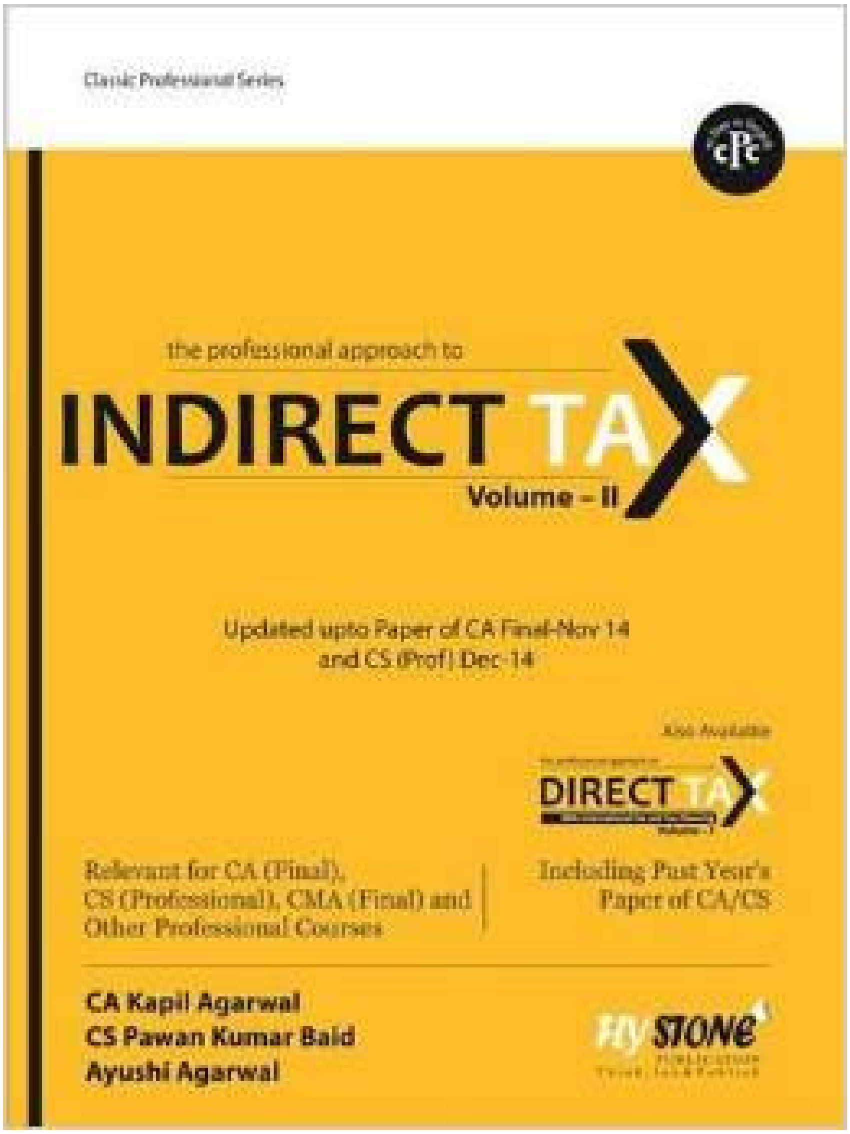

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| 9 | SSI EXEMPTIONS |
|---|---|
| CHAPTER | |

## Small Scale Industries Exemption (Vide Not. No. 8/2003)

*Questions asked in exams:*

1. *The assessee, a manufacturer of small juicer, used to avail of the benefit of SSI exemption. The said goods were sold under their own brand named 'FATAFAT'. However, in case of sale to Smart Tele Shopping (STS), who were further selling the product through tele-shopping network, the supervisors of STS used to examine the goods and affix a sticker thereon containing the name of STS.*
   *The department denied SSI exemption in respect of goods bearing the name/symbol of STS contending that the same amounts to affixation of brand name so as to dis-entitle the exemption. Discuss in light of decided case law, if any, whether contention of department is tenable in law. (CS, JUNE, 2011, 5 marks)*

HINT/ANSWER:
Relevant case law: Unison Electronic Pvt. Ltd.
If a manufacturer clears the goods under his own brand name, SSI exemption is available. But if the manufacturer clears goods bearing the brand name of any other person, SSI exemption is not available.
In the relevant case, it was held that, the sticker containing name/symbol of the buyer were fixed after quality checking, therefore, the same was a brand name used for the purpose of indicating a connection in the course of trade between the goods and the buyer.
Accordingly, assessee was not entitled to SSI exemption in respect of goods sold to this particular buyer. So the assessee is not entitled to avail SSI exemption in respect of goods sold to STS.

2. *Tiptop Garments, a small scale unit, supplies uniforms to the Global School, bearing the name and logo of the school. Tiptop Garments have approached you as their consultant to know whether their unit will be eligible for SSI exemption under the Central Excise Act, 1944. Write a brief note explaining the relevant provisions under the Act. (CS, JUNE, 2013, 5 marks)*

HINT/ANSWER:

As per Circular No. 947/8/2011-CX dated 21.06.2011, putting brand of school, security agency, company, hotel, on readymade garments is not 'branding' of readymade garments. Thus, M/s Tiptop Garments will be eligible for SSI exemption on clearance of uniforms to 'The Global School' bearing the name and logo of the school.

**Note:**

This is correct since there is no trade in the goods by such school, hotel, airline, armed force, police force etc. This principle should apply to other goods also, though there are some contrary decisions, even of Supreme Court, on similar issues.

3. *A Ltd. was a manufacturer of two products 'X' and 'Y' falling under Chapter Heading 32 and 84 of the First Schedule to the Central Excise Tariff Act, 1985, respectively.*

   *The goods 'X' were dutiable but the goods 'Y' falling under Chapter Heading 84 were fully exempt from duty vide an exemption notification. However, the manufacturer, A Ltd., paid the excise duty on 'Y' by mistake and did not even claim refund of the same. Since goods 'X' falling under Chapter heading 32 were eligible for SSI exemption, the manufacturer wished to claim the same. For the purpose of computing the value of clearances for SSI exemption, the manufacturer excluded the turnover of goods 'Y' which was exempt although duty was paid mistakenly on them. However, the Department contended that the clearance of such goods should be included while computing the value of clearance for SSI exemption purposes.*

   *With reference to a decided case law, you are required to find out whether the contention of the Department is correct or not. (CA, May 2014, 3 Marks)*

HINT/ANSWER:

The Supreme Court opined that value of exempted goods needs to be excluded while computing the value of clearances for the purposes of claiming SSI exemption.

Further, the benefit of SSI exemption could not be denied to the assessee merely because he had not claimed a refund of the duty paid by him on such goods.

Therefore, in view of the above-mentioned ruling of the Supreme Court, the contention of the Department of including the clearances of goods 'Y' is not correct.

4. *The assessee was engaged in the manufacture and sale of cookies from branded outlets of "Cookies Man". The assessee had acquired this brand name from a foreign company.*

   *The assessee was selling some of these cookies in plastic pouches/containers on which the brand name described above was printed. No brand name was affixed or inscribed on the cookies. Excise duty was duly paid on the cookies sold in the said pouches/containers. However, on the cookies sold loosely from the counter of the same retail outlet with plain plates and tissue paper, duty was not paid. The retail outlet did not receive any loose cookies nor did they manufacture them. They received all cookies in sealed pouches/containers. Those sold loosely were taken out of the containers and displayed for sale separately. The assessee contended that SSI exemption would be available on cookies sold loosely as they did not bear the brand name. Department denied exemption on cookies sold loosely as claimed by the assessee.*

   *Examine, with the help of a decided case law whether the manufacture and sale of specified goods, not physically bearing a brand name, from branded sales outlets would disentitle an assessee to avail the benefit of small scale exemption. (YES, it is not* *necessary for goods to be stamped with a trade or brand name to be considered as branded goods for the purpose of SSI exemption) (CA, Nov 2013, 6 Marks)*

## SSI Exemption to First Clearance of Specified Goods

| | |
|---|---|
| **General Rules** | ➢ There is no definition of SSI under excise laws.<br>➢ Government wants to offer certain benefits to SSIs having small turnover and those units which cover under this are called SSIs.<br>➢ Exemption is available to SSI vide Notification No. 8/2003.<br>➢ Whether the manufacturer is eligible for exemption or not is determined on the basis of value of clearances during preceding Financial Year (F.Y.).<br>➢ For each FY exemption applies separately.<br>➢ SSI generate more employment, help in regional development and balanced economic growth. |
| **Registration** | ➢ Manufacturer has to get himself registered for availing exemption.<br>➢ Exemption from registration:<br>i. Manufacturer of goods who is wholly exempted from duty under Notification No. 8/2003.<br>ii. However such SSI has to give an annual declaration if aggregate value of clearances during preceding F.Y. was Rs.90 lakhs.<br>iii. They are required to obtain registration when clearance value exceeds 1.5 crores. |
| **Option to avail or not avail this exemption** | ➢ Option one, when SSI need not pay duty till Rs.1.5 Cr of turnover, but on turnover above Rs.1.5 Crore, CENVAT credit will be available and normal duty is paid.<br>➢ Option two, when without taking exemption, normal duty is paid with CENVAT credit.<br>➢ For one FY one option is available. Assessee can switchover to other option in next FY only.<br>➢ Option must be exercised before the first clearance at the normal rate of duty by informing to AC/DC in writing with a copy to the superintendent.<br>➢ Such option shall not be withdrawn during the remaining part of FY.<br>➢ Procedure to be followed for switching over:<br>Intimate to AC in writing along with:<br>a. Name and Address of the manufacturer.<br>b. Location of factory.<br>c. Description of goods that are manufactured.<br>d. Date of switch over.<br>e. Aggregate value of clearances. |

*Illustration/Questions asked in exams:*

*A small scale manufacturer has achieved turnover of Rs.1.52 crore during financial year 2013-14. Normal duty payable on the product is 10% plus education cess.*
*Compute the excise duty payable by SSI unit —*

*(i) If the unit wants to avail CENVAT credit; and*
*(ii) If the unit wants to avail exemption and CENVAT credit.*
*(Note: The turnover is without taxes and duties.) (CS, JUNE, 2010, 5 marks)*

HINT/ANSWER:

If the unit wants to avail CENVAT credit on total turnover;

| | |
|---|---|
| Basic excise duty = 1.52 crores × 10% | 15,20,000 |
| Education cess = 15,20,000 × 2% | 30,400 |
| SHEC = 15,20,000 × 1% | 15,200 |
| **Total Excise Duty** | **Rs.15,65,600** |

If the unit wants to avail exemption and CENVAT credit;

| | |
|---|---|
| Total Turnover | 1,52,00,000 |
| Less: Exemption | 1,50,00,000 |
| Net dutiable | 2,00,000 |
| Basic excise duty = 2,00,000 × 10% | 20,000 |
| Education cess = 20,000 × 2% | 400 |
| SHEC = 20,000 × 1% | 200 |
| **Total Excise Duty** | **Rs.20,600** |

*Illustration/Questions asked in exams:*

*A small scale manufacturer had achieved turnover of Rs.89 lakhs during FY 2012-13. Turnover achieved during 2013-14 was Rs.1.52 crores. Normal duty = 12% +cess.*
*Find the total excise duty paid by the manufacturer during 2013-14 in the following cases:*

*(a) If the unit has availed CENVAT credit.*
*(b) If the unit has not availed CENVAT credit.*

HINT/ANSWER:
If the unit has availed CENVAT credit:

a. In this case duty will be at normal rate i.e. 12.36% (12% + 3% cess).
Duty = 1.52 crores × 12.36% = 18,78,720/-

b. If the unit has not availed CENVAT credit.
On Rs.1.5 lakhs = nil
On subsequent sales = 12.36% of 2,00,000 = Rs.24,720/-

## Turnover

*Questions asked in exams:*

*Topmost Industries is a partnership firm using brand name 'Topmost' and is claiming SSI exemption in respect of machines manufactured by it. Department has denied SSI exemption on the ground that brand name belongs to some other person, i.e. Topmost Engineering Industries (TEI), a sole proprietary concern (in which the sole proprietor of TEI was brother of one of the partners of the partnership firm). The assessee contended that the brand name belongs to him, as TEI has never registered the brand name in its name. Discuss, with the help of decided case law, whether the SSI exemption can be denied on the ground that assessee is using brand name of another person.(SSI exemption is not available if goods bearing the brand name of others are used) (CS DEC, 2013, 5 marks)*

| | | |
|---|---|---|
| **SSI exemption in current year** | Manufacturer can avail SSI exemption in current FY if:<br>i. Aggregate value of clearances of all excisable goods for home consumption,<br>ii. by a manufacturer,<br>iii. does not exceed Rs.400 lakhs,<br>iv. in the preceding F.Y. | |
| **Clubbing of turnover** | Single manufacturer having two or more factories | Add all clearances of all factories |
| | Single factory is used by more than one manufacturer | Add all clearances of all manufacturers from that factory |
| **No clubbing of turnover** | i. If 2 or more factories have common partners, common directors.<br>ii. Turnover of subsidiary with that of holding company.<br>iii. Units belonging to government.<br>iv. Clearances of manufactured goods of raw material supplier with clearances of independent manufacturer/job worker. | |

| **Goods to be considered as turnover** | **Goods not to be considered as turnover** |
|---|---|
| | Partially processed goods or capital goods removed as such |
| Excisable goods | Non excisable goods |
| Own branded goods/unbranded goods | Goods bearing brand name of others (except certain |

| | |
|---|---|
| | exceptions) |
| Finished goods | Intermediate goods (but if finished goods are exempted then to be taken) |
| Own goods | Goods which are manufactured by job worker |
| Dutiable goods | Nil rated goods and excisable goods cleared without payment of duty |
| Local clearances( export to Nepal and Bhutan, outright sale of goods) | Export turnover (direct exports, sale to EOU, EHTP, STP ,SEZ units, UNO agencies or international agencies) |

| | |
|---|---|
| **Exemption up to Rs.1.5 crore** | When the turnover in the preceding FY is not above Rs.4 crore, then the unit will be eligible to enjoy exemption from duty up to Rs.1.5 crore turnover in the current year. |
| **Brand name** | i. Brand name means a name, mark, symbol, label, signature or invented word which may or may not be registered under Trade Marks Act, 1999.<br>ii. Goods bearing brand name of others are not eligible for SSI exemption.<br>iii. If brand name of other person is used even in respect of goods of other class or kind or benefit, then SSI exemption is not available.<br>iv. Exceptions to the brand name:<br>a. Component or part of machinery cleared for use as original equipment,<br>b. Sale under brand name of Khadi and Village Industry commission, State Khadi and Village Industry Board, SSI Development Corporation, National Small Industries Corporation, SSI Corporation.<br>c. Where the goods are manufactured in the factory located in a rural area.<br>d. Where the goods are account books, writing pad, file folder etc<br>e. Where the specified goods are in the nature of packing material.<br>For these goods exemption is available even if they bear others brand name. |

## Procedural Concessions Enjoyed By SSI

*Questions asked in exams:*

*Besides excise duty concessions, what are the other procedural concessions enjoyed by small scale industries? Explain briefly. (CS DEC, 2011, 7 marks)*

| | |
|---|---|
| **Payment of duty** | These units have to pay duty on quarterly basis as said earlier. |
| **Filing of return** | Return is to be filed on quarterly basis by 10th of the following quarter. |
| **Registration** | No registration up to turnover of Rs.1.5 crore. Only declaration on Rs.90 lakh. |
| **Export procedure** | ARE-1 form need not be prepared for SSI units with turnover below Rs.1.5 crore. |
| **CENVAT credit** | SSI units can avail CENVAT credit on capital goods in 1st year itself. |
| **Audit** | Small units may be audited once in 5 years, while medium SSI units may be audited once in 2 years. |
| **Official visits** | SSI units can be visited by departmental officers only with permission of AC and for specific purposes. |

***Important case laws:***

1. *CCE v. ACE Co. LTD.: No SSI exemption if the brand names of others are used.*
2. *Parle Bisleri Pvt LTD. V.CCE: All clearances to be clubbed for SSI exemption.*
3. *Circular No. 947/8/2011: Readymade garments and textile made ups-logo/name on uniforms, etc. are not brand names.*
4. *AC v. Jayantilal Balubhai: If one person owns a factory and is a partner in other factory, the production of all articles can't be clubbed.*
5. *Renu Tandon v. UOI: Common employees, closeness of relation are not sufficient to club clearances.*

*Illustration/Questions asked in exams:*

*SSI provides the following details:*
*Gross value of clearances: Rs.460 lakhs*
*It includes the following:*
*(a) Clearance to EOU without payment of duty = Rs.40 lakhs*
*(b) Export to Nepal and Bhutan = Rs.50 lakhs*

*(c) Job work = Rs.60 lakhs*
*(d) Goods manufactured in rural area bearing the brand name of others = Rs.70 lakhs*

*Calculate whether the benefit of exemption will be available or not.*

HINT/ANSWER:

SSI exemption will be available if total value of clearances does not exceed Rs.400 lakhs during preceding FY.

| | |
|---|---|
| Gross value of clearances | 4,60,00,000 |
| Less: Clearance to EOU without payment of duty | 40,00,000 |
| Less: Job work | 60,00,000 |
| **Value of clearances** | Rs.3,60,00,000 |

Note: Export to Nepal and Bhutan and Goods manufactured in rural area bearing the brand name of others are included.
As the value of clearances is less than Rs.400 lakhs , assessee will be eligible for SSI exemption.

*Illustration/Questions asked in exams:*

*SSI provides the following details:*
*Calculation of value of clearances:*

| *Particulars* | *Rs. ( in lakhs)* |
|---|---|
| *Total value of clearances ( including VAT Rs.50 lakhs) It includes* | *870* |
| *Total export ( including export to Nepal and Bhutan Rs. 200 lakhs)* | *500* |
| *Clearance to excisable goods without payment of duty* | *20* |
| *Job work* | *100* |
| *Clearance of excisable goods bearing brand name of khadi and village industries commission* | *200* |

*Determine eligibility for exemption for FY 2013-14.*

HINT/ANSWER:
Calculation of value of clearances during FY 2012-13:

| **Particulars** | **Amount (Rs.in lakhs)** |
|---|---|
| Total value of clearances | 870 |
| Less: VAT included in above | 50 |
| | 820 |
| Less: Exports excluding export to Nepal and Bhutan | 300 |

| | |
|---|---|
| Less: Clearance to excisable goods without payment of duty | 20 |
| Less: Job work | 100 |
| **Value of clearances** | **400** |

Notes:

a. Export to Nepal and Bhutan is included.

b. Clearances of excisable goods bearing brand name of Khadi and Village Industries commission are included.

Since the total turnover of the unit is not more than Rs.400 lakhs in the preceding year. Hence, SSI is eligible to claim the benefit of Notification No. 8/2003 in the FY 2013-14.

*Illustration/Questions asked in exams:*

*Star Ltd is engaged in manufacture of Excisable Goods started its business in May, 2013. It availed SSI exemption according to Notification No. 8/2003. The following details are provided:*

| | *Amount (in Rs.)* |
|---|---|
| *15,000 kg of inputs purchased @ 992.70 per kg*<br>*(Inclusive of Excise duty 12.36%)* | *1,48,90,500* |
| *Capital goods purchased on 29.6.2013*<br>*(Inclusive of Excise duty 12.36%)* | *44,12,000* |
| *Finished goods sold (exclusive of excise duty) throughout the year* | *2,50,00,000* |

*Calculate the amount of excise duty payable during the year 2013-14. Rate may be taken as 12.36%.*

HINT/ANSWER:

Computation of Excise Duty payable:

| **Particulars** | | **Amount** |
|---|---|---|
| Finished goods sold during the year | | 2,50,00,000 |
| Less: Exemption of Rs.1.5 crores | | 1,50,00,000 |
| Dutiable clearances [Note 1] | | 1,00,00,000 |
| Excise Duty payable @ 12.36% (1,00,00,000×12.36%) | | 12,36,000 |
| Less: 1. CENVAT credit available on inputs [Note 2]<br>Proportion of inputs consumed in dutiable clearances<br>= 1,00,00,000/2,50,00,000 = 0.4 | 6,55,203 | |

| | | |
|---|---|---|
| Excise Duty paid on such inputs [1,48,90,500×12.36/112.36]×0.4<br>2. CENVAT credit available on capital goods [Note 3]<br>= 44,12,000×12.36/112.36 | 4,85,336 | 11,40,539 |
| **Excise duty payable in cash** | | **95,461,** |

Notes:

1. It has been assumed that all the goods which are produced have been sold.
2. No CENVAT credit is available on inputs consumed in exempt clearances of 1.5 crores.
3. SSI can avail exemption on capital goods in 1st year itself.

*Illustration/Questions asked in exams:*

*Avon Plastic Ltd. is a company manufacturing plastic goods. It has two factories — one at Jaipur and another at Noida. Following information in respect of the two factories is available for the financial year 2013-14:*

| *Particulars* | *(Rs. in lakhs)* *Jaipur factory* | *Noida factory* |
|---|---|---|
| *(i) Goods cleared with own brand name* | *75* | *100* |
| *(ii) Clearances of plastic containers bearing brand name of Jolly Jams (to pack jam by them)* | *45* | *70* |
| *(iii) Goods cleared to 100% EOU against Form CT–3* | *90* | *80* |
| *(iv) Export to Bhutan* | *50* | *60* |
| *(v) Job work under Notification No.214/86–CE* | *65* | *55* |
| *(vi) Job work under Notification No.84/94–CE* | *85* | *95* |

*On the basis of above information, you are required to ascertain whether Avon Plastic Ltd. is eligible for the benefit of small scale exemption under Notification No.8/2003-CE dated 1st March, 2003 during the financial year 2014-15. (CS JUNE, 2012, 6 marks)*

HINT/ANSWER:

Computation for the purpose of limit of Rs.400 lakh:

| **Particulars** | **Jaipur (Rs. in lakhs)** | **Noida (Rs. in lakhs)** |
|---|---|---|
| Goods cleared with own brand name | 75 | 100 |
| Clearances of plastic containers bearing brand name of Jolly Jams | 45 | 70 |

| | | |
|---|---|---|
| Goods cleared to 100% EOU (Deemed export) | - | - |
| Export to Bhutan | 50 | 60 |
| Job work | - | - |
| Job work | - | - |
| **Total turnover** | **170** | **230** |

Notes:

If the same manufacturer has more than one factory, the turnover of all factories has to be clubbed for SSI exemption limit of Rs.400 lakh.
As the aggregate value of clearances during the previous FY does not exceed (170+230 = Rs.400 lakh), the company is eligible for SSI exemption in FY 2013-14.

*Illustration/Questions asked in exams:*

*Bhanu Enterprises is a manufacturing company. In the financial year 2013-14, the details of its clearances of goods are as follows:*

| | *(Rs.in lakhs)* |
|---|---|
| *(i) Total exports (including export to Bhutan Rs.50 lakh)* | *300* |
| *(ii) Clearances of excisable goods without payment of duty to a 100% EOU* | *100* |
| *(iii) Clearances of non-excisable goods* | *20* |
| *(iv) Job work under Notification No. 84/94-CE dated 11th April, 1994* | *175* |
| *(v) Clearances of packing materials which bear the brand name of Ravi Ltd. and meant for packing its products* | *40* |

*Clearances of goods notified under Section 4A of the Central Excise Act, 1944 (retail sale price of goods Rs.100 lakh; abatement notified 40%; and transaction value Rs.80 lakh).*
*On the basis of above information, you are required to ascertain the eligibility of Bhanu Enterprises for exemption based on the value of clearances in terms of Notification No. 8/2003-CE dated 1st March, 2003 as amended for the financial year 2014-15. Also give suitable notes. (CS DEC, 2012, 5 marks)*

HINT/ANSWER:

Computations of the value of eligibility limit clearances of Rs.400 lakhs:

| **Particulars** | **Rs. In lakhs** |
|---|---|
| Export to Bhutan | 50 |
| Clearance of goods notified u/s 4A (100% - 40% abatement) | 60 |
| Clearances of packing material bearing brand name | 40 |
| **Total value of clearances** | **150** |

Since, the aggregate value of clearances in FY 2013-14 does not exceed Rs.400 lakhs. Bhanu Enterprises is eligible to claim the benefit of Notification No.8/2003 in FY 2014-15.

Notes:

1. Export turnover is to be excluded. However, export to Bhutan cannot be excluded.
2. Clearances of packing material bearing brand name are included.
3. Following clearances are excluded: clearances of excisable goods, clearances of non-excisable goods, job work.

*Illustration/Questions asked in exams:*

*JAM Ltd., a unit manufacturing goods eligible for exemption under SSI Scheme has furnished the under mentioned particulars:*
*Turnover during 2013-14 _17.40 crores, which included the following:*

| | *(Rs. in crore)* |
|---|---|
| *Export to Japan* | *10.00* |
| *Export to Bhutan* | *1.60* |
| *Sale to an SEZ unit in Surat* | *2.00* |
| *Sale of 'nil' rated goods in India* | *1.50* |

*Turnover during the financial year 2014-15 is Rs.2.5 crore.*
*Total duty paid on inputs for achieving the above turnover of Rs.2.5 crore is Rs.25 lakh. Duty payable on output is 16%.*
*Based on the particulars furnished, find out —*
*(i) Whether the unit is eligible to enjoy SSI benefits under Notification No.8/2003-CE. If so, what is the duty payable in the year 2014-15 by JAM LTD.?*
*(ii) What would be duty liability of the assessee if he does not avail SSI exemption? (CS JUNE, 2014, 5 marks)*

HINT/ANSWER:
Calculation of value of clearances during FY 2012-13:

| **Particulars** | **Amount (Rs. in crores)** |
|---|---|
| Total value of clearances | 17.40 |
| Less: Exports to Japan | 10.00 |
| Less: Sale to an SEZ unit in Surat | 2.00 |
| Less: Sale of 'nil' rated goods in India | 1.50 |
| **Value of clearances** | **3.90** |

i. As the value of clearances in FY 2013-14 is less than Rs.4 crore. Hence, assessee, JAM Ltd., is eligible for SSI exemption in FY 2014-15.
   Duty payable = (2.5– 1.5 crores) × 16.48% = Rs.16,48,000
ii. Duty payable when he does not avail exemption: 2.5 crores × 16.48% = Rs.41,20,000

*Illustrations/Questions asked in exams:*

*Veena Ltd. has two factories and supplies you the following information:*

| *Particulars* | *Factory 'A'* | *Factory 'B'* |
|---|---|---|
| *Assessable value of clearances upto 31-12-2014* | *Rs. 90 lac* | *Rs. 60 lac* |
| *Assessable value of clearances from 01-01-2015 to 31-03-2015* | *Rs. 60 lac* | *Rs. 40 lac* |
| *Inputs purchased during the year 2014-15 (including excise duty)* | *Rs. 112.36 lac* | *Rs. 55.15 lac* |
| *Capital goods purchased on 14-09-2014 (including excise duty)* | - | *Rs. 11.03 lac* |
| *Effective rate of excise duty on inputs and capital goods purchased and output sold.* | *12.36%* | *10.3%* |

*Veena Ltd. is availing SSI exemption under Notification No. 8/2003-C.E. and inputs are used evenly throughout the year. There is neither any processing loss nor any inventory of input and output. You are required to calculate the amount of excise duty payable by Veena Ltd. in cash, if any, for the Financial Year 2014-15. (CA, May 2014, 5 Marks)*

HINT/ANSWER:

**Computation of central excise duty payable in cash by Veena Ltd. for FY 2014-15**

| **Particulars** | **Factory 'A'(Rs.in lakhs)** | **Factory 'B' (Rs.in lakhs)** | **Total (Rs.in lakhs)** |
|---|---|---|---|
| Assessable value of clearances up to 31.12.2014 | 90 | 60 | 150 |
| *Less:* SSI exemption under *Notification No. 8/2003* [Note 1 and 2] | | | 150 |
| Dutiable clearances up to 31.12.2014 | | | Nil |
| Assessable value of clearances from 01.01.2015 to 31.03.2015 | 60 | 40 | 100 |
| Excise duty payable | 7.416 (60×12.36%) | 4.12 (40×10.3%) | 11.536 |
| *Less:* CENVAT credit on inputs used in dutiable clearances (computed on *pro rata basis* as the same have been used evenly throughout the year) [Note 3] | 4.944 | 2.06 | 7.004 |

| | | | |
|---|---|---|---|
| *Less:* CENVAT credit on capital goods [Note 4] | | 1.03 (11.03×10.3/ 110.3) | 1.03 |
| **Excise duty payable in cash** | **2.472** | **1.03** | **3.502** |

Notes:
As per SSI exemption Notification No. 8/2003 CE dated 01.03.2003-
1. First clearances upto an aggregate value not exceeding Rs. 150 lakh made during a financial year are exempt from payment of excise duty.
2. Turnover of all factories belonging to same manufacturer have to be clubbed together for calculating SSI exemption limit of Rs. 150 lakh.
3. Units availing SSI exemption cannot avail CENVAT credit on inputs used in the manufacture of exempt clearances of Rs.150 lakh.
Factory 'A': $112.36 \times \frac{12.36}{112.36} \times \frac{60}{150}$

Factory 'B': $55.15 \times \frac{10.3}{110.3} \times \frac{40}{100}$
4. Units availing SSI exemption can avail CENVAT credit on capital goods but can utilize the same only after crossing the exemption limit of Rs. 150 lakh.
Further, entire credit on capital goods can be taken in the same financial year in which such capital goods are received by such units [Third proviso of Rule 4(2)(a) of CENVAT Credit Rules, 2004].

*Illustrations/Questions asked in exams:*

*Vipin Ltd. purchased raw material 'A' 10,000 kg @ Rs. 80 per kg plus excise duty. The said raw material was used to manufacture intermediate product 'P'. The said intermediate product was captively used for the manufacture of finished product 'Z', which was exempt from excise duty. The other informations are as under:*
*(i) Processing loss: 2% of inputs in manufacture of 'P'*
*(ii) Assessable value of 'P': Rs. 100 per kg.*
*(iii) Assessable value of 'Z' : Rs. 20 lac (for total output)*
*(iv) Other material 'M' used in the manufacture of 'Z': Rs. 2 lac plus excise duty.*
*(v) Duty on capital goods imported during the period and used in the manufacture of 'P':*

*Basic customs duty Rs. 20,000;*
*- Additional duty of customs under Section 3(1) of the Customs Tariff Act, 1975 Rs. 10,000; and*
*- Additional duty of customs under Section 3(5) of the Customs Tariff Act, 1975 Rs. 4,000.*
*(vi) Rate of central excise duty on 'A', 'M' and 'P': 12.36% (including education cess as applicable)*
*Vipin Ltd. is not eligible for SSI exemption under Notification No. 8/2003-C.E. Compute:*
*(i) Amount of CENVAT credit available, and*
*(ii) Central excise duty payable by M/s. Vipin Ltd. (CA, May 2014, 5 Marks)*

HINT/ANSWER:

**(i) Computation of amount of CENVAT credit available**

| | | |
|---|---|---|
| **On inputs:** | 98,880 | |
| Raw material 'A' (10,000 kg x Rs.80 x 12.36%) [Note 1 and Note 2] | Nil | 98,880 |
| Raw material 'M' [Note 3] | | |
| **On capital goods:** | | |
| Basic customs duty | Nil | |
| Additional duty of customs under Section 3(1) of Customs Tariff Act, 1975 [Note 4] | 5,000 | |
| Additional duty of customs under Section 3(5) of Customs Tariff Act, 1975 [Note 5] | 4,000 | **9,000** |
| **Total credit available** | | **Rs.1,07,880** |

**(ii) Computation of net Central Excise Duty payable by Vipin Ltd.:**

| | |
|---|---|
| Central excise duty payable on intermediate product 'P' (10,000 kg × 98% (2% processing loss) × Rs.100 x 12.36%) [Note 1] | 1,21,128 |
| Central excise duty on exempt final product 'Z' | Nil |
| Total central excise duty payable | 1,21,128 |
| Less: CENVAT credit available | 1,07,880 |
| **Net central excise duty payable (in cash)** | **Rs.13,248** |

**Notes:**

1. Intermediate goods are exempt from payment of excise duty if the same are consumed captively for manufacture of dutiable final products. However, since in this case, final product 'Z' is exempt, intermediate product 'P' will be liable to duty.
2. Since input 'A' is used in manufacture of dutiable intermediate product 'P', CENVAT credit will be available on the entire quantity of the same regardless of the processing loss as that quantity of inputs is also used in the manufacture of intermediate product.
3. Since raw material 'M' is used in manufacture of final product 'Z' which is exempt from payment of duty, credit will not be available on the same [Rule 6(1) of CENVAT Credit Rules, 2004]
4. Upto 50% of the credit in respect of additional duty of customs leviable under Section 3(1) of Customs Tariff Act, 1975 can only be availed in the year in which capital goods are received in the factory of the manufacturer.

5. CENVAT credit in respect of additional duty of customs leviable under Section 3(5) of Customs Tariff Act, 1975 is allowed immediately on receipt of the capital goods in the factory of a manufacturer.

*Illustrations/Questions asked in exams:*

*M/s. Honest Manufacturer furnishes the following information for the month of October, 2014:*

| | (Rs.) |
|---|---|
| *(i) Assessable value of goods 'X' cleared (effective rate of duty 12.36%)* | *150 lakh* |
| *(ii) Assessable value of goods 'Y' cleared (effective rate of duty 2.06% under Notification No. 1/2011-CE, dated 1-3-2011)* | *50 lakh* |
| *(iii) CENVAT credit of input 'P' (used only in manufacture of goods 'X')* | *10 lakh* |
| *(iv) CENVAT credit of input 'R' (used in manufacture of goods 'X' and 'Y' both)* | *6 Lakh* |

*The assessee does not maintain separate accounts for input 'P' and 'R'. Calculate the central excise duty payable by him. Also, calculate the amount payable, if any, under Rule 6(3)(i) of CENVAT Credit Rules, 2004. Duty payable by availing CENVAT credit and by GAR - 7 challan, if any, should be shown separately.*
*(Show the workings with explanation wherever required.) (CA, Nov 2013, 5 Marks)*

HINT/ANSWER:

**Computation of Central Excise Duty by M/s. Honest Manufacturer for the month of October, 2014:**

| | |
|---|---|
| Excise duty payable on goods 'X' [Rs.150 lakh × 12.36%) | 18,54,000 |
| Excise duty payable on goods 'Y' [Rs. 50 lakh × 2.06%) | 1,03,000 |
| **Total central excise duty payable** | **19,57,000** |

As per Rule 2(d) of the CENVAT Credit Rules, 2004, goods cleared by paying excise duty @ 2.06% under *Notification No. 1/2011 CE dated 01.03.2011* are exempted goods. Since, M/s. Honest Manufacturer uses common input 'R' in the manufacture of both dutiable goods 'X' and exempted goods 'Y', Rule 6 of the CENVAT Credit Rules, 2004 will apply in its case. Where common inputs are used for manufacture of both dutiable and exempted final products and separate accounts for the same are not maintained, Rule 6(3)(i) of the CENVAT Credit Rules, 2004 provides an option to the manufacturer to avail full credit on common inputs by paying an amount of 6% of value of the exempted goods.

**Computation of amount payable under Rule 6(3)(i)**

| | |
|---|---|
| **6%** of value of the exempted goods (Rs. 50 lakh × 6%) | 3,00,000 |
| *Less:* Duty of excise, if any, paid on the exempted goods [Note 1] | 1,03,000 |

| | |
|---|---|
| **Amount payable under Rule 6(3)(i) of the CENVAT Credit Rules, 2004** | **Rs.1,97,000** |

| | |
|---|---|
| Excise duty payable on goods 'X': | |
| Duty payable by availing CENVAT credit [Note 2] | 16,00,000 |
| Duty payable by GAR-7 challan (Rs. 18,54,000 – Rs. 16,00,000) **(A)** | 2,54,000 |
| | 18,54,000 |
| Excise duty payable on goods 'Y': | |
| By GAR-7 challan [CENVAT credit cannot be utilized for discharging the excise duty liability on goods cleared under *Notification No. 1/2011-C.E. dated 01.03.2011]* **(B)** | 1,03,000 |
| **Total central excise duty payable by GAR-7 challan (A) + (B)** | **Rs.3,57,000** |

**Notes:**

1. Any excise duty paid on exempted goods has to be reduced from the amount payable under Rule 6(3)(i) [First proviso to Rule 6(3) of the CENVAT Credit Rules, 2004].

2. Since input 'P' is used only in manufacture of dutiable goods 'X', full credit thereof (Rs. 10 lakh) will be available. Further, since option under Rule 6(3)(i) is being exercised, full credit of common input 'R' (Rs. 6 lakh) will also be available.

*Note: The words "for input 'P' and 'R'." in the question may be read as "for input 'R'."*

*Illustrations/Questions asked in exams:*

*MNO & Co. is the small scale unit located in a rural area and is availing the benefit of small scale exemption under Notification No. 8/2003-CE during the year 2014-15. You are required to determine the value of the first clearance of the unit and duty liability on the basis of particulars given below:*

| | |
|---|---|
| *Total value of clearances of goods with own brand name* | *50,00,000* |
| *Total value of clearances of goods with brand name of other parties* | *100,00,000* |
| *Clearances of goods which are totally exempt under another notification (other than an exemption based on quantity or value of clearances)* | *45,00,000* |
| *Rate of excise duty – 12% plus education cesses as applicable* | |
| *Assume that the unit is eligible for exemption under Notification No. 8/2003.* | |

*(Make suitable assumptions where required and show the calculations with appropriate notes) (CA, May 2013, 5 Marks)*

HINT/ANSWER:

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

| | |
|---|---|
| Clearances of goods with own brand name | 50,00,000 |
| Clearances of goods with brand name of other parties [Note 1] | 100,00,000 |
| 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 *Notification No. 8/2003 CE dated 01.03.2003* | 1,50,00,000 |
| Less: SSI exemption [Note 3] | 1,50,00,000 |
| **Dutiable clearances** | **Nil** |
| **Excise duty payable** | **Nil** |

**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 Rs. 150 lakh.
3. First clearances of Rs. 150 lakh are exempt from payment of excise duty under SSI exemption.

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