

SHORT REVISIONARY KONCEPTS

CENTRAL EXCISE RULES, 2002

Rule 4

(1) No removal shall be made without payment of duty (i.e., **EACH REMOVAL SHALL BE AFTER PAYING DUTY**)
Manufacturer // Warehouse Keeper – shall pay duty as per Rule 8 (Monthly Basis)

(2) Manufacturer (**Khandsari Sugar Factory**) ----- **Molasses** ----- **Procurer** (Deemed Manufacturer)
↓
Shall pay duty (at time of receipt thereof in his factory)

Expl **Intermediate Goods** ----- Issued for use in next process -----
↓
Deemed to be removed from Factory immediately before such Utilization

(3) without duty payment
Factory ----- **Store-House** (== Warehouse) ----- Duty payment
↓
CCE permission necessary
----- exceptional circumstances ----- Due regard to [NATURE OF GOODS + SHORTAGE OF STORAGE SPACE]

Rule 5

Relevant Date (Date of which ROD & AV shall be taken)
(1) **Any EG (other than Khandsari Molasses)** ----- **Date of removal** from the Factory/Warehouse
↓
IG (= Captively Consumed Goods) --- Date of Removal = Date of Issuance to Next Process

(2) **Khandsari Molasses** ----- Date of receipt by Procurer

(Explanation)

Rule 6

ASSESSMENT SYSTEM – WHO SHALL ASSESS

EG (other than Cigarettes) ----- Assessee [System = Self-Assessment System == **SELF-REMOVAL PROCEDURE**]

Cigarettes : ----- SCE / INSPECTOR [System = **PHYSICAL CONTROL SYSTEM**]

Rule 7

(1) Assessee **unable – to determine** --- **AV** or --- **Applicable RoD** - Then, he may **request AC/DC** for **PROVISIONAL ASSESSMENT** (PA)
Request accepted --- **PA Order** shall be passed

(2) PA allowed --- subject to Execution of Bond by the Assessee
Bond (PD Bond: B-2) = [Expected Duty on Final Assessment (FA) – Provisionally Assessed Duty] **(Prescribed Form: B-2)**

(3) PA shall be finalized – (i.e., **Final Assessment Order** shall be passed)
Time Limit: **6 Mths from Date of PA Order** ⚡ **6 Mths (CCE)** ⚡ **Further Ext (Chief CCE)**

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- (4) FA Duty > PA Duty, then Assessee shall also pay Interest @ 13% p.a. on the differential duty (demand)
- (5) FA Duty < PA Duty, then Assessee shall be entitled to interest @ 6% p.a. on the differential duty (refund)
- (6) Any Refund resulting from Finalization --- Credited to CWF **(i.e., Doctrine of Unjust Enrichment shall be applicable to PA cases also)**
Exception: *Refund to Applicant if – Manufacturer Applicant has paid and borne ED burden himself*
– Buyer Applicant has paid and borne ED burden himself

Rule 8

(1) **DUE DATES OF PAYMENT**

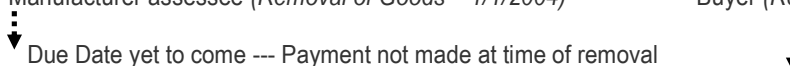
	Periodicity	Mths (April to Feb)	Mth (March)
Non-SSI Unit	MONTHLY basis	Within 5 days [E-payment : 6 days]	By 31 st March Itself
SSI Unit	MONTHLY basis	Within 15 days [E-payment : 1 days]	By 31 st March itself

- **E-payment**

- Mandatory for Cash-Rich Assessee [Cash Rich Assessee= PLA Payment >= 50 lakhs in PY]
- For others- e-payment is optional (discretionary)

Explanation: Duty liability discharge : in case Duty is deposited by Cheque (GAR-7 Challan + Cheque)

Date of Presentation of Cheque = Date of Payment, if cheque doesn't get dishonoured subsequently

- (2) Manufacturer assessee (Removal of Goods – 1/1/2004) ----- Buyer (Receiving goods on 2/1/2004)

 Due Date yet to come --- Payment not made at time of removal
 But goods shall be deemed to be duty paid at time of removal itself ----- But Cenvat Credit of duty payable thereon admissible to buyer
- (3) Failure of pay Duty by due date :--- Consequences Interest : --- @ 13% p.a.

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(3A) Failure in Payment of duty by Due Date: if not made good within 30 days of due date, then till default continues

⇒ Assessee can not avail MONTHLY PAYMENT FACILITY (he shall make payment of individual clearances on its own)

⇒ Assessee can not utilize cenvat credit, (though he can book CCr)

[i.e., During such period, not only the duty is payable "transaction wise" but also it is payable only in CASH (i.e., through PLA)]

If default not made good despite these: --- Goods shall be treated as cleared without payment of ED
CEO entitled to proceed with related consequences & penalties.

[Latest Explanation: Rule 8 facility shall be available not only for payment of ED but also for payment of ANY AMOUNT payable under CCR, 2004]

Spl provisions as to payment of excise duty: [Exceptions to Rule 8]

RULE 15: COMPOUNDED LEVY SCHEME (CLS) (for Unorganized Sector)

Applicability: Only on Goods Notified by CG (by Notification in OZ) --- e.g. – Stainless Steels Pattis & Pattas

Scheme: Duty liability is fixed based on certain factors of production --- that duty liability is notified

Assessee opting for CLS --- Pay duty at notified rate (irrespective of actual clearances --- which may be lower or higher)

Duty paid in Advance (on periodic basis) --- Rule 8 – N.A. to these units

[Some features ::

1. *Scheme is optional for assessee.*
2. *DSA need not be maintained by units availing CLS.*
3. *Payment on monthly/quarterly/half-yearly basis as notified in scheme. Payment for related period shall be made in advance.*
4. *No CCr can be taken by the assessee (i.e., Notified amount shall be paid in cash.*
5. *In general, buyer of goods cleared under CLS scheme shall not be eligible for taking credit.*

RULE 17: REMOVAL BY 100% EOU [In Domestic Tariff Area (DTA)]

Remember: Proviso to Sec 3(1) of CEA:

100% EOU ----- Sale to DTA

ED payable = Aggregate of Customs Duties

(1) **ED liability on clearances in DTA --- Duty is payable at the time of removal itself** (& not on Monthly Basis)

Duty can be paid --- By debiting PLA or By utilizing Cenvat Credit

(2) **Proper A/cs shall also be maintained [AC-1]**

(3) **Prescribed Return: E.R.-2 -- shall be filed to SCE (Monthly Basis --- Within 10 Days)**

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Rule 9

- (1) Person requiring **REGISTRATION**: **Manufacturer + Trader + Pvt. Store-room Keeper + Warehouse Keeper + User**
 (2) CBEC may exempt any person from registration requirement (by issuing Notification for that)

N/N 36/2001:

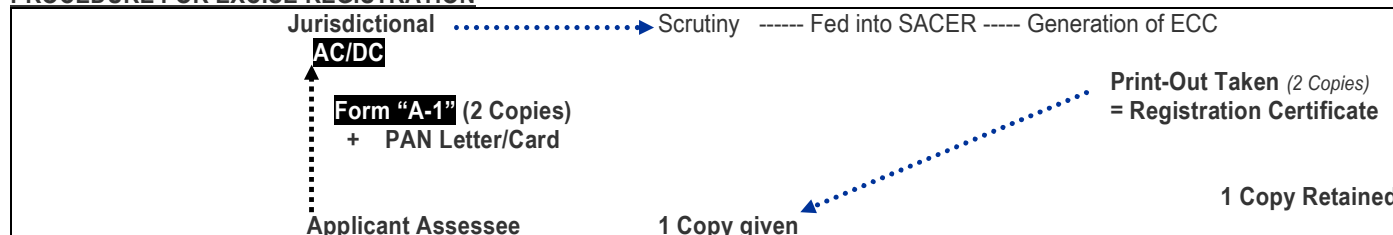
Exemption from Reg to	Subject to Following Conditions
☐ Manufacturer of – 100% Exempted goods or Nil Duty goods	⇒ Prescribed Declaration is filed ** If 100% Exemption is Under 8/2003 + AVC (Home Consumption) is upto 90 lakhs in immediately PY: --- then, Even Declaration needn't be filed
☐ Person getting goods manufactured on Job-Work (R/M Supplier)	⇒ J/Wrker not availing 214/86 (i.e., paying ED himself)
☐ Manufacturer doing manufacturing process in Customs Warehouse (permissible in terms of Sec 65 of Customs Act, 1962)	⇒ EG so manufactures & all other goods – either destroyed or exported + Prescribed Declaration is filed + DBK/ REBATE of duty paid on Inputs not claimed
☐ Trader of Excisable Goods	⇒ He shall not be a FIRST STAGE DEALER or SECOND STAGE DEALER
☐ User of Excisable Goods	⇒ He shall not be a Manufacturer-User who is availing End-use based Exemption Notification.

100% EOU ---- **Deemed to be registered** (Needn't register themselves separately)

However, **if it has linkage with the DTA** (i.e., it sells to DTA Unit or purchases from DTA unit) --- then, these shall not be treated as deemed registered unit & shall require separate registration under Excise.

(3)

PROCEDURE FOR EXCISE REGISTRATION



- ☐ SACER : System for Allocation of Central Excise Registration;
- ☐ ECC = Excise Control Code Alpha-Numeric Code (15-Digit Number)
PAN (10-Digits) + XM // XD // EU (as the case may be) + 001 **(2-Digits – No. of Factories)**
- ☐ Separate Factories – Separate Registration
- ☐ RC shall be granted within 7 days – if not so granted, on expiry of 7 days it is deemed to be granted
- ☐ Once RC granted – Permanent Status --- UNLESS -
 - i) Surrendered by Applicant (Closure of Factory)
 - ii) Cancelled/Revoked by Dept. (on Breach of Act/Rules or Conviction of offence of giving bribe)
- Death of Applicant – may also lead to cessation of RC

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Rule 10

- (1) Maintain **DSA** (Daily Stock A/c) ---- Record of **OPENING/STOCK + QTY MANUFACTURED -- QTY REMOVED = C/STOCK**
- (2) Ist & Last Page of DSA --- Shall be Authenticated by Manufacturer or His Agent
- (3) **Preserve DSA for 5 Years** (after the Year to which it pertain ----

Rule 11

- (1) No removal of EG from Factory/Warehouse --- without **INVOICE**
 ----- **In case of Cigarettes** – Invoice shall be signed by assessee & Counter-signed by the SCE/Inspector
 ----- **In case of all other EGs** --- Invoice needs only signature of Assessee (no counter-sign required)
- (2) Invoice --- shall be Serially Numbered
Shall Contain:-- **Registration No** + Consignee's Name + **Description of goods** + Classification Code + ToR & DoR + RoD
 + **Qty & Value** + **Duty thereon** + Mode of transport + Vehicle registration no.

(Year 2008) → in case of PROPRIETARY CONCERN / HUF – name of PROPRIETOR or HuF shall also be mentioned.

- (3) Prepare **in TRIPLICATE** ---- 1st Copy for Buyer + 2nd Copy for Transporter + 3rd Copy for Assessee
[Assessee can prepare Additional Copies – but those shall be marked as “NOT FOR CENVAT”]
- (4) Only one copy of INVOICE BOOK shall be used at any point of time
Exception: When AC/DC allowed use of additional copies (e.g., in cases of Export)
- (5) Owner // Working Partner // M.D. // CS // Other Authorised Person : Shall authenticate Each Foil of Invoice Book
- (6) Before bringing into use any Invoice Book ---- Intimate Serial Nos of Invoice Book to the SC.
- (7) **All above provisions --- shall equally be applicable to Invoice prepared by FSD // SSD**

Rule 12

- (1) **DUE DATES OF FILING RETURN**

	Periodicity	Mths (April to March)	Form of Excise Return
Non-SSI Unit	MONTHLY basis (12 Returns per Year)	Within 10 days from the end of month	“E.R.- 1”
SSI Unit	QUARTERLY basis (4 Returns per Year)	Within 20 days from the end of month	“E.R.- 3”
Unit availing AREA BASED EXEMPTION	QUARTERLY basis (4 Returns per Year) <i>[from Year 2008]</i>	Within 20 days from the end of month	Form specified but no name assigned

- ☐ Accompanying Documents:
- i) 2 Copies of PLA;
 - ii) Relevant GAR-7 Challans;

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Manufacturer of Pan Masala (whether containing tobacco or not):

Shall also submit a STATEMENT OF PURCHASE & SALE INVOICES (Year 2007)

(2) ANNUAL FINANCIAL INFORMATION (AFI) STATEMENT by SUPER CASH RICH ASSESSEE (PLA Duty of Rs 100 lakhs or more)

Every assessee – shall submit to SCE --- “AFI Statement in Form: E.R.-4” [Yearly Statement Due Date: 30th Nov]

CG may exempt any assessee from filing this statement. Indian Ordnance Factories exempt in all cases..

(3) Scrutiny of Excise Return: Proper Officer may scrutinize the correctness of duty assessed by the assessee

(4) To enable proper officer in proper scrutiny of excise returns, assessee shall make available to him all the related documents and records as may be required by him for verification.

Rule 13 **14** Not Relevant at present

Rule 15 **COMPOUNDED LEVY SCHEME (CLS) :** Discussed earlier alongwith Rule 8

Rule 16 **RETURN OF DUTY-PAID GOODS INTO THE FACTORY**

(1) RE-ENTRY: Removal of goods from Factory ----- Duty paid at time of removal

Such duty-paid goods may be brought back into **Any Factory** [Purpose: Re-made // Re-fined , Re-conditioned // Any other purpose]

Condition: Maintain records of goods so returned;

Upon such return, Assessee shall be entitled to take Cenvat Credit of duty already paid thereon

(2) RE-REMOVAL Subsequent clearance of returned goods from the Factory:

- i) If the process to which they have been subjected does not amount to MANUFACTURE :--- Pay AN AMOUNT = Cenvat taken on their return
 - *Payment of this amount shall be made at time of transaction itself (Rule 8 monthly payment facility is only for payment of duty and those amounts which are payable under CCR, 2004)*
 - *However, for payment of this amount CCR can be utilized [Rule 3(4) of CCR permits this]*
 - *The credit of amount so paid can be taken by the buyer of goods [Explanation to Rule 16(2)]*
- ii) Any other case (i.e., if the process to which they have been subjected amounts to manufacture, or no processing done on goods)) :---- Pay RE-ASSESSED ED thereon @ ROD & AV as applicable on their removal

(3) Difficulty in following (1) // (2) --- Approach Jurisdictional CCE

Rule 17 **PAYMENT BY 100% EOU :** Discussed earlier alongwith Rule 8

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Rule 18

- (1) **EXPORT OF EG --- under claim of Rebate of duty** (First Pay Duty & then Claim Refund on Export)
- **Rebate of FP:** Follow N/N 19/2004 (*Procedure for export to any country other than Nepal / Bhutan*)
 - **Rebate of Inputs:** Follow N/N 21/2004 (*Declaration with AC/DC + Permission for Procurement + Rebate Claim after export*)

Rule 19

- (1) **EXPORT OF EG --- under BOND // LuT (without payment of duty)**
- **Export of FP under Bond/LUT:** Follow N/N 42/2001 (*Procedure for export to any country other than Nepal / Bhutan*)
- (2) **Export of EG --- under BOND // LuT**
- **Procurement of Inputs without duty payment:** Follow N/N 43/2001 (*Follow "End-Use based Exemption" Rules*)

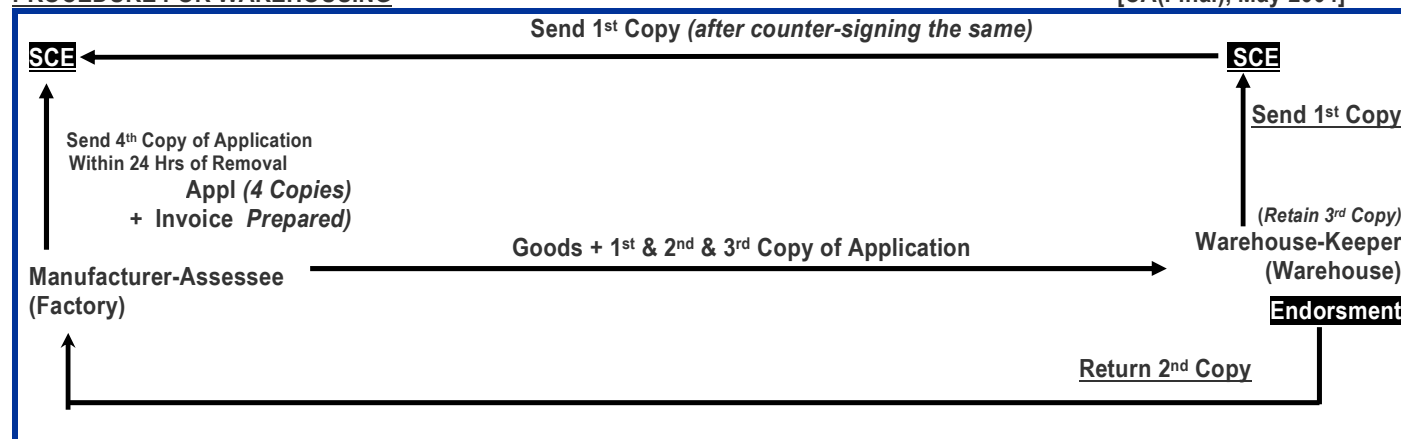
Rule 20

WAREHOUSING PROVISIONS

- (1) **CG --- may notify goods – then,**
- **FACTORY ----- No Duty Payment ----- WAREHOUSE**
 - **WAREHOUSE ----- No Duty Payment ----- ANOTHER WAREHOUSE**

(2) PROCEDURE FOR WAREHOUSING

[CA(Final), May 2004]



- (3) **Goods received in Warehouse ----- Consignee (i.e., W/H Keeper) shall be responsible for duty payment on such goods**
- (4) **Goods not received in Warehouse ----- Consignor (i.e., Manufacturer Assessee) shall be responsible for duty payment on such goods**

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Rule 21

REMISSION OF DUTY (on filing Remission Application):

Admissible Grounds: i) **Loss/Destruction of EG** --- due to Natural Reasons or Unavoidable Accident (
ii) EG --- claimed to be --- **Unfit for Marketing or Unfit for Human Consumption**
at any time before their removal from factory

Submission of Application: (Limits stated are revised limit –revision done in Year 2007)

Duty Amount of which Remission sought	Relevant Authority to approach
Upto Rs, 10,000	SCE
> Rs 10,000, Upto Rs 1,00,000	AC/DC
> Rs 1,00,000, Upto Rs 5,00,000	JC/Addl. Commissioner
> Rs 5,00,000	CCE



Special Points

- 1) Loss on A/c of Theft: Tribunal: Remission granted (unavoidable accident)
- 2) Receipt of Insurance Claim: If receipt covers ED element also, No remission shall be granted
[ANAND CONTROL SYSTEMS (P) LTD.- 2008-TRII]
- 1) FP Duty Remitted --- Cenvat credit of related INPUT has to be reversed [Rule 6(5-C) of CCR, 2004 --- newly inserted in 2007)

Rule 22 to 24

POWERS OF CEO (Separate Chapter)

Rule 25 to 30

CIVIL PROCEEDINGS [CONFISCATION + PENALTY] (Separate Chapter)

**THE IMPOSSIBLE IS WHAT NOBODY CAN DO
.....UNTIL SOMEBODY DOES IT.**

DG