Indirect taxes

Class room work charts

at Chennai

Nov 2011/Dec 2011

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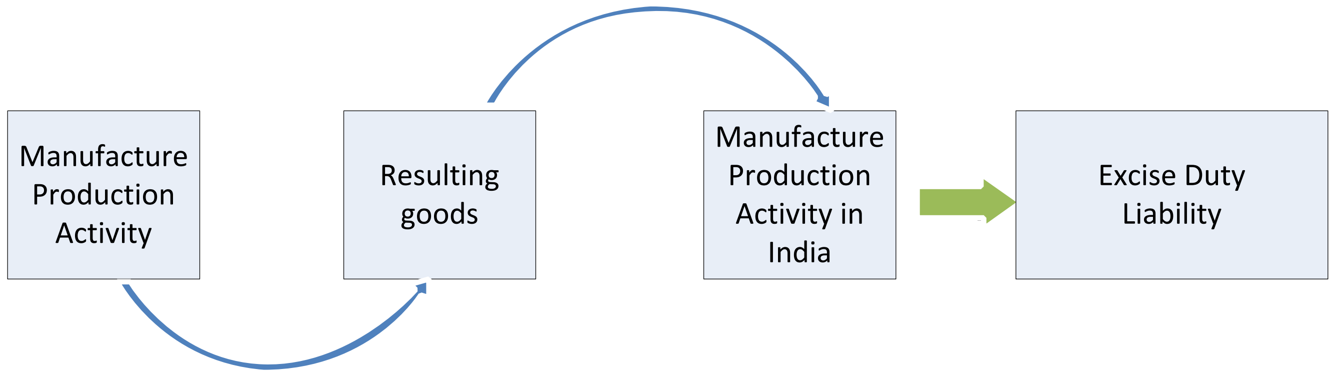

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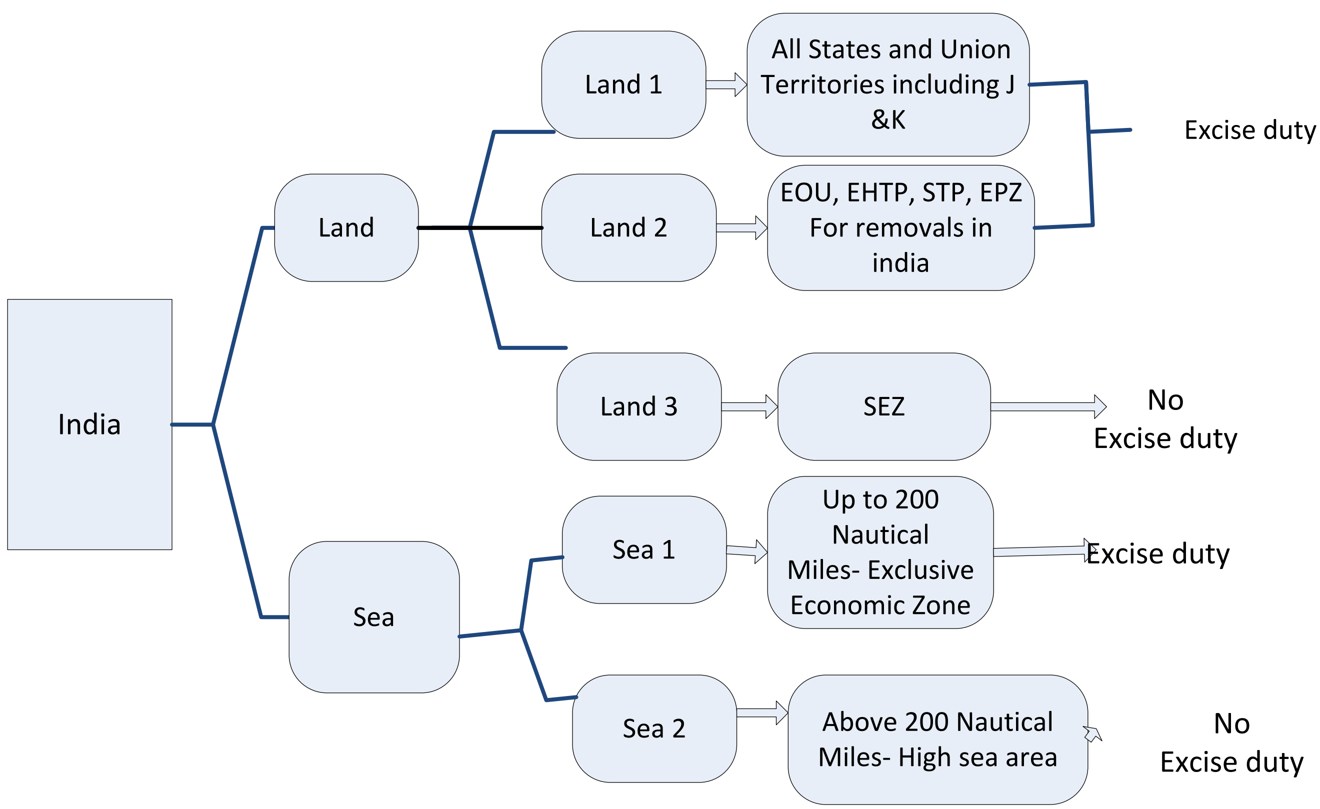
India- for the purpose of levy of excise duty



Excise Charging section. Sec. 3 of CEA

1 Levy (fixing liability) → Manufacture/ Production of goods in India

2 Collection Of duty by Govt. → Administrative Convenience (At the time of removal)-CE rules → Dept. cannot demand duty on goods stored in factory/godown/ warehouse

3 Rates of Excise duty → rates Specified in I st & II nd Schedule of CETA

4 Goods manufactured in SEZ → Excluded excisable goods (No Excise duty)

5 EOU, EPZ, STP, EHTP → For the goods removed to DTA (use in India) → Customs valuation → Pay 50% of BCD + Excise duty

Manufacture under central excise sec 2(f)

Manufacture

- Process- Incidental/ Ancillary for completion of product → Emergence of New Product is mandatory Voluminous- Judicial rulings → Name test/use test to apply to find out change
  - Through process, new product should emerge, new name, different use, different character
  - Delhi cloth mills (SC)
    Ujagar Prints (SC)
    Parle products (SC)
- Deemed Manufacture
  - Process mentioned in section/Chapter notes of Central excise tariff → Around 78 listed. Emergence of New Product is Not relevant
    - body building of vehicles, audio video recording in tapes, Galvanizing of iron steel, conversion of powder in to tablets, Refining of edible oils
  - Packing from **bulk to Smalle**r containers, labeling or relabeling, alteration of retail price or doing any process goods making marketable for Sch III of CEA (MRP Valuation goods)-
    - Controversial Judicial rulings
    - 1.Value addition in the packing process is mandatory. 2.If good are already marketable, mere packing and repacking them is not a manufacture. 3. Labeling/ relabeling should include declaration or alteration of retail sale price. mere labeling or relabeling will not be 'deemed manufacture

Deemed manufacture concept upheld in Empire Industries (SC)

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Goods under Central excise sec 2(d)

Goods

Any article, material, substance **Capable of being sold** for consideration sec 2(d)- Such goods deemed to be marketable

- 1.Movable
  - Any mode, from one place to Another by transport
  - Movability in the same condition. (Without dismantling and changing shape)
  - Immovable Property. No duty

  Ropeway erected for carrying passenger in trolley system is not movable
  –Lift comes to existence only after it is installed with the building. Immovable. Not goods

- 2.Excisable
  - Description of goods is mentioned in excise tariff.
  - 1. goods charged to duty
    2. goods charged to Nil/0% duty
    3. goods Charged to duty, but exempted by notification

  Wallace flour mills(SC)

- 3 Marketable
  - Goods Capable of being **Ordinarily** sold Actual sale not necessary
  - As such (Sale in same condition Without alteration)
  - Goods should be useful/ Fit for consumpion
  - Occasional/distress sale is not a goods.
  - Short shelf life goods, saleable With in that period is goods.

  Union carbide (SC)
  Ambal sarabai ltd (SC)

Refined oil' got produced at intermediate stage ,that process of deodorization was not carried not marketable and not goods.

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All the 3 conditions to be satisfied to call as goods to attract duty
Bhor industries ltd (Sc)
Ion exchange Ltd (SC)

Assembling – Manufacture or not

Assembly of

- Bought out Parts/Imported parts → Resulting New Product
  - Yes (Ex: electronic goods/Computers) → Excise duty payable
    - Narne Tulaman Manufacturers Pvt. Ltd. (S.C.).
    - Assembly of imported components in to VTR/monitor is Mfg. BPL (SC)
  - No → No Excise duty
    - Assembly of components of air conditioner in car does not amount to manufacture - CBE&C Circular dt. 17-8-1999.
- Duty paid goods removed in Semi knocked down(SKD)/Completely knocked down(CKD) condition-for transport convenience - Assembly by a dealer/buyer (Ex: Cycles, Furniture etc.,) → Not a Manufacture & No Excise duty
  - T I Cycles (mad)HC

Curing is a Manufacture

curing → wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture; → It is a Manufacture & Excise duty payable

Ex: Coffee curing

Manufacturer sec 2 (f)

Manufacturer

- Person who manufactures goods
- Person who employed Hired labour
  - Mfg., facility(owned or hired) + labour+ Control, supervision-
  - Ownership of material/goods not relevant
  - Ex; Job worker is a mfgr -Ujagar Prints (SC)
  - RM Supplier, brand name owner, loan licensee are not mfgr
- Person who manufactures on his own account → Person manufactures for himself/or for his own consumption, not for use of any others

Production

- Wider concept than Manufacture
- Used for Ground products such as tea, coffee ,dairy products, ores, minerals
- Scrap, byproducts, molasses, pulp etc produced during the course of manufacture

Every manufacture is a production. But every production need not be a manufacture.

Duty liability not only on manufacture but also on production. Goods produced during the course of manufacture are liable for duty

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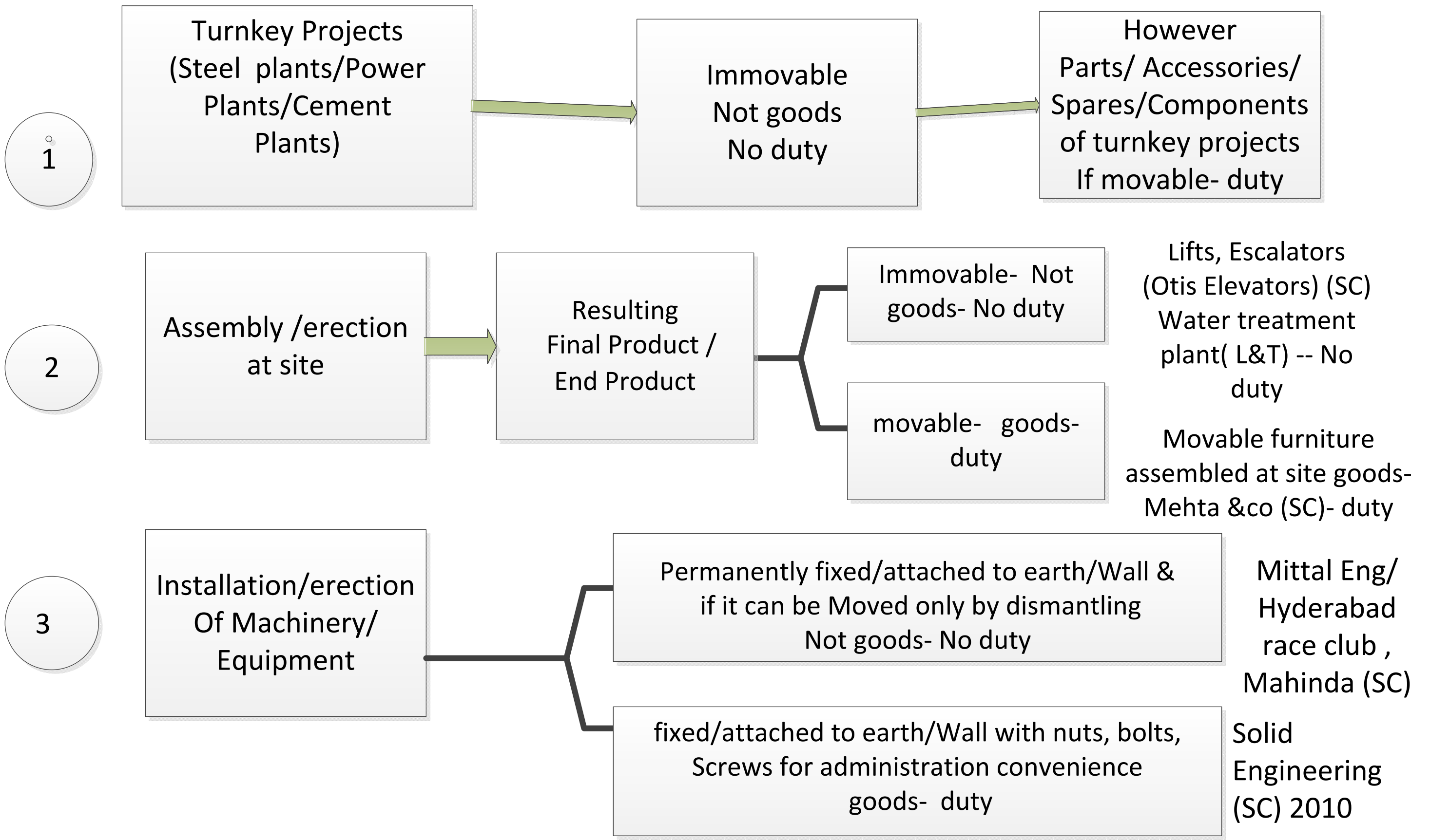
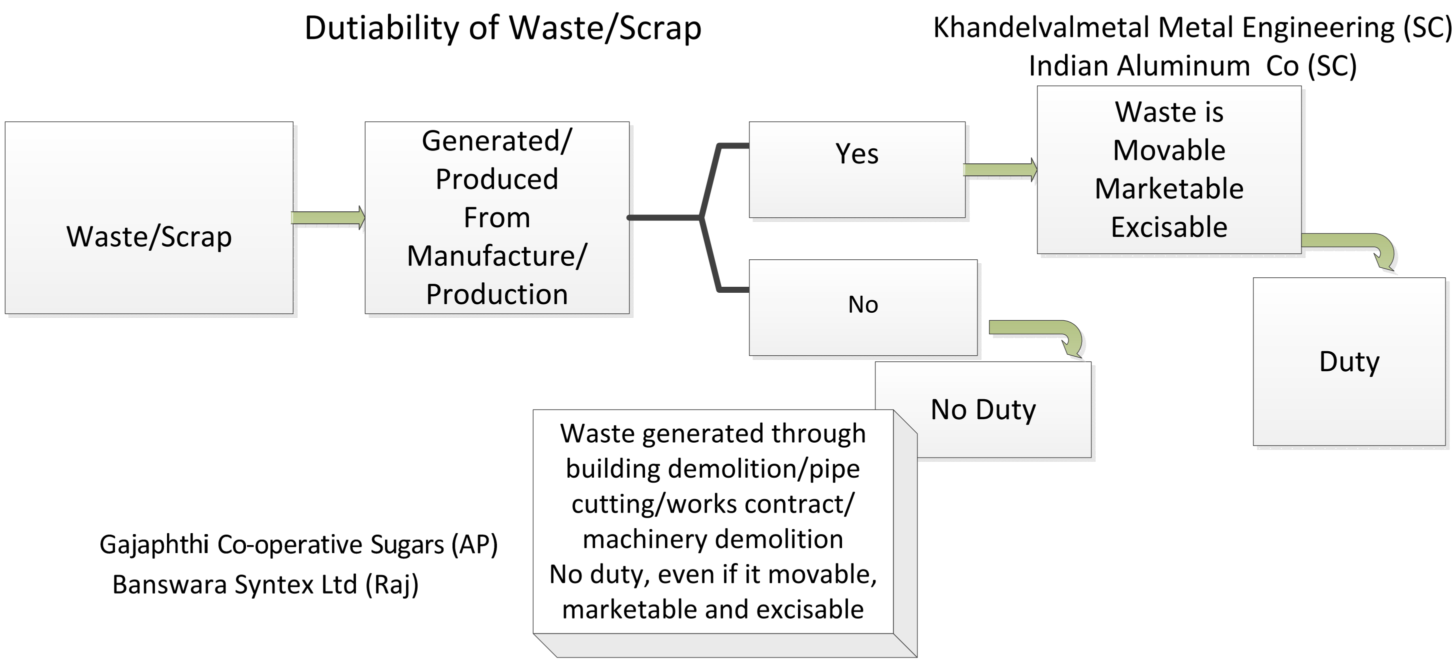
Dutiability of site related activities/ Structures, erections, assembly at site



Dutiability of Waste/Scrap



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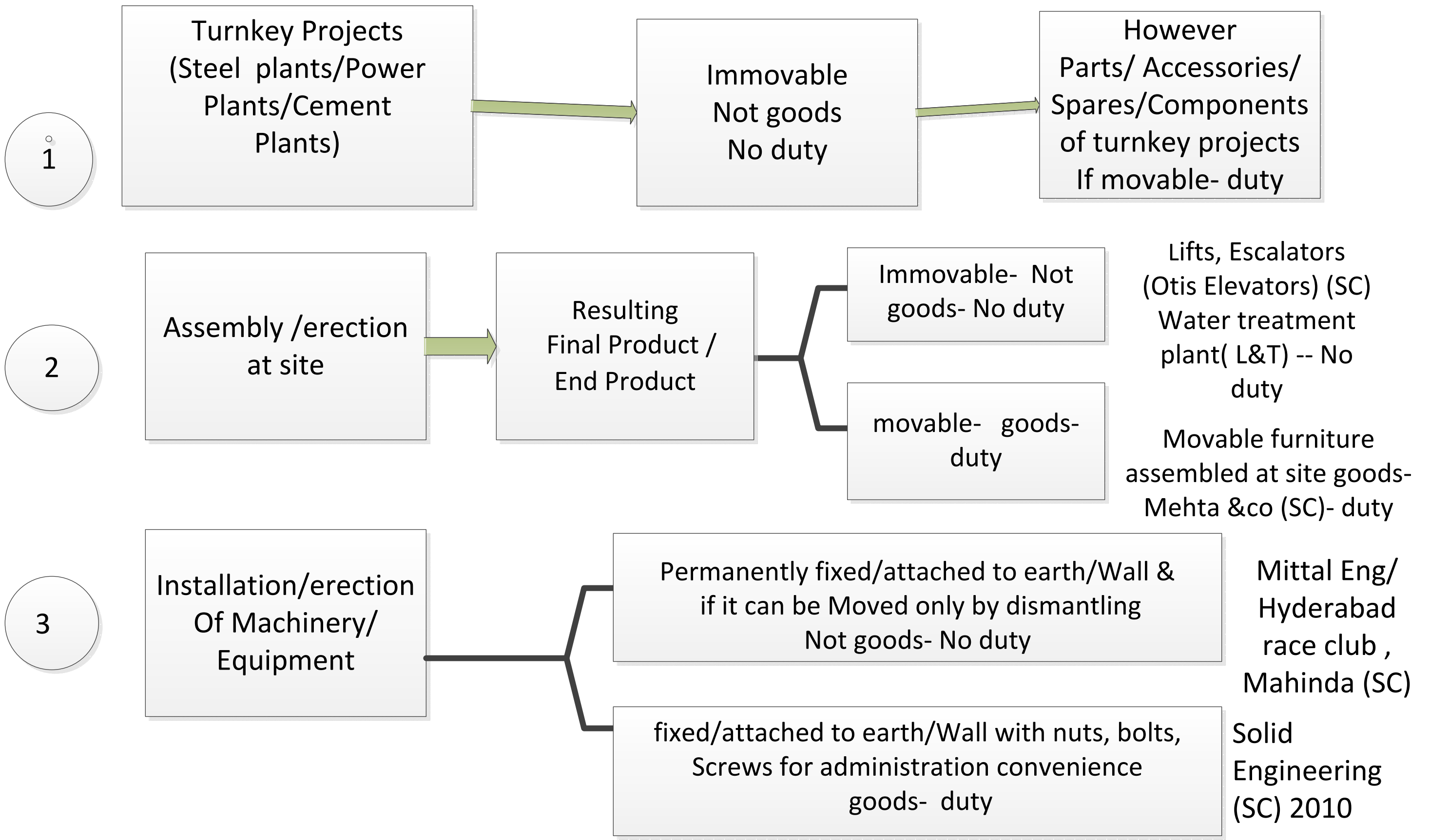

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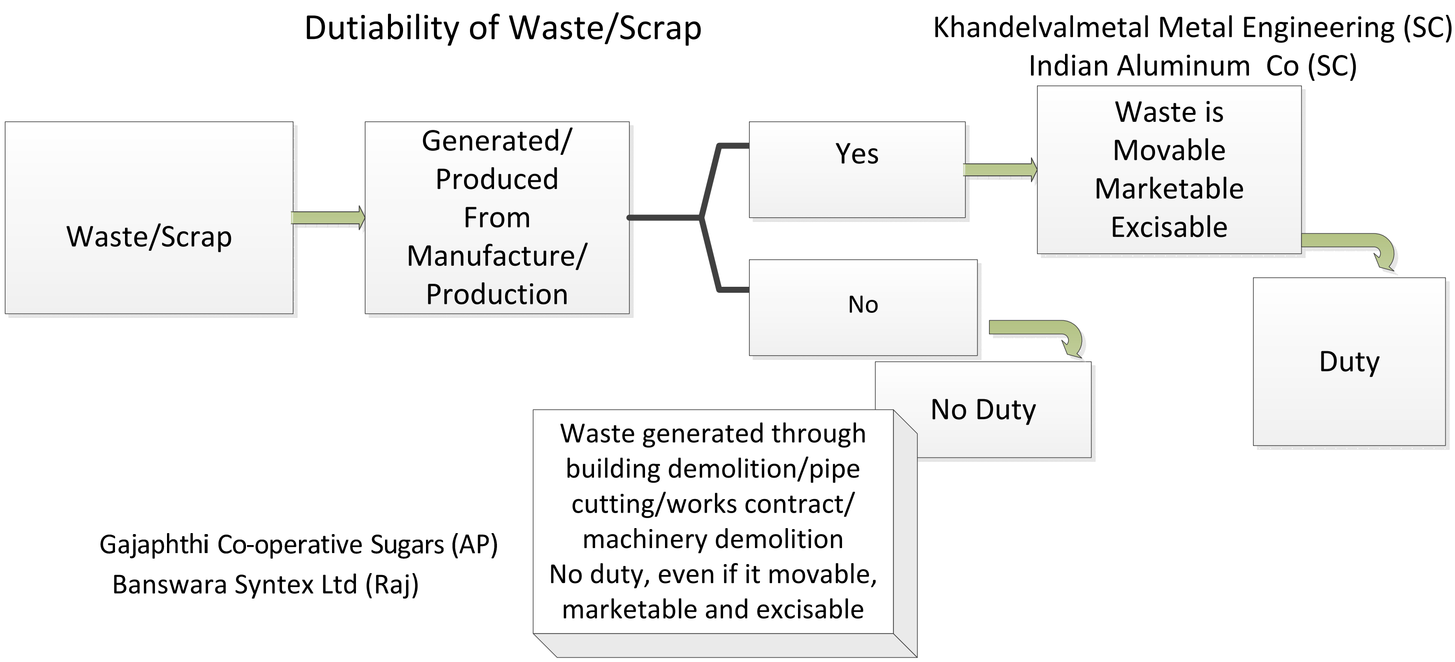
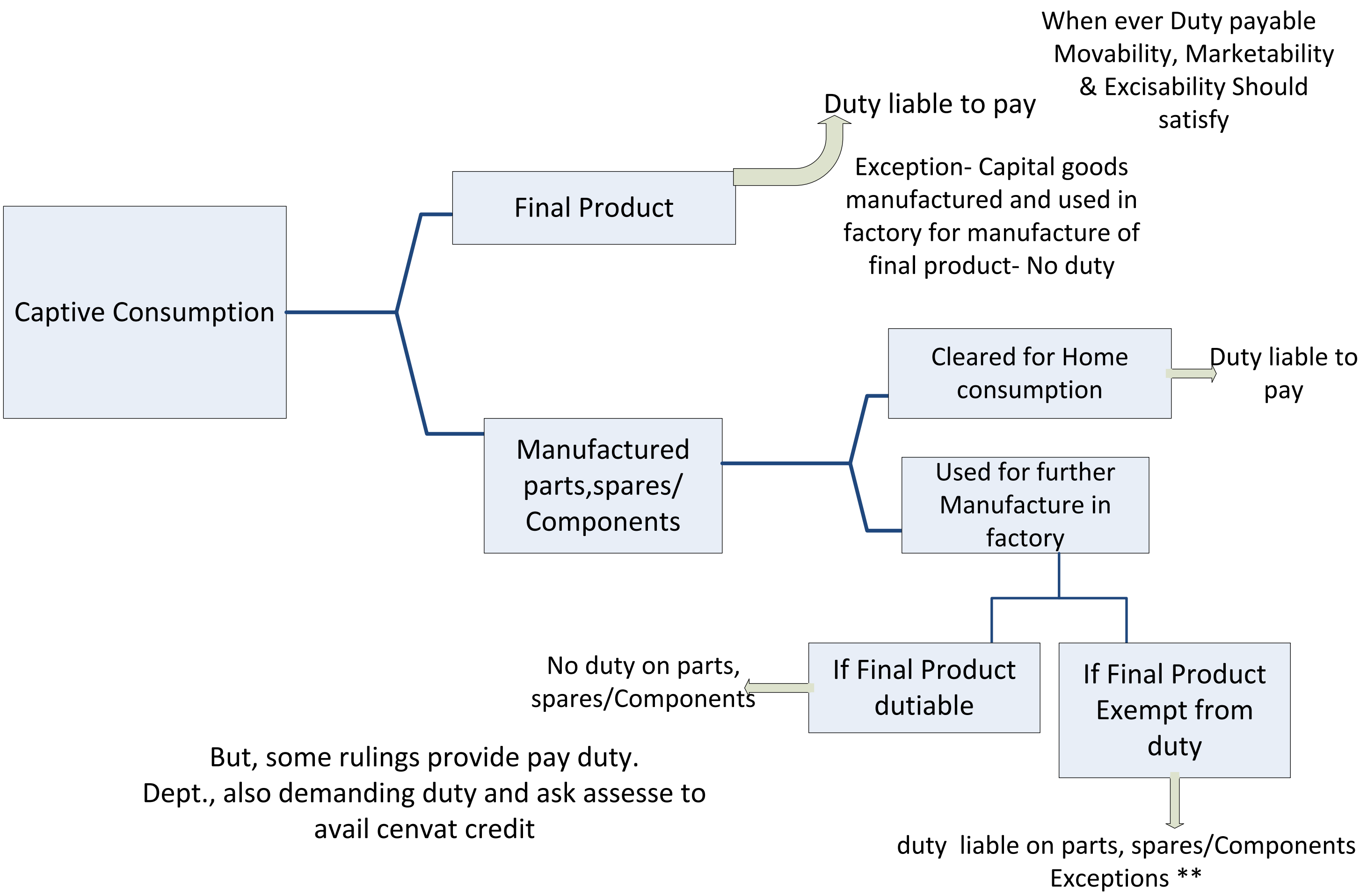
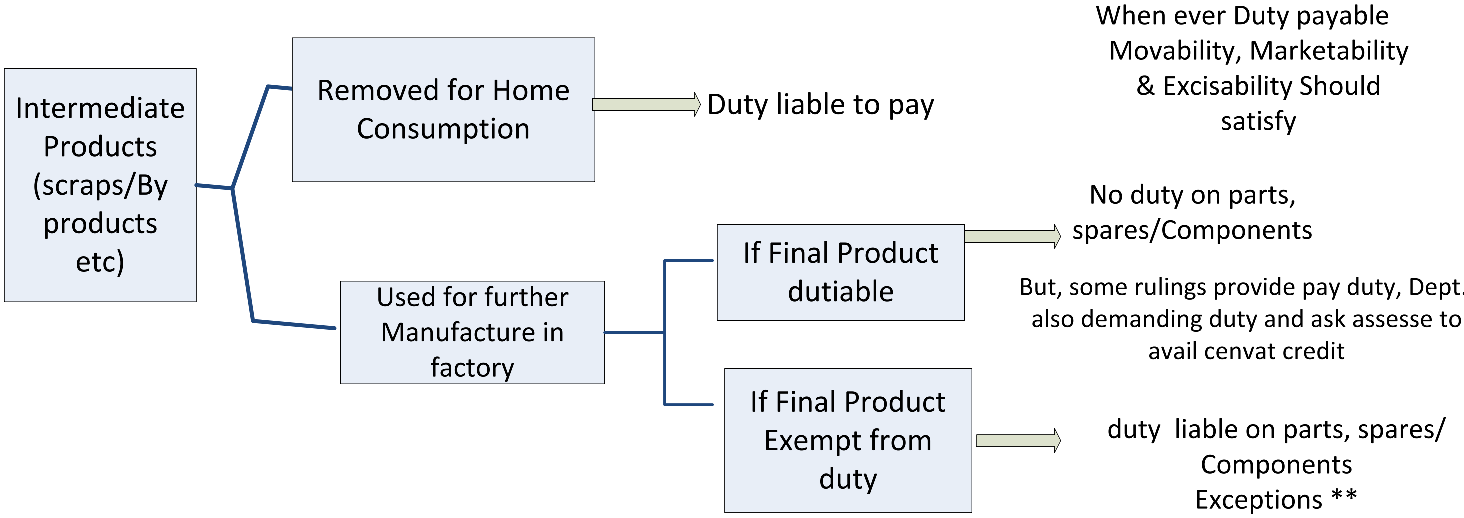


Duty liability on Captive Consumption



Duty liability on Intermediate products



Exceptions ** No duty on Ip/Spares components etc., even F P is exempt

Final product cleared for deemed export i.e., cleared to EOU, STP/EHTP

Final products cleared to ILO, WHO, UNDP, UNIDO, defense ,railways, navy etc. are exempt under Notification

Final product cleared by SSI under availing turnover exemption. However, if final product is fully exempt under any other notification, duty will be payable on intermediate product, or its value will be considered for calculating limits

Final product is cleared for export under bond/payment of amount of 5% as per cenvat credit rule

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Change in rate of duty & Applicable rate of duty for payment

- Change in rates of duty
  - Budget day → Increase or decrease
  - Other cases
    - Increase- sec 3 of CETA
      - Emergency powers to increase.
      - CG satisfy imm. action need to increase.
      - Notification to issue.
      - Approval of parliament in session in 15 d.
      - Parliament power to modify notification.
      - Nil/exempted goods- max increase- 15%.
      - Other goods-discretion of CG.
    - Decrease- sec 5 A of CEA
      - CG, Public interest, exempt partly or fully.
      - Exemption may be absolutely or conditionally.
      - Conditions fulfilled may be before removal or after removal.
      - Notification in official gazette to publish.
      - When exemption is absolute availment by manufacturer is mandatory.
      - Applicable to EOU etc., only if mentioned.

When a Certain goods cover both general and specific exemption. The former may give more relief to manufacturer. In such a case he can choose the better one- **Hindustan Computer Ltd(SC)**

Rate of duty applicable for payment

- Rate of duty applicable for payment
  - Goods Removed for Home cosumption → Rate on the date of removal from factory
  - Ware house goods → Rate on the date of removal from warehouse
  - Goods Used for Captive consumption → Rate on the date of issue for production/ consumption
  - Molasses → Rate on the date of receipt of molasses in factory
  - Other cases → Rate on the date of removal from factory

Rate of duty in case pre budget stock

- Pre-budget stock
  - Excisable goods → 1.Nil/Exempt- become dutiable; 2.Dutiable- become exempt/Nil; 3. Existing rate may increase/decrease → All cases Rate on the date of removal (Wallace flour mills (Sc))
  - Non excisable goods → Bringing in to Tariff first time
    - Stock of FG on 28th Feb. → No duty
    - Mfg. goods from 1st March → duty (Vazir Sulthan Tobbacco (SC))

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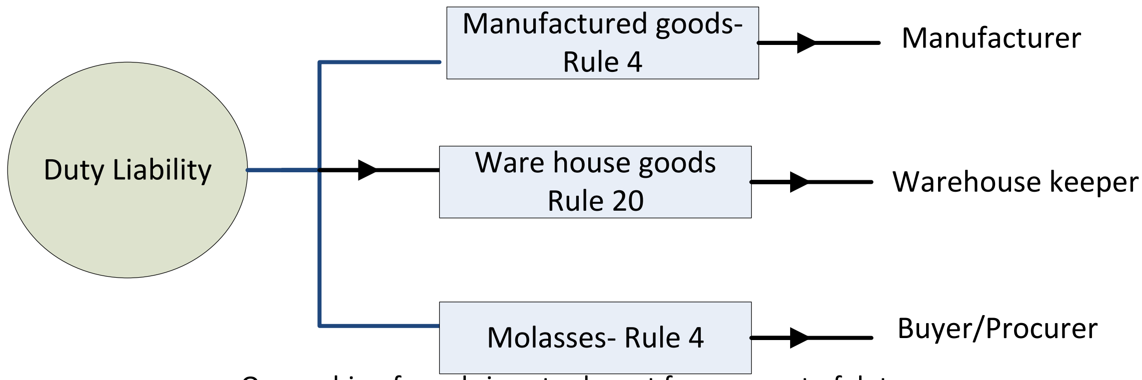
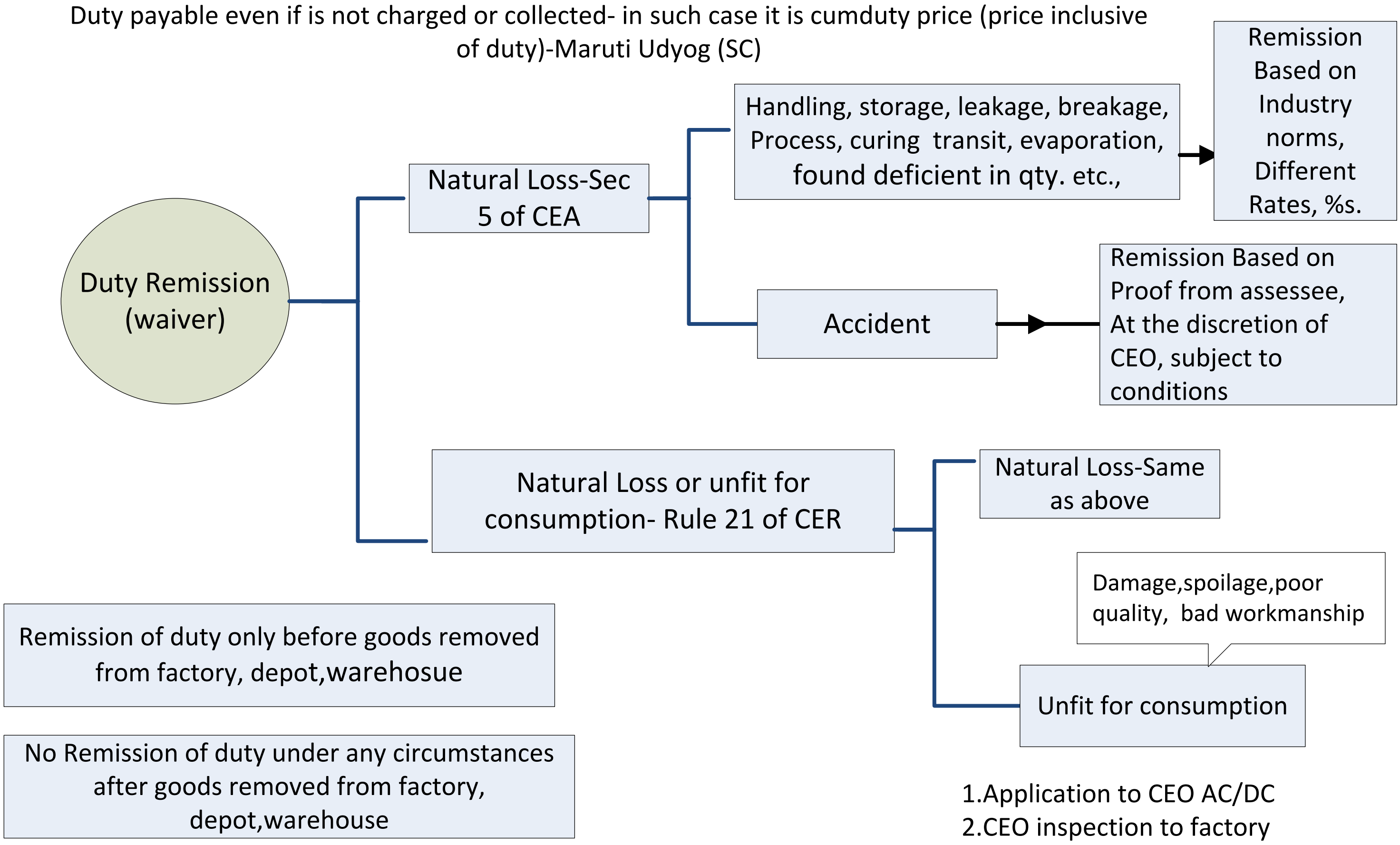
Duty liability & duty Remission(waiver)



Ownership of goods is not relevant for payment of duty

Duty payable even if is not charged or collected- in such case it is cumduty price (price inclusive of duty)-Maruti Udyog (SC)



1.Application to CEO AC/DC
2.CEO inspection to factory
3.Destroy of unfit goods in front of CEO
4. Remission order grant by CEO

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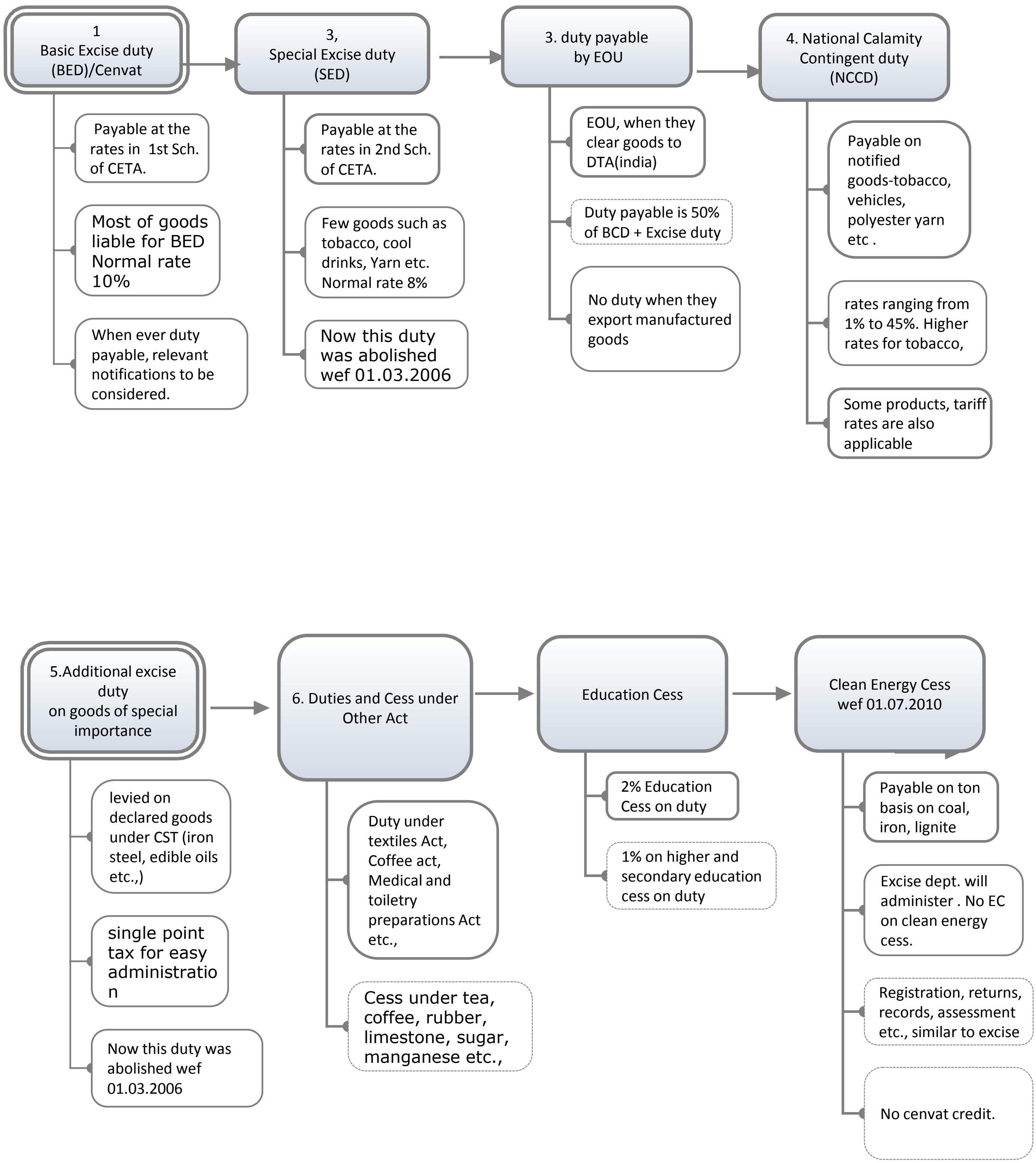
Excise -types of duties



All other duties wherever applicable they are payable in addition to Basic excise duty

Excise -classification rules

Classification implies grouping and sub grouping of goods in to various heads

Classification covered in CETA

Sections ----Chapters-Heading-Subheading- Tariff No.
All goods classified using HSN, with 8 digit

1 Chapter titles is only for reference, classification using section, chapter notes

- Mere reading the heading, all goods not be classified under that chapter.
- Chapter 39- Plastics- All plastics cannot be classified under that
- Chapter notes specifically exclude plastic toys, watches, automobile parts

2 Any semi finished, unfinished goods should be classified as finished goods, if they contain essential character of FG

- Passenger coach with seats, cycle without seat classify as coach, cycle
- Goods removed in SKD/CKD Classify as Final product not as parts
- Ex. Cycle removed in parts classify as parts

2(b). Classification of mixture shall also include combination that goods

- Gold classifi-cation shall also consists articles partly made of gold
- Steel with carbon classify as steel only.

3. Conflict between 2 headings , prefer specific heading, rather than general heading

- Foot ball consist of rubber and leather, but classify as sports goods

3 (b) when no specific heading classify based on essential character

- Book with CD-Classify as book. Printer with fax scan copy- classify as printer
- Mobile with camera, MP3 etc. classify as mobile
- software with manual classify as software

3(c) if two headings prefer the latter.

- 39.19 Self Adhesive tape / 85.46 Electrical insulators- classify under 85.46

4. Classification based on akin (similar) goods

- Last rule-classify under similar goods
- Classification cannot be pending so long, this is rule followed.

5. Classification of packing material

- Packing material specifically made for any goods and goods sold in that pack, packing materials to be classified as that goods
- Spectacle box-classify as spectacle, drawing instrument box as drawing instrument
- This provision not applicable for durable and returnable packing
- Remaining other packing material classify as per normal rules

Trade para lance Theory

- Applicable when classification not possible under any classification rule
- Classification based on customer use, identity of product
- Mineral Water cannot classified as a beverages
  Mirror cannot be classified as glass article. It is cosmetic item only.
  Plastic torch cannot be classified as plastic article.
- Coconut is not a fruit or not a vegetable. red tooth powder cannot be classified as medicine

Classification of parts

- Parts of specific use classify under same heading. ex. Automobile parts classify under vehicles
- Parts of general use such as nuts bolts-Classify under normal rules

Valuation Methods

Annual Capacity production	Specific duty Valuation	MRP Valuation	Transaction Value	Valuation rules
Applicable to Pan Masala Value on Production capacity	Value based on Unit measurement Cigarette- length Marble- Sq.m Sugar- Quintal Crude oil- ton	MRP of Packet Less % abatement Is value	Sale Price Excluding local taxes is value	Value under Various Circumstances

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MRP Valuation

Meaning of MRP

A detergent bar 50 grams is manufactured in Pondicherry And supplied to Andhra Pradesh

Total Cost Rs. 6.00 + Profit Rs. 1.00 + Excise &CST Rs. 0.75 + Dealer Commission Rs.0.50 + Advt etc. Other Exp Rs.1.00 + A. P Vat Rs. 0.75

Total= 6.00+1.00+0.75+0.50+1.00+0.75= Rs. 10.00 == MRP Printed on Soap

MRP Provision

- Product should cover both under Excise & Swm ACt
- As per Swm ACT MRP Printing is mandatory
- MRP Less Abatement is value
- > one MRP in packet Highest MRP is value
- MRP Scored out to show saving, it is not relevant
- Goods removed with out MRP= Confiscation +CG determine value
- MRP increased after Goods removed, Increased MRP is value

Goods supplied to Industry(except cement), sold in bulk which are not for resale, +1, +2 free items ,sale to defense, pack less than 10 g & 10 ml , packed food items No MRP Valuation

When goods covered in MRP, CVD is payable on Imports on MRP Basic.

When goods covered in MRP,imported used for process, CVD payable on T V basis

Meaning of transaction value Sec 4(3)(d)

Price paid /payable by buyer (before or after sale) → And includes (additions) → Other payments in Connection with sale → Excluding Local taxes

Other payments in Connection with sale:

Advertising
Marketing
Storage
Servicing Warranty
Commission

These items includable only When they are paid by buyer To seller by reason of or in connection with sale

Excluding Local taxes:

Excise
Customs
Sales tax
Vat

Transaction Value valuation Sec 4(1) (a)

Value(Price) of Goods Sold → Sale is at Time & Place of Removal → Buyer and Seller Not related to each other → Price is sole consideration → Each removal Price is Value

Sale is at Time & Place of Removal:

Place of Removal

Factory, depot ,ware house, agent place

Sec 4(3) © (CC)

Time of removal

In case of depot -Time of Factory

Buyer and Seller Not related to each other — Sec 4(3)(b)

Relative =
1.ICU which is holding and subsidiary
2.Mutual Interest
3.Relative as per Sch I of Companies Act

Price is sole consideration:

1.Price is for goods
2.Additional flow of consideration to add. (V.Rule 6)

Each removal Price is Value:

1 Sale to Govt.
2.Sale to Industrial consumers
3. Sale in whole sale
4. Sale in retail

Each price is value separately

Factory-Place of removal

Goods sold on 30.09.2011 at 4 Pm unit @ Rs.140 + taxes+ transport +Insurance

Sale compete at factory FOB Price at factory Rs.140 is value

Exp. after removal not relevant for value

Price increase after removal to 150. but before delivery to buyer. No Escalation clause in order. buyer not paid the same

Original order cancelled and deliver the same to other buyer at Rs. 130. without getting back to factory.

Rs.140 is value Rs. 130/150 not relavant

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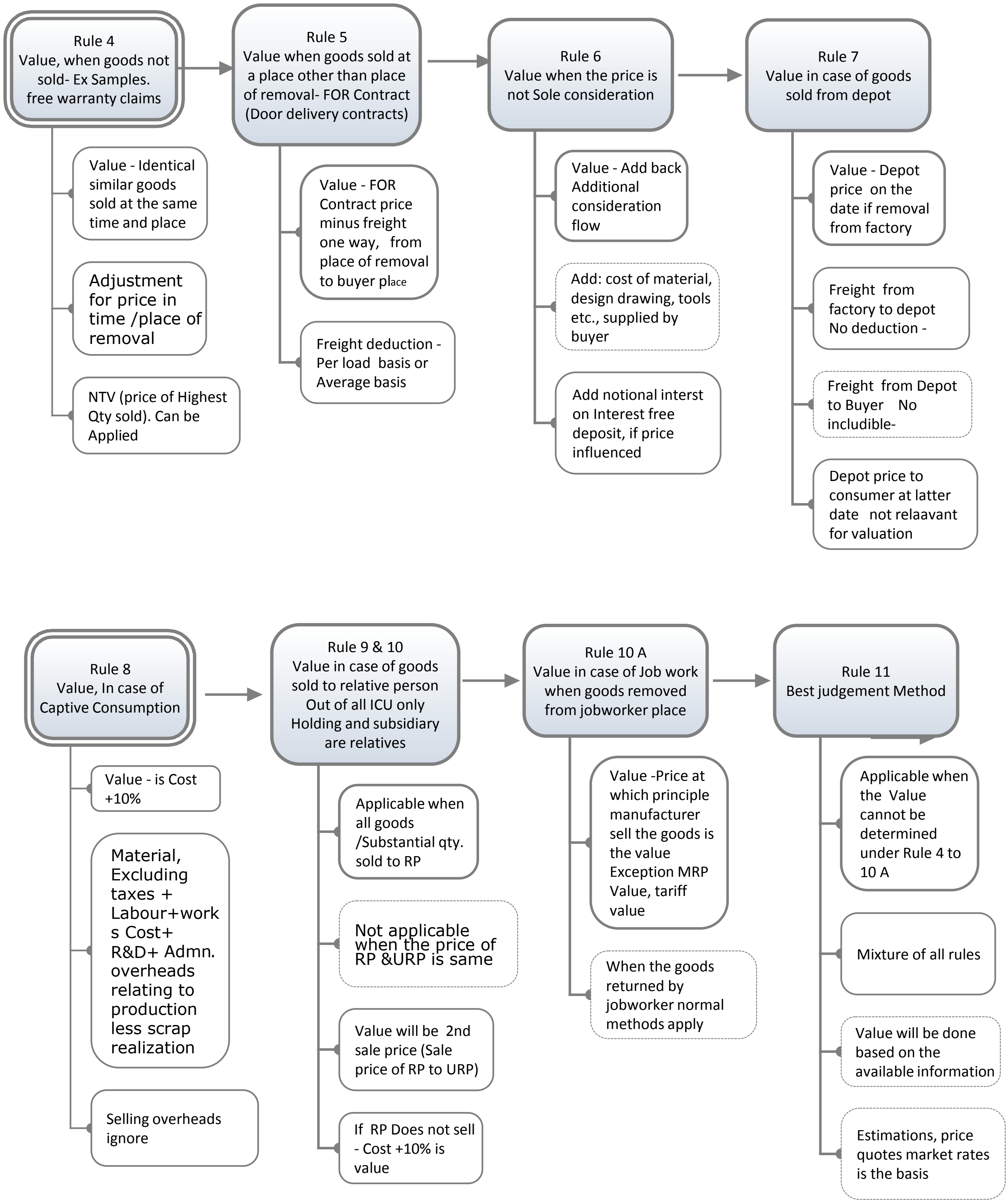
Excise Valuation Rules over view



Inclusions and Exclusions in Valuation

Inclusions in Value

1.Exp. Incurred with in place of removal-loading coolie et
2. Packing(Primary, Secondary, special)
3.Salesman commission
4. Warranty, after sales service
5.Inspection charges- if mandatory before sale
5.Instllation & Erection in case of movable goods not removed from factory and installation bring in to existence of goods
6. Hire charges for D & R packing
7. consultancy charges for Manufacturing
8.Design, drawing and Engineering of goods

Include all above only if they are not included in price

Exclusions in Value

1.Installation& erection
2. All discounts if pass to buyer.
3 Prorate cost of durable packing if inbuilt in price
4.Notional Int. on deposits. if not affect price
5. Int., on receivables, bank charges
6. All Local taxes
7. Freight, insurance from place of removal to buyer place.
8. Advt, Sales promotion by buyer on his own
9.Subsidy received from Government(from buyer is includible)
10.Other charges if no diversion of genuine price.

Exclude all above only if they are included in price

Excise Valuation Rules

Value under Rules applicable only When any 3 conditions of T V is not fulfilled (1.Goods not sold at the time and place of removal 2. Price is not sole consideration 3. Buyer and seller is relative)

Valuation when goods are not sold (Samples/Free warranty claims)- Rule 4

Value of samples

- Samples Sold (Rule 4 not apply)
  - Covered under MRP → MRP Valuation
  - Not Covered under MRP → T. V Valuation If 3 conditions fulfill
- New Samples issued free(→ Provisional Assessment/ Cost +10%
- Samples issued free Physician sample issued free covered under MRP (Rule 4 apply) → Price of identical/similar Goods sold at same time Is value → If not available Price at the nearest time/ date subject to adjustment for time and delivery is value

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Rule 5- Value when goods sold at place other than the place of removal

Factory at Chennai (Place of removal

Buyer place At Bangalore (Place of delivery

No sale at Factory. Sale at buyer place in Bangalore

FO R price up to Bangalore Rs. 120 per unit,

freight from Chennai to Bangalore per unit Rs. 10

Value per unit will be Rs. 110 (120-10)

Example 2

Factory at Chennai

Depot at Bhuvaneswar (Place of removal

Buyer place At Kolkata (Place of delivery

Freight deduction on actual basis or average basis (Explanation 1)

No sale at Factory. No Sale at Depot. Sale at buyer place in Kolkotta.

FO R price up to Kolkotta Rs. 200 per unit,

freight from Chennai to Bhuvaneswar per unit Rs. 20

freight from Bhuvaneswar to Kolkatta per unit Rs. 10

Value per unit will be Rs. 190 (200-10) and not 170 (200-20-10)

No deduction for freight from Chennai to bhuvaneswar as Chennai is not a place of place of removal (Explanation 2)

Rule- 6 Value, When the Price is not Sole consideration

Value = Amount paid by buyer + Additional Consideration

Normal Sale Price Rs. 100 Per unit

Material ,Drawing & Design Rs.60

Supplied by buyer

Buyer paid the balance Rs.40

Explanation 1

Labour, Overheads, Profit Rs.40

Value for excise = 40+60= 100

Example 2

Normal Sale Price Rs. 100 Per unit

Buyer paidf Interest free deposit/ Advance payment

Due to deposit/ Advance discount Rs.20, which is not normal as per practice

Buyer paid Rs. 80

Explanation 2

Value for excise = 80+20= 100 (Rs.20 Notional Int. on deposit)

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Valuation Rule No 7- Valuation in case of depot sale(goods transported from factory to depot/Other place & from that place of removal goods sold to buyer

Value: Normal transaction value (price of Highest qty., sold) of depot on the date of removal from factory

Factory
At Chennai

Goods dispatched on 04.01.11

Depot at
Kolkata

Goods reached depot on 07.01.11

Factory Price Per unit
04.01.11 Rs. 100
07.01.11 Rs.110
12.01.11.Rs. 120

Goods at depot ultimately sold to consumer
On 12.01.2011 at Rs. 150

Factory Price Per unit
04.01.11 Rs. 130
07.01.11 Rs.140
12.01.11.Rs. 150

AV is Price of depot on the date of removal
From Factory ie on 4.1.11 Rs. 130

No deduction for freight from factory to depot

Freight and insurance from depot onwards is not includible in value.

Price at which such goods are subsequently sold to buyer from the depot is not relevant for purpose of excise valuation

Valuation Rule No 8- Valuation in case of Captive Consumption

Captive consumption means excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles

Value = Cost of production + 10% or 110% of cost of production:
Cost of production is to be calculated as per CAS 4

Cost of production as per CAS 4

1.Material consumed (net of tax)
2.Direct wages/ salaries
3Direct Expenses
4.Works OH
5.Quality control Cost
6.R & D cost
7.Admn.overheads relating to Production
Less: Recoveries from Waste/Scrap
8. Packing cost

Ignore Selling and distribution costs

Valuation Rule No 9 & 10

Applicable only
1. When all goods are sold to Relative person or through relative person
2. When Substantial qty., sold to relative person

Not Applicable
1. When the price at which goods sold relative person and un-relative person is same
2. When part of goods sold to relative and part of good sold to un-relative (Applicable rule Rule 11 BOJ)

Value:

1. Mfgr → (Sale 1) → R P → (Sale 2) → U R P — Value = Price of Sale 2

2. Mfgr → (Sale 1) → R P → (Sale 2) → R P → (Sale 3) → U R P — Value = Price of Sale 3

Where R P does not sell(Captively consumes) , Value is as per rule 8 -110% CPO of Mfgr.,

Valuation Rule No 10A. Valuation in case of job work

Value in case of Job work

- Goods Removed From J W Place → Sold by PM + delivery taken by buyer+ PM, Buyer unrelated + Price is sole consideration → Price at which the Principal Manufacturer (R M Supplier) sell the goods is the value
- Goods received back to Factory and remove From Factory → Goods Removed From Factory PM, Buyer unrelated + Price is sole consideration → Transaction value is Value
- Other Cases → Value as per Valuation Rules

If goods manufactured by Job worker covered under MRP, Valuation will be on MRP basis

Valuation Rule No 11. best of judgment method

Applicable
1. When all other rules not applicable
2. When part of goods sold to relative and part of goods sold to un-relative

Value: Combination of TV and all other rules with the available information.

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Valuation Miscellaneous Topics

Valuation in case of computer
Acer India (SC)

- Value of preloaded operational software not includible in valuation in case of computer
- Not includible even computer cannot function without software.
- Software is not a part of Computer
- Computer is complete without software. CCE Vs Acer India Ltd (2004) (SC) 172ELT289

Valuation in case of
Purchased parts and components

Purchased Components/Spare parts → **Fitting and Delivered along With product** → Cost includible in Valuation (profit not includible in valuation)

Purchased Components/Spare parts → **Supplied separately** → Not includible in Valuation

Valuation in case of
Consumables

Purchased Consumables → Not includible in Valuation (Even product cannot function)

Purchased Consumables → Examples: ribbon/cartridge Gramophone pin, casset

Accessories Which are optional not includible in Valuation

Cumduty Price (Price inclusive of duty)

When CDP is considered → When the price is not sole consideration and if any Additional Consideration is added. CBEC DO letter 334/1/2003 dated 28.02.2003

Av in case of CDP = CDP x 100/ 100+ rate of duty incl. ec

When CDP is considered → If Assessee removes goods without payment of duty (treating dutiable goods as exempted goods/not charged duty), the price should be treated as cum duty price Maruthi Udyog Ltd (2002) (SC)

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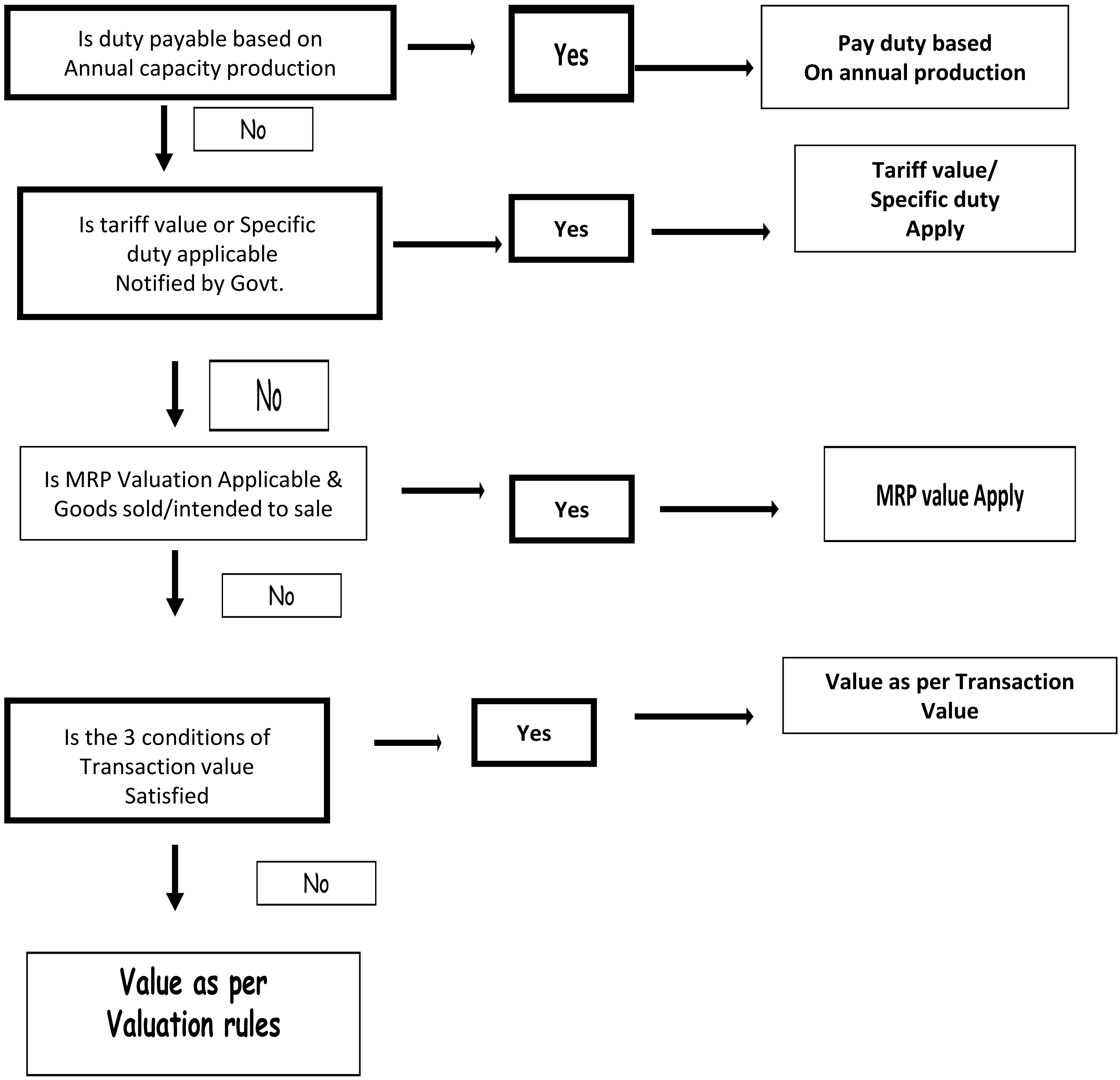
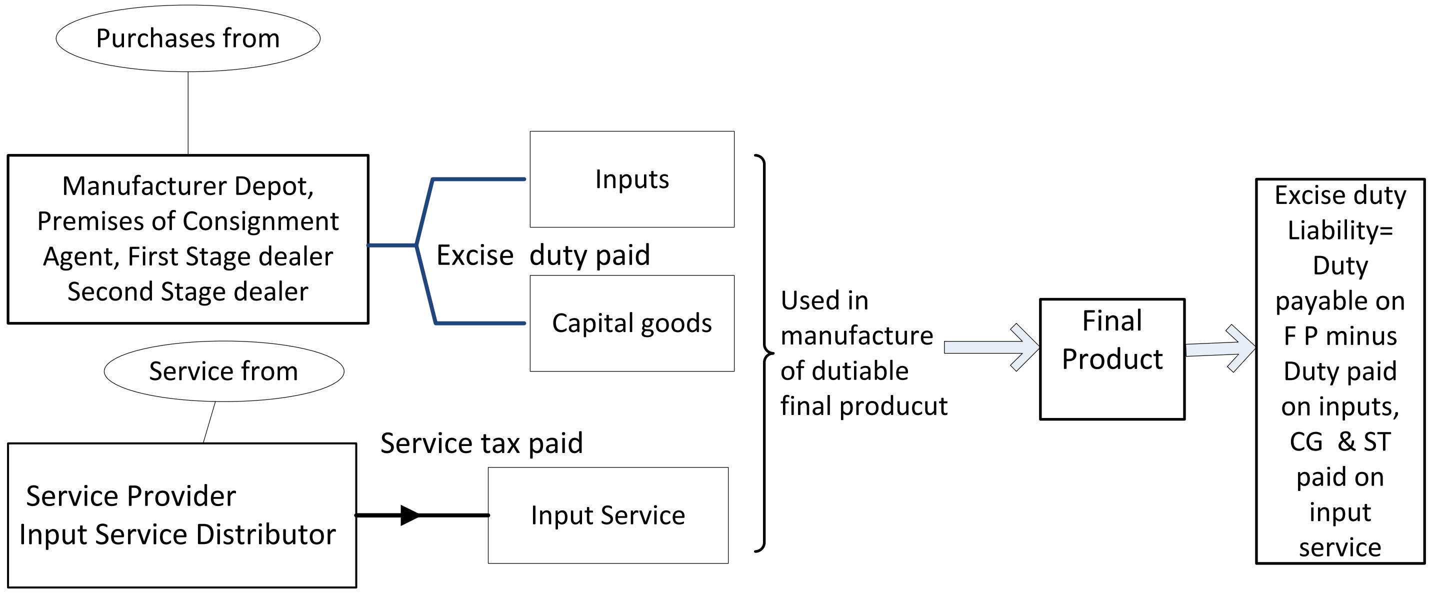
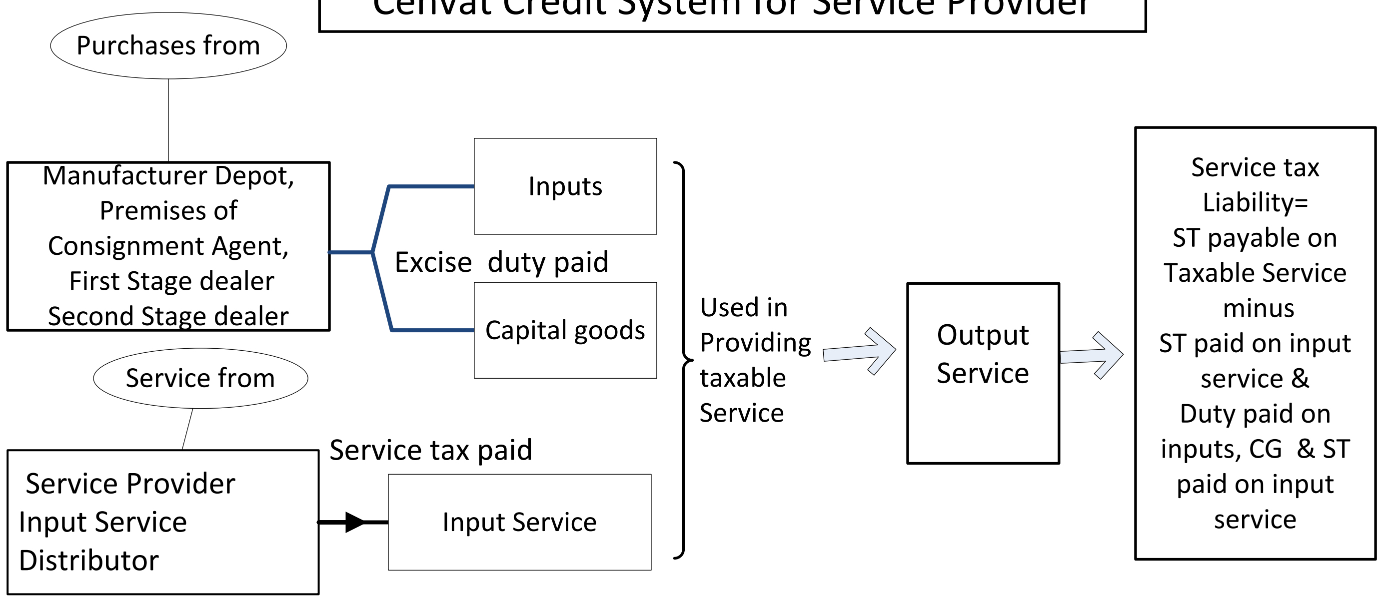
Valuation Application/Order to follow



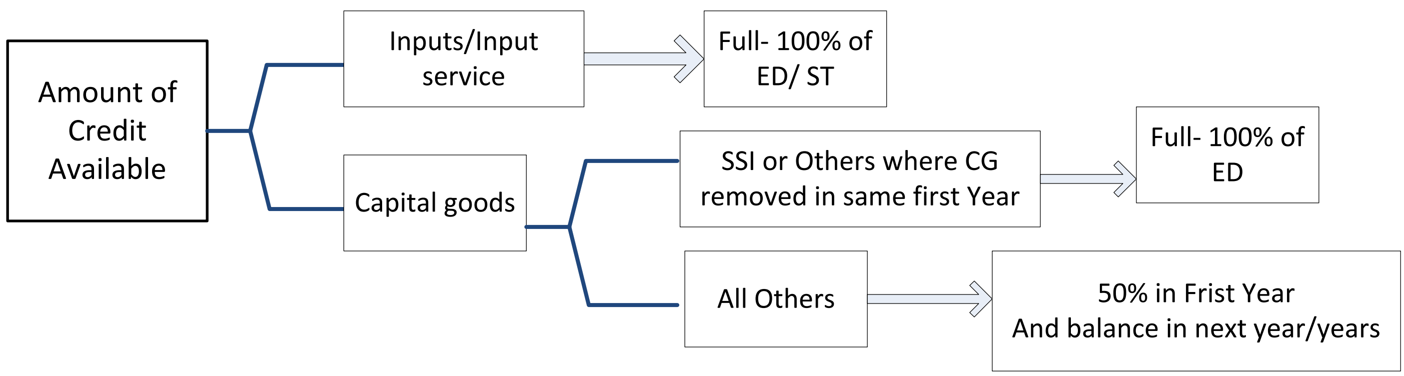
Cenvat Credit System for Manufacturer



Cenvat Credit System for Service Provider



Quantum of Credit (Amount of Credit) Available



Inputs & Capital goods under Cenvat Credit

Input means

- For Manufacturer
  - All goods used ***In factory***
  - Inclusions *(Also inputs)* *(refer *)*
  - Exclusions ***(Not inputs)*** *(refer **)*
- For Service Provider
  - All goods used *For providing output service*

Input Inclusions *

1.All goods including accessories cleared along with FP where Value includible in valuation.

2.goods used for providing free warranty claims for final products (condition: warranty value is included in price)

3.All goods used for generation of electricity or steam for captive use

4. CG used as part/ component in mfg., of FP

Input Exclusions for Mfgr & SP **

1. Diesel, Petrol
2.Motor vehicles
3 Any .goods used in construction, civil structure or .Any goods used for laying of foundation or making of structures for support of capital goods(Except for port, airport, all constructed related services)
4.Any.goods are used primarily for personal use or consumption **of any employee(**used in guest house, club, quarters etc.,)

Capital goods means

- For Manufacturer & Service Provider
  - All Goods Of Chapter 82,84, ,85,90,6804,6805 & their Components,Spares/ Accessories
  - Pollution Control Equipment & their Components/Spares Accessories
  - Moulds,Dies, Jigs, fixtures, Refractories,refractory material
  - Tubes, Pipes, fittings thereof
  - Storage tank

  1.Used in mfg. of final product **in factory,** 2. used in **outside factory** for generation of Electricity for captive **use in factory**. 3.used for Providing Output service

- For Service Provider only
  - Equipment, Appliance use in office — Used for providing output service
  - Motor vehicles &their Components ,Spares/Accessories — For services of Courier, tour oopeator Rent CAB, Cargo handling GTA, Outdoor cateror, Pandal shamiana Contractor
  - Dumpers, Tippers &their Components Spares/Accessories — For services of Site formation, clearance, Mining of mineral, oil, Gas

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Input service Under Cenvat Credit

Input Service means

- For Manufacturer
  - Any Service used in or in relation to mfg., of F.P.
  - Any Service used in clearance of F.P. ***Up to place of removal***
  - Inclusions *(Also input service) (refer *)*
  - Exclusions *(Not an input service) (refer **)*
- For Service Provider
  - Any Service used in providing for Output Service.
  - Inclusions *(Also input service) (refer *)*

Inclusions in Input Service for Mfgr., & S P *

1.Used in setup, Repair, renovation Modernisation of Factory/premises of SP

2. Computer Networking, Share Registry & Security

3.Inward Transport Of inputs and CG/Outward transport Up to place of removal

4.Storage up to the place of removal, procurement of inputs

5.Advertisement or sales promotion, market research

6.Accounting, Auditing, Financing, Quality Control, Ccoaching & Training, Rrecruitment

7.Share registry, security, business exhibition, legal services

Exclusions in input service **

- Outdoor catering, health, fitness ,beauty services All insurance services ,travel Etc., used / consumed primary for personal purpose of employee
- Architect/ Port/ airport/ other port/Construction related services used for construction of a building or a civil structure or a part thereof or laying of foundation or making of structures for support of capital goods
- General insurance/·Rent-a-cab/ Service Stations' services, Supply of tangible goods services for Motor vehicle → This services will be input service only for SP where Motor Vehicles are Capital goods.

Eligibility of Parts components, Accessories of Capital goods

Parts, Components Accessories of CG mentioned in definition in rule 2

- *Used as input for mfg. of FP* → *Credit available as input*
- *Used in factory* → *Credit available as C G*

Parts, Components Accessories of CG not mentioned in definition in rule 2 if they are *Used as input for mfg. of FP Credit available as input if it not in exclusion list.,*

Cenvat Credit Rule No 3

Rule 3 (1) to 3(4)

Rule 3 (1) to (4) of CCR 2004

- 3(1) → Duties on which Credit can be taken → All types of Excise Duties (refer types of duties) & corresponding CVD on imports, EC and ST. No credit on 1% BED & Clean energy cess No credit on spl cvd 3(5) - 4% to S P
- 3(2) → Credit when exempted goods become dutiable → Credit available for Mfgr, SP, **on duty paid on** 1.Inputs on stock, 2. WIP 3. Finished goods on the date
- 3(3) → Credit when exempted Service become Taxable → Credit available for Mfgr, SP, **on duty paid on** 1.Inputs on stock, 2. WIP 3. Finished goods on the date
- 3(4) → Utilization of Cenvat Creit →

Towards payment of
1.Any duty of excise, ST on services
2.Amount payable when Inputs, CG removed as such. & as per rule 6.
3.Any reversal made under rules.
Proviso: Credit utilization only up to duty/tax paid up to month end/qtr.
End.

Exceptions/Restrictions on Utilization :
1.ED of Textiles, GSI, NCCD, & corresponding CVDS & EC paid on all to be utilized only for the payment of same type respectively.
2.Any duty/tax shall not utilized for payment of 1% BED & Clean energy cess

Rule 3 (5) to 3(5C) & 3(6)

Rule 3(5) to (5C) & 3(6) of CCR 2004

- 3(5) → Removal of Inputs & CG (Applicable to both Mfgr & SP) → Removal with invoice:
  - Removed as such (without use) from Factory/premises → amount equal to Credit availed to be paid
    - Proviso: Exception (No payment required) 1. for SP, CG removed for providing Output service 2. for Mfgr, Inputs removed for providing free warranty on FP
  - C G Removed after use (as second hand goods) from Factory/premises → Computers/ Peripheral's (Refer*); Other Capital Goods (Refer **)
- 3(5A) → C G Removed after use as a scrap from Factory(after Useful life) → Excise duty payable on Selling price (T V)

  Applicable to Mfgr.
- 3(5B) → Cenvat availed Inputs/CG -before use - Partly or fully- Written off or Provision made in books → Amount equal to Credit availed to be paid/ reversed → when Provision written back , credit can be availed

  Applicable to Mfgr.
- 3(5C) → when Waiver (remission) granted on FP under Rule 21 of CER → Amount equal to Credit availed on inputs to be paid/reversed

  Applicable to Mfgr.
- 3(6) → Cenvat credit to buyer on the Amount paid to SP/Mfgr under Rule 3 (5) & 3 (5A) → Buyer of these goods can avail cenvat credit on the amount paid

  Applicable to both Mfgr & SP

Payment when CG removed after use 3(5)

Computers, Peripheral's
* Amount payable=
Cenvat credit availed minus
1.Each QTR 1st year 10%
2..Each QTR 2nd year 8%
3..Each QTR 3rd year 5%
4.Each QTR 4th year 1%
From the date of credit taken

Other Capital goods
**
Amount payable=
Cenvat credit availed minus .Each QTR 2.5%
From the date of credit taken

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Cenvat credit Rule 3(7) & 4

- Rule 3 (7)
  - (a) → Cenvat credit in respect of 100% EOU, EHTP, STP-restricted formula → X x (1 + BCD/200) x CVD/100
    - X= AV, BCD= Basic Customs duty, CVD=countervailing duty
  - (b) → Cenvat credit to buyer on purchase from 100% EOU, EHTP, STP-CVD and Spl CVD 3(5)

Rule 4
Conditions for allowing Cenvat Credit

- Rule 4 (1) to 4 (7)of CCR 2004

Applicable to both Mfgr & SP

  - 4(1) → Credit on inputs, available immediately after receiving in to factory of Mfgr/Premises of SP. In case of Jewellery after Inputs received in to principal Mfgr factory
  - 4(2) → Credit on Capital goods, available immediately after receiving in to factory of Mfgr/Premises of SP. Amount of Credit 50% in first year and balance in next year. Incase of SSI, CG removed in same year-100% in first year
  - 4(3) & (4) → Credit on Capital goods available even, Capital goods acquired on hire purchase lease or finance .
    No cenvat credit when depreciation under IT, claimed on duty amount.
  - 4(5) & (6) → Cenvat Credit in case Of inputs send to Jobwork for any purpose
    - 1. No need to reverse cenvat credit at the time of sending
      2. Proof from records that they return with in 180 days
      3.If does not return with in 180 days reversal of credit availed is required
      4.Jigs, fixtures, moulds, and, dies . No need to return in 180 days. No reversal
    - When goods removed directly from Job worker place-Permission of AC/DC-one year Valid, Subject to conditions
  - 4(7) → Cenvat Credit in case Of input Service
    - Invoice dated before 01.04.2011 & in case of Reverse Charge → After bill is paid
    - Other Cases → After bill or invoice is received
      - If ST on the bill is not paid with in 3 months from the date of invoice, reversal of credit is required. Credit can be availed after bill is paid.
    - in case of Input service, where ST paid, is refunded/credit note is received by Mfgr, SP reversal of credit is required.

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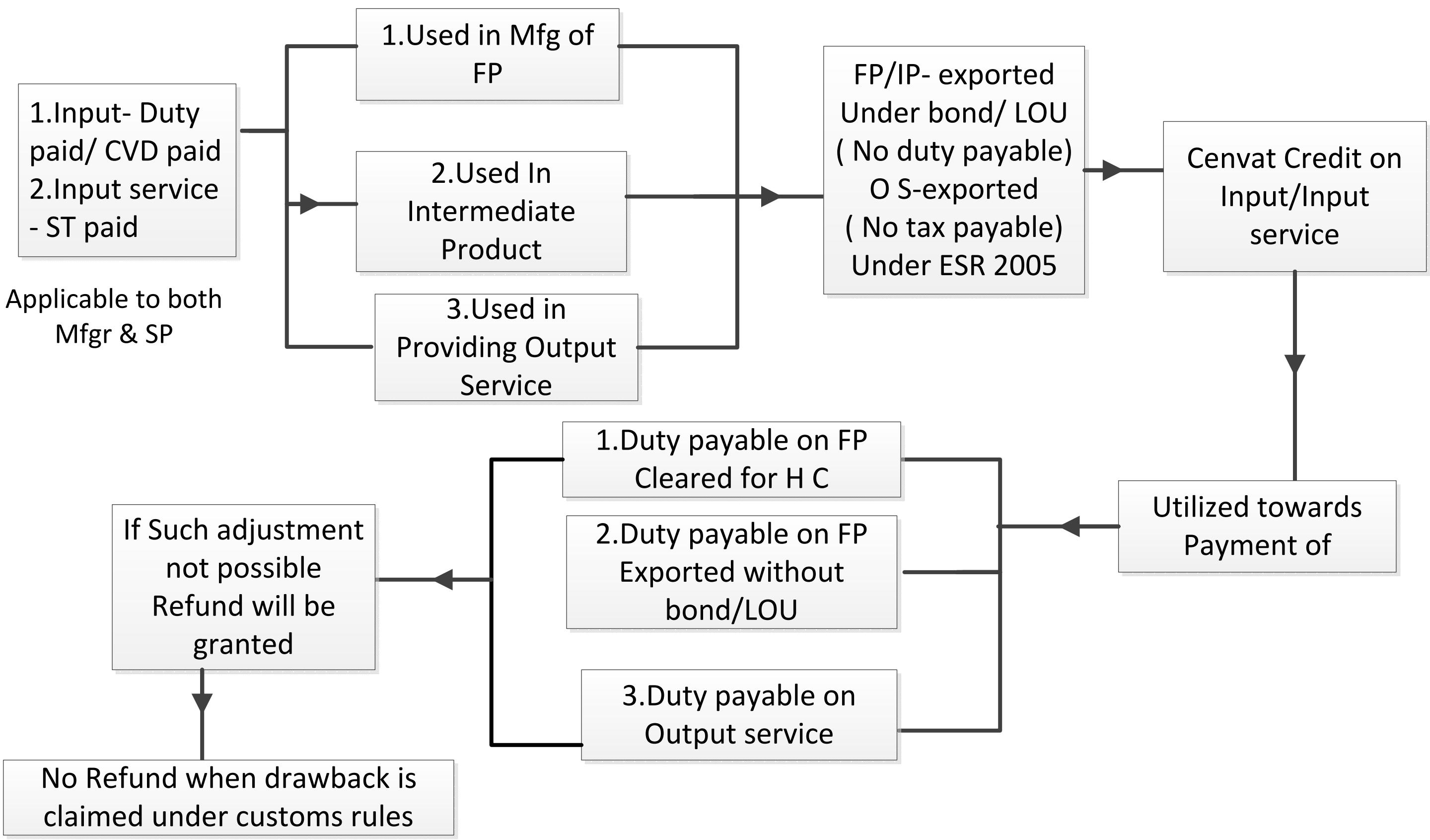
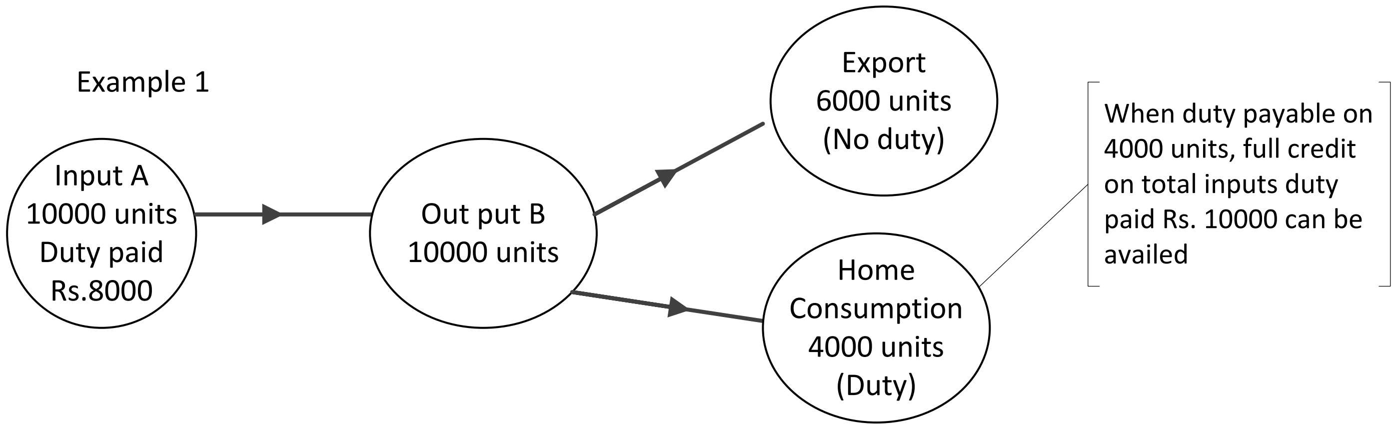
Rule 5 of Cenvat Credit Rules 2004-Refund of Cenvat Credit



Example 1



Example 2

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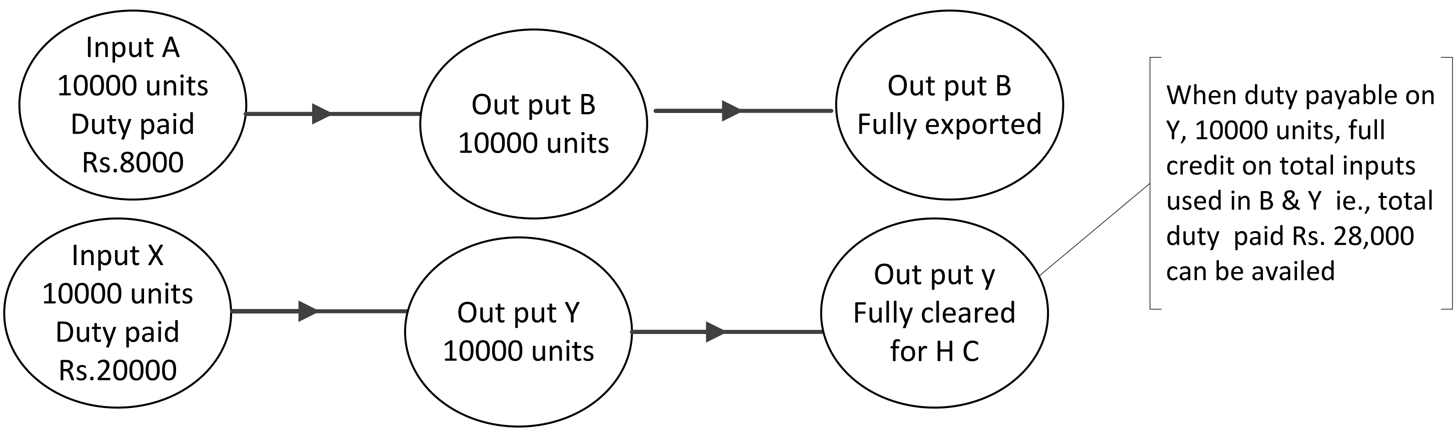

Rule 6 CCR 2004-Obligation of a manufacturer or producer of final products and a provider of taxable service(Common inputs/input services for dutiable and exempted goods& taxable and exempted services)

Rule 6(1) & (4)

1.Input- Duty paid/ CVD paid

2 C G- Duty paid/ CVD paid

Used Exclusively in
1. or in relation to Mfg. of exempted FP or
2. Providing exempted Service

3.Input service - ST paid

Used Exclusively in
1. or in relation to Mfg. of exempted FP or
2. clearance up to the place of removal of exempted FP or
3. Providing exempted Service

No Cenvat Credit

Exception: (Credit available)
1.jobworker of Jewellery
2. Preferential removals

Common Inputs/input service for
1.dutiable and exempted goods or
2. taxable and exempted services)
Rule 6(2) to 6(6)

Option 1.
Separate records for input/input service used for dutiable and exempted goods , taxable and exempted services

Exception: Preferential removals

Option 2.
Pay 5% on value of exempted goods/services Less duty if any paid on exempted goods

Exception: Preferential removals

Option 3
Pay an 'amount' equal to proportionate Cenvat credit attributable to exempted final product/ exempted output services, based on mathematical formula

Exception: Preferential removals

Option 4
Separate records only for inputs &Pay an 'amount' equal to proportionate Cenvat credit attributable to exempted output services, based on mathematical formula

Exception: Preferential removals

Option 3 & 4 should be informed in writing to CEO for all exempted goods/all exempted service. Once option is exercised, it cannot be withdrawn during financial year

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Preferential Removals :

Final product is dispatched to SEZ unit or developer of SEZ unit, EOU, EHTP or STP/UNO, International Organization.

When final product is exported under bond without payment of duty

Gold or silver arising in course of manufacture of copper or zinc by smelting.

Goods supplied against International Competitive Bidding

all goods which are exempt from customs BCD/CVD u/s 3(1) , Notification No 6/2010 dated 27.02.2010 WEF 01.04.2010

(a) against International Competitive Bidding; or

(b) to a power project from which power supply has been tied up through tariff based competitive bidding; or

(c) to a power project awarded to a developer through tariff based competitive bidding, in terms of notification No. 6/2006-Central Excise, dated the 1st March, 2006

supplied for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents (WEF 01.07.2010)

In case of taxable services provided , without payment of Service tax to SEZ or developer of SEZ for their authorized operation Rule 6(6A)-

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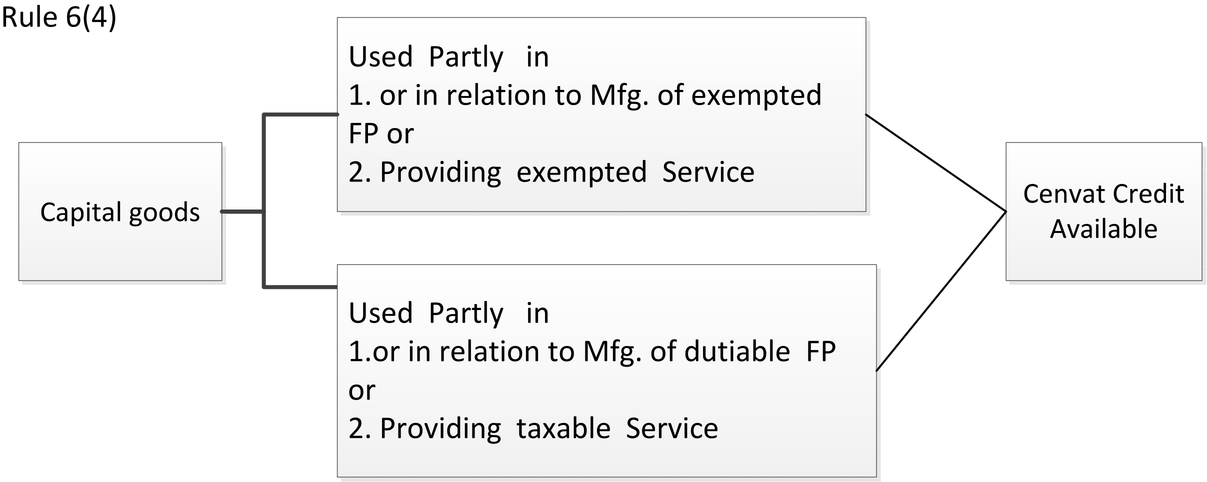
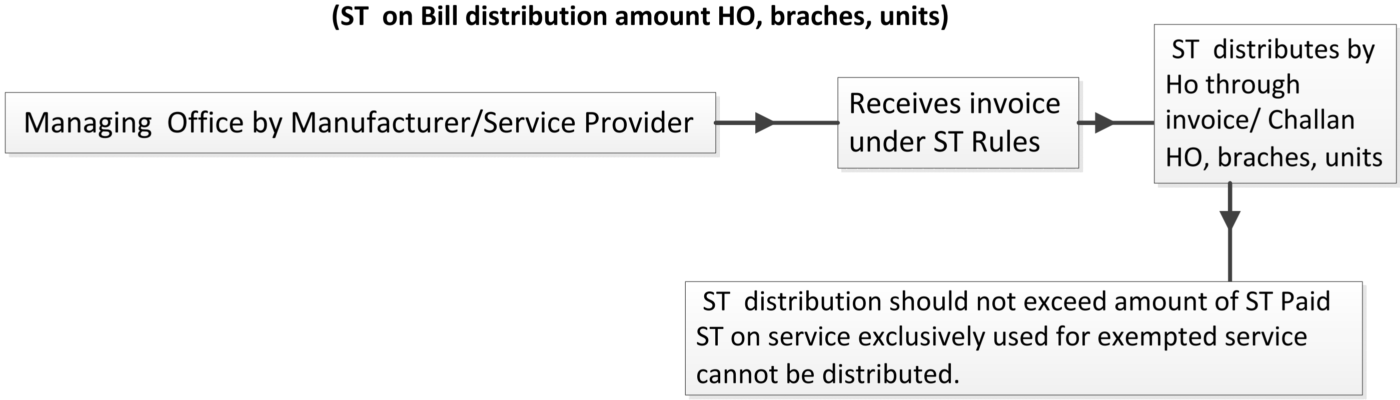
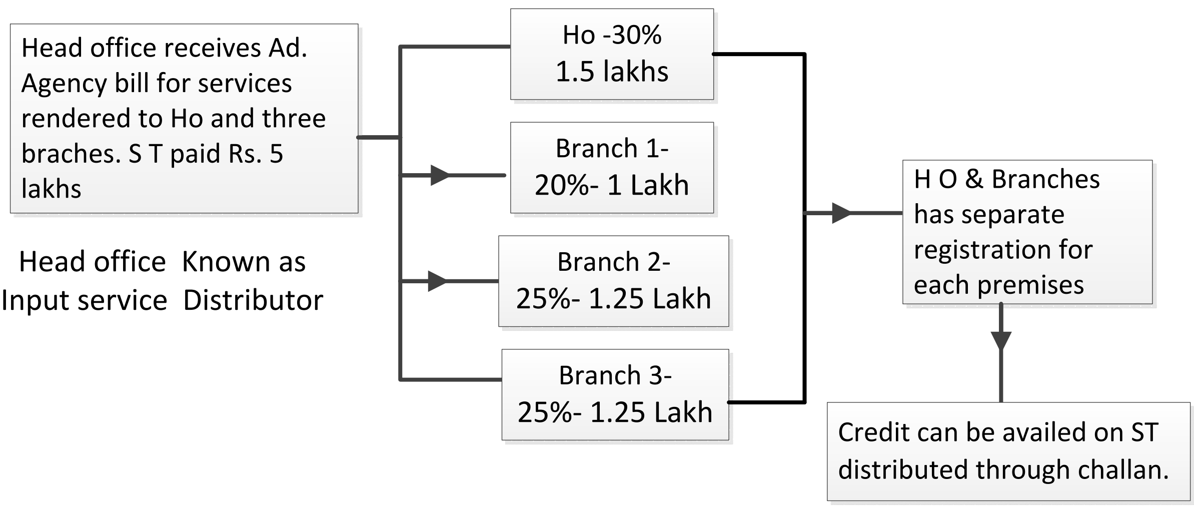
Rule 6(4)



Rule 7 Distribution of Credit by Input Service Distributor
(ST on Bill distribution amount HO, braches, units)





Head office Known as Input service Distributor

Rule 7 A Distribution of Credit of inputs/Capital goods by Input Service Distributor
(Excise on Bill distribution amount HO, braches, units

Same as Rule 7 instead of ST, it is ED paid on inputs/Capital goods
Through invoice under rule 11 of CER

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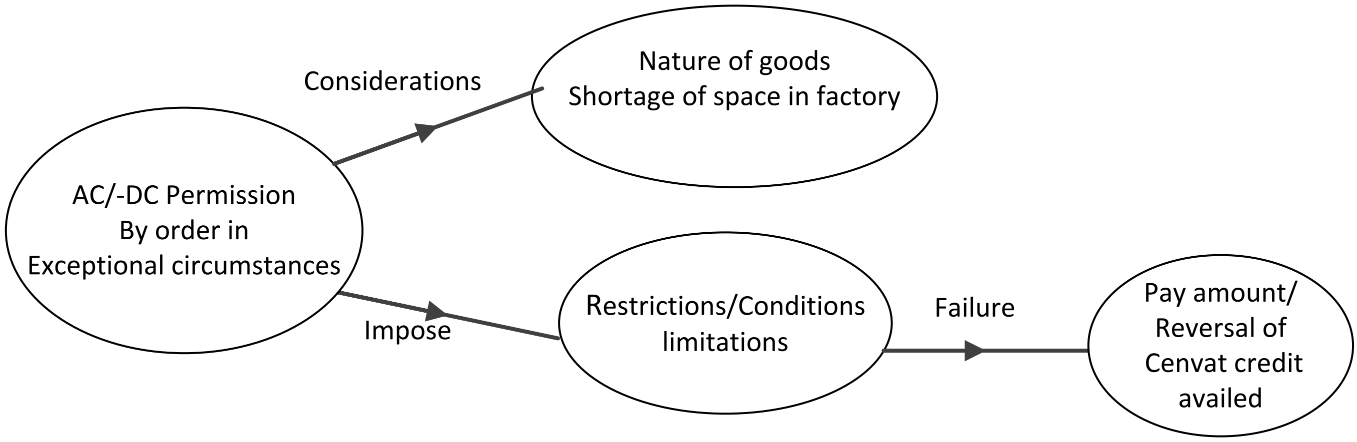
Rule8 of CCR 2004 Storage of inputs outside factory



Rule 9 of CCR 2004- Documents and Accounts under Cenvat Credit

Documents for availing cenvat credit Rule 9(1)

For Excise/CVD

- An invoice of the manufacturer factory/deport/consignment agent place
- An invoice of the importer
- An invoice of the First / Second Stage Dealer
- A supplementary Invoice
- A bill of entry
- A certificate issued by an appraiser of customs in case of goods imported through post office

Priviso:
No credit on CVD 3(5)-4% if invoice/ supplementary invoice indicate no Credit available (When importer sell the goods paid Vat and want to claim refund ofCVD)

Cenvat Credit on FSD/SSD invoice Rule 9(4)

The invoice should indicate duty suffered or prorate duty suffered in case proportionate stock is sold

For Service tax

Invoice / bill / challan of the service provider
Invoice / bill / challan of the input service distributor
Supplementary invoice by Service provider except tax payable under extended period limitation cases
Challan evidencing payment of service tax in case of reverse charge of ST

Particulars of documents 9(2)

1.All as per Rule 11 of CER
2.Minimum Mandatory Particulars :
If AC/DC satisfied goods/service received and accounted
a) Name and address of issuer of invoice
b) RC No.
C) Description of goods/service
D) value, Duty, tax

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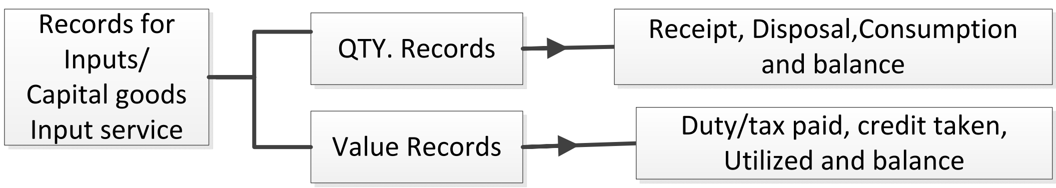
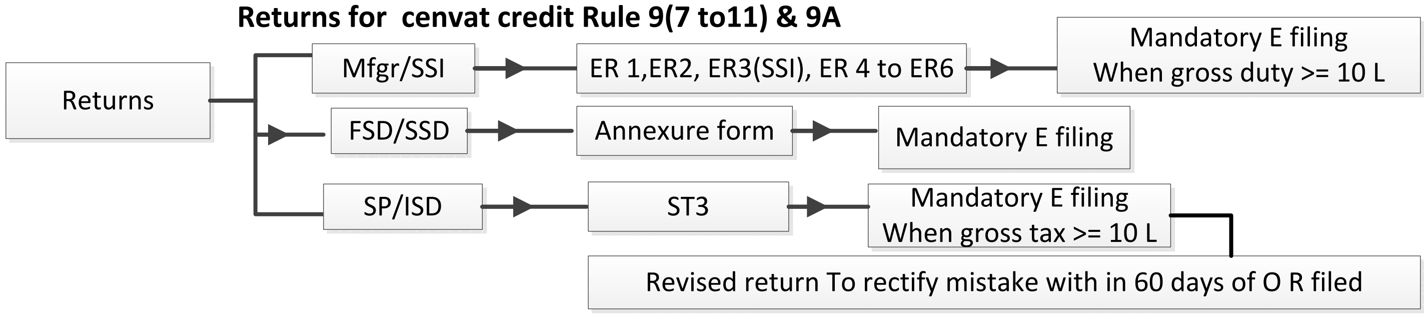
Records for cenvat credit Rule 9(5&6)



Returns for cenvat credit Rule 9(7 to11) & 9A



Rule 10- Transfer of Cenvat Credit

Mfgr/SP

1.Shifts factory/Premises

Transfers unutilised Cenvat Credit

2. Change of ownership (sale, lease, Merger, Amalgamation, J V)

Cenvat credit can be availed by transferee

Condtions

1 Transferor transfers Inputs, WIP,CG with specific provision of transfer of liabilities .

2.Transferee Accounts Inputs, WIP & ,CG to the satisfaction of AC/DC

Rule 11- Transitional provisions of Cenvat Credit

Rule 11

11(1) Closing Balance of Cenvat Credit unutilised under old rules 2002 on 09.09.2004 can be carry forwards under new rules 2004 we 10.09.2004 by Mfgr/SP

11(2) To 11(4)

1. SSI earlier not availing Exemption, decides to avail exemption
2. When dutiable products becomes exempted(Sec. 5 A notification) and Mfgr availing exemption
3. When Taxable Service becomes exempted (93A notification) availing and SP availing exemption

Payment /Reversal of Cenvat Credit availed on inputs,WIP,FG, Credit Balance if any lies it will lapse and cannot be utilized for any purpose

Rule 12- Full CC, if goods(inputs, CG) purchased from NE, J & K, Kutch in Gujarat, even duty partly exempted under notification

Rule 13 Deemed Credit in case of input/Input service → CG will notify rate/Amount on CC is available.. Actual rate/amount paid not relevant+

Rule 14-Recovery of Cenvat Credit → CC Wrongly availed or utilized/erroneously refunded Interest under excise and service tax applicable

Interest is payable even wrongly availed but not utilised or reversal is made..(Confirmed in circular and in) . Ind-Swift Laboratories Ltd (SC)

Rule 15-confiscation/Penalty Wrong availment/utilisation

Rules of natural justice to follow by CEO (SCN)

- Bonafide mistake
  - Inputs/CG- Confiscation & duty or Rs.2000 WEH
  - Input Service- tax or Rs.2000 WEH
- Fraud cases
  - Inputs/CG- Penalty Sec 11 AC (equal to duty, etc.,)
  - Input service-Penalty Sec 78 FA 94(equal to tax)

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Excise Registration- Sec 6/Rule 9/ Notification 35 & 36/2001

- 1.Persons require registration
  - Manufacturer of excisable goods
  - Private ware house keeper
  - FSD/SSD
  - EOU having local sales/ purchases
  - Refund assessee
  - SSI turnover > 150 lakhs
- 2. Persons exempt from registration
  - Manufacturer of non excisable goods
  - manufacturer of NIL duty goods/exempted goods
  - Persons manufacturing in customs warehouse
  - SSI turnover < 150 lakhs
  - Job worker claiming exemption- 214/86
  - Wholesalers/Traders other than FSD/SSD
  - EOU is who is licensing under customs
- 3. Procedure for Registration
  - Application Form A1 with self attested pan
  - to Jurisdictional CEO
  - Other enclosures-
  - Every factory/place of removal to be registered
  - RC with in 7 working days by AC/DC
  - Verification of factory after issue of RC
  - RC Not transferable
  - Cancellation of RC
    - Violation of law Conviction under 161 of IPC
  - Change in constitution
    - Inform within 30 days in same form A1
  - Closure of business
- Apply de registration,
  - pay duty up to date/ surrender original RC/ declaration- no liability
- 4.Consequences of Non registration
  - Penalty Rs.2000/ duty WEH
  - Confiscation of goods
  - criminal penalty
    - fine
      - imprisonment min 3 m , max 7 y

Adjudication orders of CEO- Sec 11 A(10) of CEA

- SCN Received by Assessee with in time limit
  - Assessee accept, do not differ
    - Normal period → Pay Duty + Mandatory Interest (sec 11AA)+ Penalty duty or Rs.2000/- WEH (waiver of penalty -reasonable cause of failure)
    - Extended Period → Pay Duty + Mandatory Interest (sec 11AA)+ Mandatory Penalty sec 11 AC Equal to duty (waiver 75%- if duty + interest is paid with in 30 days of scn)
  - Assessee do not accept, differ → Representation through AR(CA)
    - Assessee view fully accepted by CEO → SCN Will be dropped by CEO
    - Assessee view fully rejected by CEO → Amount to be determined - not more than SCN amount. Assesse option- appeal
    - Assessee view Partly accepted & partly rejected by CEO → Accepted portion SCN Will be dropped. Rejected portion Amount to be determined

Time limit for adjudication orders of CEO-Sec 11A(11):
Normal cases- 6 months from the date of notice
Extended period cases- one year from the date of notice
The words shall was used and hence, it can be mandatory time limit for CEO

Where appellate authority modifies duty , the interest and penalty shall stand modified accordingly- 11A (12)

Mandatory Interest in case of Recovery of Duty- Sec 11 AA

- Interest on Duty in case of SCN
  - Rate → 13% p.a.
  - Period → from -1st day of succeeding month of due date to date of payment
    Ex: April 2010 SCN, due date May 5th.
    Interest starts from June 1st

1. If SCN amount was increased in appeal, Interest on increased amount is payable from date of order- Sec 11 A (13)
2. Interest is payable whether the adjudication order shown interest separately or not- Sec 11 A (14)

Demand (Recovery) of Excise Duty- Sec 11 A of CEA

Excise Duty

- Not levied (N.L)
- Short levied (S L)
- Not Paid (N.P)
- Short paid (S.P)
- Erroneously refunded (E R)

N L – Dutiable- treat exempt/Nil
S L-- Lower rate applied
N P/SP- Valuation differences

Show cause notice (SCN)

Contents, Manner of Issue

Date, Name and address of Assessee., Amount payable along with calculation, CEO sign, Serving through post, notice board of Assessee/ Dept.

Time limit

11A 1(a)- Normal Period -1 year from relevant date

11 A (4)-- Extended Period- 5 years from relevant date

For computation of 1 y or 5 y , period of stay by court, tribunal to be excluded- 11 A (8)

No SCN

Assessee voluntarily Pays before issue of SCN

Normal cases 11 A 1(a), 2

Paid duty+int. before receiving SCN
payment on own ascertainment or ascertainment by CEO
No penalty
Intimation to CEO in writing
To extent paid, proceeding conclude
Shortfall amount if any CEO issue SCN

Extended Cases 11 A (6) (7)

Audit, investigation, verification, reveals, fraud etc.
Paid duty+int. Penalty 1% p.m., subject to max 25% of duty, before receiving SCN.
Payment on the basis of own ascertainment or ascertainment by CEO.
Intimation to CEO in writing.
To extent paid, proceeding conclude.
Shortfall amount if any CEO issue SCN

Extended period applicable

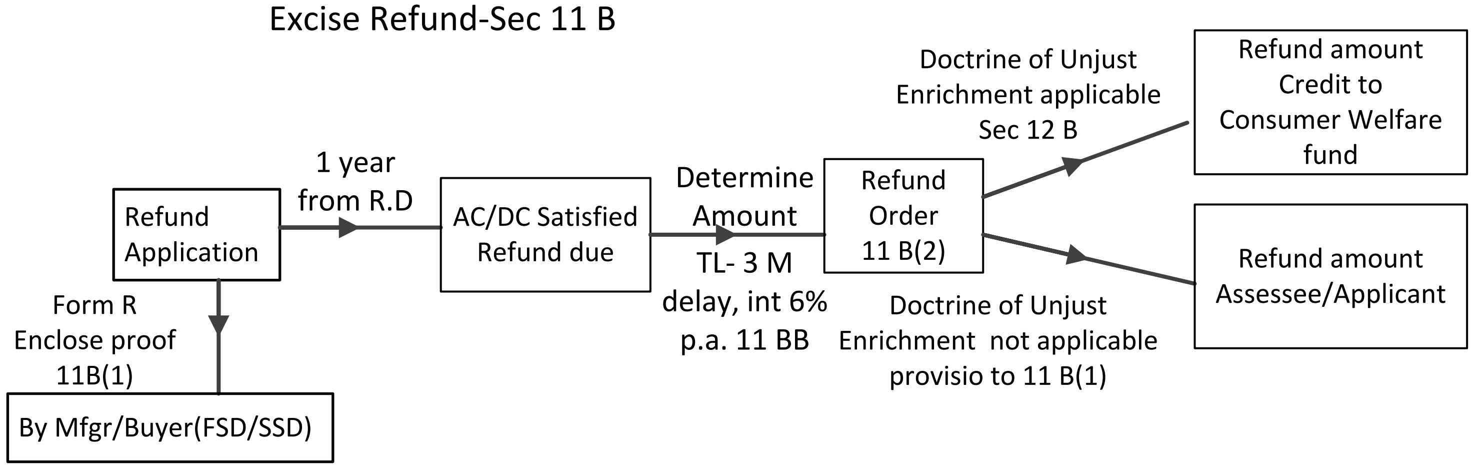
1.Fraud, collusion, willful misstatement, suppression of facts, ,Violation of excise law with intention to evade duty,
2.Audit, investigation, verification reveals fraud collusion etc.,11 A(5)

Relevant date

1 Assessee file return- Date of filling
2 Assessee does not file return- Due date of return
3 Provisional assessment- Date of adjustment to final duty
4 Erroneous refund- Date of refund
5 Other case- Date of payment of duty

SCN issued after lapse of time limit, it is invalid.
In case of extended period, it is on the part of department to prove fraud, collusion etc., on the part of assessee.

Excise Refund-Sec 11 B



Relevant Date:
1**In case of Export Rebate**
Export through aircraft/vessel-Date of leaving aircraft/Vessel Export through vehicle-Date of leaving custom frontier Export through post-Date of dispatch of article
2 In case of Compound levy scheme-Date of reduction of duty
3 In Case of Exemption u/s 5 A-Date of exemption order
4In Case of Provisional Assessment-Date of final adjustment of duty
5-In case of FSD/SSDDate of Purchase of goods
6 In case of Order of court/Appellate authority-Date of order7In any other caseDate of payment of duty

Doctrine of Unjust Enrichment/Refund credit to consumer welfare fund

- It is always assumed unless contrary proved by manufacturer that excise Duty burden normally fully passed on to buyer sec 12 B
- In such cases, refund of excess duty paid to the manufacturer will amount to excess and un-deserved profit to him.
- He will get double benefit – One from consumer and again from the Government.
- At the same time, the duty is illegally collected and hence cannot be retained by Government, it will be credited to Consumer welfare fund
- The fund may be used for activities of protection and benefit of consumers.

Provisions of Unjust enrichment will apply to all types of refund, (Provisional Assessment, Captive consumption Duty paid under protest etc)

Non Applicability of Doctrine of Unjust enrichment (Refund paid to manufacturer / buyer)

- When duty is paid under protest and only lower amount of duty is charged to customer
- Pre-deposit of duty pending appeal
- When contract is for price inclusive of all duties
- When debit note is raised by buyer and amount deducted from bill
- When credit note issued to buyer and buyer account is credited,
- Refund of export rebate/incentive.
- Deposit taken from buyer against possible liability of excise duty. And deposit refunded

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Appeals under Central Excise

Appeals to Commissioner appeals sec 35 & 35 A

Adjudication Order passed by any CEO below the rank of CCE

Demand Order u/s 11A(2) Confiscation, Penalty Order u/s 33 by JC, AC/DC, SCE)

Assessee aggrieved

Form EA1

60 + 30 days (condone)

Appeal to Commissioner(CCE)

Notice to parties &Hearing

Condition

Pre-deposit of duty or Waiver order for pre-deposit(undue hardship)

Powers of Commissioner(CCE)

Grant of Adjournments during hearing (Max. 3) -35 (1A)

Additional Grounds may be heard (refer *) -35A (2)

Order (recommendatory time limit 6 months)-35 A

No power to remand back case to CEO

Confirming

Annuling

Modifying

Increasing the liability of assessee

decreasing the liability of assessee

SCN with in time limit is mandatory

Admissibility of Additional Evidences*[Rule 5 of Central Excise (Appeal) Rules]*

Admission by CCE on his own: Rule 5(4) -- He can admit additional evidences whenever he deems necessary

When can assessee appeal for admission of additional evidences Rule 5(1): Assessee is entitled under following situations:

(a) where the adjudicating authority has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by adjudicating authority; or

(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority any evidence which is relevant to any ground of appeal; or

(d) where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal

Rule 5(2)-CCE admit additional evidence by records in writing for reasons

Rule 5(3)- if Additional Evidences are admitted by CCE (Appeal), then the other party connected in appeal shall be given an opportunity to examine that evidence and to rebut/challenge that evidence]

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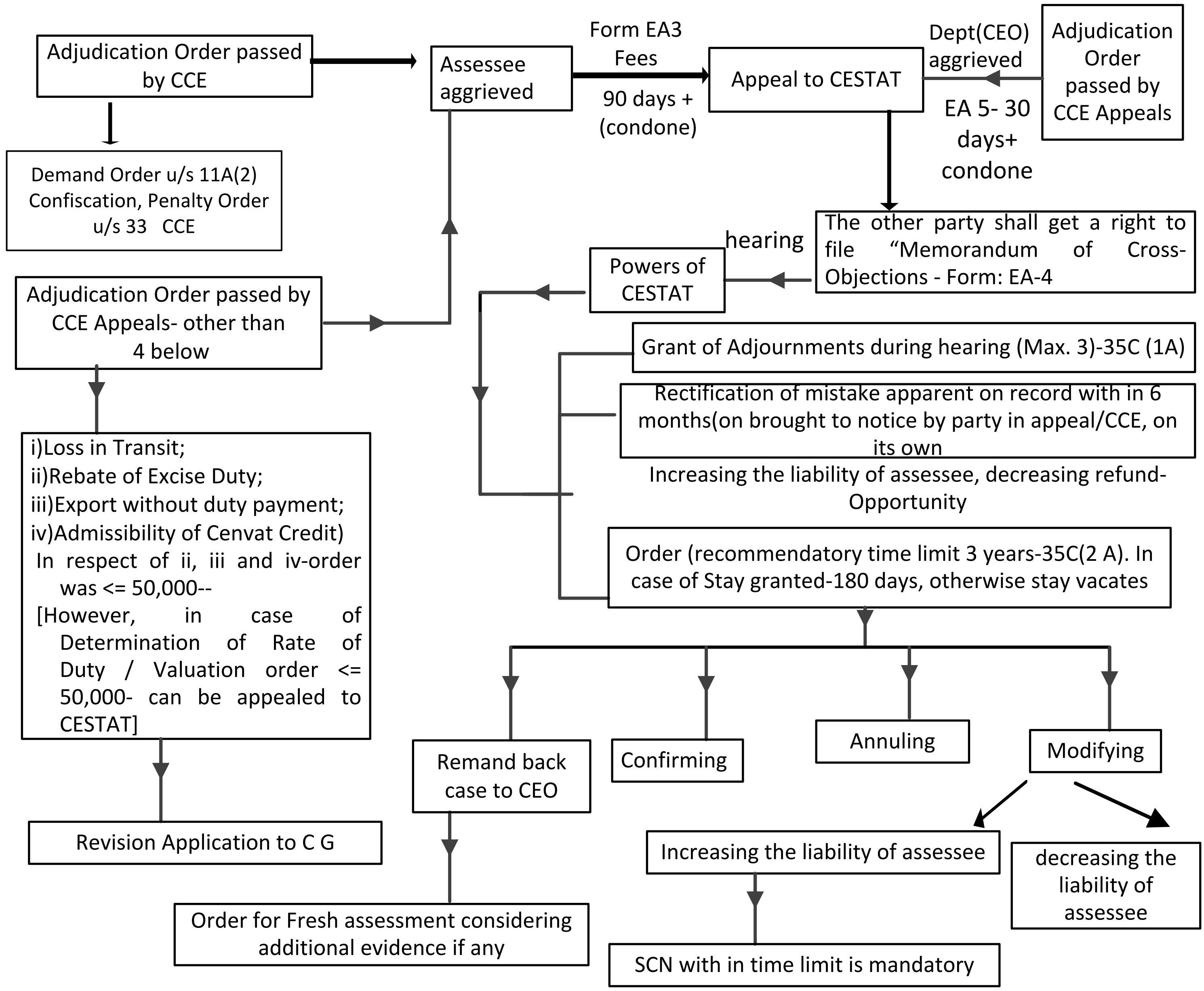
Appeals under Central Excise

Appeals to Tribunal sec 35B,35 C & 35 D



Other inherent Powers of CESTAT:
1.Recall dismissed order, if deposit of duty as ordered paid late
2. Quash its own order, if found obtained by fraud, disregard of statutory provision, by mistake
3.Correct an error so that justice is done
The above powers are subject to some limitations.

Tribunal has no powers to review its orders on its own.

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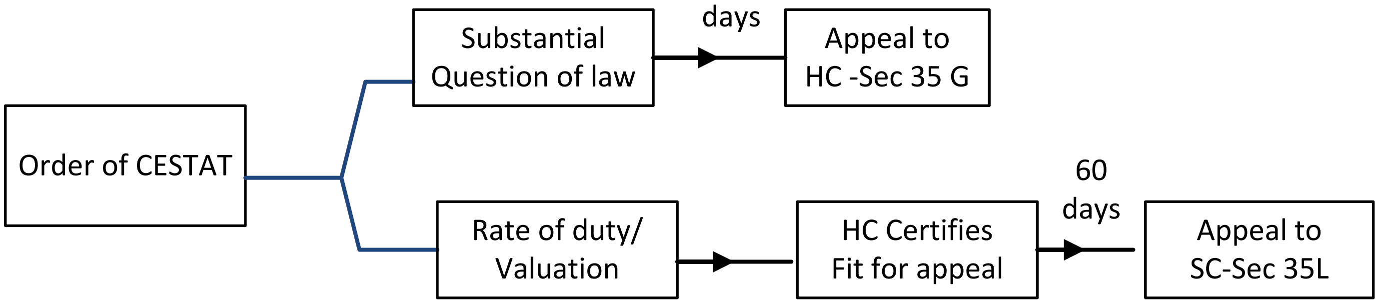
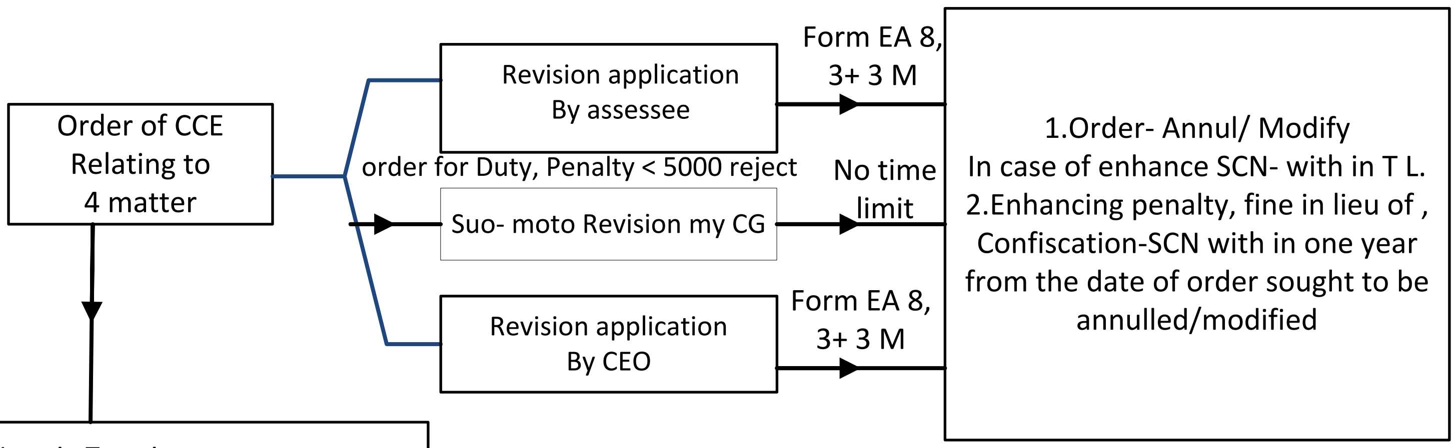
Appeal to High court & Supreme court



Revision Application to Central Government- Sec 35 EE



i)Loss in Transit;
ii)Rebate of Excise Duty;
iii)Export without duty payment;
iv)Admissibility of Cenvat Credit)
In respect of ii, iii and iv-order was <= 50,000--
[However, in case of Determination of Rate of Duty / Valuation order <= 50,000- can be appealed to CESTAT]

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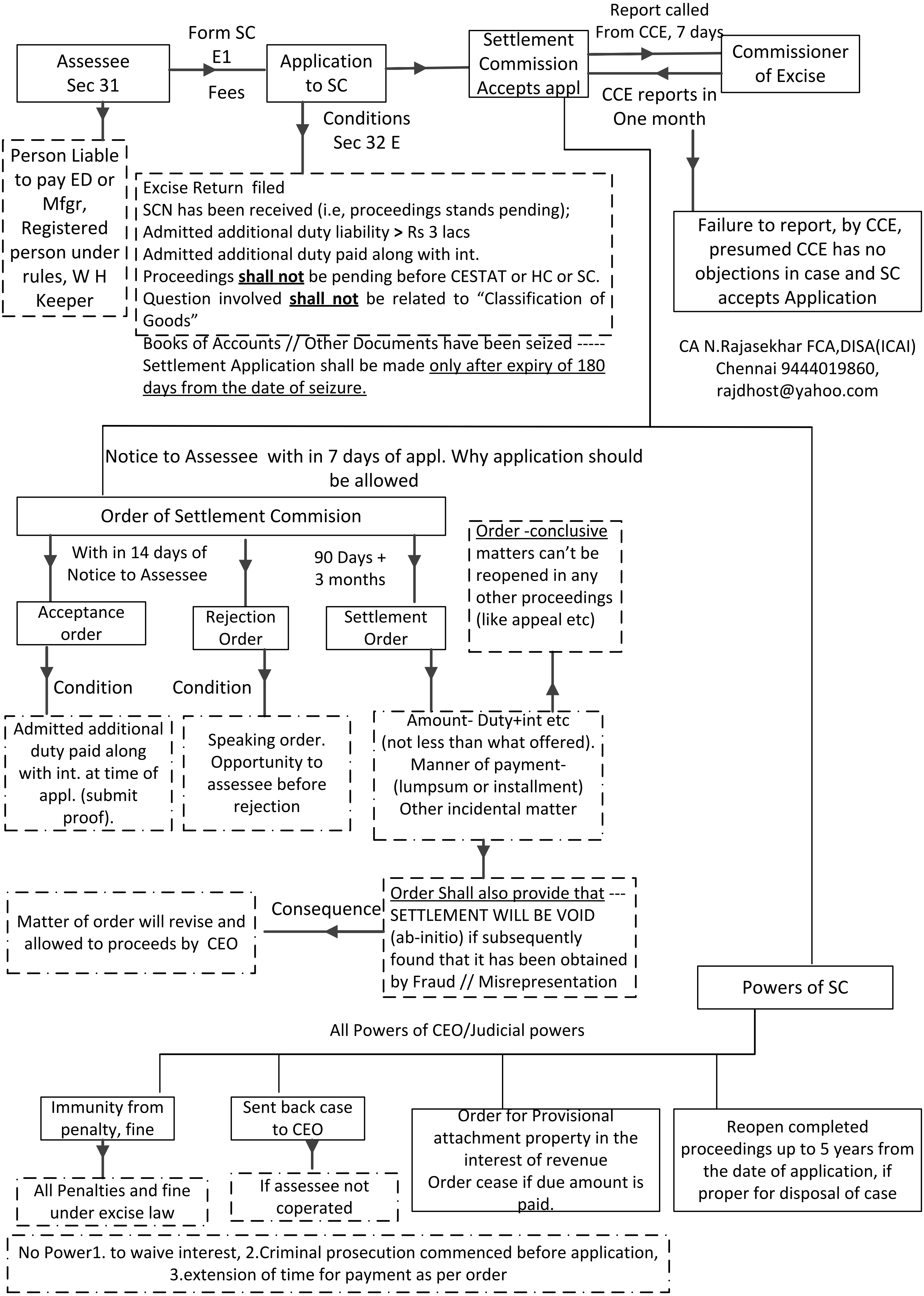
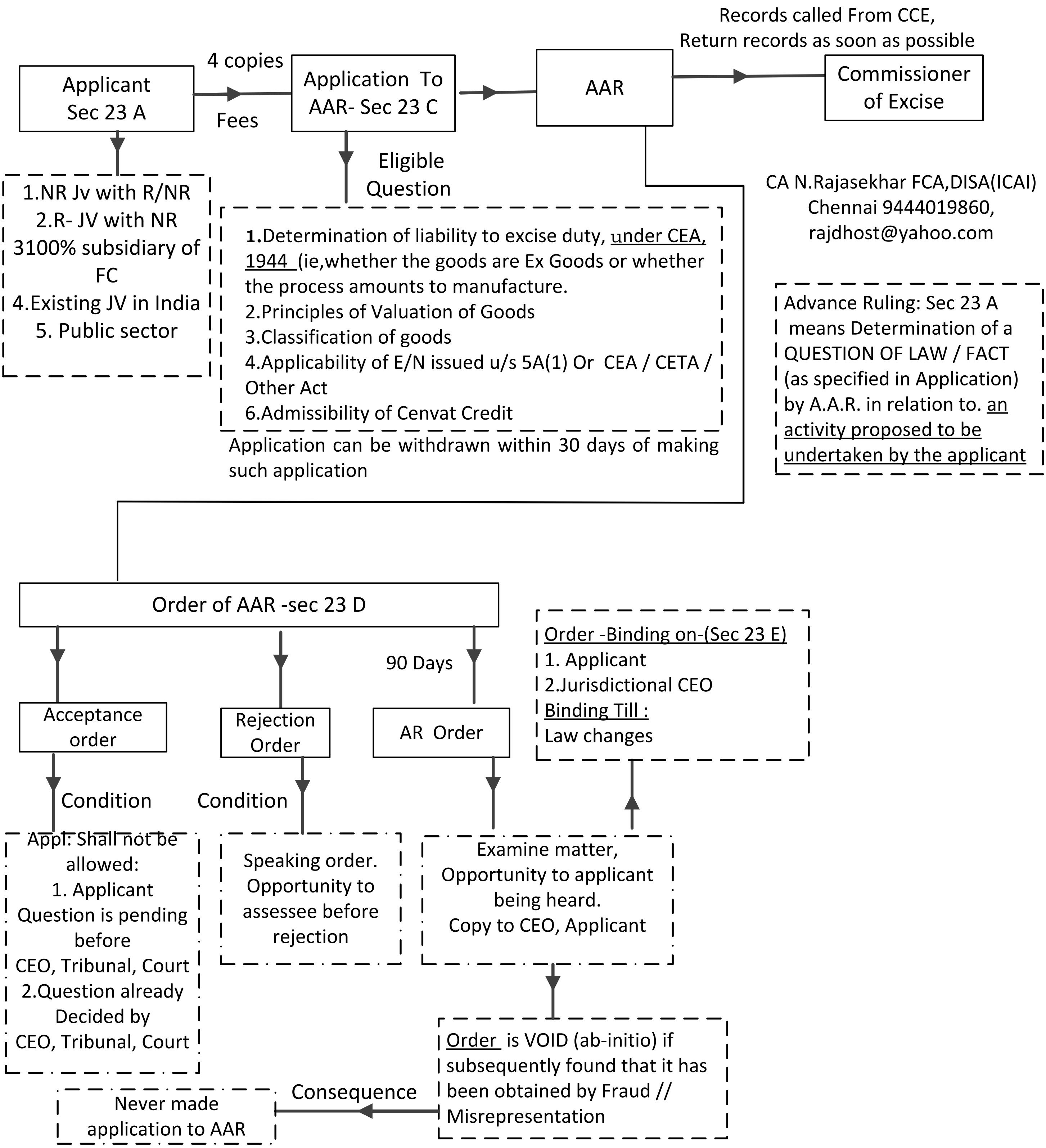
Excise- Settlement Commission



Excise- Authority for Advance Ruling- Sec 23 A to 23 H

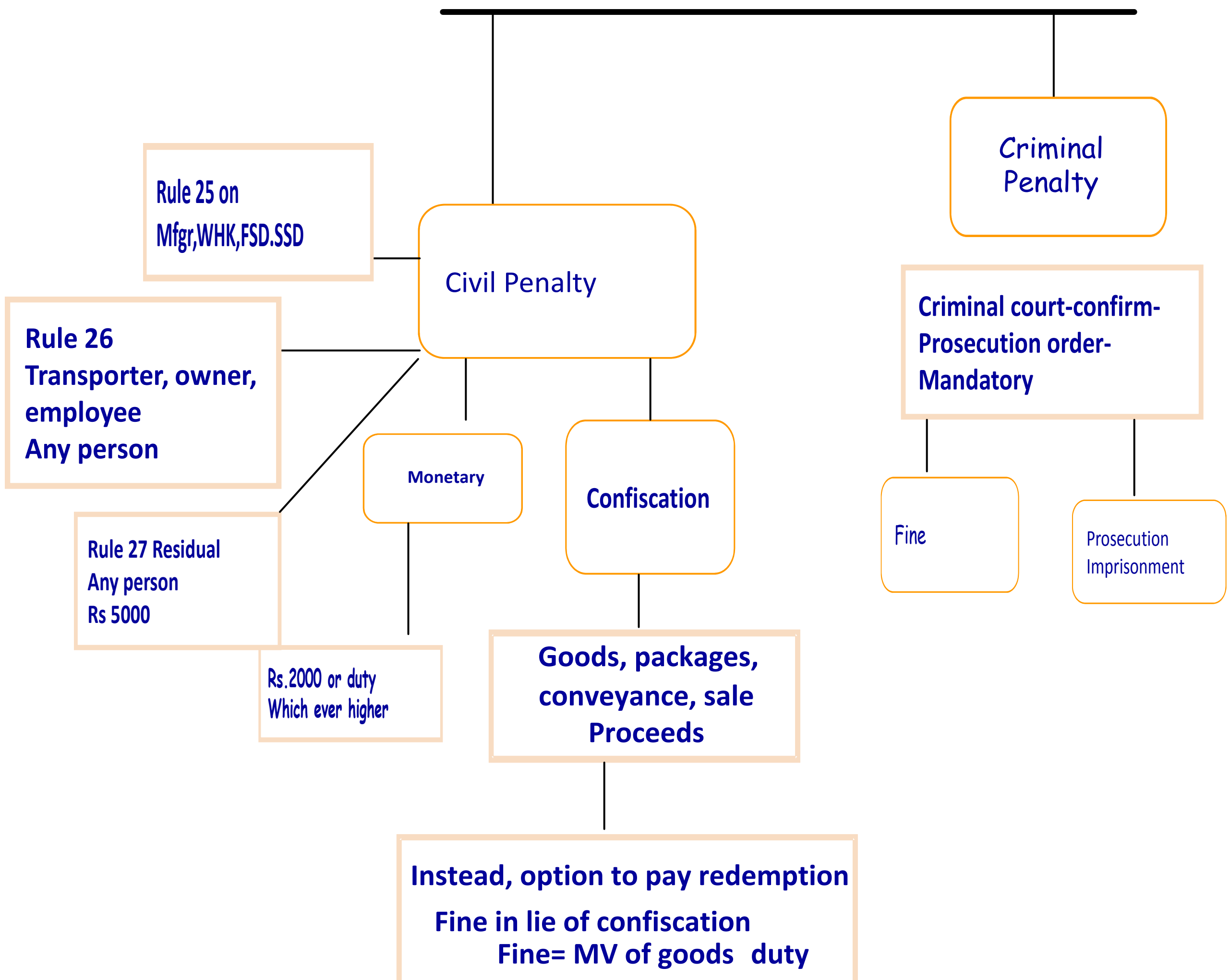


Benefit of seeking advance ruling from Authority would be applicable only in relation to activity which is proposed to be undertaken (& not in respect of that which has already been undertaken) --- MCDONALD'S INDIA PVT. LTD.-

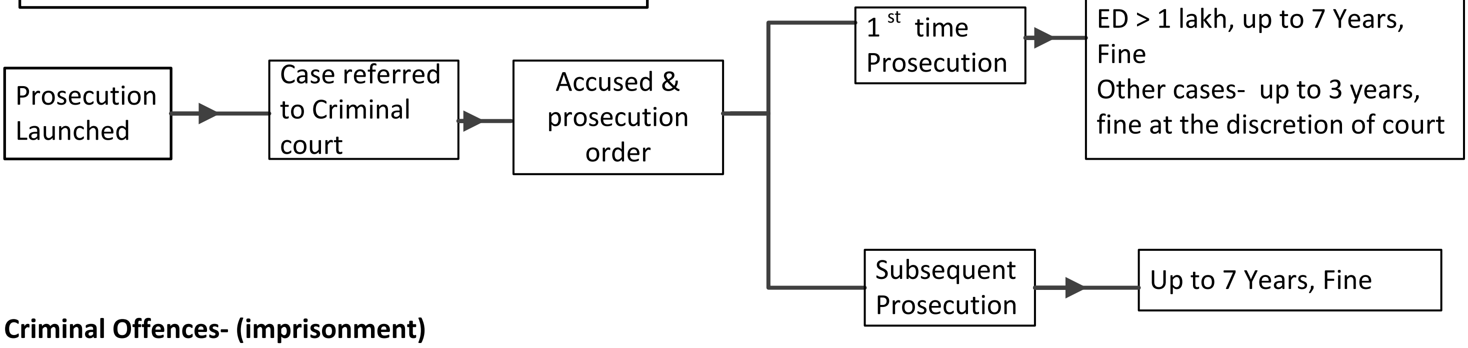
Merely because another subsidiary is carrying out the same activity and its case is pending with the CEO, another subsidiary will not become ineligible to obtain AR in relation to same question".
A.TEX (INDIA) PVT. LTD. – SC-

Penalties under excise

Opportunity to assessee by SCN
Before levy penalty



Excise Criminal Offences- Section9



Criminal Offences- (imprisonment)

1)Possession of "Tobacco" in excess of prescribed quantity;
2)Evading payment of excise duty;
3)Removal any excisable goods in contravention of any provisions of CEA / Rules *or in anyway concern himself with such removal*;
4)-- Acquiring possession of, *or*

-- In anyway concerning himself in Transporting/ Depositing/ Keeping/Concealing, selling or purchasing, or

-- In any other manner dealing with

goods *which he knows or has reason to believe are liable to confiscation;*

5)Contravention of any provisions of Cenvat Credit Rules, 2004;
6)Failure to supply the information which he is required to supply under the act *or* supplying false information;
7)Attempting to commit or abetting the commission of, first two categories of offences.

Term of 7 years imprisonment can be reduced to a minimum of 6 Months if the Court, shall be satisfied that there exists "SPECIAL & ADEQUATE REASONS".

Reasons not admissible as "Special & Adequate Reasons:

i) Conviction for the first time ii) Penalty has already been imposed/ Goods have been confiscated/ Other action has been taken iii) Age of the accused iv) Accused merely secondary party, not the principal offender

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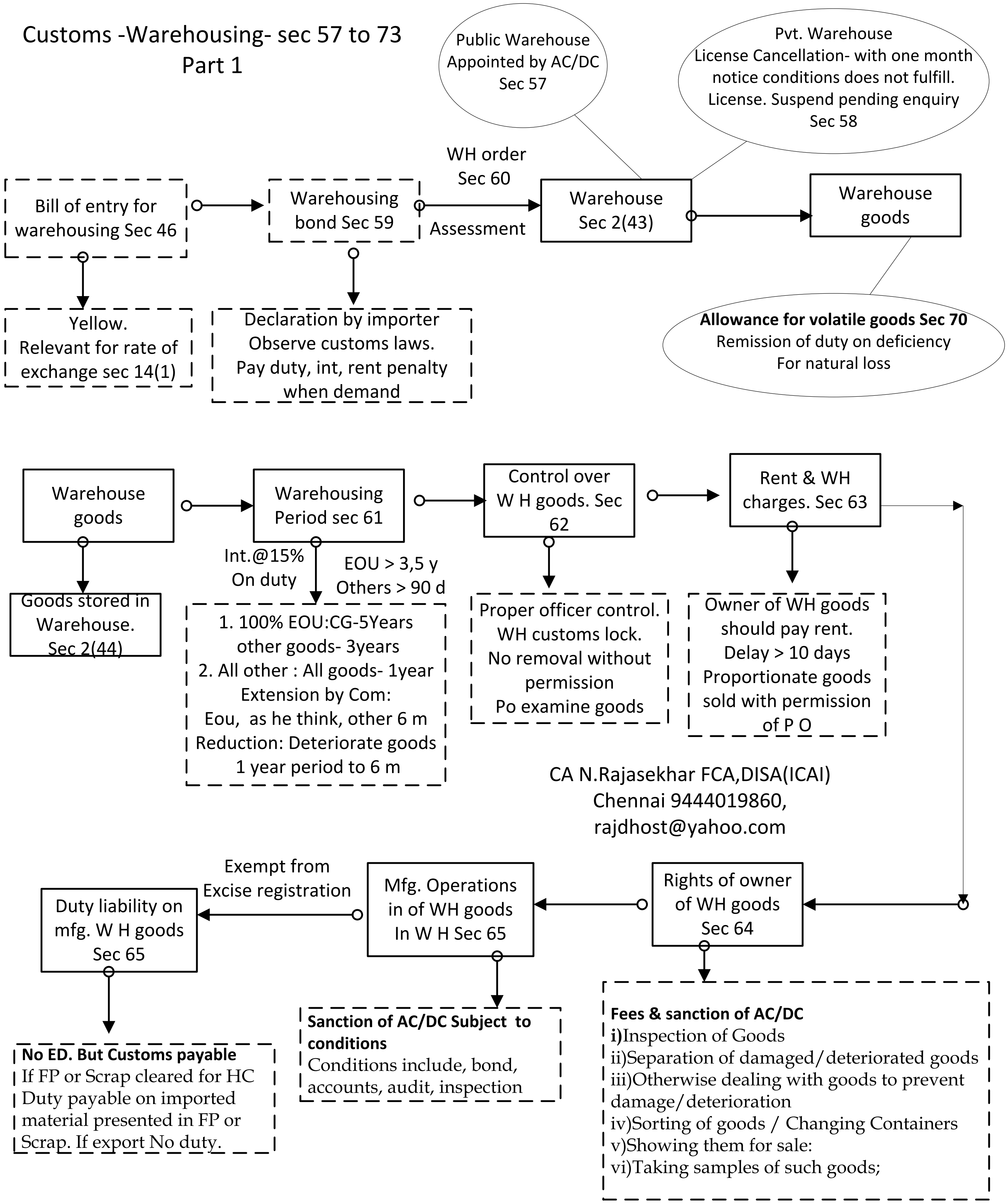
Sec 9A

Offence to be non-cognizable: No arrest in respect of these Offences shall be made without obtaining arrest warrant.

Offence can be Compounded: For that request to be made to Chief CCE (such request can be made before launch of prosecution proceeding and even after launch of prosecution proceeding) --- Any of the offence is compoundable on payment of prescribed fee.

Customs -Warehousing- sec 57 to 73
Part 1



Only DUTIABLE GOODS can be stored in Customs Warehouse.

DUTIABLE GOODS [Sec 2(14)] : Any goods which are chargeable to duty & on which duty has not been paid.(It shall be noted – <u>Goods must be dutiable (chargeable to duty) at the time of their insertion/deposit in the Warehouse.</u> --- Subsequent exemption from duty (at time of their clearance from the factory) is not relevant in this regard

Customs Warehousing Sec 57 to 73
Part 2

Removal of goods
From Warehouse

Goods not to be removed from WH Except as follows Sec 71

- Transfer to Another W H sec 67 → Permission of proper officer
  Conditions (transit bond with guarantee, goods duly arrive to another Ware house
- Clearance For H C sec 68 → **i)**B/E for H C (Green Color) has been filed
  ii)Import Duty + Rent + Other Charges + Interest + penalties have been paid
  iii)Clearance order has been issued by PO
  Proviso; relinquishment of title- refer *

  Sec 15 (1) (b) :Relevant date for determination of Rate = Date of filing of B/E for H C u/s 68-
- Clearance For Export Sec 69 → **i)**Shipping Bill / Bill of Export has been filed
  ii)Export Duty (if any) + Rent + Other Charges + Interest + penalties have been paid
  iii)Clearance order has been issued by PO
  Goods likely to smuggled back- refer **
- Clearance For Samples → With payment of duty.
  Without payment of duty with permission of proper officer

*** Relinquishment of title by owner of warehouse goods Proviso: to sec 68**
Importer may relinquish his title to goods ***Before passing of <u>Clearance</u>*** **<u>Order</u> for Home consumption-**
Then, <u>he shall not be liable to pay DUTY..</u> Title may be relinquished only upon payment of ware housing dues such as Rent, interest, penalty and other charges,)
In respect of any goods where ***offence has been committed*** under customs Act or any other law, ***relinquishment cannot be made.***

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** **Goods likely to be smuggled back into India sec 68(2)**

In case of Goods likely to be smuggled back into India – CG may *by Notification in official gazette* direct that:
--- Clearance without duty payment not permissible
---Clearance is permissible only subject to fulfillment of specified conditions or restrictions