Central Excise Rules, 2002….a summary

Rule- 1, 2, 3, 13, 14, 31, 32, 33: Not relevant for us

***Rule-4**: Duty payable on removal:*

- Every person who produces or manufactures or stores in a warehouse; the excisable goods; shall pay ED leviable in such goods in the manner prescribed in ***Rule-8***.
- ***Rule-4(1A):*** Person who gets produced or manufactured the ***BRANDED READYMADE*** GARMENTS…is deemed manufacturer.
- ***Rule-4(2):*** Person who procures the ***MOLASSES***….directly from ***KHANDSARI SUGAR FACTORY*** or procures otherwise……is treated as deemed manufacturer of such molasses….

Rule-5: Date for determination of duty and tariff valuation….the relevant date is the date on which the goods are removed from factory or warehouse.

Rule-6: Assessment….self assessment…***at the time of*** removal of goods from the factory or warehouse….of EXCISABLE GOODS…..***PROVIDED THAT ……IN CASE OF CIGARETTES*** the SCE or Inspector shall assess the duty payable ***BEFORE removal*** by the assessee.

Note: Subsequent fluctuations after the removal [***MRF-SC***]……***bhul chuk…LENI LENI….***

Rule-7: Provisional Assessment…..

- ***7(1):*** Order of provisional assessment
- ***7(2):*** Execution of bond
- ***7(3):*** Finalisation of provisional assessment
- ***7(4):*** Demand….i.e….assessed duty is more than provisionally assessed duty….
- ***7(5):*** Refund...i.e….assessed duty is less than provisionally assessed duty….
- ***7(6):*** Refund subject to ***doctrine of unjust enrichment***

Note: Subsequent fluctuations after the removal ……..***Bhul chuk LENI DENI……***

Rule-8: Manner of Payment…..every assessee…(covers 100% EOU…but not SEZ…)….shall pay duty by 6th of following month (if paid electronically)….and by 5th of the following month (in any other cases)….in case ….of removal in march…by 31st of march…..

NOTES:

- In case of SSI…quarterly payment….by 6th or 5th of the following month…as the case may be…except in case of removal in March…by 31st of the march….
- Payment through PLA+ CCR….Proof of E-Pmt is CIN…..
- Mandatory E-payment for those who had paid total duty of Rs.10 lakh or more in P.F.Y…..non compliance thereon would cause penal provision under ***Rule 27***……up to Rs.5000.
- Payment made on or after 8pm of 2nd may will be treated as if the payment is made in 3rd may.
- Payment by cheque….date of presentation of cheque in the bank is treated as date of payment…subject to realization.
- Interest on delayed payment….as per ***Sec-11AA…18% p.a***….. From the date of 1st day…….. After the due date till the date of payment.
- If payment is not made within 30 days from the due date……..assessee shall pay ED without utilizing CCR….i.e …only through PLA……including intt. Thereon…….in event of failure….it will be treated as if such goods have been removed without payment of duty….

Rule-12: Filing of Return…..

- Every assessee…a monthly return…ER-1….within 10 days after the closure of month to which return relates…..
- In case of SSI….quarterly return….ER-3…within 10 days…….
- In case of assessee availing…N/N: 49/2003 & N/N: 50/2003…..Quarterly return…Form No A…..***within 20 days…..irrespective of SSi or Non-SSI***…..
- E-filing is mandatory for all the assessee ***irrespective of the limit [for ER-1 to ER-8]***
- AIFS…every assessee….***ER-4***….by 30th of Nov of succeeding year….***exemption from AIFS***…..for those who paid duty ***less than one crore***…and….for Indian ordnance factories….
- AICS….Every assessee….***ER-7***…by 30th of the April of the succeeding year…..manufacturers of biris, matches, and reinforced cement concrete pipes are exempted from ***AICS…***.
- Scrutiny of excise return by PO…..in the manner to be prescribed by board….

Rule -11: Invoice….goods to be removed on invoice…

- *Jaha ram waha sita….jaha Krishna waha Radha**…jaha removal waha Invoice (**signed by the owner of the factory or his authorized agent**)**……**even if it is deemed removal U/R-5…..***
- Excisable goods to be removed from factory OR warehouse on signing of invoice by owner of the factory or his authorized agent.
- In case of cigarettes each such invoice shall ***ALSO*** be countersigned by the Inspector/ SCE before the removal from ***FACTORY***.
- Invoice …to be prepared in ***triplicate……***if prepared more than three copies…should be marked as…..***not for cenvat purposes.***
- Only one invoice book shall be in use at a time….unless otherwise allowed by AC/DC.
- Even in case of deemed removal (i.e…in case of captive consumption of goods)…..invoice is required….but only one copy is sufficient in such case

Rule-10: Maintenance of DSA…..

- ***10(1)***: Maintenance of records on daily basis
- ***10(2):*** Authentication of records….on the first and last page…..by producer or manufacturer or…his authorized agent…..
- ***10(3):*** Preservation of records….for 5 years….
- Non maintenance of DSA is criminal offence….confiscation of goods plus penalty U/R-25 *(ED or2000 whichever is higher*)…..*imprisonment……6month to 7 years*.

Rule-9: Registration…..

- ***Every person** who produces or manufactures **(manufacturer),** carries on trade **(trader),** holds private store room or warehouse **(warehouse keeper),** or otherwise uses excisable goods**(user) SHALL GET REGISTERED***
- *Registration certificate shall be granted within 7 days of receipt of duly completed application*
- ***Registration is mandatory on the date when the assessee becomes eligible to pay duty.***
- **SSI manufacturer manufacturing dutiable goods** are required to be registered in that financial year in which removal of goods reaches at Rs. 150 Lakh…..and declaration is required if removal exceeds Rs.90 Lakh in P.F.Y.
- **In case of SSI manufacturer manufacturing non dutiable goods** registration is not required but declaration is required if in PFY removal exceeds Rs 90 Lakh.

- **In case of Non SSI manufacturer manufacturing dutiable goods**, registration is required initially and no question of declaration in such case. (e.g., manufacturing goods with the brand name of another person EXCEPT branded readymade garments i.e., job workers)
- **In case of Non SSI manufacturing non dutiable goods** registration is not required and temporary declaration is required
- ***Note that declaration is once in life time***
- *Separate registration for each of the premises* ***except*** in the case that where two or more premises are actually part of the same factory but segregated by public road or canal or railway, but satisfaction of CCE is necessary in such case.
- In case of ***transfer of business***, transferee is required to be registered afresh.
- ***Registration in case of Job worker***……..if E/N:214/86 is available to that job worker then Raw material supplier is required to be registered and if such E/N is not available then job worker shall get registered.
- ***In case of branded readymade garments***, deemed manufacturer shall get registered.
- ***In case of liquor factory procuring molasses,*** the procurer of molasses shall get registered in respect of molasses because liquor factory is deemed manufacturer as per rule 4(2) of CER'02………*(Reverse charge mechanism).*

Note that limit of Rs.150 Lakh is not applicable in case of this reverse charge mechanism.

- ***De-registration*** when the assessee ceases to carry on the operation for which he is registered…..he shall himself de-register by making a declaration and shall surrender his registration certificate.
- ***Revocation or suspension of registration*** in case where the holder of such certificate or any person in his employment is found to have committed breach of any of the provisions of the act or the rules or has been convicted of an offence u/s 161 of IPC ***(i.e., bribe to officer)***

Rule -12BB: Procedure and facilities for Large Tax Payer (LTPU)

- A person who has paid ED of more than Rs 5 crore in last F.Y ***ONLY*** through PLA, who has one or more registered premises under central excise law or finance Act 1994 , holds ***PAN u/s 139A*** of Income Tax Act and satisfies the conditions notified by the central government.
- LTPU are given the ***option*** to remove intermediate goods from one factory to another without payment of duty on such intermediate goods ***subject to the***

condition that final product will be removed from the factory no. 2 within 6 month for home consumption on payment of duty or removed for export.

- If the above conditions are not satisfied then the assessee is required to pay duty on intermediate goods with interest (payment by factory no 2), and then can book CCR of such paid duty on Intermediate goods.

Rule-18: Rebate (refund) of duty, first pay then claim refund

Conditions for claiming rebate under rule 18:

- ✓ Market price of excisable goods at the time of exportation shall not be the amount of rebate claimed.
- ✓ ***Amount of rebate shall not be less than Rs.500***
- ✓ Export of goods should not be prohibited under any law for the time being in force
- ✓ Shall be exported within *6 months (+such extended period as CCE may deem fit)* from the date of clearance from the factory or warehouse

In case of final product, option of self sealing or sealing of goods by SCE

Procedure of sealing by SCE:

- Invoice as per rule 11
- Present goods + 4 copies of application (ARE-1) to SCE
- Optional copy may be presented
- Examination of goods by SCE
- Seal each package after verification after endorsing each copies of ARE-1
- SCE returns original and duplicate copy with optional copy to exporter & retains 4th copy
- Triplicate copy is sent to the rebate officer
- At the place of export goods + 1st ,2nd and optional copy of ARE-1 are presented before customs
- Officer shall inspect the package with the containers with reference to the ARE-1
- Certification by officer of the copy of ARE-1, on exportation of goods
- The officer shall return the 1st and optional copy to the exporter and shall forward 2nd copy to the rebate officer.
- If the excisable goods are not exported then the AC/DC shall cancel the ARE-1

Rule-19: Export without payment of duty

- ✓ Export without payment of duty
- ✓ Bond in form B-1, in case of merchant exporter
- ✓ LUT in form no UT-1, instead of bond, in case of manufacturer exporter
- ✓ Process is same as above subject to necessary changes

Cancellation of bond/LUT:

- ✓ Exporter shall file 1st copy of ARE-1 with AC/DC to whom Bond or LUT was furnished
- ✓ Appropriate officer shall compare the 2nd copy of application received from the officer of custom with that 1st copy and with 3rd copy received from CEO
- ✓ And cancels the bond or LUT on satisfaction

Rule-20: Warehousing provisions

- By the notification, CG may provide the facility to remove ***ANY excisable goods*** from the factory to a warehouse or from one warehouse to another warehouse ***without payment of duty***
- ***Warehousing facility is available only in case of notified goods, i.e, goods intended to be supplied for FGV or aircraft, Benzene, toluene, xylene etc***
- Maximum warehousing period is 3 years
- In case the registration of warehouse is revoked then assessee shall transfer the goods to another warehouse or transfer for home consumption on payment of ED or transfer for export
- When the goods dispatched for warehousing or re-warehousing is not received by the consignee then the liability for payment of duty shall be upon the consignor otherwise to be paid by consignee.
- Registered person of the warehouse shall maintain a register showing all entries into and removals of the goods from his warehouse indicating the value, quantity, ROD and amount of duty involved.

Rule-21: Remission of duty

- When goods have been lost or fully destroyed ***by natural causes or by unavoidable accident*** or goods are claimed by the manufacturer unfit for consumption or as unfit for marketing ***at any time before removal from factory*** and the same is shown to the satisfaction to the Commissioner then he may remit the duty payable on such goods subject to such conditions as he may impose by order in writing.

- ***Gupta metal sheets-2008***: goods lost by theft or dacoity cannot be considered as goods lost by natural or unavoidable causes under Rule 21
- *Theft is treated as avoidable accident in excise law*

…………………………….narahariadhikari@gmail.com…………………………….