paid as if such goods are received as inputs under Cenvat Credit Rules.

■ All such goods brought back should be accompanied by duty paying document,

■ If No such document Prior permission from Commissioner is required before bringing such goods to the factory

Removal after repairs / re-making etc.

■ At the time of clearance, duty should be paid under Invoice as follows –

■ If the process carried out on the goods brought amounts to manufacture, assessee should pay duty at the rate applicable on date of removal.

■ If the process does not amount to manufacture, and amount equal to Cenvat credit taken at the time of receipt of final product is payable.

■ The buyer can avail Cenvat credit of this 'amount'. [Rule 16(2)].

Credit on duty paid goods return to Factory Rule 16

When buyer returns goods or rejects the goods as they the goods can be brought back.

■ There is no time limit and goods can be brought any time.

Procedure to be followed

■ Goods should accompany duty paying document

■ Intimation to Superintendent within 24 hours of receipt

■ Assessee should wait 48 hours to enable CEO to verify

■ Such goods should be stored separately from non duty paid goods.

■ Cenvat credit can be availed.

At the time of clearance

■ Duty payable if any process done which amounts to manufacture on Assessable value

■ If no process cenvat credit availed should be reversed

Removal of goods for Job Work Rule 16 A

Any inputs received in a factory may be removed for a job worker

■ Goods can be removed only under Job work challan

■ Permission of the Commissioner to be obtained

■ Manufacturer has to undertake duty liability

■ If required, Bond to be executed

■ If goods not returned within 180 days cenvat credit should be reversed

■ Commissioner can impose any restrictions and conditions.

Removal of excisable semi finished goods for Certain purposes Rule 16 B
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- The Commissioner of Central Excise may by special order and subject to conditions permit a manufacturer to remove semi finished excisable goods for carrying out certain manufacturing processes, to some other premises
- After the process the goods can be bring back to factory
- The manufacturer can remove these goods for home consumption with payment or duty or for export without payment of duty from such other registered premises.

Removal of excisable goods for test or for any process not amounting to manufacturing Rule 16 C
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- The Commissioner of Central Excise may by special order and subject to conditions permit a manufacturer to remove semi finished excisable goods for carrying out certain manufacturing processes, to some other premises
- After the process the goods can be bring back to factory
- The manufacturer can remove these goods for home consumption with payment or duty or for export without payment of duty from such other registered premises.
- This rule shall not apply to the goods known as “prototypes” which are sent out for trial or development test.

Procedure to be followed for sending goods under Rule 16 A, 16 B and 16 C

- The goods can be removed along with prescribed Challan or Consignment note
- If the manufacturer desires to remove the goods from the place where the goods are sent, he shall pay duty on such excisable goods and prepare an invoice, as per rules 8 and 11 **except for mentioning the date and time of removal of goods** on such invoice.
- The original and the duplicate copy of the invoice so prepared shall be sent by him to other premises, where goods intended to clear.
- The processor shall fill up the particulars of date and time of removal of goods before the clearance of goods and after such clearance the processor shall intimate to the said person, the date and time of the clearance of goods for completion of the particulars by the said person in the triplicate copy of the invoice.
- The processor shall clear the goods after filling in invoice the time and date of removal and authentication of such details. The rate of duty on such goods shall be the rate in force on date of removal of such goods from the premises of the processor and no excisable goods shall be removed except under the invoice.
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Removal of Goods by EOU to DTA (Rule 17)

Procedure

- Invoice is to Prepared under Rule 11
- The duty is paid thorough debiting PLA (50% of aggregated of customs duties and CVD)
- Cenvat credit can be availed (Based on the restricted formula)
- The Monthly payment of duty facility not available
- Daily Stock Account should be maintained in Form AC 1, with the Particulars similar to DSA (rule 10)
- The unit should submit monthly return in ER2 by 10 of the following month.

Capital Goods manufactured for Captive Consumption within the 100% EOU shall be liable for duty at the time of clearance of such capital goods outside the 100% EOU or debonding or exit from the EOU Scheme. **[Circular No.22/2009 dt.19.08.2009]**

Procedure for clearance to warehouse Rule 20

■ Goods are removed from factory on payment of duty. However, in respect of certain goods, provision has been made to store the goods in warehouses without payment of duty.

Applicable to following goods.

- Petroleum products such as benzene, toluene and xylene
- Goods transferred to customs bonded warehouse as 'Stores'.
- Goods removed by export houses or star trading houses for subsequent exports under rule 18 or rule 19 of Central Excise Rules - Notification No. 46/2001-CE(NT) dated 26-6-2001

Procedures to be followed

- Consignor is required to prepare application in quadruplicate in form ARE III
- Warehouse should be registered under excise provisions
- He is also required to prepare invoice under rule 11
- Three copies of application and duplicate of invoice should be sent along with goods to consignee.
- On arrival at destination, Consignee has to verify the goods notify the discrepancy if any.
- Consignee will send original to his range superintendent duplicate with endorsement (rewarehousing certificate) to the consignor
- Range superintendent of consignee will counter sign ARE II and send his counterpart of consignor.
- If rewarehousing certificate is not received within 90 days, consignor shall pay the duty.
- Proper accounts shall be maintained at the warehouse. He will be responsible for payment of duty, penalty etc.
- Registered person can keep only goods belonging to him and not to someone else. He can keep other's goods only with permission of Commissioner.
- Owner of warehouse can sort, pack or repack the goods in warehouse and make such alterations as may be necessary for preservation, sale or disposal thereof.
- Maximum period of storage in warehouse 90 days

Conditions for bringing duty paid packing materials into the export warehouse:

The exporters shall be allowed to bring the duty paid packing materials into the export warehouse. The exporter must submit a written request to the Jurisdictional AC/DC who may grant the permission for one year.

The exporter has to maintain proper account of such goods and shall not claim any export benefit like rebate of duty paid on the said material. **[Circular No.900/20/2009 dated 06.10.2009]**

Receipt of Goods at concessional rate of duty

■ The provisions are contained in Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001. Earlier these procedures are known as Chapter X procedures

Procedure

- The manufacturer intending to procedure excisable goods to avail the benefit of notification u/s 5 A, should apply to AC / DC in quadruplicate in form specified at Annexure I to rules
- Separate application shall be filed for each supplier.
- B 8 Bond to be executed for duty liability for the amount prescribed by AC/DC
- Copy of this application duly signed by AC/DC will be sent to supplier-manufacturer.

- The supplier can clear goods on receipt of the certificate duly countersigned by AC / DC
- The removal details will be recorded on the application by the supplier-manufacturer.
- Proper accounts should be maintained for Goods
- AC/DC should ensure** that Goods should be used only for intended purpose (mere intention is not sufficient)
- If the goods are not used for intended purpose the manufacturer shall be liable to pay the amount equal to the difference between the duty leviable on such goods and interest if any
- Clearance to another unit under same procedure

Return of goods to supplier

- The Supplier will add this return to his non-duty paid stock (in Daily Stock Account) and then deal with it.
- Monthly return should be submitted by procurer in prescribed form given in Annexure II by 10 of the following month. Regarding quantity received, used and balance etc)

Goods lost or destroyed during transport –

- It will not be treated as 'used for intended purpose'. Differential duty and interest will become payable.

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