

Basic Concepts

Constitutional Provisions: Article 272 of the Constitution mentions that “Union Duties of Excise other than duties of excise on medical or toilet preparation as are mentioned in Union List shall be levied and collected by the Government of India.

Entry 84 of Union List (Seventh Schedule) provides that “Duties of Excise is leviable on Tobacco and other goods manufactured or produced in India including medicinal and toilet preparations containing alcohol”.

Note: However, Excise Duty on Alcoholic Liquor for Human Consumption and Opium, Indian hemp and other narcotic drugs shall be levied by the State Government.

Scope of levy:

The duty of Excise is a duty on excisable goods manufactured or produced in India, other than alcoholic liquor.

The duty of excise is levied on **manufacture** or production of goods in India. It is a levy on manufacture or production of goods ***Manufacture includes deemed manufacture.***

The duty of excise is levied on manufacturer or producer in respect of the commodities produced or manufactured by him. It is a tax on manufacture of goods and not on sale or proceeds of sale of goods.

The **manufacturer** of goods has to discharge the liability on manufacture or production of goods.

Sources of Central Excise Law:

- ❖ Central Excise Act, 1944
- ❖ Central Excise Tariff Act, 1985
- ❖ Finance Act
- ❖ Rules
- ❖ Notifications
- ❖ Circulars/Notifications
- ❖ Trade Notice/Clarifications
- ❖ Case Laws



Central Excise Act, 1944: This is a basic Act contains the basic provisions relating to levy of Excise Duty.

Central Excise Tariff Act, 1985: This classifies the goods under 96 chapters with the specific codes assigned.

Finance Act: The annual Union Finance Acts are one of the most significant ways through which the Government makes amendments to the central tax acts like the Central Excise Act and Central Excise Tariff Act.

Rules: Rules are framed by the Central Government for carrying out the provisions of the Act. Rules cannot override the provisions contained in the Act. Rules should be read with the statutory provisions contained in the Act. The following are significant rules made under Central Excise Act, 1944:

- ❖ **Central Excise Rules 2002:** The Procedural aspects are laid therein. The rules are implemented after issue of the notification.
- ❖ **Central Excise Valuation (Determination of price of Excisable Goods) Rules, 2000:** The provisions regarding the valuation of excisable goods are laid down in the rule.
- ❖ **Cenvat Rules 2004:** The provisions of Cenvat credit available and it's Utilisation are mentioned here.

Notifications: Notifications are issued by the Central Government or the Central Board of Excise and Customs (CBEC) in terms of the power given under the Act or the Rules. Notifications are issued to provide rules relating to excise duty, make amendments therein, provide or withdraw exemptions from excise duty or deal with any other matter which the Central Government may think would facilitate the governance of excise duty.

Circulars: The CBEC issues circulars from time to time for the purpose of ensuring uniformity in the classification of excisable goods or with respect to levy of duty of excise on goods. These circulars should be in conformity with the Act, Rules and Notifications. These circulars are binding on Department but not on the Assessee, Tribunal, High Court and Supreme Court.



Trade Notices/Clarifications: Trade notices are issued by the Departmental authorities for trade facilitation and clarification purposes. They are binding on the departmental officers concerned. Trade notice disseminate the contents of the notifications and circulars/letters, define their jurisdiction; identify the banks in which excise duty can be deposited etc.

Case Laws: It is not possible for the Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. The study of case laws is very essential as the case laws facilitate in interpreting the provisions of the Act and comprehending the real intention of the law makers.

The Supreme Court is the Apex Court of the country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts apply in the respective States in which such High Courts have jurisdiction.

Levy of Duty:

Section 3(1) which is the charging section. It states there shall be levy and collection of

(a) A duty of excise on all excisable goods (excluding goods produced or manufactured in SEZ) which are produced or manufactured in India as and at the rates set forth in First Schedule to the Central Excise Tariff Act, 1985;

(b) A Special duty of excise, in addition to duty of excise specified in above, on excisable goods (excluding goods produced or manufactured in SEZ) specified in second schedule to the Central Excise Tariff Act, 1985 which are produced or manufactured in India as and at the rates set forth in Second Schedule.

Excise duty leviable on any excisable goods manufactured by 100% EOU and brought to any other place shall be equal to the aggregate of the Custom duties which would be leviable under Customs Act or any other law for the time being in force on like goods produced or manufactured outside India if imported into India.

Note: There is no distinction between excisable goods produced by the Government and those produced by others, with regard to payment of excise duty. Excise duty is payable on goods manufactured by or on behalf of Government (Central or State).

Excise duty is not concerned with the ownership or sale. Liability under excise law is event based and irrespective of whether goods are sold or captively consumed.



Essential elements of charging section:

- ❖ There must be manufacture;
- ❖ Manufacture must be in India;
- ❖ The manufacture is of goods;
- ❖ Goods must be excisable goods.

Manufacture: Manufacture includes any process

- (i) Incidental and ancillary to the completion of manufacture of a product; and
- (ii) Which is specified in relation to any goods in Section or Chapter notes of the Schedule of the Central Excise Tariff Act, 1985 as amounting to manufacture (Deemed Manufacture); or
- (iii) In relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in unit container or labeling or re-labeling of containers including declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer. (Deemed Manufacture)

Though section 3 imposes the levy on the event of the manufacture, the Rules require the duty to be paid only at the time of removal from the factory.

Examples of processes amounting to manufacture:

- (1) Obtaining sugar from sugarcane
- (2) Making furniture from wood
- (3) Rolling of tobacco to make bidis
- (4) Conversion of fruit pulp to readymade fruit drink
- (5) Cutting, hemming and stitching of running cloth to make bed sheets, bed spreads and table cloths
- (6) Roasting, salting and spicing of peanuts/cashew-nuts/almonds
- (7) Obtaining oil or oil cake from oil seeds (mustard oil or mustard cake from mustard seeds)
- (8) Making of wheat flour from wheat



Examples of processes not amounting to manufacture:

- (1) Burning in boiler of coal to obtain cinder
- (2) Stirring of cream to obtain butter
- (3) Up gradation of computer system by increasing the storage capacity
- (4) Painting of goods
- (5) Cutting of wood into small pieces
- (6) Chilling of water

Examples of deemed manufacture:

- (1) In relation to iron and steel process of galvanization shall amount to manufacture.
- (2) In relation to audio or video tapes/CDs etc. recording of sound or other phenomenon shall amount to manufacture.
- (3) In relation to aluminium foils process of cutting, slitting and printing of aluminium foils amount to manufacture.

Important Aspects of Manufacture:

Goods: “Goods” has not been defined in the Central Excise Act, 1944. As per the explanation to section 2(d) ‘goods’ includes any articles, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.

As per Article 366(12) of the Constitution of India, “Goods” means all articles, materials and commodities.

Section 2(7) of Sale of Goods Act, 1930 defines ‘Goods’ to mean every kind of movable property other than actionable claims and money and includes stocks and shares, growing crops, grass and things attached to and forming part of the land, which are agreed to be served before sale or under the contract of sale.

These articles, materials and commodities must be movable and marketable. [Decision of the Supreme Court of India in the case of Union of India vs Delhi Cloth and General Mills Ltd (1977)].

Those movable and marketable goods must be excisable goods as per section 2(d) of the Central Excise Act, 1944. Those excisable goods must be manufactured in India as per section 2(f) of the Central Excise Act, 1944 which includes any process incidental or ancillary to the completion of the manufactured product. [Decision of the Supreme Court in the case of Wallace Flour Mills Ltd Vs Commissioner of Central Excise (1989)].



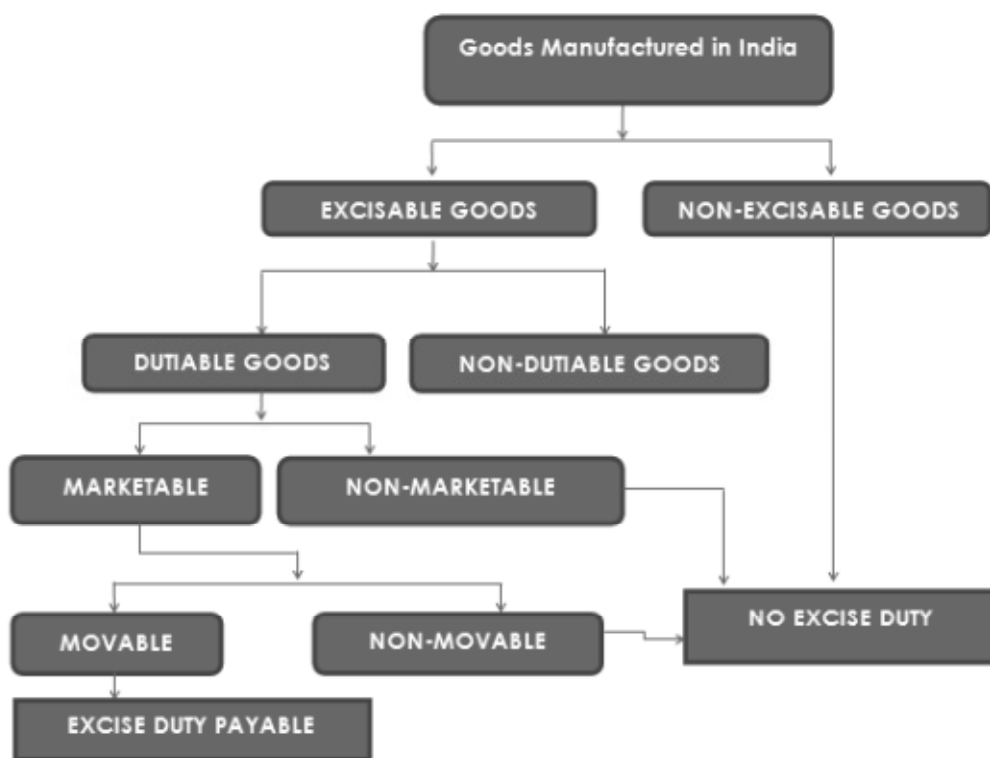
Excisable Goods:(Section 2(d) Goods specified in the Schedule to Central Excise Tariff Act, 1985 as being subject to a duty of excise and includes salt. Goods which are exempt from duty by notification, but find a place in the tariff schedule are excisable goods. *Therefore both dutiable and non-dutiable goods are called excisable goods. (Nil rate is also a rate of excise.)*

“Non Excisable Goods” are that goods which has not been very clearly mentioned in Central Excise Tariff Act before they are manufactured.

Goods must be Manufactured or Produced in India: Excisable goods manufactured in the State of Jammu and Kashmir attracts the excise duty, since the Central Excise Act, extended to the Whole of India.

The Central Excise Act, 1944 has been extended to the designated areas in Continental Shelf and Exclusive Economic Zone of India¹. It means goods manufactured outside EEZ excise duty does not attract.

In summary:



¹ Exclusive Economic Zone extends to 200 nautical miles from the base line of the coast.



Captive Consumption: Captive consumption in the context of excise law means utilisation of goods produced or manufactured within the factory of production. The goods internally consumed to manufacture the final product are termed as intermediate goods.

The intermediate goods will be chargeable to duty if they arise in the course of manufacture/production, are movable and marketable in such intermediate stage, listed in the Tariff, and are subject to duty of excise in the Tariff.

Assembly: Assembly is a process of putting together a number of items or parts of an item to make a product or an item. If the assembly results in a new commercial commodity with distinct name, character and use it would amount to manufacture. Ex: Assembly of Computers from duty paid components amounts manufacture.

Site related Activities: The goods manufactured at site will be liable to duty if they have a new identity, character and use, distinct from the inputs/ components that have gone into its production. Further, such resultant goods should be specified in the Central Excise Tariff as excisable goods besides being marketable i.e. they can be taken to the market and sold (even if they are not actually sold). The goods should not be immovable.

Examples:

- (1) Lifts and escalators installed in buildings and permanently fitted into the civil structure cannot be considered to be excisable goods and hence are not liable to duty.
- (2) Group of machines combined to constitute a new machine having own identity/marketability will be dutiable if assembled at site and fixed to earth only for purpose of ensuring vibration free movement.

Waste and Scrap: Waste/scrap can be 'excisable goods' if they are known in commercial parlance and are marketable. Further, the waste and scrap will not be 'excisable goods' unless they are specified in Central Excise Tariff. Thus, if a particular waste/scrap is not mentioned in Tariff, it may be 'goods' but not 'excisable goods'.

It is important to note here that as the excise duty is leviable on manufacture, the waste and scrap actually generated in the course of manufacture alone is chargeable to duty and the waste and scrap generated without any process is not liable to excise duty.



Manufacturer:

A person carrying out manufacture in terms of any of three clauses of section 2(f) will be manufacturer. The definition of manufacturer includes manufacturer who manufacture through hired labour and manufacturer who manufacture on their own.

To sumup:**Manufacturer as per Statue:**

- (i) Person manufacturing for own consumption;
- (ii) Person hiring labour or employees for manufacturing;
- (iii) A job order worker;
- (iv) A Contractor;

Not Manufacturer:

- (i) Where an activity is not a manufacture;
- (ii) Brand Owners, if their relation with the manufacture is on 'Principal and Principal' basis;
- (iii) Labour Contractors;
- (iv) Loan Licensee;
- (v) Raw material supplier is not manufacturer.

Note:

The person carrying out the actual manufacturing process is manufacturer even if the raw material is supplied by someone else and the goods have been manufactured as per his specifications.

Collection of Duty:

Though Taxable event for levy of excise duty is manufacture, but the collection thereof is postponed to the stage of removal. Therefore, excisable goods cannot leave the factory of production unless excise duty thereon has been paid.

However, excisable goods can be removed from the factory and stored in a Warehouse without payment of duty. In such case duty become payable when the excisable goods are removed from the Warehouse.

The liability to pay duty cast on every person who produces or manufactures any excisable goods or who stores such goods in a warehouse.

Exception: Where molasses are produced in a Khandsari sugar factory, the person who procures such molasses (not the person who produces the same) for use in the manufacture of any commodity has to pay the duty leviable on such molasses as if the molasses had been produced by the procurer.



Rate of Duty:

As per Rule 5 of the Central Excise Rules, 2002, the rate of duty or tariff value² applicable to any excisable goods (other than khandsari molasses) is *the rate or value in force on the date when such goods are removed from a factory or a warehouse, as the case may be.*

No duty of excise will be levied on goods which are non excisable on the date of manufacture but are excisable on the date of removal from the factory.

Duty of excise will be levied on exempted goods (excisable goods exempted from the payment of duty of excise vide exemption notification) if the exemption is withdrawn on the date of removal.

Therefore, excisable goods cannot leave the Factory of manufacture unless excise duty thereon has been paid. However, excisable goods can be removed from the factory and stored in warehouse without payment of duty. Excise duty becomes payable when the excisable goods are removed from the warehouse.

Liability to Pay the duty:

The liability to pay excise duty cast on the person who produces or manufactures excisable goods. In case the goods are stored in a warehouse without payment of duty, the liability to pay the duty has to be discharged by the person who stores the goods in such warehouse.

However, in case of molasses produced in Khandsari Sugar Factory the person who procures such molasses for use in the manufacture of any commodity has to pay the duty leviable on such molasses as if the molasses had been produced by the procurer.

As per rule 4 of the Central Excise Rules, 2002, excisable goods cannot be removed from the place of manufacture or from warehouse - when the goods are stored in warehouse - **without payment of duty** whether for

- consumption, or
- export, or
- manufacture of any other commodity in or outside the place of manufacture

until the excise duty leviable thereon has been paid in the prescribe manner.

² In some cases, tariff value is fixed by the Government from time to time. This is a notional value for the purpose of calculating the duty payable. Once tariff value is fixed, duty is payable as a percentage of this tariff and not on the Assessable Value.



Summary of provisions relating to payment of Duty:

Particulars	Person liable to pay excise	Event for duty payment	Relevant date
1. Excisable goods (other than khandsari molasses) produced and stored in the factory of the manufacturer.	Manufacturer	Removal of goods from the factory	Date of removal of such goods from the factory
2. Khandsari molasses produced and stored in the factory of the manufacturer	Procurer of the khandsari molasses	Receipt of such molasses by the procurer	Date of receipt of such molasses in the factory of the procurer of such molasses
3. Excisable goods produced and cleared for captive consumption in the factory of the manufacturer.	Manufacturer	Issuance of goods for further production	Date on which the goods are issued for such use
4. Excisable goods produced in the factory and stored in a warehouse without payment of duty.	Person who stores such goods in the warehouse	Removal of goods from the warehouse	Date of removal of goods from the warehouse

Change in Rate of Duty:

If there is a change in rate of duty between the date of manufacture and the date of removal, the rate prevalent on the date of removal from the factory is the relevant rate.

Ex: Excise duty has been increased from 10% to 12% with effect from 17/03/2012. Excisable goods manufactured in February and cleared on 20/03/2012. The applicable rate of duty payable on excisable goods is 12%.

Change in goods:

Non excisable goods will not chargeable to duty even though subsequent to manufacture but before removal such goods are brought within the purview of Tariff because at the time of manufacture, they were not excisable goods.



The effective rate of duty must be ascertained by considering the various exemption notifications issued from time to time. The rate of duty read with the rate prescribed in the notification, if any, will ultimately determine the effective rate of duty payable on clearance of goods.

Classification

Since all goods do not carry the same rate or amount of duty, it is practically impossible to identify all the goods individually. Therefore, it is necessary to identify the goods through groups and sub-groups and then to determine the rate of duty on each group or sub-groups of goods. The exercise of placing the various excisable goods under the various groups or sub-groups is known as 'Classification' of a product.

Classification of excisable goods is essential for determining the applicable rate of duty as different rates of duty are chargeable on different types of goods. It is also required for the purpose of determining eligibility to exemptions, most of which are with reference to the Tariff headings or sub headings.

The classification of goods in the CETA (Central Excise Tariff Act) is comprised in two Schedules; the First Schedule specifies the rate of basic excise duty (CENVAT) and the Second Schedule specifies the rate of special excise duty.

The First Schedule has Sections and Chapters. Each Section has various Chapters. A Section represents a broad class of goods.

A Chapter contains goods of one class. The Chapter is further divided into headings and sub-headings depending upon different types of goods belonging to same class of products.

The excisable goods are classified by using 8-digit system. Description with eight digits is termed as 'tariff item'.

First two digits: Chapter Number of the Tariff.

Next two digits: Heading of goods in the Chapter.

Next two digits: Sub heading of goods in the Chapter.

Last two digits: Chapter subheading.



Ex: Tariff Entry 3305 90 40 Hair Dyes (Natural, Synthetic or Herbal). The classification is understood as follows:

33 Chapter heading “Cosmetic or Toilet Preparations etc”

05 refers to Heading “Preparations for Use on the hair”

90 refers to Sub-heading “other”

40 refers to “Hair Dyes”

Computation of Duty

Basis of Computation of Duty:

- ❖ Specific Duty
- ❖ Compounded Levy Scheme
- ❖ Duty Based on Capacity of Production
- ❖ Duty Based on Value (Advalorem Duty)

Specific Duty: Duty is payable on the basis of unit, length, weight etc. This is the simple method. However, this method does not take inflation into consideration.

Compounded Levy Scheme:

Under this scheme, the assessee has the **option** to pay the duty of excise on the basis of specified factors relevant to production of the goods covered under the scheme (size of equipment employed, number and the types of machines used for manufacture etc.) at the specified rates. The prescribed duty has to be paid by the assessee for the specified period. The advantage of this scheme is that it frees the manufacturer from observing day to day central excise formalities and maintenance of detailed accounts after making the lump sum periodic payment.

Duty based on Capacity of Production:

This duty is payable on the basis of production capacity, without any reference to the actual production. The production capacity is determined as per the rules made in this regard. The Government may notify the goods which will be assessed to such duty having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods or such other factors as may be relevant. This duty is mandatory i.e., duty cannot be paid in any other manner in respect of the goods notified under this scheme.



Ad Valorem Duty:

Ad valorem duty is payable on the basis of the values prescribed under the Act namely, tariff value fixed by the Government in respect of certain goods; transaction value and value based on retail sale price printed on a package of goods.

- ❖ **Tariff Value:** The Central Government may fix different tariff values for different classes or descriptions of the same excisable goods. The Central Government can also fix different tariff values for same class or description of the goods but produced or manufactured by different classes of producers or manufacturers or sold to different classes of buyers. Such tariff values may be fixed on the basis of wholesale price or average price of various manufacturers as the Government may consider appropriate.
- ❖ **Retail Sale Price:** Excisable goods need to be valued in term of provisions of Section 4A if the following conditions are satisfied:

- (I) The Excisable goods to be valued are covered under the Legal Metrology Act, 2009 or related rules or any other law and such other law requires declaration of the Retail Sale Price (RSP) on package of such goods. **AND**
- (II) The Central Government has notified the said goods as goods in relation to which payment of Excise Duty will be on the basis of RSP less allowed deductions.

Note: If more than one RSP is declared on package of excisable goods, the maximum of such price will be deemed to be RSP.

Where RSPs are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such RSP will be RSP for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.

If the RSP declared on the package of excisable goods at the time of its clearance from the place of manufacture, is increased, such increased RSP will be deemed to be the retail sale price.

- ❖ **Transaction Value:** Transaction value means the price actually paid or payable when sold and includes in addition to the price any amount that buyer is liable to pay or on behalf of the assessee by reason or in connection with sale whether payable at the time of sale or any time thereafter.



Assessable value of the excisable goods shall be the 'transaction value' if the following conditions are satisfied:-

- (a) The price is the sole consideration for the sale. In other words, the assessee must not receive any other sum either by way of money or by way of any other assistance for the manufacture of goods.
- (b) The assessee and the buyer of the goods are not related persons.
- (c) Goods have been sold by the assessee for delivery at the time and place of removal.

In all other cases, which do not fulfill the aforesaid conditions, value is to be determined as per the provisions of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

Inclusions/Exclusions in/from transaction value:

	Items of cost	Includibility in transaction value or otherwise
1.	Outward handling	Includible only upto place of removal and if incurred by buyer as a condition of sale of goods.
2.	Packing	Cost of all forms of packing (special, general, protective, etc.) are includible. However, cost of durable/reusable packing is not included as it is amortized and included in the cost of product itself. Therefore, separate addition is not necessary unless audit of accounts reveal that such cost has not been amortized and include in the value of the product.
3.	Dharmada or charity	Includible.
4.	Design, development and engineering charges	Includible if they are specific to goods produced as goods cannot be produced without them.
5.	Bought out parts and Accessories	Parts- Includible as product cannot function without the part. However, the part should be fitted to the main article at the time of removal Accessories- Includible only if it makes value-addition and is sold as a package (Accessories provide ease of use of a product).
6.	Consultancy charges	Includible if it relates to design, layout, etc. of final product; and such activity is done upto place of removal.
7.	Testing & inspection charges	Includible but independent testing done by the buyer himself or through a third party is not includible.



8.	Erection, installation and commissioning charges	Includible only if it results in movable property.
9.	Pre-delivery inspection charges and after sales services	Includible only if it is collected by the manufacturer.
10.	Discounts (Trade and Cash)	All forms of discount (trade discount, cash discount, quantity discount, turnover discount, differential discounts to different buyers, damage discount) are excludible as the same are already factored into the definition of transaction value. However, the discount should be actually passed on to the buyers.
11.	Notional interest on deposits, advances	Not includible unless it can be proved that price has been lowered on account of receipt of such advance from the buyer.
12.	Interest on delayed payment of receivables	Not includible as interest is nothing but finance charges and cannot be considered as payment by reason of sale.
13.	Bank charges for collection of sale proceeds	Not includible as the same cannot be considered as payment by reason of sale.
14.	Delayed payment Charges	Not includible as "transaction value" relates to the price paid or payable for the goods and delayed payment charge is nothing but the interest on the price of the goods which is not paid during the normal credit period. However, to be admissible as deduction it should be separately shown or indicated in the invoice and should be charged over and above the sale price of the goods.
15.	Freight	Not includible. However, if, sale is from depot, freight from factory to depot will be includible.
16.	Transit insurance	Not includible as it is a part of transportation cost. However, it should be shown separately in the invoice.

The term “Related” explanation: Persons shall be related if:

- ❖ They are Inter- Connected Undertakings;
- ❖ They are relatives;
- ❖ Amongst them the buyer is a relative and distributor of the assessee, or Sub- distributor of such distributor;
- ❖ They are so associated that they have interest, directly or indirectly, in the business of each other;



Every person liable to pay duty of excise should prominently indicate in all the documents/invoice, etc., the amount of such duty which will form part of the price at which such goods are to be sold. It is also the responsibility of such person to deposit any sum collected from the buyer in name of excise duty with the Government.

Situations when the price charged will be taken as price-cum-duty:

- ❖ If the assessee has collected less duty from buyer than what is due; or
- ❖ If the assessee has not collected any duty from the buyer even though the product is liable to duty; or
- ❖ If the assessee has paid duty on lesser value due to receipt of additional consideration.

In the above situations, the price charged (exclusive of sale-tax/local taxes) shall be regarded as price-cum-duty.

The assessable value and the duty payable in such a case will be:

$$\text{Assessable Value} = \frac{\text{Price-cum-duty} \times 100}{(100 + \text{Rate of excise duty})}$$

$$\text{Duty payable} = \frac{\text{Price-cum-duty} \times \text{Rate of duty}}{(100 + \text{Rate of excise duty})}$$



Small Scale Industry (SSI)

Considering the significant contribution of small scale sector towards the industrial growth of the Indian economy and to the Gross Domestic Product, excise duty concessions have been granted under the central excise law to small scale units so as to make them competitive in the domestic and global market. The excise duty concessions have been extended to the SSI units by way of exemption notifications. Currently, *Notification No. 8/2003 CE dated 01.03.2003* grants SSI exemption.

Eligible Goods:

SSI exemption is restricted to the products listed in the SSI exemption notification. Though the notification covers most of the products, few products like tobacco products, pan masala, watches, matches and some textile products are specifically excluded from SSI exemption.

Eligible SSI

The units whose value of clearances of excisable goods for home consumption computed in accordance with the notification (mentioned above) **does not exceed ₹400 lakh (4 crore)** in the previous financial year are eligible for SSI exemption. The turnover limit is calculated by taking into account the clearances in respect of one manufacturer from one or more factories or from a factory by one or more manufacturers.

Exemption:

The excisable goods covered by the notification are exempt from the whole of the duty up to the aggregate value of clearance of ₹ 1.5 crore in any financial year if the turnover of the unit does not exceed ₹ 4 crores in previous year. In simple words, a unit whose turnover does not exceed ₹ 4 crores in the previous year is entitled to full exemption from payment of duty on its first clearances of up to ₹150 lakh in the current financial year.

SSI exemption is not available in respect of clearances bearing a brand name of another person. This means that such clearances attract normal rate of duty. Brand name or trade name is any mark, symbol, monogram, label, signature or inventor word or writing which may or may not be registered. Brand or trade name must indicate a connection in the trade between the goods and the person using such mark or name.

Exception: There are certain types of goods which are entitled to SSI exemption even though they bear the brand name of other person e.g. goods manufactured in rural area, packing material, account books, registers, writing pads.



A SSI unit can avail CENVAT credit on inputs only after it starts paying duty. However, CENVAT credit of capital goods can be availed (but can be utilized only after the turnover crosses ₹150 lakh) even if the same have been received during period of exemption.



General Procedures

Registration:

Every manufacturer of excisable goods other than the ones specifically exempted is required to get his premises registered under the central excise law. Registration is also required for every prescribed person who carries on trade or holds private store-room or warehouse or otherwise uses excisable goods.

A manufacturer is exempt from the requirement of getting his premises registered so long as the goods manufactured by him attract Nil rate of duty or remain exempt from the whole of the duty of excise leviable thereon. Small scale units availing the benefit of SSI exemption notification are also exempt from obtaining registration. However, such units are required to give a declaration in a specified form once the value of their clearances touches ₹ 90 lakhs.

The registration certificate is valid till the relevant unit is engaged in manufacture of excisable goods. It is not required to be renewed.

Payment of excise duty: The due dates and other provisions relating to payment of duty have been tabulated below:

Type of Assessee	Periodicity	Due date for payment of duty	
		In case of e-payment	Other than e-payment
Assessee eligible for SSI exemption (An eligible unit is one whose aggregate value of clearances does not exceed ₹400 lakh in the preceding financial year)	Quarterly payment of duty	6th day of the month following the relevant quarter.	5th day of the month following the relevant quarter.
		For goods removed during the quarter ending in March, 31st day of March.	
Other assesseees	Monthly payment of duty	6th day of the month following the relevant month.	5th day of the month following the relevant month.
		For goods removed during the month of March, 31st day of March.	



The following points merit consideration in this regard:

- ❖ **E-payment of duty:** Assessee who have paid excise duty of rupees 10 lakh or more (₹1,00,000 or more w.e.f 01.01.2014 as per notification no. 15/2013 Central Excise (non-tariff) dated 22.11.2013) including the amount of duty paid by utilization of CENVAT credit in the preceding financial year are mandatorily required to pay the excise duty electronically through internet banking.
- ❖ **EASIEST(Electronic Accounting System In Excise and Service Tax) :** For e-payment, assessee should open a net banking account with one of the authorized banks. For effecting payment, assessee can access the ACES website and click on the e-payment link that will take them to the EASIEST portal or they can directly visit the EASIEST portal.
- ❖ **Interest @ 18% on delayed payment of duty:** Failure to pay the amount of duty by due date attracts interest at the rate @ 18% per annum on the outstanding amount.
- ❖ **Duty may be paid in cash or by utilizing CENVAT credit:** Duty may be paid in cash through account current, popularly known as PLA (Personal Ledger Account). Duty can also be paid by utilizing the CENVAT credit balance available at the end of the month, even though duty is payable by 5th/6th of following month.

Invoice: An invoice is the document under cover of which the excisable goods are to be cleared by the manufacturer. Therefore, excisable goods cannot be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorized agent.

Serially numbered: The invoice should be serially numbered. The serial number shall commence from 1st April every year (beginning of a financial year). Such serial numbers need to be intimated to the Superintendent of Central Excise having jurisdiction over the factory of the assessee, before issuing the invoices.

Contents: The invoice should contain the registration number, address of the jurisdictional Central Excise Division, name of consignee, description, classification, time and date of removal, rate of duty, quantity, mode of transport, vehicle registration number and value of goods and the duty payable thereon.

Number of copies: The invoice has to be prepared in triplicate in the following manner, namely:-

- i. the original copy being marked as ORIGINAL FOR BUYER;
- ii. the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;
- iii. the triplicate copy being marked as TRIPLICATE FOR ASSESSEE.



Returns under central excise (Electronic Filing): A central excise assessee is required to file certain periodic returns, which relate to his tax liability and other transactions. Some significant returns to be filed by different categories of central excise assessee and their respective due dates are given in the following table:

Form of Return	Category of assessee	Periodicity	Due date
ER-1	All assessee except SSI	Monthly	By 10 th day of the month following the relevant month
ER-3	Assessee eligible for SSI concession (even if he does not avail the concession)	Quarterly	By 10 th day of the month following the relevant quarter
ER-4 [Annual Financial Information Statement]	Assessee paying duty of ₹ 1 crore or more per annum either through PLA or CENVAT or both together	Annually	By 30 th November of the succeeding year

