

General Procedures under Central Excise

Question 1

What is Personal Ledger Account or PLA? How is it maintained?

Answer

Personal ledger Account is an account with the Central Government, which is utilized for payment of duty of excise. The account is credited when the sum is deposited into the treasury and debited on payment of excise duty. Each debit and credit entry should be made on separate lines and assigned a running serial number for the financial year. The PLA must be prepared in triplicate by writing with an indelible pencil and using double sided carbon. Original and duplicate copies of PLA shall be sent to the Central Excise Officer in charge along with the monthly/quarterly return.

The assessee may make credit in the PLA by making cash payment into the treasury or authorised bank through TR-6 challan. Copy of each such challan shall be sent by the assessee to the Central Excise Officer along with the monthly/quarterly return.

No restrictions exist with regard to any minimum amount, which should necessarily remain in balance to the credit of an assessee in his PLA. With the monthly payment system, there should be enough credit at the time of payment of duty for the month.

Mutilations or erasures of entries once made in the PLA are not allowed. If any correction becomes necessary, the original entry should be scored out and attested by the assessee or his authorized agent.

Question 2

Explain the provisions regarding maintenance of daily stock account of stored goods under rule 10(1) of Central Excise Rules, 2002.

Answer

As per **Rule 10(1)** of the Central Excise Rules, 2002 a daily stock account has to be maintained by every assessee. The records should be maintained on daily basis in a legible manner, indicating particulars regarding:

- (a) description of goods produced or manufactured
- (b) opening balance
- (c) quantity produced or manufactured

- (d) inventory (i.e. stock) of goods
- (e) quantity removed
- (f) assessable value
- (g) amount of duty payable and
- (h) particulars regarding amount of duty actually paid

The first and last page of such account book shall be duly authenticated by the producer or manufacturer or his authorized agent. All such records shall be **preserved for 5 years**. **Separate records for different grades/qualities** are to be kept.

Question 3

Briefly mention any four categories of persons who are exempted from obtaining registration under rule 9(2) of the Central Excise Rules, 2002.

Answer

Central Board of Excise and Customs, as per the power given under **rule 9(2) of the Central Excise Rules, 2002, vide Notification No.36/2001-CE. (NT) dated 26.06.2001** has exempted the following specified categories of persons from obtaining registration:

- (i) Persons who manufacture the excisable goods, which are chargeable to nil rate of duty or are fully exempt from duty by a notification subject to the declaration to be made in a specified form.
- (ii) Small scale units having the slab exemption based on value of clearances under a notification. However, they have to give the declaration when their clearances touch ₹ 90 lakh.
- (iii) In respect of final products falling under chapter 61 or 62, (textile goods), the job-worker need not get registered if the principal manufacturer undertakes to discharge the duty liability. If the job worker undertakes to pay the duty, the principal manufacturer need not get registered.
- (iv) Persons manufacturing excisable goods by following the warehousing procedure under the Customs Act, 1962 subject to certain prescribed conditions.
- (v) The person who carries on whole sale trade or deals in excisable goods except first and second stage dealer, as defined in the CENVAT Credit Rules, 2004.
- (vi) A hundred percent Export Oriented Undertaking or a unit in EPZ or a unit in SEZ licensed or appointed; as the case may be under the Customs Act, 1962 if they do not procure excisable goods from Domestic Tariff Area or do not remove excisable goods to Domestic Tariff Area.
- (vii) Persons who use excisable goods for any purpose other than the processing or manufacture of goods availing benefit of concessional duty exemption notification.

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- (viii) Person who gets his goods manufactured on his account from any other person subject to the conditions that the said person authorizes the person actually manufacturing or fabricating the said goods, to comply with all procedural formalities under the Central Excise Act, 1944 and the rules made there under and to furnish information in order to enable the determination of value of the said goods.
- (ix) Manufacturing units manufacturing recorded smart cards if the manufacturer has a centralized billing or accounting system in respect of such goods manufactured by different units and he opts for registering only the premises or office from where such centralized billing or accounting is done.
- (x) Mines engaged in production/manufacture of specified goods (coal etc.) if the producer /manufacturer has a centralized billing/ accounting system in respect of such goods produced by different mines and opts for registering only the premises or office from where such centralized billing or accounting is done.

(Any four points may be given.)

Question 4

With reference to the Central Excise Act, 1944 and the rules thereunder, explain briefly whether the following persons require registration or not?

- (i) *Persons, who manufacture excisable goods chargeable to 'nil' rate of duty;*
- (ii) *Central Government undertakings manufacturing excisable goods;*
- (iii) *100% EOU.*

Answer

- (i) No, because manufacturers of goods which are chargeable to 'NIL' Rate of duty are **exempt from registration provided a declaration is filed.**
- (ii) Yes, as the provisions of section 6 of the Central Excise Act, 1944 read with rule 9 of Central Excise Rules, 2002 apply in respect of every person who manufactures or produces excisable goods (**including Central/State Government Undertakings or undertakings owned or controlled by autonomous corporations**) in India.
- (iii) No, as 100% EOU is deemed to be registered under Rule 9. However, such unit shall be required to get itself registered if it removes excisable goods to domestic tariff area (DTA) or procure excisable goods from DTA.

Question 5

Mention the last date of filing the following returns under the Central Excise Rules, 2002:

- (i) *ER-4 for the financial year 2010-11*
- (ii) *ER-7 for the financial year 2011-12*

Answer

- (i) ER-4 for the preceding financial year to which it relates is filed annually by 30th November of the succeeding year [Rule 12(2) of the Central Excise Rules, 2002].
- (ii) ER-7 for the financial year to which it relates is filed by the 30th April of the succeeding financial year [Rule 12(2A) of the Central Excise Rules, 2002].

Question 6

Comment on the following

Annual Financial Information Statement (ER-4) is required to be submitted by the assessee paying duty of ₹ 4 crores or above per annum through PLA.

Answer

The said statement is false. Annual Financial Information Statement (ER- 4) is required to be submitted latest by 30th November of succeeding financial year by the assessee paying duty of ₹1 crore or above per annum either through PLA or CENVAT Credit or both together.

Question 7

Whether provisional assessment can be initiated by the department of excise?

Answer

Rule 7 of the Central Excise Rules, 2002 gives an option to the assessee to make a request to the Assistant Commissioner/Deputy Commissioner of Central Excise for provisional assessment in case he is unable to determine the value of excisable goods or the rate of duty applicable thereto. Rule 7 does not give power to the department to order provisional assessment on its own. Thus, **the excise department cannot suo motu issue directions for resorting to provisional assessment.**

Question 8

What is the remedy available with the department in case assessing officer does not find the self assessment filed by the assessee in order?

Answer

Where the central excise officers during scrutiny or otherwise find that self-assessment is not in order, they may **ask the assessee for all necessary documents, records or other information** for issue of duty demand for differential duty, if any, after conducting inquiry.

If the assessee fails to provide such records or information, the department may raise the demand based on collateral evidences. In such a case, the burden will be on the assessee to provide information for appropriate re-determination of duty.

Question 9

With reference to Rule 12(2) of the Central Excise Rules, 2002, explain in brief the main provisions of the return in form E.R.-4, to be filed with the Central Excise Department by an

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assessee. What is the maximum penalty leviable for non-submission or late submission of E.R.-4 return?

Answer

Every assessee paying duty of ₹1 crore or more per annum [either through PLA or CENVAT Credit or both together] is required to file **Annual Financial Information Statement** for the preceding financial year to which the statement relates by 30th November of the succeeding year in **Form E.R.4**. The main contents of the return are as under (all information is to be in ₹ lakhs) –

- (i) Financial year to which it relates
- (ii) Registration Number
- (iii) Name of the Assessee
- (iv) Details of Expenditure
- (v) Details of Income
- (vi) CENVAT credit details

The maximum penalty for non-submission or late submission can be ₹5,000 under **rule 27** of the Central Excise Rules, 2002.

Question 10

Briefly describe the various periodic returns which are required to be filed under Central Excise Act, 1944?

Answer

The various periodic returns which are required to be filed under Central Excise Act, 1944 have been shown in the following table:

Form of Relevant Return	Relevant Rule of Central Excise Rules, 2002	Brief Description	Who is obliged to file Relevant Return	Statutory Time-Limit
ER-1	12(1)	Monthly Return	Manufacturers not eligible for SSI concession	10 th of the following month
ER-2	12(1)	Return by EOU	EOU Units	10 th of the following month
ER-3	Proviso to Rule 12(1)	Quarterly Return by SSI	Assessee eligible for SSI concession (even if he	10 th of the following quarter

			does not avail the SSI concession)	
ER-4	12(2)	Annual Financial Information Statement	Assessee paying duty of ₹ one crore or more p.a. [either through PLA or CENVAT or both together]	Annually by 30 th November of succeeding year
ER-5	9A(1) & 9A(2) of CENVAT Credit Rules, 2004	Information relating to Principal Inputs	Assessee paying duty of ₹ one crore or more p.a. [either through PLA or CENVAT or both together] and manufacturing goods under specified tariff headings	Annually by 30 th April for the current financial year
ER-6	Rule 9A(3) of CCR, 2004	Monthly return of receipt and consumption of each of Principal Inputs	Assessee required to submit ER-5 Return	10 th the following month
ER-7	Rule 12(2A) of CCR, 2004	Annual Installed Capacity Statement	All assessee except manufacturers of biris and matches without aid of power and reinforced cement concrete pipes	Annually by 30 th April for the previous year .

Question 11

Briefly explain the term '**large taxpayer**' with reference to the Central Excise Rules, 2002.

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Answer

As per **Rule 2(ea)** of the Central Excise Rules, 2002 '**large taxpayer**' means a person who

- (a) has one or more registered premises under the Central Excise Act, 1944; or
- (b) has one or more registered premises under Chapter V of the Finance Act, 1994;

and is an assessee under the Income-tax Act, 1961, who holds a Permanent Account Number issued under section 139A of the said Act, and satisfies the conditions and observes the procedures as notified by the Central Government in this regard.

Question 12

What are the due dates for duty payment and filing of returns by SSI Units?

Answer

In case of an assessee eligible to avail the exemption under a Notification based on the value of clearances in a financial year (SSIs), the duty on goods cleared during a **quarter** shall be paid as under:

Case	Due Date for payment of duty
If the duty is paid electronically through internet banking	6 th day of the month following that quarter
In any other case	5 th day of the month following that quarter
In the case of goods removed during the month of March	31 st day of March

It is also worth specifying that above relaxation is available to a unit which is "eligible" to claim SSI exemption regardless of fact whether the concerned unit actually claims it or opts to pay duty. Further, the above relaxation is available to an "eligible" unit for the entire financial year even if it crosses the limit of ₹ 400 lakh (aggregate value of clearances) in the current financial year

Question 13

ABC, an assessee availing the SSI exemption scheme, paid central excise duty of ₹10,000 for the goods cleared in the month of March, 2012 on April 15, 2012. Discuss whether any interest will be charged from ABC for late payment of duty. If yes, what will be the interest liability?

Answer

The second **proviso to rule 8(1)** of the Central Excise Rules, 2002 lays down that where an assessee is availing the exemption under a Notification based on the value of clearances in a financial year, the duty on goods cleared during a quarter of the financial year shall be paid by the 6th day of the month following that quarter, if the duty is paid electronically through internet banking and in any other case, by the 5th day of the month following that quarter. However, in

case of goods removed **during the month of March the duty shall be paid by the 31st day of March.**

Sub-rule (3) of rule 8 provides that if the assessee fails to pay the amount of duty by the due date, he shall be liable to pay the outstanding amount along with interest at the rate specified by the Central Government vide notification **under section 11AA of the Central Excise Act** on the outstanding amount. Such interest shall be paid for the period starting from the first day after the due date till the date of actual payment of the outstanding amount. The rate of interest has been specified as 18% vide *Notification No. 6/2011 CE(NT) dated 01.03.2011*.

Therefore, since ABC has paid the duty for the month of March on 15th April, it will have to pay the duty with interest for the delay of 15 days.

The amount of interest shall be computed as follows:

$$= ₹10,000 \times 18/100 \times 15/366 = ₹ 73.77$$

$$= ₹ 74.00 \text{ [Rounded off]}$$

Question 14

What do you mean by payment of excise duty under protest? Explain the procedure that has to be followed by an assessee who opts to pay duty under protest.

Answer

Meaning of payment of duty under protest: At times the classification and assessable value of goods determined by the excise authorities are not agreeable or acceptable to the assessee. In such cases, the assessee can file an appeal and in the meanwhile he can pay duty under protest if no stay is obtained from Appellate Authorities.

Procedure for making payment of duty under protest: As per Supplementary Instructions issued by CBEC, any assessee desirous of paying duty under protest has to follow the following procedure:

- (a) The assessee shall inform the Superintendent or Inspector of Central Excise in writing giving reasons for paying duty under protest and dated acknowledgement will be given to him.
- (b) The assessee shall mark invoices or monthly/quarterly returns indicating the goods on which duty is paid 'under protest'. If it is a lump-sum duty payment in respect of past demand, he may record the fact of duty payment under protest in the Personal Ledger Account, CENVAT Account and the Daily Stock Account.
- (c) If a case is appealed against by the assessee or where the appeal period for further appeal is available, he may continue to pay duty under protest. However, if decision is not in his favour and he exhausts the appellate remedy or does not appeal within stipulated period, he shall not have any right to pay duty under protest.

Question 15

What is an invoice? Describe the special considerations in respect of an invoice with respect to Rule 11 of the Central Excise Rules, 2002.

Answer

An invoice is the document under cover of which the excisable goods are to be cleared by the manufacturer. It also indicates the assessment of the goods to duty. Although the Department has specified the entries in the invoice, yet it is the manufacturer's own document.

According to **Rule 11** of Central Excise Rules, 2002 following special considerations are to be kept in mind:

- (I) No Clearance/Removal of Goods without an invoice:** No excisable goods shall be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorised agent.
- (II) Essential Particulars of Invoice:** The aforementioned Rule 11 provides that the invoice shall be serially numbered and shall contain the following particulars:
 - (a) Registration number
 - (b) Address of the jurisdictional Central Excise Division
 - (c) Name of the consignee
 - (d) Description
 - (e) Classification
 - (f) Time and date of removal
 - (g) Rate of duty
 - (h) Quantity
 - (i) Mode of Transport
 - (j) Vehicle registration number
 - (k) Value of goods
 - (l) Duty payable on goods
 - (m) Name of the proprietor or HUF if the business is owned by sole proprietor/HUF respectively
- (III) Number of copies of invoice:** The invoice shall be prepared in triplicate in the following manner:
 - (a) The original copy being marked as ORIGINAL FOR BUYER
 - (b) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER

(c) The triplicate copy being marked as TRIPLICATE FOR ASSESSEE

However, the assessee may make more than three copies for his other requirements. However, on such additional copies it should be prominently mentioned as "NOT FOR CENVAT PURPOSES".

- (IV) Number of Invoice Book:** Rule 11 further provides that only one invoice book shall be in use at a time unless otherwise allowed by the Deputy/Assistant Commissioner of Central Excise in the special facts and circumstances of each case. But if assessee requires two different invoice books for the purposes of removals for home-consumption and removals for export they may do so by intimating the jurisdictional Deputy/Assistant Commissioner of Central Excise. No permission is required to use different invoice book for home consumption and export.
- (V) Intimation of serial numbers:** Before making use of invoice book, the serial numbers of the same shall be intimated to the Superintendent of Central Excise having jurisdiction over the factory of the assessee. This can be done in writing by post/e-mail/fax/hand delivery or any other similar means.
- (VI) Rounding off duty in invoice:** The amount of duty shown in invoice should be rounded to the nearest rupee as provided for under Section 37D of the Central Excise Act, 1944 and the duty amount so rounded off should be indicated both in words as well as in figures.

Question 16

Explain the special facility available to a large tax payer under rule 12BB of Central Excise Rules, 2002 in respect of intermediate goods and the conditions required to be satisfied for availing the said facility.

Answer

Rule 12BB of Central Excise Rules, 2002 provides that a large tax payer may remove excisable intermediate goods, without payment of excise duty, from any of his registered premises to his other registered premises for further use in the manufacture of other excisable goods (subject goods).

For this purpose, he should satisfy the following conditions:

1. Either of the following conditions must be satisfied:-
 - (i) Subject goods should be manufactured out of the intermediate goods and cleared on payment of excise duties within six months from the date of receipt of intermediate goods, or
 - (ii) Subject goods should be manufactured out of the intermediate goods and exported out of India, under a bond or letter of undertaking, within six months from the date of receipt of intermediate goods.

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2. Removal should be made under a transfer challan/invoice.
3. Transfer challan should be serially numbered and should contain details of registration number, name, address, description, classification, time and date of removal, mode of transport, vehicle registration number and name of consignee unit and registration number.
4. If goods manufactured out of intermediate goods are not cleared on payment of excise duty /exported out of India within six months, duties on intermediate goods are required to be paid with interest under section 11A and 11AA of the Central Excise Act, 1944.
5. If intermediate goods are used in exempted subject goods, recipient unit has to pay duty on intermediate product along with interest under section 11AA.

Question 17

What are the circumstances under which the certificate of registration can be revoked or suspended under Central Excise?

Answer

The certificate of registration under the Central Excise Act, 1944, can be suspended or revoked by the Deputy Commissioner or the Assistant Commissioner of Central Excise under the following circumstances.

- (i) when the assessee or any person under his employment has committed any breach of any condition of the Central Excise Act or any rules made there under.
- (ii) the assessee or a person under his employment has been convicted of an offence under Section 161 read with section 109 or section 116 of the Indian Penal Code

Question 18

Distinguish between compounded levy scheme and duty based on annual production capacity under central excise.

Answer

Compounded levy scheme: Under compounded levy scheme, the manufacturer has to pay the prescribed duty for a specified period on the basis of certain factors relevant to production, like size of equipment employed, production capacity or some other criteria [Rule 15 of Central Excise Rules, 2002].

Compounded levy scheme is presently applicable to stainless steel pattas/patties and aluminum circles. It is an **optional** scheme, i.e. the manufacturer can opt to pay duty as per normal rules.

Duty based on production capacity: In case of certain products, Central Government, by notification, can specify that duty on such notified products will be levied and collected on the

basis of annual production capacity of the factory. [Section 3A(1) of the Central Excise Act, 1944 which has been inserted w.e.f. 10-05-2008].

Excise duty on pan masala and gutkha is payable on the basis of annual production capacity under section 3A. The scheme is **compulsory**.

Question 19

Explain briefly the following with reference to the provisions of the Central Excise Rules, 2002 and relevant notification issued thereunder with regard to e-payment of duty:

- (i) *The threshold limit for mandatory e-payment of duty;*
- (ii) *How and in what manner the time of payment would be reckoned under the e-payment system?*

Answer

- (i) E-payment of excise duty is mandatory for all assesseees who have paid excise duty of ₹10 lakh or more in previous year (either by cash or through CENVAT Credit). For others, it is optional.
- (ii) This a 24 x 7 facility. Payment can be made anytime from anywhere. All payments effected upto 8 p.m. will be accounted for the day as that day's receipt.

Payments effected after 8 p.m. will be accounted as the next working day's receipt.

Question 20

State briefly the procedure to be adopted for clearance of 'prototypes' which are sent for trial or development test from the factory in terms of the Central Excise Rules, 2002.

Answer

As per CBEC's Central Excise Manual of Supplementary Instructions 2005, if a prototype is to be sent out for trial purpose by actually putting them to effective use after conducting certain test to ensure that it meets with certain standard/specific norm, **clearance has to be made on payment of duty**. Its subsequent return to the factory is regulated in terms of rule 21 of the Central Excise Rules, 2002.

Question 21

Write short note on Duty drawback under section 37 of the Central Excise Act, 1944.

Answer

Under **duty drawback scheme**, excise and customs duties paid on inputs is given back to the exporters of finished products. **Section 37** of Central Excise Act, 1944 empowers the Central Government to make rules to carry into effect the purpose of the Act.

The Central Government, in exercise of powers conferred by section 37 of the Central Excise Act, 1944, section 75 of the Customs Act, 1962 and section 93A read with section 94 of the Finance Act, 1994 has made the **Customs, Central Excise Duties and Service Tax**

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Drawback Rules, 1995.

Under these rules, drawback is allowed on the export of goods at such amount, or at such rates, as may be determined by the Central Government.

The **All Industry Rates of Drawback** are given separately i.e., when CENVAT credit has been availed of and when such credit facility has not been availed of.

Question 22

M/s Royal Industries started its production activities on 15th March, 2012. In the month of March, 2012, 1,000 units of raw material were purchased at ₹150 per unit, paying excise duty @ 10%. 800 units of raw material were consumed in manufacturing process and finished output was sold for ₹1,40,000 (excluding excise duty @ 10%). For simplification, you may ignore the conversion cost and assume the rates of excise duty to be inclusive of education cess

Pass the Journal entries in the books of the assessee and show the balances in Balance Sheet as on 31.3.2012.

Answer

Journal entries in the books of M/s. Royal Industries:-

On the date of purchase	Purchases A/c Dr.	1,50,000	
	CENVAT Credit Receivable A/c Dr.	15,000	
	To Sundry Creditors A/c		1,65,000
	(Purchase of 1,000 units of raw material & CENVAT credit receivable on it)		
At the time of sale	Sundry Debtors A/c Dr.	1,54,000	
	To Sales A/c		1,40,000
	To Excise Duty A/c		14,000
	(Sold goods & excise duty payable on it)		
On payment of duty	Excise Duty A/c Dr.	14,000	
	To CENVAT Credit Receivable A/c		14,000
	(Excise duty paid out of CENVAT credit available)		

Balance sheet as on 31st March, 2012 (Relevant portion of Assets side only)

Current Assets, Loans and Advances		Amount (₹)
(A)	Current Assets	
	Inventory of raw material	30,000

(B)	Loans and Advances CENVAT Credit Receivable	1000
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Note: Other balances are not shown here

Question 23

Briefly explain the procedure for removal of goods by a unit which is an 100% EOU for Domestic Tariff Area.

Answer

Rule 17 of the Central Excise Rules, 2002 provides that where any goods are removed from a 100% EOU to domestic tariff area, such removal shall be made **under an invoice as per the procedure specified in rule 11** of the Central Excise Rules, 2002. Further, removal shall be made only after **payment of appropriate duty** by debiting the account current maintained for this purpose or by utilizing the CENVAT credit.

Such unit is required to **maintain appropriate accounts** related to production, description of goods, quantity removed and the duty paid in the prescribed form.

Such unit is required to **submit a monthly return in Form E.R-2** within 10 days from the end of the month to which the return relates in respect of the excisable goods manufactured in, and receipt of inputs and capital goods in, the unit. The return should be submitted to the Superintendent of Central Excise.

Question 24

Describe power to summon persons under the Central Excise Act.

Answer

Section 14 of the Central Excise Act deals with the **power to summon persons**. As per this section any Central Excise Officer empowered by the Central Government in this behalf, shall have power to summon any person whose attendance he considers necessary for:

- (i) giving evidence, or
- (ii) producing a document or any other thing

in any enquiry which he is making for any of the purposes of this Act.

All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct. Further, these persons shall be bound to state the truth upon any subject in respect of which they are examined and produce documents and other things as may be required. Exemptions under sections 132 and 133 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section. **Every inquiry under this**

section shall be deemed to be a “judicial proceeding” within the meaning of section 193 and section 228 of the Indian Penal Code.

Question 25

Write a brief note with reference to the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 on the provisions relating to the following cases:

- (i) *Consequence of goods not being used for intended purposes.*
- (ii) *Defective, damaged, unsuitable, surplus goods returned to manufacturer.*
- (iii) *Goods lost or destroyed by natural causes or unavoidable accident and not used for intended purpose.*

Answer

The provisions of the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 in relation to the following cases are explained as under:

- (i) Consequence of goods not being used for intended purpose:-

If the material received at concessional rate of duty is not used for intended purpose, the manufacturer is liable to pay the amount equal to the difference between the duty leviable on such goods without the concession available under these rules and that already paid, if any, at the time of removal from the factory of the manufacturer of the subject goods, along with interest.

The provisions of section 11A and section 11AA of the Central Excise Act, 1944 apply *mutatis mutandis* for effecting such recoveries.

- (ii) Defective, damaged, unsuitable, surplus goods returned to manufacturer:-

If the manufacturer on receiving the subject goods finds them to be defective or damaged or unsuitable or surplus to his needs, he may return the subject goods to the original manufacturer of the goods.

Such returned goods are added to the non duty paid stock of the manufacturer of the subject goods and dealt with accordingly.

- (iii) Goods lost or destroyed by natural causes or by unavoidable accident and not used for intended purpose:-

If the goods are lost or destroyed by natural causes or by unavoidable accident during transport from

- the place of procurement to the manufacturer's premises or
- from the manufacturer's premises to the place of procurement or

- during handling or storage in the manufacturer's premises,
the manufacturer is liable to pay the amount equal to the difference between the duty leviable on such goods without the concession available under these rules and that already paid, if any, at the time of removal from the factory of the manufacturer of the subject goods, along with interest.

The provisions of section 11A and section 11AA apply *mutatis mutandis* for effecting such recoveries also.

Question 26

Write a brief note under the Central Excise Act, 1944 in the context of provisions relating to 'payment of duty under protest'.

Answer

If the assessee does not agree to the classification or assessable value of goods determined by the excise authorities, he can file an appeal and till the time the appeal is decided, can pay the duty under protest if no stay is obtained from Appellate Authorities. However, if the appeal is not decided in his favour and the appellate remedy is exhausted, the assessee will lose the right to pay duty under protest. The time limit of one year for claiming refund of excise duty does not apply if duty is paid under protest.

The assessee will inform the Superintendent/Inspector of Central Excise that he is paying duty under protest in writing. He will mark invoices or monthly/quarterly returns indicating the goods on which duty is paid as 'under protest'. In case of lump-sum duty payment of past demand, he may record the fact of duty payment under protest in the PLA, CENVAT account or Daily Stock Account.

Question 27

Briefly state the provisions under the Central Excise Rules, 2002 with respect to filing of 'Annual Installed Capacity Statement'.

Answer

Every assessee has to submit to the Superintendent of Central Excise an Annual Installed Capacity Statement declaring the annual production capacity of the factory for the financial year to which the statement relates by 30th April of the succeeding financial year in Form ER-7 [Rule 12(2A)].

However the assessee's manufacturing biris, matches, reinforced cement concrete pipes under prescribed conditions are exempt from the submission of Annual Installed Capacity Statement.

Question 28

Explain briefly "Annual Financial Information Statement" under the Central Excise Rules, 2002.

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Answer

Annual Financial Information Statement is a return to be submitted in Form-ER-4. It is to be submitted by every assessee to the Superintendent of Central Excise for the preceding financial year by 30th November of the succeeding year [Rule 12(2)(a) of the Central Excise Rules, 2002].

The following assesseees have been exempted from such submission of ER-4 :

- (i) An assessee who pays less than ₹.1 crore of excise duty during the financial year to which ER-4 relates.
- (ii) Indian Ordnance Factories, Department of Defence Production and Ministry of Defence.

Question 29

Briefly state the provisions of the Central Excise Rules, 2002 relating to electronic payment of excise duty and electronic filing of returns.

Answer

The Third proviso to Rule 8(1) of the Central Excise Rules, 2002 provides that an assessee, who has paid duty of ten lakh rupees or more, including the amount of duty paid by utilization of CENVAT credit, in the preceding financial year has to deposit the duty electronically through internet banking.

Further, the returns and statements prescribed under rule 12 has to be filed electronically by all the assesses irrespective of the duty paid in the preceding year.

Question 30

Section 13 of Central Excise Act, 1944 relates to power to arrest. According to this Section, who has the power to arrest and subject to what conditions?

Answer

According to section 13 of the Central Excise Act, 1944, any central excise officer not below the rank of Inspector of Central Excise has the power to arrest a person whom he has reason to believe to be liable to punishment under Central Excise Act or Rules. Prior approval of Commissioner of Central Excise is required for arrest.

Question 31

What is the meaning of 'fund' according to Section 2(ee) of Central Excise Act, 1944?

Answer

As per section 2(ee) of the Central Excise Act, 1944, 'fund' means the consumer welfare fund established under section 12C.

Question 32

Examine the validity of the following statements, with reference to the Central Excise Rules, 2002:-

- (a) The procedures prescribed for export under claim for rebate and export without payment of duty under bond does not apply to Nepal .
- (b) In respect of goods received at concessional rate of duty, return is required to be filed on a monthly basis.

Answer

- (a) The said statement is not valid. With effect from 01.03.2012 vide **Notifications Nos. 24-29 CE (NT) all dated 05.12.2011**, the export procedures for Nepal has been amended. The procedures prescribed for export under claim for rebate (Rule 18 of Central Excise Rules, 2002) vide *Notification No. 19/2004 CE (NT) dated 06.09.2004* and export without payment of duty under bond (Rule 19 of Central Excise Rules, 2002) vide *Notifications Nos. 42 to 44/2001 CE (NT) all dated 26.06.2001* would apply to Nepal as well. This has been done in view of the revised treaty between India and Nepal.
- (b) The said statement is not valid. Rule 5 of the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 has been amended vide **Notification No. 13/2012-CE (NT) dated 17.03.2012** to, inter alia, provide that the manufacturer, receiving goods at concessional rate of duty, has to submit a quarterly return instead of a monthly return.

Question 33

Can a document which is relevant for a proceeding under the Central Excise Act, 1944 be searched by a Central Excise Officer? Explain the relevant provisions.

Answer

The provisions of section 12F of the Central Excise Act, 1944 (as inserted by the Finance Act, 2011) are as follows:-

Where the Joint Commissioner/Additional Commissioner of Central Excise or such other Central Excise Officer as may be notified by the Board has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the

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word “Magistrate”, wherever it occurs, the words “Commissioner of Central Excise” were substituted.

Question 34

Write a detailed note on power of Search and Seizure under Central Excise Act, 1944.

Answer

The note has been given in the form of a table:

Relevant Heading	Description	Relevant Section
Under what circumstances power of search and seizure may be exercised	Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise Officer as may be notified by the Board has reasons to believe that any goods liable to confiscation or any documents or books or things , which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place.	12F(1)
Who can exercise power of search and seizure	Any of the following officers can exercise power of search and seizure: (A) Any officer of Central Excise who has been duly authorised in writing either by Joint Commissioner or Additional Commissioner. (B) Joint Commissioner of Central Excise. (C) Additional Commissioner of Central Excise.	12F(1)
Applicability of provisions of Code of Criminal Procedure, 1973	The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the words “Commissioner of Central Excise” were substituted.	12F(2)

Exercise

1. *Who is required to obtain registration under Rule 9 of the Central Excise Rules, 2002?*
2. *Explain the provisions relating to provisional assessment.*
3. *Write a brief note on powers of Central Excise Officers.*
4. *What are the procedures to be followed in relation to following:*
 - (a) *Payment of excise duty by assessees*
 - (b) *Payment of duty electronically*
 - (c) *Filing of return by assessees*
 - (d) *Job worker discharging duty on manufacture of branded jewellery.*
5. *When and how is the assessee required to discharge his liability towards payment of duty under the Central Excise Rules, 2002?*
6. *Discuss the mechanism for removal of goods at concessional rate of duty for manufacture of excisable goods with reference to the Central Excise Act, 1944 and the rules made thereunder.*
7. *Discuss the provisions in respect of removal of goods by a unit in Hundred Percent Export Oriented Undertaking for Domestic Tariff Area.*
8. *What do you mean by payment of excise duty under protest? Explain the procedure that has to be followed by an assessee who opts to pay duty under protest.*
9. *Discuss the special provisions for removal of excisable goods in respect of molasses.*
10. *Explain the provisions relating to provisional assessment.*
11. *Discuss the special provisions in respect of job work relating to articles of jewellery.*
12. *Write a brief note on powers of Central Excise Officers.*
13. *Who is a client executive in relation to LTU?*
14. *What are the due dates for duty payment and filing of returns by SSI units?*