

Exemption Based on Value of Clearances (SSI)

Question 1

Answer the following questions with reference to Notification No. 8/2003-CE dated 01.03.2003 relating to small scale units:

- (i) *What is the eligible turnover for claiming exemption under the said notification?*
- (ii) *How will the turnover be computed when the manufacturer has more than one factory?*
- (iii) *What does 'value' mean for the purposes of the said notification?*
- (iv) *Comment on the availability of CENVAT credit on capital goods under the said notification.*
- (v) *What is the treatment in respect of 'clearances of excisable goods without payment of duty' as specified in the said notification?*

Answer

- (i) The eligible turnover for claiming exemption under the said notification is ₹400 lakh. The units whose value of clearances computed in accordance with *Notification No.8/2003* is less than or equal to 400 lakh (4 crore) in the previous financial year are eligible for the benefit of exemption in the current financial year.
- (ii) When a manufacturer clears the goods from one or more factories, the turnover of all the factories have to be aggregated for the purpose of claiming exemption under the said notification.
- (iii) The value for the purposes of the said notification would mean the value fixed under section 4 or section 4A or the tariff value fixed under section 3(2).
- (iv) The units availing the benefit of said notification cannot avail CENVAT credit on inputs. However, they can avail CENVAT credit on capital goods but the same can be utilized for payment of duty on final products only after the turnover reaches ₹ 150 lakh.
- (v) Paragraph 3A of the said notification lays down that for computing the value of clearances of all excisable goods for home consumption (₹ 400 lakh), the following 'clearances of excisable goods without payment of duty' shall not be taken into account, namely-
 - (a) to a unit in the Free Trade Zone
 - (b) to a unit in the Special Economic Zone

- (c) to a 100% Export Oriented Undertaking
- (d) to a unit in the Electronic Hardware or Software Park
- (e) supplies to United Nations or an international organization for their official use or supplied to projects funded by them on which exemption of duty is available in terms of *Notification No.108/95-CE dated August, 28, 1995*.

Question 2

Explain any five instances when small scale exemption will be available to the excisable goods bearing the brand name of another person.

Answer

SSI Notification No. 8/2003 dated 1.3.2003 denies the benefit of the exemption on clearances bearing a brand name of another person. This means that such clearances would attract normal rate of duty. However, in the following exceptional situations small scale exemption will be available on the excisable goods bearing the brand name of another person:

(A) Manufacturers of components/parts of any machinery/equipment/appliances for use as original equipment in the factory

Where the manufacturer manufactures components/parts of any machinery, equipment or appliance for use as original equipment in the factory even if such components have a trade name or brand name, the exemption would be available subject to provisions of Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001.

(B) Goods bearing the brand name of KVIC/NSIC/SSIDC etc.

When the goods bear the brand name of Khadi and Village Industries Commission (KVIC) or a State Khadi and Village Industry Board or National Small Industries Corporation (NSIC) or a State Small Industries Development Corporation (SSIDC) or a State Small Industrial Corporation, such goods are entitled to SSI exemption.

(C) Account books, registers, writing pads and file folders: Account books, registers, writing pads and file folders falling under heading 4820 or 4821 of the First Schedule of the Central Excise Tariff are entitled to small scale exemption even if they bear a brand name or trade name whether registered or not, of another person.

(D) Packing materials: SSI exemption is available in case the specified goods are in the nature of packing materials and are meant for use as packing material by or on behalf of the person whose brand name they bear even if they bear the brand name of others.

(E) Goods manufactured in rural area

Goods bearing the brand name of another person, when manufactured in a rural area, are eligible for SSI exemption.

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Question 3

An SSI manufacturer may like to pay full duty even when he is eligible for SSI exemption.

- (a) *Can he do so?*
- (b) *Why he would like to pay full duty?*
- (c) *What is the duty payable?*

Answer

- (a) Yes, the concerned manufacturer can do so. In such a situation he can avail CENVAT credit on inputs.
- (b) He would like to pay full duty if his customer wants to avail CENVAT credit and if duty paid on his inputs is quite substantial. As a result, the effective cost of the buyer will be reduced.
- (c) Duty payable will be normal duty less concession, if any available under any other exemption notification.

Question 4

A small scale manufacturer had achieved sales of ₹ 89 lakh during the year 2012-13. Turnover achieved during 2013-14 was ₹ 1.52 crores. Normal duty payable on the product is 12% plus applicable education cesses. Find the total excise duty paid by the manufacturer during 2013-14 in each of the following cases:-

- (A) *If the unit has availed CENVAT credit.*
- (B) *If the unit has not availed CENVAT credit*

Answer

- (A) **If the unit has availed CENVAT credit:** In this case the unit is required to pay duty at normal rates on the entire turnover i.e. 12.36% [consisting of Excise Duty @ 12%, Primary Education Cess @ 2% on Excise Duty and Secondary and Higher Education Cess @ 1% on Excise Duty] on 1.52 crores which works out to be ₹ 18,78,720/-
- (B) **If the unit has not availed CENVAT credit:** In this case duty payable will be computed as under:
 - (i) On ₹ 150 lakhs = NIL
 - (ii) On subsequent sales= Normal duty @ 12.36% i.e. 12.36% of ₹ 2,00,000 which works out to be ₹ 24,720/-

Question 5

- (i) *If a manufacturer manufactures various products, can he avail CENVAT credit on some products and exemption under Notification No. 8/2003-CE dated 01.03.03 on some other products?*

- (ii) Whether a SSI unit whose turnover exceeds ₹ 140 lakhs per annum has to give a declaration in the prescribed form ?

Answer

- (i) Simultaneous availment of CENVAT and SSI exemption is permissible when a SSI unit manufactures branded (with other's brand name) and unbranded/self branded goods. In other words, where a SSI unit manufactures branded (with other's brand name) and unbranded/self branded goods, it can-
- avail CENVAT on inputs used in the manufacture of branded goods (with other's brand name) and pay duty on the final product; and
 - avail SSI exemption on unbranded/self branded goods (in this case, CENVAT on inputs used in the manufacture of such exempted goods will not be allowed).

However, it may be noted that such simultaneous availment of CENVAT and SSI exemption is permissible only in case of simultaneous manufacture of branded (with other's brand name) and unbranded/self branded goods. In other cases, this is not permissible.

- (ii) No. A SSI unit whose turnover exceeds ₹ 90 lakhs per annum has to give a declaration in the prescribed form.

Question 6

M/s. RKR manufactures footwear bearing the unregistered brand name "Lotus" which is registered by M/s. Lotus Industries Ltd. for manufacture of detergent powder. When the Department disallowed the benefit of small scale exemption to M/s. RKR, under Notification No. 8/2003-C.E. on the ground that their goods are bearing brand name of another person, it contended that M/s. Lotus Industries Ltd. owns brand name Lotus only for detergent power and not for footwear. Examine, with the help of a decided case law, if any, whether, in the instant case, SSI exemption is available to M/s. RKR.

Answer

No, SSI exemption is not available to M/s. RKR. The facts of the given case are similar to the case of *CCE v. Rukmani Pakkwell Traders 2004 (165) E.L.T. 481 (S.C.)*. In the instant case, Supreme Court, on the basis of the following observations, reversed the Tribunal's decision that SSI exemption is available to the assessee and held that the assessee is not so entitled to SSI exemption:-

- (i) Firstly, the Tribunal's reliance upon *Circular No. 88/88-CX.6 dated 30-12-1988* was erroneous. The circular clarified that if there were more than one registered owner in respect of the same trade mark, then merely because the other person had the same registered mark in some other goods, would not preclude the owner of the trade mark from getting the benefits of the SSI exemption.

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Thus, said circular had no application to the facts of this case as the assessee was not the owner of the trade mark.

- (ii) Secondly, the exemption notifications have to be strictly construed. The SSI exemption notification clearly provides that the exemption will not apply if the specified goods bear a brand or trade name of another person, but the notification nowhere stipulates that the specified goods must be same or similar to the goods for which the brand name or trade name is registered. Consequently, the benefit of exemption would be lost even if the brand name or trade name is used in respect of different goods.

In other words, even if brand name of another person is used in respect of goods of other class or kind (different from the nature of the goods of the owner of brand name), benefit of SSI exemption shall not be available.

In view of the aforementioned provisions, M/s RKR will not be entitled to the SSI exemption as their goods bear the brand name "LOTUS" owned by M/s. Lotus Industries Ltd. The fact that M/s. RKR uses the brand name on footwear while the same is being used by M/s. Lotus Industries Ltd. on detergent powder, is of no relevance.

Note: Circular No. 88/88-CX.6 dated 30-12-1988 clarifies that in case a manufacturer uses the brand name of another person in respect of a different product, the benefit of SSI exemption would be available to him provided both the brand name owners had registered the brand name for their respective products. In Rukmani Pakkwell Traders case referred above, the assessee was denied the benefit of the SSI exemption because the said circular was not applicable in this case as the assessee was not the owner of the trade mark. However, in case the assessee had got the trade mark registered, the benefit of SSI exemption would have been available to him.

Question 7

Small & Company, a small scale industry, provides the following details.

	Particulars	₹. (Lakhs)
(i)	Total value of clearances during the financial year 2012-13 (including VAT ₹ 50 lakhs)	870
(ii)	Total exports (including for Nepal and Bhutan ₹200 lakhs)	500
(iii)	Clearances of excisable goods without payment of duty to a unit in Software Technology Park	20
(iv)	Job work under Notification No. 84/94-CE dated 11.4.94	50
	Job work under Notification No. 214/86-CE dated 25.3.86	50
(v)	Clearances of excisable goods bearing brand name of Khadi and Village Industries Commission	200

Clearances at point (ii), (iii), (iv) and (v) are included in clearances at point (i).

Determine the eligibility for exemption based on value of clearances for the financial year 2013-14 in terms of Notification No. 8/2003-CE dated 1.3.2003 as amended. Make suitable assumptions and provide brief reasons for your answers where necessary.

Answer

Calculation of value of clearances during financial year 2012-13

Particulars	₹ (in lakhs)
Total value of clearances during the financial year 2012-13	870
Less : VAT included in above	<u>50</u>
	820
Less: Exports excluding exports to Nepal and Bhutan ₹ (500-200) lakh	300
Clearances of excisable goods without payment of duty to a unit in Software Technology Park	20
Job work done under Notification No. 84/94-CE dated 11.04.94 and under Notification No. 214/86-CE dated 25.3.86 i.e., ₹ (50 + 50) lakh	<u>100</u>
Value of clearances during the financial year 2012-13	<u>400</u>

Notes:- While computing value of clearances during financial year 2012-13 (as shown above),

1. export turnover has been excluded. However, export to Nepal and Bhutan cannot be excluded as these are treated as "clearances for home consumption".
2. job work under Notification No. 214/86 - CE and Notification No. 84/94-CE is not taken into consideration.
3. clearances of excisable goods without payment of duty to a unit in Software Technology Park are deducted.
4. clearances of excisable goods bearing brand name of Khadi and Village Industries Commission are included.

In order to claim the benefit of exemption under Notification No. 8/2003 – C.E. in a financial year, the total turnover of a unit **should not exceed ₹ 400 lakh in the preceding year**. Since the value of clearances in the previous financial year 2012-13 does not exceed ₹ 400 lakh, Small & Company is eligible to claim the benefit of Notification No. 8/2003 dated 1st March, 2003 in the financial year 2013-14.

Question 8

CTL Ltd. has a manufacturing unit situated in Lucknow. In the financial year 2012-13, the total value of clearances from the unit was ₹ 450 lakh. The break up of clearances is as under:

- (i) Clearances worth ₹ 50 lakh of certain non-excisable goods manufactured by it.
- (ii) Clearances worth ₹ 50 lakh exempted under specified job work notification.

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- (iii) Exports worth ₹100 lakh (₹75 lakh to USA and ₹25 lakh to Nepal).
- (iv) Clearances worth ₹50 lakh which were used captively to manufacture finished products that are exempt under notifications other than Notification No. 8/2003-CE dated 1.3.2003 as amended. [The value of clearances of final products manufactured from such intermediate products is not included in the total turnover of ₹150 lakh]
- (v) Clearances worth ₹200 lakh of excisable goods in the normal course.

Explain briefly, the treatment for various items and state, whether the unit will be eligible for the benefit of exemption under Notification No. 8/2003-CE dated 1.3.03 as amended for the year 2013-14.

Answer

In order to claim the benefit of exemption under Notification No. 8/2003 – C.E. in a financial year, the total turnover of a unit should not exceed ₹400 lakh in the preceding year. As per Notification No. 8/2003 CE dated 01.03.2003, for the purpose of computing the turnover of ₹400 lakh:-

- (i) Turnover of non-excisable goods has to be excluded. Therefore, clearances of non-excisable goods of worth ₹50 lakh shall be excluded.
- (ii) Clearances exempt under job work notifications are not considered. Therefore, exempt clearances of ₹50 lakh under job work notification will be excluded.
- (iii) Export turnover has to be excluded. However, export to Nepal and Bhutan cannot be excluded as these are treated as “clearance for home consumption”. Therefore, clearances worth ₹75 lakh exported to USA will be excluded while clearances worth ₹25 lakh exported to Nepal will be included.
- (iv) Value of intermediate products manufactured has to be included if the final product is exempt under any notification other than Notification No. 8/2003-CE dated 1-3-2003. Therefore, clearances worth ₹50 lakh which were used captively to manufacture finished products exempt under notifications other than Notification No. 8/2003 will be included.
- (v) Clearances of excisable goods of ₹200 lakh in the normal course will be considered.

Therefore, the turnover of CTL Ltd. for claiming the SSI exemption will be:-

$$= ₹450 \text{ lakh} - (₹50 \text{ lakh} + ₹50 \text{ lakh} + 75 \text{ lakh}) = ₹275 \text{ lakh}$$

Since the turnover is less than ₹400 lakh, CTL Ltd. will be eligible for exemption under Notification No. 8/2003 – CE in the financial year 2013-14.

Question 9

A SSI unit has effected clearances of goods of the value of ₹475 lacs during the financial year 2012-13. The said clearances include the following:

(i) Clearance of excisable goods without payment of excise duty to a 100% EOU	₹120lacs
(ii) Job work in terms of Notification No. 214/86 CE, which is exempt from duty	₹75 lacs

(iii) Export to Nepal and Bhutan	₹ 50 lacs
(iv) Goods manufactured in rural area with the brand name of the others	₹ 90 lacs

Examine with reference to the notification governing SSI exemption under the Central Excise Act whether the benefit of exemption would be available to the unit for the financial year 2013-14.

Answer

A SSI unit shall be eligible for benefit of exemption notification only if value of clearances during **preceding financial year does not exceed ₹400 lakhs.**

The item wise treatment shall be as under -

1. Clearance to 100% EOU shall be excluded for calculating the limit of 400 lakhs.
2. Clearance under *Notification No. 214/86* shall be excluded for calculating the limit of 400 lakhs.
3. Export to Nepal & Bhutan is considered as home consumption and thus, it shall be included for computing limit of 400 lakhs.
4. The turnover of goods manufactured in rural area with the brand name of the others shall be included for computing limit of ₹400 lakhs.

Calculation of clearances during financial year 2012-13:

Total value of clearances		475 lakhs
Less: Clearance to 100% EOU	120 lakhs	
Clearance under <i>Notification No. 214/86</i>	<u>75 lakhs</u>	<u>195 lakhs</u>
		<u>280 lakhs</u>

As the value of clearances for home consumption in financial year 2012-13 does not exceed ₹ 400 lakhs, the benefit of exemption shall be available to the SSI unit during financial year 2013-14.

Question 10

Choti Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2013. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 1-3-2003 as amended for the financial year 2013-14. The following details are provided:

	₹
15,000 kg of inputs purchased @ ₹ 992.70 per kg (inclusive of central excise duty @ 12.36%)	1,48,90,500
Capital goods purchased on 28.6.2013 (inclusive of excise duty at 12.36%)	44,12,000

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Finished goods sold [at uniform transaction value (exclusive of excise duty) throughout the year]	2,50,00,000
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Calculate the amount of excise duty payable by M/s. Choti Ltd. in cash, if any, during the year 2013-14. Rate of duty on finished goods sold may be taken at 12.36%. There is neither any processing loss nor any inventory of input and output. Show your workings and notes with suitable assumptions as required.

Answer

Computation of the excise duty payable

Particulars	₹	₹
Finished goods sold during the year		2,50,00,000
Less: Exemption of ₹150 lakh under Notification No. 8/2003 CE dated 01-03-2003		<u>1,50,00,000</u>
Dutiable clearances [Note 1]		<u>1,00,00,000</u>
Excise duty payable @ 12.36% ($₹1,00,00,000 \times 12.36\%$)		12,36,000
Less: I. CENVAT credit available on inputs [Note 2]		
Proportion of inputs consumed in dutiable clearances		
$= ₹ \frac{1,00,00,000}{2,50,00,000} = 0.4$	6,55,203	
Excise duty paid on such inputs		
$= [1,48,90,500 \times \frac{12.36}{112.36}] \times 0.4$		
II. CENVAT credit available on capital goods [Note 3]	<u>4,85,336</u>	<u>11,40,539</u>
$= ₹ [44,12,000 \times \frac{12.36}{112.36}]$		
Excise duty payable in cash		95,461

Notes:

- Since there is neither any processing loss nor inventory of input and output, it implies that all goods manufactured have been sold and entire quantity of inputs has been used in manufacturing these goods.
- In respect of units availing SSI exemption, no CENVAT credit is available on inputs consumed in exempt clearances of ₹150 lakh.
- In respect of units availing SSI exemption, CENVAT credit on capital goods can be availed but utilized only after clearances of ₹150 lakh. Further, entire credit on capital goods can be taken in the same financial year by such units.

Question 11

MNO Ltd. is in the manufacture of both excisable and non-excisable goods in a factory building rented by them from October 1, 2012. From the following particulars for the period October 1, 2012 to March 31, 2013, state briefly with suitable explanations, whether MNO Ltd. could claim the benefit of exemption in terms of Notification No. 8/2003-CE dated 1-3-2003 for the financial year 2013-14.

		₹ (in lakhs)
(i)	Clearances of goods bearing the brand name of another person	60
(ii)	Export Sales to Nepal	80
(iii)	Export Sales to USA and Canada	120
(iv)	Clearances of goods (duty paid based on Annual capacity of production under section 3A of the Central Excise Act, 1944)	70
(v)	Clearances of goods subject to valuation based on retail sale price under section 4A of the Central Excise Act, 1944 (the said goods are cleared at MRP and are eligible for 30% abatement)	200
(vi)	Job work under Notification No. 214/86-CE dated 25-3-86	60

During the period April 1, 2012 to Sept 30, 2012, the previous tenant of the factory building presently occupied by MNO Ltd. had cleared excisable goods of the aggregate value of ₹120 lakhs.

Answer**Computation of value of clearances for home consumption in the financial year 2012-13**

S.No.	Particulars	₹ (in lakh)
(i)	Clearances of branded goods (Note-1)	Nil
(ii)	Export sales to Nepal (Note-1)	80
(iii)	Export sales to USA and Canada (Note-1)	Nil
(iv)	Clearances of goods on which duty has been paid under section 3A of the Central Excise Act	70
(v)	Clearances of goods subject to valuation under section 4A of the Central Excise Act (Note-2)	140
(vi)	Job work under Notification No. 214/86-CE (Note-1)	Nil
(vii)	Clearances of previous tenant of the building occupied by MNO Ltd. (Note- 3)	<u>120</u>
	Total	<u>410</u>

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Notes:

1. In order to claim the benefit of exemption under *Notification No. 8/2003 C.E. dated 01.03.2003* in a financial year, the total turnover of a unit should not exceed ₹ 400 lakh in the preceding financial year. *Notification No. 8/2003 C.E. dated 01.03.2003* provides that for the purpose of computing the turnover of ₹ 400 lakh:-
 - (a) clearances bearing the brand name or trade name of another person are excluded. It has been assumed that the branded goods are excisable goods and they bear the brand name of another person and not the brand name of MNO Ltd.
 - (b) export turnover is excluded. However, exports to Nepal and Bhutan are not excluded as these are treated as "clearance for home consumption". It has been assumed that goods exported by MNO Ltd. to Nepal are excisable goods.
 - (c) clearances under specified job work notifications are excluded and *Notification No. 214/86 CE dated 25.03.86* is one of the specified notification.
2. In case of the goods subject to valuation under section 4A of the Central Excise Act, 1944, value for the purpose of the SSI exemption would mean value fixed under section 4A i.e., retail sale price less abatement. Hence, value of such clearances would be ₹ 200 lakh × 70% = ₹ 140 lakh.
3. For the purpose of computing the turnover of ₹ 400 lakh, all the clearances made by different manufacturers from the same factory are to be clubbed together. Hence, clearances, worth ₹ 120 lakh of previous tenant of the building occupied by MNO Ltd. have been added.

Conclusion: Since the value of clearances for home consumption exceeds ₹ 400 lakh in the financial year 2012-13, MNO Ltd. is not eligible to claim the benefit of exemption under *Notification No. 8/2003 – C.E. dated 01.03.2003* in the financial year 2013-14.

Question 12

SSI & Co. is eligible for exemption in terms of Notification No. 8/2003-CE dated 1-3-2003 for the year 2013-14. It provides the following particulars with regard to the clearances of goods effected during the said year. Determine the duty payable in respect of the year 2013-14:

Particulars	₹ (in lakhs)
Value of domestic clearance of goods with own brand name	120
Value of clearance of goods with the brand name of others (including ₹ 30 lakhs in respect of goods manufactured in a rural area)	100
Value of clearances for exports	50
Value of clearances for captive consumption (Final products are eligible for SSI exemption)	40

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Value of clearances of goods exempted under notification other than Notification No. 8/2003 (Assume rate of excise duty at 12%)	20
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Show your workings with explanations where required.

Answer

Computation of turnover of M/s. SSI & Co. eligible for exemption during the year 2013-14

Particulars	₹ in lakh
<i>Turnover to be excluded:</i>	
Value of clearances for export [Note – 1]	50
Value of clearances for captive consumption [Note – 1]	40
Value of clearances of exempted goods [Note – 1]	20
Value of domestic clearance of goods with brand name of others (excluding goods manufactured in rural area) [Note – 2]	70
<i>Turnover to be included:</i>	
Value of domestic clearances with own brand name	120
Value of clearances of goods with brand name of others manufactured in rural area	<u>30</u>
Total	<u>150</u>

Computation of excise duty payable

On 1 st clearance of ₹ 150 lakh duty is	Nil
On clearances with brand name of others worth ₹ 70 lakh (excluding rural area clearances) @ 12% [Note 3]	8,40,000
Add: Education cess and secondary and higher education cess @ 3%	<u>25,200</u>
Total excise duty liability	<u>8,65,200</u>

Notes:

- As per Notification No. 8/2003 CE dated 01.03.2003, export clearance, captive consumption and exempted clearances are not included in determining the limit of first ₹ 150 lakh for SSI exemption.
- As per Notification No. 8/2003 CE dated 01.03.2003, the clearances with the brand name of others which are ineligible for SSI exemption has to be excluded while determining the limit of ₹ 150 lakh. However, clearances with the brand name of others manufactured in rural area are eligible for SSI exemption and hence, such clearances are included while determining the limit of ₹ 150 lakh.

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3. Duty is not payable on export clearance and exempted clearances. Further, intermediate goods used captively in the manufacture of final products which are eligible for SSI exemption are also exempt from excise duty. Thus, duty will be payable only in respect of the goods manufactured with brand name of others.

Question 13

Arigo Ltd. is a small scale industrial unit which is producing 'Fast', a tonic for growing children. Under the Annual Report for the year 2013-14, the SSI unit shows gross sales turnover of ₹ 1,95,10,000, inclusive of excise duty and VAT. The product 'Fast' attracts excise duty @ 12% and VAT @ 1%. Calculate the duty liability under Notification No. 8/2003 dated 01.03.2003.*

**Gross Sales Turnover of ₹ 1,95,10,000 is eligible for exemption under Notification No. 8/2003. Further, for the year 2012-13, the taxable clearances of SSI unit was ₹ 1,60,00,000.*

Answer

Since, the turnover of previous year was less than ₹ 400 lakh, Arigo Ltd. will be eligible for SSI exemption under Notification No. 8/2003 CE dated 1.3.2003 during the year 2013-14.

Calculation of duty liability under Notification No. 8/2003.

Gross sales turnover is ₹ 1,95,10,000 which includes excise duty and VAT

For first 150 lakh clearances, excise duty is Nil and VAT is 1%.

Therefore, VAT on first ₹ 150 lakh clearances = ₹ 1,50,000.

For Balance sales (including excise duty and VAT)

= ₹ 1,95,10,000 – (1,50,00,000 + 1,50,000) = ₹ 43,60,000

VAT = 43,60,000 × 1/101 = ₹ 43,168 (rounded off)

Therefore, balance sales excluding VAT but including excise duty

= ₹ 43,60,000 – 43,168

= ₹ 43,16,832

Hence, excise duty (including 2% education cess and 1% secondary and higher education cess) = ₹ 43,16,832 × 12.36/112.36 = ₹ 4,74,866.89

Total duty payable = ₹ 4,74,866.89 or ₹ 4,74,867 (rounded off)

Question 14

Aggarwal & Company is a manufacturing company. In the financial year 2012-13, the details of its clearances of excisable goods are as follows:-

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	Particulars	₹ (Lakhs)
(i)	Total exports (including for export to Bhutan ₹ 50 lakhs)	600
(ii)	Clearances of excisable goods without payment of duty to a 100% EOU	10
(iii)	Job work under Notification No. 84/94-CE dated 11.4.94	50
(iv)	Job work under Notification No. 214/86-CE dated 25.3.86	50
(v)	Clearances of goods bearing brand name of National Small Industries Corporation	100
(vi)	Clearances of corrugated boxes bearing the brand name of Sugar & Spice Confectioners. Sugar & Spice Confectioners use these corrugated boxes for packing the bakery products produced by them.	200

On the basis of above information, you are required to ascertain the eligibility of Aggarwal and Company for exemption based on value of clearances in terms of Notification No. 8/2003-CE dated 1.3.2003 as amended for the financial year 2013-14.

Answer**Calculation of value of clearances of Aggarwal and Company during financial year 2012-13**

Particulars	₹ (in lakhs)
Export to Bhutan (Note-1)	50
Clearances of excisable goods bearing brand name of National Small Industries Corporation (Note-4)	100
Clearances of corrugated boxes bearing the brand name of Sugar and Spice Confectioners used for packing the bakery products by them (Note-4)	<u>200</u>
Value of clearances during the financial year 2012-13	<u>350</u>

Notes:- In order to claim the benefit of exemption under *Notification No. 8/2003 – C.E.* in a financial year, the total turnover of a unit should not exceed ₹ 400 lakh in the preceding year. As per *Notification No. 8/2003 CE dated 01.03.2003*, for the purpose of computing the turnover of ₹ 400 lakh:-

1. export turnover has to be excluded. However, export to Bhutan cannot be excluded as the same are treated as “clearances for home consumption”.
2. clearances under specified job work notifications are excluded and *Notification No. 214/86 CE* and *84/94-CE* are the specified notifications.
3. clearances of excisable goods without payment of duty to a 100% EOU are excluded.
4. clearances bearing the brand name or trade name of another person are excluded. However, following clearances of excisable goods bearing brand name are included:-
 - (a) Goods bearing brand name/trade name of National Small Industries Corporation.

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- (b) Goods in the nature of packing materials and meant for use as packing material by or on behalf of the person whose brand name they bear.

Since, the value of clearances in the previous financial year 2012-13 does not exceed ₹ 400 lakh, Aggarwal & Company is eligible to claim the benefit of *Notification No. 8/2003 dated 1st March, 2003* in the financial year 2013-14.

Question 15

MNO & Co. is the small scale unit located in a rural area which is eligible for exemption under Notification No. 8/2003-CE during the year 2012-13. You are required to determine the value of the first clearance of the unit and duty liability of MNO & Co. for the year 2012-13 on the basis of particulars given below:

		₹
(i)	Total value of clearances of goods with own brand name	50,00,000
(ii)	Total value of clearances of goods with brand name of other parties	100,00,000
(iii)	Clearances of goods which are totally exempt under another notification (other than an exemption based on quantity or value of clearances)	45,00,000
(iv)	Rate of excise duty – 12% plus education cesses as applicable	

(Make suitable assumptions where required and show the calculations with appropriate notes)

Answer

Computation of the value of first clearances and duty liability of MNO & Co.

Sl. No.	Particulars	Amount (₹)
(i)	Clearances of goods with own brand name	50,00,000
(ii)	Clearances of goods with brand name of other parties [Note 1]	1,00,00,000
(iii)	Clearances of goods which are exempt under a notification other than exemption based on quantity or value of clearances [Note 2]	—
	Total value of clearances eligible for SSI exemption available under <i>Notification No. 8/2003 CE dated 01.03.2003</i>	1,50,00,000
	Less: SSI exemption [Note 3]	<u>1,50,00,000</u>
	Dutiable clearances	<u>Nil</u>
	Excise duty payable	<u>Nil</u>

Notes:

As per Notification No. 8/2003 CE dated 01.03.2003 -

1. Since, MNO & Co. is situated in rural area, clearances of goods with brand name of other parties would also be eligible for SSI exemption.
2. Clearances of goods which are exempt (other than an exemption based on quantity or value of clearances) under a notification are not included in the first clearances of ₹150 lakh.
3. First clearances of ₹150 lakh are exempt from payment of excise duty under SSI exemption.

Exercise

1. *What are the reasons for clubbing of clearances of SSI Units?*
2. *What are the provisions regarding general exemption to SSI units?*
3. *Write a note with reference to Notification No. 8/2003 dated 01.03.2003 relating to small scale units:*
 - (A) *Availability of CENVAT credit on capital goods*
 - (B) *Determination of 'value' for the purposes of the said notification*
 - (C) *Clearances of excisable goods without payment of duty*
4. *Can CENVAT credit on capital goods be availed by SSI units that avail the benefit of exemption notification No.8/2003-CE?*
5. *Can CENVAT credit on input services be availed by SSI units that avail the benefit of exemption notification No.8/2003-CE?*
6. *What are details to be intimated by assessee to Deputy Commissioner/Assistant Commissioner of Central Excise when he wants to opt for Notification No.8/2003-CE?*