Excise Duty for IPCC

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➢ Introduction

- Duty is on manufacture of goods in India (including Jammu and Kashmir)
- An indirect tax and renamed as CENVAT
- Regulated by
  - CEA 1944
  - CER's
  - Notifications (for exemptions)
  - CETA 1985 (for classification)

➢ Basic conditions for levy of Excise Duty

Entry 84 of list I ,VII schedule of constitution empowers CG to levy excise duty on manufacture/production of	
Alcoholic liquors/ Opium/ Narcotics drugs	**All other goods (**including liquor etc for medicinal or toilet preparation)
State Govt. has power to levy	CG has power to levy

➢ Taxable Event

Manufacture of	**excisable**	**goods**	**in India**
Change of Nature character and use of an item	Mentioned in CETA	As per SOGA 1930 ie movable and marketable	Including J & K except SEZ

Manufacturing	Removal
Taxable event for levy. Whether or not raw material owned by the manufacturer. Whether sold or captively consumed.	Liability to pay excise duty at rate applicable at the time of removal from factory.

Note: Excisable goods exempted at the time of manufacture are liable to tax if exemption withdrawn before removal. But additional excise duty is not payable if it was not imposed at the time of manufacturer.

➢ Liability to pay excise duty

- Manufacturer or
- Storekeeper of warehouse

That means no removal of goods without payment of excise duty.

➢ Types of Excise Duty

- Basic excise duty
- Special excise duty

- Education cess and SHEC
- National calamity contingent duty (NCCD)
- Duties under other Acts
- Clean energy cess
- Other cesses

➢ Test of marketability

- Goods must be capable of being bought or sold.
- A hypothetical possibility of sale and purchase is not sufficient.
- Burden of proof is on the excise department that goods are marketable.
- For eg. Short shelf life goods, electricity, gas, steam, drawings, designs, software.

➢ Concept of manufacture/production

- Construction of dam: Not manufacturing.
- Marble blocks: Raw blocks to polished blocks amounts to manufacture.
- Conversion of tree into logs: Manufacture
- Mixing of ice-cream: Not manufacturing
- Compressing gas: Not manufacturing
- Coal ash: Not manufacturing
- CNG bus: Diesel bus to CNG bus – Not manufacturing.

➢ Manufacturer:

- A person who actually manufactures or produces excisable goods
- Raw material supplier or brand name owner is not manufacture

Valuation for central excise

Difference methods of calculation of excise duty			
Specific Duty	**Duty based upon value**	**Based on annual production capacity**	**Compounded levy scheme (optional)**
Based upon some measures like length etc		Currently on paan masala, rolled steel products (not optional)	On steel pattis/pattas, aluminum circles.

Tariff Value u/s 3(2)	**MRP u/s 4A**	**Transaction value/ ad valorem duty**
Fixed by CG (currently on readymade garments)	For goods covered under the provisions of legal metrology Act and rules.	Where no other method is applicable

Valuation based upon MRP u/s 4A

- CG generally permits an abatement from MRP
- If more than one MRP's then take maximum one
- Different MRP for different places: each will be treated separately.
- If manufacturer removes without MRP or alters, tampers etc : goods are liable to confiscation.
- If altered upward side: then such higher MRP will be used.
- Currently it is applicable on more than 140 articles.

Non applicability of MRP provisions

- Agri farm produces in packages > 50kgs
- Packages or commodities > 25kgs/liters (except cement/ fertilizers sold in bags up to 50 kgs)
- Any package containing bidis
- Certain agri farm produces
- Packages containing commodity having weight up to 10gm/10ml.
- Packaged commodities meant for industrial/ institutional consumers
- Fast food items packed by restaurants or hotel.
- A wholesale package (not for sale to direct consumer).

Transaction Value Method (Sec. 4)

If following conditions are satisfied

1- Goods are SOLD at the Time & Place of Removal
2- Assesse & Buyer are not RELATED
3- Price is the sole consideration for SALE.

Note for 1st : If goods are cleared from depot / place of consignment agent ,time of Removal shall be deemed to be the time at which the goods are cleared from the factory. Transfer to depot / Branch does not amount to sale at the time & place of removal.

Note for 2nd : Related

For HUF: Member of HUF

For entities other than individual = interconnected undertakings as per MRTP Act

Meaning of Relative for an individual: spouse, brother, sister, LA, LD, and spouses of all the relatives

"Computation of Transaction Value''

TV is a price paid or payable for the goods at the time & place of removal, by reason of or in connection with sale, inclusive of all Expenses but EXCLUDING TAXES

Eg: if goods worth Rs 200000 cleared without payment of ED. Then it shall be assumed that price is inclusive of duty hence Assessable / Transaction value

= 200000 x 100/112.36(assumed) = 178000,

Hence ED = 200000 - 178000 = 22000

Some other Inclusions & Exclusions from AV

Inclusions	Exclusions
Packing / Design charges. Price escalation after clearance. Notional interest on advance if price reduced. Compulsory charges for after sale service during warranty period. Pre delivery charges. Transport charges up to place Removal. Dharmada if collected as pre condition to sale.	Trade or cash discount. Price of accessories and optional bought out items. Value of components not fitted. ⟹ If optional Freight/ transit insurance/ charge for late payment. Transport charges if delivery at some other place than factory. Even if transport arranged by manufacturer and charged to buyer.

Valuation rules for computation of assessable value when TV method is not applicable because of non-fulfillment of any of the condition.

- **If goods are not sold at the time of removal**: AV shall be value of such goods sold by the assessee at any other time nearest to the time of removal subject to reasonable adjustments.
- **If price is not the sole consideration**: AV= price charged + money value of additional consideration whether direct or indirect.
- **Items supplied by buyer free of cost or at concessional rate**: AV= price charged + value of such additional consideration.
- **Transportation**; same as above table.
- **Notional interest**: on advance if evidence that price is reduced due to heavy advance.
- **Goods are not sold but used for captive consumption**: AV= 110% of cost of production.
- **When goods are sold to related or interconnected concern**: AV= the price at which the related buyer sells goods to an unrelated buyer.
- **If goods are manufactured on job work basis**: AV= the value at which the principal manufacturer sells goods to unrelated buyer.
- **Residual rule**: when nothing is applicable AV = best judgment assessment basis.

GENERAL PROCEDURES (EXCISE)	
Registration	Every person who manufactures excisable goods is required to get registered (except a few eg SSI). Separate premises separate registration In case of transfer of business fresh registration is required.
Forms	
RC	Reg. certificate to be issued within 7 days of application otherwise deemed to be issued.
A1	Any change in information (change in constitution should be intimated within 30 days but fresh registration is not required)
ER1	Periodical returns by 10th of following month
ER2	‘’ ‘’ ‘’ ‘’ ‘’ for EOUs/STPs
ER3	‘’ ‘’ ‘’ ‘’ quarter for SSIs
	• E-filling of return is mandatory for all assesees

ER4	Annual financial statement, on or before 30^{th} nov after the end of financial year (only for assesses paying duty of Rs 1 crore or more through PLA)
ER5	Information of principal inputs on or before 30^{th} April after the end of the financial year. (NA if payment of ED< 1 crore PA).
ER6	If ER 5 is required then ER6 is required for monthly return of principal input regarding receipts and consumption of principal inputs.
ER7	Annual installed capacity statement to be filled before 30^{th} April every year.

Daily Stock Account
To be maintained and it contains details of goods manufactured, cleared and in stock.

Clearance under invoice of the assese: in case of cigarettes invoice should be countersigned by excise officer.

List of records to be maintained & submitted I r o receipts, purchase, sale or delivery etc.

Payment of Excise duty(through GAR 7 challan/CC):

SSI	Other	For March
Up to $5/6^{th}$ of month following quarter	Up to $5/6^{th}$ of following month	Up to 31^{st} march.

Assessee paying more than one lac PA through PLA is required to make e-payment only.

➢ Export procedures

- No excise duty on exports
- Two ways to export

With payment of duty	Without payment of duty
Rebate can be claimed (rule 18)	Under bond(rule 19)

- Self-sealing of container not allowed they are to be sealed by CEO.
- Excisable goods should be exported under cover of invoice & form ARE-1.
- Goods should be exported within 6 months from the date of clearance from factory.
- Export to Nepal/ Bhutan – ED payment is required except when supply is against international bidding.
- EOU has to issueCT-3 certificate for getting duty free inputs.

➢ Small Scale Industries and Job Work

SSI: it is a unit whose turnover in preceding financial year was up to Rs 4 crores.

Optional exemption to SSI units	
Option 1 (automatic) notification 8/2003	Opion2 (application required)
No ED in CY up to T/O of Rs1.5 crore NO CC up to Rs 1.5 crore CC on capital goods can be claimed after crossing Rs 1.5 crore.	NO exemption CC allowed normally can be applied anytime during the year but once availed cant be withdrawn during the financial year

➢ Calculation of limit of Rs 4/1.5 crore

	For 4 cr	**For 1.5 cr**
Exempted goods (exempt other than SSI exemption)	**Yes**	**No**
If final product exempt under job work notification (214/86)	No	No
Clearances to EHTP/STP/EOU/UN without payment of ED.	No	No
If goods are manufactured in rural area with brand name of others	Yes	Yes
Captive consumption of intermediate goods		
If final product is exempt (other than SSI exemption)	**T/o of final product**	**T/o of intermediate product**
If final product is exempt due to SSI exemption	No duty on intermediate product	
Export to Nepal/ Bhutan	Yes	Yes
Goods cleared with payment of duty under compounded levy scheme	Yes	Yes

- If manufacturer has 2 or more units than turnover of all such units shall be clubbed for this purpose as exemption is assessee wise.

➢ Job Work

- Means supply of material by a person to a job worker who carries out certain processes and returns the article after carrying out processes. **It is also called as sub-contracting.**
- If some operations are carried out in job work which do not amount to manufacture of goods then in such case ED is not applicable however, goods are manufactured during job work ED liability will arise.
- The **person doing job work will be manufacturer** and he will be liable for ED (as per rule 10A of valuation rules).
- **Concession/exemptions:**
  - If after completion of job work, the goods are received back in the factory of manufacturer within 180 days, than in such case no duty liability on the job worker for the same.
  - Under notification 214/86, if **a declaration** is given by person, sending material/ semi-finished goods for job work (**principal manufacturer**), to AC(jurisdiction over factory of job worker) **that he will be liable for ED, job worker is exempt from ED.**