# IMPLICATIONS OF UNION BUDGET 2017-18 AND

# HAND BOOK ON EXCISE & SERVICE TAX AS RELEVANT TO CORRUGATED BOARD BOX INDUSTRY

(UPDATED AFTER BUDGET ON 01.02.2017)

(For Private Circulation Only)





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Dear Friends,

I have the privilege of presenting this year's **E-handbook On Excise & Service Tax – Implications of the Union Budget as Relevant to the Corrugated Box Industry**, compiled very promptly by our very efficient Taxation Committee team chaired by our Past President Shri Manohar Shetty.

As expected, due to the imminent implementation of GST, there have been no changes in excise and service tax rates announced in the Union Budget for 2017-18. The Budget plans increased planned expenditure for rural areas, affordable housing and poverty alleviation. The FM announced a record allocation of Rs. 3.96 lakh crore to infrastructure sector. The proposed cut in corporate tax for MSMEs will help them to become more competitive visavis larger companies and will also encourage firms to migrate to company format. The corrugated industry can take note of this.

The Finance Minister, Shri Arun Jaitley has said that India seen as an engine of global growth. India's economic growth has been pegged at 6.5 per cent for the current fiscal year; down from 7.6 per cent recorded in the last financial year, but is expected to rebound in the range of 6.75-7.5 per cent in 2017-18.

I would like to record my heartfelt appreciation for the excellent work done by the Chairman, Shri Manohar Shetty, Co-Chairman, Shri Bharat Kedia and their team and commend this e-Handbook to the members of the Federation.

With Regards and Best Wishes,

Greesh Sardana, President FCBM February 11, 2017

Respected Senior Members/Dear Friends

The Taxation Sub Committee thanks President **Sri Greesh Sardana** & the esteemed **Managing Committee Members** for giving us the opportunity to present before you this E Book on Union Budget Implications 2017-18 and the Routine Procedures Under Excise & Service Tax, as relevant to the industry.



The Hand Book will apprise the readers with changes in the Union Budget 17-18' and also provide summarized guidelines to prescribed procedures, suggestive declarations, return formats required to be filed by an assessee, for their ready reference. The software provides the ease of printing any particular section; downloading prescribed declarations formats, keying in the required particulars & printing on one's organization letter head for submission to the department. Relevant notifications etc. can also be downloaded & attached in the mail for inter office – factory communications.

The Taxation Sub Committee receives several queries by members, on the clarifications sought by the Excise Range/Audit team from their units. The units can themselves give a proper reply, to the queries raised during audit , provided they have the related Notifications/ Clarifications handy with them. All such clarifications by the department on a host of issues such as exemption from filing of ER-4, ER-5 & ER-6 returns; eligibility of quarterly duty payments by SSI Units, eligibility of concessional rate of duty on C.B. Boxes amongst other issues. The Cenvat Credit Rules have been summarized for your judicious use & ready reference.

The compiler of this publication is grateful to his Co Chairman Shri Bharat Kedia and the members of the Taxation Committee along with all his predecessors who were instrumental in this earnest attempt to help our member fraternity. The Taxation Committee is guided by some of our eminent Past Presidents like Shri R G Agarwala , and Shri Harish Madan

This committee acknowledges with gratitude time to time legal advice received from **all the legal luminaries like Shri Lakshmi Kumaran**, M/s Lakshmi Kumaran & Sridharan, New Delhi; who have been always associated with FCBM, and all others who have contributed to this publication in one way or the other.

We do hope that you will find this e book useful & give us your valuable <u>feedback</u> so that we can improve on the same.

Yours truly Manohar Shetty Chairman – Taxation Sub Committee, FCBM

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# UNION BUDGET 2017-18 – IMPLICATIONS



### A. CENTRAL EXCISE TARIFF

### 4819 10 - Cartons, boxes and cases, of corrugated paper or paperboard:

4819 10 10 --- Boxes - 6 % 4819 10 90 --- Other - 6%

(Notification No.12/2012 CE. - 17.03.12 – S.No. 171, Condition no. 13) (Fitments sold & billed as a set with C.B. Boxes will attract 6% Duty, otherwise 12.5%)

4819 10 10 --- Boxes - 12.5 %

(Standard rate where the above conditional exemption is not applicable) (As Per The First Schedule of CETA, 1985, Section X, Chapter 48, as amended by Clause 104 of The Finance Bill 2015)

# 4819 20 - Folding cartons, boxes and cases, of non corrugated paper and paperboard:

4819 20 20 --- Boxes - 12.5% 4819 20 90 --- Other - 12.5%

(As Per The First Schedule of CETA, 1985, Section X, Chapter 48, as amended by Clause 104 of The Finance Bill 2015)

### 4819 50 - Other packing containers, including record sleeves:

4819 50 10 --- Made of corrugated paper or paperboard – 12.5% 4819 50 90 --- Other 12.5 %

(As Per The First Schedule of CETA, 1985, Section X, Chapter 48, as amended by Clause 104 of The Finance Bill 2015)

### 4707 RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD

4707 90 00 - Other, including unsorted waste and scrap - 6 % (Notification No. 12/2012 CE. - 17.03.12 - S.No. 160) (No Change)

# 4808 PAPER AND PAPERBOARD, CORRUGATED (WITH OR WITHOUT GLUED FLAT SURFACE SHEETS), CREPED, CRINKLED, EMBOSSED OR PERFORATED, IN ROLLS OR SHEETS, OTHER THAN PAPER OF THE KIND DESCRIBED IN HEADING 4803

4808 10 00 - Corrugated paper and paperboard, whether or not perforated - 6% (Size Should be greater than 36x15 cms.) (As Per The First Schedule of CETA, 1985, Section X, Chapter 48)

Notes: Please mention relevant Notification No. In Invoices & Returns etc. where concessional rate of duty is being charged.

Page 1 TARIFF IMPLICATION



### B. SERVICE TAX

Service Tax Rates of duty increased is 14%

Swachh Bharat Cess continues @ .5% on Taxable value of services as before.

Krishi Kalyan Cess continues @ .5% on Taxable value of services as before.

Service tax continues to be payable on 30% (abatement 70%) of the value of transport for goods transport by road by a goods transport agency, subject to a condition of non-availment of Cenvat Credit on inputs, capital goods and input services.

Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate continues to be under **full reverse charge**.

### C. CUSTOMS

There is no change in peak rate for non-agricultural products. It continues to remain at 10%. Import Duty on paper & board continues to be @ 10%, import duty on waste is Nil as before.

Page 2 TARIFF IMPLICATION

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### **UNION BUDGET 2017-18**

### CHANGES MADE IN THE CENTRAL EXCISE RULES, 2002:

Rule 21 à Time limit for granting remission of duty has been prescribed:

Rule 21 of the Central Excise Rules, 2002 contains the provision regarding remission of duty.

Sub-rule (2) has been inserted in Rule 21 of the Central Excise Rules, 2002 so as to provide for a time limit of three (3) months [further extendable by 6 months] for granting remission of duty.

### CHANGES IN THE CREDIT RULES - TRANSFER OF CENVAT CREDIT: RULE 10

A new sub-rule 4 has been inserted in Rule 10 of the Credit Rules, so as to provide that transfer of Cenvat credit by the jurisdictional Deputy/Assistant Commissioner of Central Excise, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider in this regard, subject to the fulfillment of the conditions prescribed under Rule 10(3).

Further, the stated period of 3 months may be extended by the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, for a further period not exceeding 6

### CLARIFICATION REGARDING APPLICABILITY OF SECTION 5A OF THE EXCISE ACT IN RESPECT OF INPUTS IMPORTED OR EXPORTED BY EOU

Section 5A of the Excise Act provides that unless specifically provided in a notification, no exemption therein shall apply to excisable goods which are produced or manufactured by an Export Oriented Units ("EOU") and cleared to the Domestic Tariff Area ("DTA").

It has been clarified that non-applicability of exemptions under notifications issued under Section 5A is only in respect of excisable goods produced or manufactured by an EOU and cleared to DTA and not in respect of inputs/raw materials procured by them domestically and utilised for production/manufacture of goods which are cleared by them to DTA.

Thus, EOU will also be eligible to import or procure raw materials/inputs at other concessional/Nil rate of Basic Customs Duty ("BCD"), Excise duty/Additional Duty of Customs ("CVD") or Special Additional Duty ("SAD"), as the case may be, provided they fulfill all conditions for being eligible to such concessional or Nil duty. For these purposes, if an EOU is already registered with the jurisdictional Central Excise Authority, it will not be required to take any fresh registration under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 or the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, as the case may be. Further, there will be no need for an EOU to separately comply with the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 for availing the CVD exemption, if the procedure under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rule, 2016 is followed by it for availing exemption / concession from BCD on imports of inputs/raw materials.



### **CHANGES MADE IN UNION BUDGET 2016-17**

#### CHANGES IN CENTRAL EXCISE RULES

Changes in registration procedure vide Notification 7/2015 C.E. (N.T.) – Dated 01.03.2015 is given as under (w.e.f. 01.03.15):

- Application for registration/cancellation shall be filed ONLY by online method
- > PAN No is must for getting registration under Excise except government department
- > Temporary Registrant should apply for PAN based registration within 3 month
- Email Id, Mobile Number, details of other government Registration details is compulsorily to be quoted on registration application.
- > Once duly completed application form is received online on ACES, registration would be granted within two working days and Registration Certificate will be issued online without any examination of the documents and verification of documents or premises before the grant of registration.
- ➤ Registration Certificate issued online is sufficient proof of registration. No need to have hard copy of registration. Signature of issuing authority is not required on online registration certificate.
- Verification of the documents and premises shall be carried out post facto. The applicant shall submit self-attested copy of the prescribed documents at the time of the verification of the premises.
- ➤ In case of Change in constitution of assessee amounting to change in PAN number, fresh registration is to be obtained. In other cases, intimation of such changes is to be given with 30 days

**Direct dispatch of goods to job worker and dispatch of goods from one job worker to another** – Manufactured or imported goods can be sent by supplier manufacturer or importer directly to place of job worker. The invoice issued by supplier manufacturer or importer should contain details of purchaser manufacturer (or purchasing service provider) and job worker. – second and fourth *proviso* to rule 11(2) of Central Excise Rules, inserted w.e.f. 1-3-2015.

If goods are directly sent to a job worker, on the direction of a manufacturer/service provider, the invoice shall state manufacturer/service provider as Buyer and job worker as the consignee and it should provide their details.

The purchasing manufacturer (or purchasing service provider) can avail Cenvat credit as soon as goods are received in the factory of job worker. – rule 4(1) of Cenvat Credit Rules amended w.e.f. 1-3-2015.

**Goods purchased by registered dealer can be sent directly to manufacturer** – A registered dealer who has purchased goods can instruct manufacturing manufacturer to send goods directly to the ultimate purchaser manufacturer (or purchasing service provider). Details of registered dealer as buyer and buyer manufacturer (or purchasing service provider) receiving the goods shall be shown as consignee third *proviso* to rule 11(2) of Central Excise Rules, inserted w.e.f. 1-3-2015.

If the goods imported by registered Importer and sent directly to buyer's premises, then invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises.

Other provisions of Rule 11 shall also made to be applicable to registered Importer mutatis mutandis.

The purchase manufacturer (or purchasing service provider can take Cenvat credit on basis of dealer's invoice – third *proviso* to rule 11(2) of Central Excise Rules, inserted w.e.f. 1-3-2015

[This is Transit Invoice and was earlier allowed by way of CBE & C circular No. 96/7/95-CX dated 13-2-1995].

**Authentication of invoice by digital signature** – Central Excise Invoice can be authenticated by digital signature. Manual attestation of Invoice copy not required – 1.03.2016 (If printed copy is sent with transporter, it shall be self attested by manufacturer – rule 11(8) of Central Excise Rules inserted w.e.f. 1-3-2015).

**Option to maintain records in electronic mode** -Rule 10 of CER 2002, has been amended w.e.f. 1-3-2015 to provide for preserving records in electronic mode and every page of such record preserved shall be authenticated by mean of digital signature. The Central Government may specify the conditions and safeguards for preserving digitally signed records.

Rule 10 prescribe Rules for maintenance of Daily Stock Account (DSA). Now facility of maintenance of DSA is provided in electronic forms as well, with a condition that each page of DSA will be authenticated by Digital Signature.

**Export means goods should go outside India** – Explanation to rule 18 of Central Excise Rules has been amended w.e.f. 1-3-2015, to provide that 'export' means goods to be taken outside India or supplied as stores.

Rule 5(1A) of Cenvat Credit Rules as inserted w.e.f. 1-3-2015 also provides that 'export goods' means goods taken outside India.

[It means that if goods are supplied to EOU or SEZ, rebate of excise duty is not available].

**Departmental clarification in case of 'place of removal' -** CBE&C, vide circular No. 999/6/2015-CX dated 28-2-2015 has clarified as follows -

In case of goods cleared by manufacturer exporter, transfer of property takes place when goods are handed over to shipping line. In that case, port/ICD/CFS will be the place of removal.

In case of export through merchant exporter, normally, property in goods passes to merchant exporter at the factory gate. Hence, that will be normally place of removal. However, in isolated cases, the port/ICD/CFS can be place of removal depending on facts of the case.



### Penal Provisions

Levy of Penalty On Late Filing of Returns & Other Specified Excise Statements - (Rule 12 (6) and 17 (5) inserted in Central Excise Rules, 2002, vide notification no. 8/2015 C.E. (N.T.) dated 01.03.2015)

Earlier non filing/late filing of excise returns was subjected to general penalty under rule 27 of C.E.R. 2002, which is punishable with a penalty, which may extend to Rs. 2,000/-

Sub rule 6 has been inserted in rule 12, which penalizes the assesses for failing to file the Excise Returns or Annual Financial Statement or Annual Installed Capacity Statement, as applicable, with due dates as specified, with an amount calculated at the rate of one hundred rupees per day subject to a maximum of Rs. 20,000/-

Section 11AC of CEA, 1944 is proposed to be changed with new provision to impose penalty to tackle two situations as below:

### 1. Evasion of duty or non-payment of duty but without suppression -

- a) a penalty not exceeding 10% of the duty determined or Rs.5000 whichever is higher shall be payable;
- b) no penalty shall be payable if duty and interest payable thereon under section 11AA is paid **before issue of show cause notice**

or

no penalty shall be payable if duty and interest payable thereon under section 11AA is paid within 30 days of issue of show cause notice

c) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed along with duty and interest is paid within 30 days of the date of communication of such order.

### 2. Evasion or non-payment with suppression -

- a) a penalty equal to the duty so determined shall be payable.
- b) for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015, the penalty payable shall be 50% of the duty so determined provided details of transactions of evasion are recorded
- c) 15% penalty shall be payable, of the duty determined, if duty and interest payable thereon under section 11AA is paid within 30 days of issue of show cause notice
- d) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed along with duty and interest is paid within 30 days of the date of communication of such order.

### **Appellate Order To Effect Penalty**

- a. If duty is reduced by way of an order of Tribunal or Appellate authority then, percentage of penalty shall reduce accordingly depending upon the class of evasion as enumerated above i.e. evasion with suppression or evasion without suppression.
- b. If duty is increased by way of an order of Tribunal or Appellate authority then, percentage of penalty shall increase accordingly depending upon the class of evasion as enumerated above i.e. evasion with suppression or evasion without suppression.

Further, very important explanations has been added to the proposed Section 11AC

### Applicability of New Section 11AC

**Explanation I** covers the following 3 situations:

**Situation 1** – where no show cause notice has been issued before the the date of assent of president to the Finance Bill, 2015, the provisions of to be enacted new Section 11AC of the Finance Act, 2015 shall be applicable.

**Situation 2** – where show cause notice has been issued before the the date of assent of president to the Finance Bill, 2015

#### but

**order is not issued** before the assent of the president to the Finance Bill 2015, then provisions of to be enacted new Section 11AC of the Finance Act,2015 shall be applicable.

### **Provided**

such person pays the interest, duty and penalty in terms clause d) of proposed Section 11AC within 30 days from the date on which the Finance Bill, 2015 receives the assent of the President.

**Situation 3 –** where order **is passed** after the assent of the president to the Finance Bill 2015, then provisions of to be enacted new Section 11AC of the Finance Act, 2015 shall be applicable.

#### **Provided**

such person pays the interest, duty and penalty in terms of clause b) or e) of proposed Section 11AC within 30 days from the date of communication of the order.

Explanation II to the proposed Section 11AC is equally important as it explain the word "specified records"

It is pertinent to note that similar explanation already existed, since 2011, in Section 73 of Finance Act, 1994 for service tax as below

Explanation under Section 73 of Finance Act, 1994

For the purposes of this sub-section and section 78, "specified records" means records including computerized data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.;"

With the proposed new Section 11AC, i foresee reduction in disputes at least in those appeals which used to be filed for getting relief in penalty.



#### **SERVICE TAX CHANGES**

## Process amounting to manufacture or production of goods excluding alcoholic beverages for human consumption:

The Negative list entry in respect of the said service is proposed to be omitted. However the same has been placed under Mega Exemption Notification 25/2012-ST vide Entry 30. As a result the activity which was "non-taxable" is now categorized as "exempted". Consequently, the respective interpretation of the said service under Section 65B(40) of Finance Act, 1994 is proposed to be deleted and is being included in the general exemption notification. (W.E.F. Date of Receipt Of Assent Of The Finance Bill)

### Exemption for upfront amount for grant of long term lease extended from 01/06/2007:

Benefit of exemption of Service Tax from one time upfront payment payable for grant of long term lease of industrial plots which was available from 22-09-2016 is being extended to be made available from 01-06-2007.



### SERVICE TAX CHANGES MADE IN UNION BUDGET 2016-17

### Registration Procedure Under Service Tax:

Procedure, conditions and safeguards for registration under service tax will be as prescribed by CBE&C by order – rule 4(9) of Service Tax Rules, inserted w.e.f. 1-3-2015.

The procedure, as prescribed in order No. 1/2015-ST dated 28-2-2015 issued by CBE&C, is as follows –

- > Online application for registration in form ST-1 is mandatory. Application should be through ACES (Automation of Central Excise and Service Tax)
- Applicant must have Income Tax PAN. He must have mobile number and e-mail address. On application, applicant will be granted registration within two days. The number will be generated electronically. Online registration through website is adequate proof, even if not signed.
- Assessee can start paying service tax after obtaining registration number electronically
- ➤ After application, documents prescribed in CBE&C order No. 1/2015-ST dated 28-2-2015 should be submitted with seven days. These cover copy of PAN, photograph and proof of identity of person, proof of possession of premises, details of main bank account, memorandum and articles and Board resolution.
- ➤ Business transaction number with other authorities like Customs Registration Number, IEC (Import Export Code), State Sales Tax Number, CST, Company Index Number etc. should be submitted.
- > Verification of premises can be done only with permission of Additional/Joint Commissioner.
- ➤ If required clarifications are not provided by assesse, registration can be cancelled after granting personal hearing. If premises are nonexistent, registration can be cancelled by Deputy/Assistant Commissioner

### **Digitally Signed Invoice Allowed:**

Serviced Tax Invoice can be authenticated by digital signature. CBE&C will specify conditions, safeguards and procedures to be followed – Rule 4C of Service Tax Rules, inserted w.e.f. 1-3-2015.

It may be noted that mere computer generated invoice is not 'digitally signed invoice'.

### Records May Be Maintained Electronically:

Records may be preserved in electronic form and every page of the record shall be authenticated by means of digital signature. The procedure and conditions and safeguards will be specified by CBE&C by notification – Rule 5(4) of Service Tax Rules, inserted w.e.f. 1-3-2015

Such record keeping is optional. Even otherwise, private records maintained on computers are acceptable, even if not digitally signed.

### **Changes In Abatements:**

Following changes in abatement will be effective from 1-4-2015. The changes are made by amending Notification No. 26/2012-ST dated 20-6-2012.

**Service tax on transport of goods by rail.** – Service tax on transport of goods by rail, will be payable on **40%** of value for any person other than Indian Railways and 30% of value for others Cenvat credit on input services, will be allowed [Till 1-4-2016, service tax on Transport by Rail was on 30% and Cenvat credit was not available].

**GTA (road) or vessel** will be payable on **30**% of value subject to condition of non-availment of Cenvat credit on inputs, capital goods and input services, subject to non-availment of Cenvat Credit [Till 1-4-2015, service tax on GTA was on 25% and service tax on transport by vessel was on 40% of value].

### Changes In Reverse Charge:

Following changes are effective from 1-4-2015. The changes are made by amending Notification No. 30/2012-ST dated 20-6-2012.

In case of service tax on manpower supply service and security agency services, **entire 100**% service tax will be payable by service receiver .

### New Activities Proposed To Be Covered Under Service Tax:

All services provided by Government to business entity taxable – All services provided by Government to a business entity will be taxable, except those exempted or in negative list. At present, only support services provided by Government are taxable – proposed amendment to section 66D (d) (iv) of Finance Act, 1994 [negative list of services].

Service tax will be payable by business entity under reverse charge.

Note that statutory activities undertaken by Government is not 'service' for the simple reason is that there is no 'consideration' [as consideration is required to be 'at the desire of promisor', as per section 2(d) of Contract Act. Here, the statutory charges are not at the desire of promisor – rather against the desire of promisor].

### Reimbursement of expenses includible in value of service tax

There were disputes about inclusion of reimbursement of expenses in value of service tax. There was adverse decision of Delhi High Court.

To get over that decision, it is provided that 'consideration' shall include any reimbursable expenditure or cost incurred by the service provider and charged, in course of providing or agreeing to provide service, except in case of prescribed circumstances – *proposed* Explanation (a) to section 67 of Finance Act, 1994.

### **New Exemptions From Service Tax:**

Following new exemptions are given w.e.f. 1-4-2015. The exemptions are given by amending Notification No. 25/2012-ST dated 20-6-2012.

**Goods transport upto land customs station** – Goods transport service from place of removal upto land customs station will be exempt from service tax – amendment to Notification No. 31/2012-ST dated 20-6-2012.



### **Changes In Penal Provisions:**

The penalty provisions are revamped. The changes will be effective from the date when Finance Bill, 2015 is passed and receives assent of President of India. The changes are clarified in para 5.2 of MF (DR) letter DOF No. 334/5/2015-TRU dated 28-2-2015.

**No show cause notice if service tax with interest paid before SCN** – Show cause notice cannot be issued if service tax with interest is paid before SCN. This is because show cause notice under section 73(1) of Finance Act, 1994 can be issued only when service tax has not been levied or pair or short levied or short paid or erroneously refunded.

This would be so even if there was suppression of facts, wilful misstatement etc.

Section 73(1) of Finance Act, 1994 does not make any mention of interest. However, proposed section 76(1) and section 78(1) of Finance Act specify that show cause notice should mention interest. Thus, show cause notice must mention interest.

**Immediate steps for recovery of self assessed service tax** – If an assesse declares amount of service tax payable by him in his ST-3 return (on self assessment) but does not pay the service tax, immediate recovery proceedings can be initiated under section 87 of Finance Act, 1994, without issuing any show cause notice – proposed section 73(1A) of Finance Act, 1994.

The principle is that no demand notice is necessary for admitted liability.

Thus, if amount involved is huge, it will be cheaper to delay filing of ST-3 return and pay late fee of Rs 20,000. However, department can allege suppression of facts and penalty will become payable.

**Penalty upto 10% even if no suppression or fraud** – Penalty upto 10% of service tax amount will be payable for violation of any provision of service tax law or rules, even when there was no charge of suppression of facts or wilful misstatement – *proposed* section 76(1) of Finance Act, 1994.

However, if service tax with interest is paid before show cause notice, SCN cannot be issued at all, in view of section 73(1) of Finance Act, 1994. Hence, question of penalty cannot arise.

No penalty if service tax with interest paid within 30 days of issue of SCN, when no allegation of suppression – No penalty will be payable if service tax and interest is paid within 30 days of issue of show cause notice under section 73(1) of Finance Act, 1994 (i.e. where there is no allegation of suppression of facts). – proposed provison (i) to section 76(1) of Finance Act, 1994.

**Penalty** @ 25% if service tax, interest and penalty paid within 30 days, when no allegation of suppression – If service tax, interest and reduced penalty is paid within 30 days from the order of adjudicating authority imposing penalty, penalty payable will be 25% of amount involved, where there is no allegation of suppression of facts or wilful misstatement [25% of 10%] – proposed proviso (ii) to section 76(1) of Finance Act, 1994.

If service tax amount gets reduced in appeal, penalty also gets reduced – If service tax amount is reduced in appeal, penalty also gets reduced proportionately, if paid with 30 day [i.e. 2.5% of 10% will be payable – proposed section 76(2) of Finance Act, 1994.

**Penalty in case of suppression of facts or wilful misstatement** – The penalty provisions are as follows – (a) Penalty 100% of amount involved (b) If tax, interest and reduced penalty paid within 30 days from issue of SCN, penalty @ 15% (c) If service tax, interest and reduced penalty is paid within 30 days from date of adjudication order, penalty @ 25% (d) If amount gets reduced in appeal, then benefit of 25% penalty can be availed if tax, interest and penalty is paid within 30 days from appellate order – proposed section 78 of Finance Act, 1994.

**Transitory penalty provisions in respect of adjudications pending** – The new provisions of penalty shall apply if adjudication order was not passed before the Financed Bill, 2015 is passed and assented by President of India. If true and complete details of transactions were available in specified records, penalty shall not exceed 50% amount – proposed section 78B of Finance Act, 1994.

### 13 Revision against order of Commissioner (Appeals) in respect of rebate of service tax

Revision against appellate order of Commissioner (Appeals) in respect of rebate of service tax shall be filed before Government. The existing appeals filed in Tribunal after 2002 shall be transferred to Government – proposed amendments to section 86 of Finance Act, 1994.

It may be noted that section 35EE of Central Excise Act has been made applicable to service tax law w.e.f. 28-5-2012. As per that section, appeal from order of Commissioner (Appeals) lies with Tribunal against all orders, **except** (a) loss of goods occurring in transit from factory to warehouse or to another factory or in storage, whether in factory or warehouse (b) rebate of duty on goods exported outside India or excisable goods used in manufacture of goods which are exported and (c) goods exported without payment of duty.

In these cases, revision application has to be filed before Government The revision application should be submitted personally to Under Secretary, Revision Application Unit, Government of India, Ministry of Finance, Department of Revenue, 4th floor, Jeevan Deep Building, Sansad Marg, New Delhi – 110001, or sent by registered post to him.

After passing of Finance Bill, 2015, revision application will have to be filed in case of rebate of service tax on exports (and not appeal before CESTAT).



### CHANGES IN THE CREDIT RULES - TRANSFER OF CENVAT CREDIT: RULE 10

A new sub-rule 4 has been inserted in Rule 10 of the Credit Rules, so as to provide that transfer of Cenvat credit by the jurisdictional Deputy/Assistant Commissioner of Central Excise, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider in this regard, subject to the fulfillment of the conditions prescribed under Rule 10(3).

Further, the stated period of 3 months may be extended by the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, for a further period not exceeding 6

### CENVAT CREDIT RULES (CHANGES MADE IN UNION BUDGET 2016-17)

Inputs can be dispatched directly to place of job worker, but should be received within 180 days – Manufactured or imported goods can be sent by supplier manufacturer or importer directly to place of job worker. The invoice issued by supplier manufacturer or importer should contain details of purchaser manufacturer (or purchasing service provider) and job worker. – second and fourth proviso to rule 11(2) of Central Excise Rules, inserted w.e.f. 1-3-2015.

The purchasing manufacturer can avail Cenvat credit as soon as goods are received in the factory of job worker. – rule 4(1) of Cenvat Credit Rules amended w.e.f. 1-3-2015.

If the goods were sent directly to job worker, goods should be received by purchasing manufacturer after job work, within 180 days from the date at which inputs were received by first job worker – proviso to rule 4(5)(a)(i) of Cenvat Credit Rules w.e.f. 1-3-2015.

If inputs are not received back within 180 days, Cenvat credit should be reversed, but can be taken back when capital goods are received back in the factory of purchasing manufacturer – rule 4(5)(iii) of Cenvat Credit Rules, inserted w.e.f. 1-3-2015.

**Duty paying document valid for one year from its date** – The duty paying document will be valid for one year from date of duty paying document (against present time limit of six months) – third proviso to rule 4(1) and fifth proviso (earlier sixth proviso) to rule 4(7) of Cenvat Credit Rules, amended w.e.f. 1-3-2015. [From 1-9-2014 to 1-3-2015, the time limit was six months].

**Direct dispatch of capital goods to job worker** – Capital goods can be sent to job worker's place from the supplier manufacturer. The purchaser manufacturer (or purchasing service provider) can avail Cenvat credit of those capital goods as soon as goods reach the place of job worker – amendment to rule 4(2)(a) of Cenvat Credit Rules w.e.f. 1-3-2015.

**Capital goods can be sent to job worker for two years** – Capital goods can be sent to job worker for processing, testing, repair, re-conditioning or for manufacture of intermediate products. The capital goods should be received by purchasing manufacturer (or purchasing service provider) within two years (against present limit of six months] – rule 4(5) (a) (ii) of Cenvat Credit Rules inserted w.e.f. 1-3-2015.

If capital goods are not received back within two years, Cenvat credit should be reversed, but can be taken back when capital goods are received back in the factory of purchasing manufacturer – rule 4(5)(iii) of Cenvat Credit Rules, inserted w.e.f. 1-3-2015.

**Sending inputs from one job worker to another job worker** – Inputs can be sent from one job worker to another for further processing for manufacture of intermediate goods. The duly processed intermediate products should be received by purchasing manufacturer (or purchasing service provider) within 180 days – rule 4(5) (a) (i) of Cenvat Credit Rules inserted w.e.f. 1-3-2015.

**Cenvat credit of service tax paid under partial reverse charge** – In respect of partial reverse charge, the service receiver who is paying service tax can avail Cenvat credit as soon as he pays his portion of servicer tax (even if he does not make any payment of bill amount to service provider – first proviso to rule 4(7) of Cenvat Credit Rules amended w.e.f. 1-4-2015 [earlier this provision was applicable only where entire service tax was payable by service provider].

**No refund of Cenvat credit if goods supplied to EOU or SEZ** - Rule 5(1A) of Cenvat Credit Rules as inserted w.e.f. 1-3-2015 also provides that 'export goods' means goods taken outside India.

[It means that if goods are supplied to EOU or SEZ, refund of excise duty is not available].

**Recovery of Cenvat credit wrongly taken but not utilized** – If Cenvat credit was taken wrongly but not utilized, it can be recovered by department but interest will not be payable and penalty is not imposable – rule 14(1)(i) of Cenvat Credit Rules, inserted w.e.f. 1-3-2015]

**Manner of utilisation of credit provided** - In Rule 14 it has been provided that all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely: - (i) the opening balance of the month has been utilised first; (ii) credit admissible in terms of these rules taken during the month has been utilised next; (iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter. (w.e.f. 01.03.15)



### READY RECKONER - SERVICE TAX - REVERSE CHARGES (No Change)

	Nature of Service		Service Receiver	% of Se		Remarks	
				Provid er	Receiv er		
1	Insurance	Insurance Agent	Insurance Company	Nil	100%		
2	Goods Transport Agency By Road	Goods Transport Agency (one who issues consignment note by whatever name used)	Consignor Or Consignee who is -  (a) factory, society, registered dealer of excisable goods, body corporate, partnership firm, AOP &  (b) who is liable to pay freight either himself or through his agent	Nil	100%	W.E.F. 01.04.15, payable on 30%, if Cenvat Credit has not been availed by service provider.  Exemption of Gross Freight Upto Rs. 1,500/- for single full consignment & Rs. 750/- for part consignment continues.	
3	Sponsorship Service	Any Person	Any body corporate or partnership firm located in the taxable territory	Nil	100%		
	Sponsorship Service	Any Person	If the above receivers are not located in taxable territory or are other than the above	100%	Nil	The person receiving the money for sponsorship is liable	
4	Service of Arbitral Tribunal	Arbitral Tribunal	Business Entity	Nil	100%		
5	Legal Service of Advocate or Advocate Firms	Individual Advocate or Advocate Firms	Business Entity located in Taxable Territory	Nil	100%		
6	Any Service By Govt. or Local	Government or Local Authority	Business Entity located in Taxable	Nil	100%	<b>Excluding</b> renting of immovable	



	Authority.		Territory			property etc
7	Renting or hiring of motor vehicle designed to carry passengers to any	Individual, HUF, proprietary or partnership firm, AOP located in Taxable Territory	Business Entity Registered as a Body Corporate located in Taxable	Nil	100%	If Cenvat Credit is not taken by provider, abated value of 60%, S.T. payable on 40%) w.e.f.01.10.14
	person who is not in the similar line of business		Territory	60% w.e.f. 01.10. 14 50%	40% w.e.f. 01.01. 14 50%	If Cenvat Credit is taken by provider (S.T. Payable on full value/non abated value)
8	Supply of Manpower or Security Services for any purpose	Individual, HUF, proprietary or partnership firm, AOP located in Taxable Territory	Business Entity Registered As A Body Corporate located in Taxable Territory	Nil w.e.f. 01.04. 15	100% w.e.f. 01.04. 15	Security services" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity
9	Service Portion In Execution of Works Contract	Individual, HUF, proprietary or partnership firm, AOP located in Taxable Territory	Business Entity Registered As A Body Corporate located in Taxable Territory	50%	50%	a) As Per Valuation Rule 2A(i) S.T.(Determination of Valuation Rules OR b) Under Composition Scheme - On 40% or 60% or 70% of the total amount depending on the nature of W.C. (w.e.f. 01.10.14, 60% changed to 70%)
10	Import of service	Located In Non Taxable Territory	Located In Taxable Territory	Nil	100%	Services received from Non-Taxable Territory



11	Any Taxable Service By A Director of a Co. to the said Co.	Director	Company	Nil	100%	Service Tax will apply in cases where employer - employee relation does not exist between the Co. & the directors
12	Transport of goods by Rail	Any person other than Indian Railways.  Any person other as stated above	Company	70%	30%	Cenvat credit of Service Tax on input services will be allowed
13	Transport of passengers by Rail	Any person	Company	70%	30%	Cenvat credit of Service Tax on input services will be allowed

### **RELEVANT NOTIFICATIONS** (Might Be Useful In Filing Returns)

Reverse Charges – Notification No. 30/2012 S.T. Dated 20.06.12 Abatement & Conditions – Notification No. 26/2012 S.T. Dated 20.06.12

S.No. 7 of the Notification - Relates To Abatement On GTA

S.No. 9 of the Notification - Relates To Abatement On Renting of Motor Vehicles

### GTA SERVICES BY ROAD - CONDITIONAL ABATEMENT (No Change)

The abatement allowed on GTA in serial no. 2 is subject to the following condition -

"CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004."

The condition for availing abatement in case of GTA service has been amended w.e.f. 11.07.14 to clarify that the condition for non-availment of credit is required to be satisfied by the service providers only. Service recipient will not be required to establish satisfaction of this condition by the service provider. (Notification 8/2014-ST)

### A) EXEMPTIONS

The Mega Exemption Notification No. 25/2012 - S.T. Dated 20.06.12 allows the following exemptions (as relevant to the industry) -

## "21. - Services provided by a goods transport agency by way of transportation of – (No Change)

- (a) agricultural produce;
- (b) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or
- (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;"

Example -



"A" transports his goods in a goods carriage. No other goods are loaded in the goods carriage. A pays a freight of Rs.1300, "A" is not liable for payment of any service tax. "A" transports his goods in a goods carriage. He pays a freight of Rs.1300. Some other goods are also being transported in the same goods carriage, involving a freight of Rs.500. "A" is not eligible for this exemption.

Gross Amount charged on individual consignment transported in a goods carriage does not exceed Rs 750. An individual consignment' means all goods transported by a goods transport agency by road in a goods carriage for a consignee. [The intention is that the transporting agency should not split the consignment, so that transport charges of individual consignment remain below Rs 750].

"Individual consignment" means all goods transported by a GTA, in a goods carriage, for a consignee. This exemption will come into play, when the consignments of several consignors are transported together.

### "30. Carrying out an intermediate production process as job work in relation to -

- (a) agriculture, **printing** or textile processing;
- (c) any goods on which appropriate duty is payable by the principal manufacturer;

The following notes are mentioned in the guidance booklet issued by the department -

4.6.1 Would service tax be leviable on processes which do not amount to manufacture or production of goods?

Yes. Service tax would be levied on processes, unless otherwise specified in the negative list, not amounting to manufacture or production of goods carried out by a person for another for consideration. Some of such services relating to processes not amounting to manufacture are exempt as specified in entry no. 30 of Exhibit A2.

4.6.2 Would service tax be leviable on processes on which Central Excise Duty is leviable under the Central Excise Act, 1944 but are otherwise exempted?

No. If Central Excise duty is leviable on a particular process as the same amounts to manufacture then such process would be covered in the negative list even if there is a central excise duty exemption for such process.

7.11.12 What is the tax liability of a person carrying out intermediate production process as job work for clients?

Any process amounting to manufacture or production of goods is in the negative list (except alchohol products). If process does not amount to manufacture or production of goods, and is further not covered in clause 30 of mega notification, the same is liable to service tax

#### **NEGATIVE LIST**

The services mentioned in the Negative List are excluded from Service Tax as specified in the Act itself in Section 66 D. The following may be of relevance to the industry: -

- "5) Trading of goods."
- "6) Any process amounting to manufacture or production of goods."

"The phrase 'processes amounting to manufacture or production of goods' has been defined in section 65B of the Act as a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944) or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which



duties of excise are leviable under any State Act. This entry, therefore, covers manufacturing activity carried out on contract or job work basis provided duties of excise are leviable on such processes under the Central Excise Act, 1944 or any of the State Acts."

In the Union Budget 2017-18, the Negative list entry in respect of the said service is proposed to be omitted. However the same has been placed under Mega Exemption Notification 25/2012-ST vide Entry 30. As a result the activity which was "non-taxable" is now categorized as "exempted". Consequently, the respective interpretation of the said service under Section 65B(40) of Finance Act, 1994 is proposed to be deleted and is being included in the general exemption notification. (W.E.F. Date of Receipt Of Assent Of The Finance Bill)

### B. VALUATION FOR SERVICE TAX ON WORKS CONTRACT (No Change)

**First Rule:** Calculate value of service and pay service tax @14% (earlier 12.36% - till the date is notified for charging 14% in the Union Budget 2015-16, presented on 28.02.15)

**Second Rule:** Pay service tax under "Composite Scheme" on 40%/60%/70% of total value of works contract. Payment of Service Tax on Works Contract under composite scheme -

- 1. In case of original works (i.e. new Construction, erection etc.) Pay @40% of total amount. Where total amount includes the value of land, it will be 25% or 30% of total amount charged.
- 2. Maintenance or repair or reconditioning or restoration or servicing of any goods @ 70% of total amount
- 3. Other works contract (other than a & b discussed above e.g. wall tiling installation of electrical fitting of an immovable property) 60% (70% w.e.f. 01.10.14) of "Total Amount"

A change that was brought by Union Budget, 2014-15 is amendment of Rule 2A of Service Tax (Determination of Value) Rules, 2006 wherein they had merged the categories 2 and 3 above into a single category with percentage of service portion as 70%.

This change came into effect from 1st October, 2014 and same has been notified vide Notification No. 11/2014-ST dated 11th July, 2014. It has been explained in the TRU, MoF, GoI letter No D.O.F No. 334/15/2014-TRU dated 10th July, 2014 that this rationalisation by way of merger of categories has been made to avoid disputes of classification between these two categories.

It is pertinent to mention here that the service provider and recipient would continue to pay 50% each of total service tax payable.

The original work means - all new constructions and all types of additions and alterations to abandoned or damaged structures on land required to make them workable;

Total amount includes the value of all goods and services – VAT - services supplied free of cost under the same contract or any other contract.

- Where value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of the fair market value closely available resemblance.
- Cenvat Credit of duty paid on inputs will not be allowed. However, credit of excise duty paid on capital goods and service tax paid on input services shall be available. It shall be available.

**Explanation** - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.



### **DIRECT TAXES**

### 1) **INCOME TAX RATES A.Y. 2018-19**

### A. Resident Individual/Hindu Undivided Family/AOI/BOI

TAXABLE INCOME (Rs.)	MALE < 60 YRS.		SENIOR CITIZEN > 60 & < 80 YRS.	VERY SR. CITIZEN > 80 YRS.
Upto 2,50,000	Nil	Ni1	Ni1	Ni1
2,50,001 to 3,00,000	5%	5%	Ni1	Ni1
3,00,001 to 5 ,00,000	5%	5%	5%	Ni1
5,00,001 to 10,00,000	20%	20%	20%	20%
Above Rs. 10,00,000	30%	30%	30%	30%

Primary & Secondary Education Cess: 3% cess on tax in all cases

**Rebate:** The rebate under Section 87A is proposed to be amended to Rs.2,500/- for individual resident assessee, whose Taxable Income does not exceed Rs. 3,50,000/-. This amendment will take effect from 1 April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

**Surcharge:** 10% of the Income Tax, where taxable income is more than Rs. 50 lacs and upto Rs. 1 crore. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 50 lacs by more than the amount of increase in taxable income.

15% of the Income Tax, where taxable income is more than Rs. 1 crore. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 1 crore by more than the amount of increase in taxable income.

**Education Cess:** 3% of the total of Income Tax and Surcharge.

#### **B.** Co-operative Societies

Inc	come Slabs	Tax Rates
i.	Where the taxable income does not exceed Rs. 10,000/	10% of the income.
ii.	Where the taxable income exceeds Rs. 10,000/- but does not exceed Rs. 20,000/	Rs. 1,000/- + 20% of income in excess of Rs. 10,000/
iii.	Where the taxable income exceeds Rs. 20,000/-	Rs. 3.000/- + 30% of the amount by which the taxable income exceeds Rs. 20,000/

**Surcharge:** 12% of the Income Tax, where taxable income is more than Rs. 1 crore. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 1 crore by more than the amount of increase in taxable income.

**Education Cess:** 3% of the total of Income Tax and Surcharge.

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#### C. Firms

**Income Tax:** 30% of taxable income.

**Surcharge:** 12% of the Income Tax, where taxable income is more than Rs. 1 crore. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 1 crore by more than the amount of increase in taxable income.

**Education Cess:** 3% of the total of Income Tax and Surcharge.

### D. Companies

Domestic Company - Turnover upto Rs. 50 crores (In AY 2015-16)

**Income Tax:** 25% of taxable income.

**Surcharge:** The amount of income tax as computed in accordance with above rates, and after being reduced by the amount of tax rebate shall be increased by a surcharge

- At the rate of 7% of such income tax, provided that the taxable income exceeds Rs. 1 crore. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 1 crore by more than the amount of increase in taxable income.
- At the rate of 12% of such income tax, provided that the taxable income exceeds Rs. 10 crores. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 10 crores by more than the amount of increase in taxable income.

**Education Cess:** 3% of the total of Income Tax and Surcharge.

Domestic Company - Turnover exceeding Rs. 50 crores

**Income Tax:** 30% of taxable income.

**Surcharge:** The amount of income tax as computed in accordance with above rates, and after being reduced by the amount of tax rebate shall be increased by a surcharge

- At the rate of 7% of such income tax, provided that the taxable income exceeds Rs. 1 crore.
- At the rate of 12% of such income tax, provided that the taxable income exceeds Rs. 10 crores.

**Education Cess:** 3% of the total of Income Tax and Surcharge.

### Minimum Alternate Tax (MAT)

The rate of MAT remains to be 18.5% relevant to the assessment year 2018-19. Surcharge as applicable in the case of companies. MAT allowed to be carried forward till 15 years, instead of the earlier 10 years.

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### 2) OTHERS CHANGES

#### A. Deduction Under Section 80D

Investment limit under section 80D of the Income-tax Act continues at Rs. 25,000 for individual other than senior citizen and Rs. 30,000 for senior citizen.

### B. Presumptive Income u/s 44AD

Under scheme of presumptive income for small and medium tax payers whose turnover is upto 2 crores, the present, 8% of their turnover which is counted as presumptive income is reduced to 6% in respect of turnover which is by non-cash means.

Section 44AB of the Income Tax Act makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts exceed Rs1Cr.

"However, if an eligible person opts for <u>presumptive taxation</u> scheme as per section 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed Rs 2 crore."

### C. Limit to pay cash expenses to be reduced to Rs.10000

In order to disincentivise cash transactions, it is proposed to amend the provision of section 40A of the Act to provide the following:

- (i) To reduce the existing threshold of cash payment to a person from twenty thousand rupees to ten thousand rupees in a single day; i.e. any payment in cash above ten thousand rupees to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";
- (ii) Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding ten thousand rupees to a person in a single day; and

These amendments will take effect from 1<sup>st</sup> April, 2018 and will, accordingly, apply in relation to the assessment year 2018- 19 and subsequent years.

### D. Reducing the time for filing revised return

It is proposed to amend the provisions of sub-section (5) of section 139 to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

### E. Mandatory fee Delay in Filing of Income Tax returns After Due Dates

In case your income exceeds Rs. 5 lacs in a year you will have to pay a fee of Rs. 5000/- if you file your income tax return beyond 31st July but by 31st December of the assessment year.

For filing the return of income beyond 31t December but by 31st March you will have to pay a fee of Rs. 10,000/-

The amount of fee, however, would be restricted to Rs. 1,000/- in case your taxable income did not exceed Rs. 5 lakhs for the year.

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### UNION BUDGET 2017-18

This mandatory fee has to be paid as self assessment before filing of the income tax return without having to wait for any communication from the assessing officer.

It may be interesting to note that the fee is not payable in case your income does not exceed the basic exemption limit before giving the effect of deduction and exemption as explained above as your are not all at all required to file the return of income but are allowed to file the same.

### F. Widening scope of Income from other sources

It is proposed that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".

### G. TCS Deduction - Non Furnishing of PAN

In case of non furnishing of PAN for TCS -

- (i) Higher rate of TCS (twice of the prescribed rates or 5% whichever is more)
- (ii) No Credit of TCS as no certificate will be generated.

### H. TDS On Rent Payable By Individuals/HUF

In order to widen the scope of tax deduction at source, new section 194-IB, proposed to be inserted to provide for tax deduction at source @ 5% by an Individuals or a HUF (other than those covered under 44AB), while making payment of rent to a resident of an amount exceeding Rs 50,000 per month or part of month. To reduce compliance burden, the deductor shall not be required to obtain TAN or file any separate TDS return for this purpose

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### TAX DEDUCTED/COLLECTED AT SOURCE F.Y. 2017-18 (A.Y. 2018-19)

### A. TDS RATE CHART

S1. No.	Section Of Act	Nature of Payment in brief	Cut Off Amount	Rate	%
		i		HUF/IND.	Others
1	192		yearly taxable salary	On the aver on the basi individual ra	s of per
2	192A	Payment of Accumulated Balance of EPF Scheme 1952 to Employees – w.e.f. 01.06.15	50000	10	
3	193	Interest on securities -debentures	5000	10	10
4	194	Dividend before making payment to shareholder	2500	20	20
5	194A	Interest other than Interest on securities (by Bank)	10000	10	10
6	194A	Interest other than Interest on securities (By others)	5000	10	10
7	194B	Winnings from lottery, cross word puzzles card games, horse race, games of any sort including T.V. Game Shows	10000 Horse Race 10000 other games	30	30
8	194C(1)	Contracts <b>Yearly Limit u/s 194C</b> : (Where the aggregate of the amounts paid/credited or likely to be paid/credited to Contractor or Sub-contractor exceeds Rs.100000/- during the financial year, TDS has to be deducted u/s 194C.)	30000	1	2
9	194C(2)	Sub-contracts/ Advertisements	30000	1	2
10	194EE	Payments out of deposits under NSS	2500	10	10
11	194F	Repurchase of units by MF/UTI	1000	20	20
12	194H	Commission or Brokerage	5000	5	5
13	194I	Rent (Land, building or furniture)	180000	10	10
		Rent (P & M or Equipment)	180000	2	2
	194IA	Payment on transfer of certain immovable property other than agricultural land(applicable only if amount exceeds: (a) Value exceeds INR 50 lakhs) (Effective from 1 June 2013)		1	1
	194IB	Rent paid by Individuals/HUF exceeding ( for Assesses to whom Tax Audit is not applicable u/s 44AB.		5	
	194IB	Compensation/payment made for Joint Development Agreement	-	10	
14	194J	Professional/Technical charges/Royalty & Non- compete fees Payment made to Call Centre	30000	10 2	10
15	194J(1) (ba)	Any remuneration or commission paid to director of the company(Effective from 1 July 2012)		10	10

16	194LA	As Income Tax has been exempted in case the	-	-
		compensation under Right to Compensation and		
		Transparancy in land Acquisition, Rehabilitation		
		and Resettlement Act, 2013, -No TDS		

#### **B. TCS RATE CHART**

In case of Transaction between Buyer and Seller:

### Goods purchased by end use consumers are not covered under TCS

Therefore Scrap sold directly to the Mill will not attract TCS

S1.No.	Nature of Goods	Rates in %
1.	Scrap	1
2.	Minerals, being coal or lignite or iron ore	1

#### C. EDUCATION CESS & SURCHARGE

No Education Cess on payment made to resident-Education Cess is not deductible/collectible at source in case of resident Individual/HUF /Firm/ AOP/ BOI/ Domestic Company in respect of payment of income other than salary.

Education Cess @ 2% plus secondary & Higher Education Cess @ 1% is deductible at source in case of non-residents and foreign company.

Surcharge on Income-tax - Surcharge on Income-tax is not deductible/collectible at source in case of individual/ HUF /Firm/ AOP / BOI/Domestic Company in respect of payment of income other than salary.

#### D. CHANGES IN UNION BUDGET 2015-16

I. TDS Under Section 194C: Clarification Regarding Deduction Of Tax From Payments Made To Transporters/ No Deduction In Payment Made To Transporters Who Is Not Owing More Than 10 Goods Carriage

It is proposed to amend the provisions of section 194C of the Act to expressly provide that the relaxation under sub-section (6) of section 194C of the Act from non deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor or sub contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e. a person who is not owning more than 10 goods carriage at any time during the **previous year**) and who has also furnished a declaration to this effect along with his PAN.

Hence, invariably a DECLARATION HAS TO BE OBTAINED FROM EVERY Contractor, sub contractor engaged in TRANSPORTER, that they own 10 or less transport vehicles along with a copy of PAN Self attested, otherwise TDS has to be deducted for payment/credit to Transporter, of single transaction exceeding Rs. 30,000 or when payment/credit in a financial year reaches Rs. 1,00,000. TDS is to be deducted @ 1% for individual/H.U.F. Transporters or 2% for others. Please note, as before, if PAN details are not provided by transporter, TDS is to be deducted @20%. (Please refer to Declaration section for Draft copy of declaration from transporter)

Note:- These amendments will take effect from 1st June, 2016



#### J. Correction Of TCS Statement

Now section 206C has been amended to enable deductor to file correction statement. The proposed provision shall also incorporate the mechanism for computation of fee payable under section 234E of the Act.

Note:- These amendments will take effect from 1st June, 2015.

### K. Relaxing The Requirement Of Obtaining TAN For Certain Deductors

The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195 of the Act.

To reduce the compliance burden of these types of deductors, it is proposed to amend the provisions of section 203A of the Act so as to provide that the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductors or collectors.

**Note:** These amendments will take effect from 1st June, 2015.

### L. Enabling Of Filing Of Form 15G/15H For Payment Made Under Life Insurance Policy

It is, therefore, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

Note:- These amendments will take effect from 1st June, 2015.

### M. TDS Under Section 194A Shall Be Deducted On Interest On Recurring Deposits

The existing threshold limit of Rs 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors

Note:- These amendments will take effect from 1st June, 2015

### N. No Double Interest On T.C.S. Under Section 206C(7) & Section 220(2)

It is proposed to provide that where interest is charged for any period under section 206C (7) of the Act on the tax amount specified in the intimation issued under proposed provision, then, no interest shall be charged under section 220(2) of the Act on the same amount for the same period.

Note:- These amendments will take effect from 1st June, 2015.

### O. TDS Deduction On EPF

EPF Trustees while paying the accumulated PF balance should deduct 10% TDS (for payments of Rs 30000 or more) - Sec 192 A

#### P. TDS On Salary



The person responsible for making the payment of salary has to obtain from the assesse the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) - Sec 192

### Q. TDS On Royalty & Technical Fees

Income of the non-resident by way of Royalty or Fees for technical services - the tax rate is reduced from 25% to 10% - Sec 115A

#### > NON SUBMISSION OF PAN BY PAYEE

As earlier higher TDS of 20% for not furnishing correct PAN in case the Payee is not able to furnish Pan to the deductor, tax shall be deducted at the higher of the rates specified in the relevant provision of the I.T. Act or at the rates in force or 20%.

### > TDS IN CASE OF INDIVIDUAL/HUF.

As earlier, an individual or HUF is not liable to deduct tax. However, an individual or HUF, who is liable to tax audit under section 44AB during the immediate preceding financial year, shall be liable to deduct ax under sections 194A, 194C, 194H, 194I and 194J, as the case may be.

### > TAN/RETURN NOT REQUIRED TO BE FILED BY TRANSFEREE OF LAND

As earlier, every transferee, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall be required to deduct tax. The transferee would not be required to obtain TAN and also not required to submit TDS Return.

### E. PAYMENT, RETURN & CERTIFICATE ISSUANCE DUE DATES

### **Payment Due Dates:**

S.NO.	MONTH ENDING	DUE DATE
1	April To February	By 7th Of Month immediately
		following the month of deduction
2	March	TDS - By 30 <sup>th</sup> April
		TCS – By 7 <sup>th</sup> . April

<u>Mode of Payment</u> - E-Payment of tax has to be made in Challan No. ITNS 281, by companies & other deductors liable for Tax Audit. E-Payment is optional for others.

### **TDS Return Due Dates**

Sl. No.	Date of ending of the quarter of the financial year	Return Due date
1.	30 <sup>th</sup> June	31st July of the financial year
2.	30 <sup>th</sup> September	31st October of the financial year
3.	31st December	31st January of the financial year
4.	31st March	31st May of the financial year immediately following the financial year in which deduction is made

### TCS Return Due Dates



S1. No.	Date of ending of the quarter of the financial year	Return Due date
1.	30 <sup>th</sup> June	15th July of the financial year
2.	30 <sup>th</sup> September 15th October of the financial year	
3.	31st December 15th January of the financial year	
4.	31st March	15th May of the financial year immediately following the financial year in which deduction is made

Mode Of Filing Returns - Forms 26Q & 24Q and Form 27A are to be E filed .

#### **TDS Certificate Due Dates**

Sl. No.	Category	Periodicity of furnishing TDS certificate	Due date
1.	Salary (Form No.16)	Annual	Within 15th of June May of the financial year immediately following the financial year in which the income was paid and tax deducted
2.	Non-Salary(Form No.16A)	Quarterly	Within fifteen days from the due date for furnishing the 'statement of TDS'

#### F. FORMS

Form No. 24Q - Payment of Salary u/s 192

Form No. 27Q – Payment other than salary to a non resident not being a company or a foreign company or resident but not ordinarily resident

Form No. 26Q – Payment other than salary to a resident i.e., all deductee which are not covered under 24Q and 27Q (u/s 193 to 196D)

Form No. 27EQ - Statement of collection of tax

#### G. PENAL PROVISIONS FOR NON -COMPLIANCE

### Disallowance of expenditure under section 40(a) (ia) of Income Tax Act, 1961 (Act):

More fatal than any interest or penalty provisions, non-deductibility of tax at source on certain expenses will not allow you to claim such expenses in computing your business income.

Further, the existing provisions of section 40(a) (ia) of Income-tax Act provide for the disallowance of expenditure like interest, commission, brokerage, professional fees, and others. if tax on such expenditure was not deducted, or after deduction was not paid during the previous year. However, some relaxation has been provided, in case the deduction of tax is made during the last month of the previous year, no disallowance is made if the tax is deposited on or before the due date of filing of return. In addition to above, there are other penal provisions, relating to interest and penalty as below:

<u>Failure</u>	Interest	Penalty
		Maximum penalty of 100% on amount of TDS [Sec 221]
b) For failure to pay the tax after deduction	Interest chargeable @1.5% p.m. or part of the month from	Maximum penalty of 100% on amount of TDS [Sec 221]



	the date on which it was deducted till the date of payment [Sec 201]	
c) Default in filing of returns	Not Applicable	Rs 100/day of default(not exceeding the amount of TDS) [Sec 272A(2)]

ROUTINE PROCEDURES

### SMALL SCALE INDUSTRIES - AVAILING EXEMPTION

The SSI benefits of Notification No. 8/2003 C.E. dated 1.3.2003 continues as in the preceding year. An SSI Unit is eligible for exemption from Excise for clearances upto Rs. 1.5 Crores provided turnover in preceding financial year was less than Rs. 4.0 Crores.

#### **CALCULATION OF CLEARANCE WITHIN 1.5 CRORES**

#### **Excluded**

- · Goods exempted under any other notification
- Goods that are non excisable
- Export Sales other than to Nepal & Bhutan
- Export through merchant exporter
- Deemed Exports to S.E.Z, E.O.U., E.H.T.P. or S.T.P
- Intermediary product
- Job work not amounting to manufacture & Trading Goods
- Job work done vide notification 214/86 & 83/94

#### Included

 Goods manufactured with others brand name in rural areas and cleared without payment of duty

### **CALCULATION OF RS. 4.0 CRORES TURNOVER**

#### **Excluded**

- Export Sales other than to Nepal & Bhutan
- Export through merchant exporter
- Deemed Exports to S.E.Z, E.O.U., E.H.T.P. or S.T.P
- Intermediary product
- Job work not amounting to manufacture & Trading Goods
- Job work done vide notification 214/86 & 83/94
- Inputs cleared on Payment of duty as such

#### Included

- Goods manufactured with others brand name in rural areas and cleared without payment of duty
- Goods exempted under any other notification
- Goods that are non excisable

#### UNITS CONTINUING UNDER SSI EXEMPTION (UN REGISTERED)

- 1. A progressive total of clearance value shall be maintained.
- 2. For job work (incoming) either procedure under notification 83/94 C.E. dated 11.04.94 or procedure under notification no.214/86 C.E. dated 25.03.86 has to be followed i.e. declaration of undertaking under these notifications has to be submitted by the person sending the raw materials to your jurisdictional A.C. concerned and other details as prescribed have to be maintained.(Formats available in Declaration section)
- 3. For job work (outgoing) procedure under notification no.83/94 C.E. & 84/94 C.E. has to be followed i.e. a declaration of undertaking to be submitted both to your jurisdictional A.C. & the jurisdictional A.C. of the Job worker and other details as prescribed has to be maintained. (Format available in Declaration section)
- 4. If any manufacturer exempted under any other notification or any trader sends goods for job work than the clearance value of the unit doing the job work will be selling price of the principal manufacturer or value as determined as per valuation rules (and not landed cost of the material received plus job charges) and this will be added to the total clearance value of the unit doing job work.
- 5. Units availing exemption under 8/2003 must file declaration under Notification No.36/2001-C.E. (N.T.) dated 26.06.2001 as amended, if their clearance value has exceeded Rs. 90 lakhs in the previous financial year in the format enclosed before 15th April of the current financial year. (Formats available in Declaration section)
- 6. The units enjoying exemption are not entitled to any cenvat credit of excise or service tax but they will continue to pay service tax on 25% freight till 31.03.15 & on 30% of Freight from 01.04.15, as a consignor or consignee as payer of the goods transport charges by road and fall under any of the six categories as per notification 30/2012–ST. dated 20.06.13.
- 7. The Units enjoying exemption are also required to pay service tax under reverse charges/partial reverse, on services mentioned in notification no. 30/2012 applicable on business entity/partnership firm/body corporate/corporate etc. as the case may be. (As enumerated in Service Tax Reverse Charges Ready Reckoner before)

## REGISTERED UNITS OPTING FOR SSI EXEMPTION – PAYING DUTY TILL 31st MARCH IN PREVIOUS F.Y.

Intimate to the concerned A.C. with the particulars as prescribed in clause 2(ii) of Notification 8/2003 CE along with the declaration that you will be opting for Exemption before effecting any clearance (Even if a single invoice under duty is issued one cannot claim exemption under notification 8/2003 CE) (Format enclosed)

- 1. Calculate the value of Cenvat involved in stock of raw material, semi finished product and final products as on 31st. March of previous F.Y. and pay the same to the credit of the Cenvat account or Excise PLA account. Credit remaining in Cenvat credit account if any, will lapse and it cannot be carried forward neither refundable.
- 2. Continue to comply with all the formalities of Excise i.e. keeping records, issue of Excise Invoice (even if it is Nil Duty) and filing of returns etc.
- 3. Job work formalities as per point no 2, 3, & 4 as mentioned above has to be followed till the time availing exemption under notification 8/2003. But as soon as start paying duty procedure prescribed in point 4, 5, & 6 are to be followed.
- 4. Continue to pay service tax on Goods transport charges by road, if they as a consignor or consignee are paying the transport charges and fall under any of the six categories as per notification 30/2012- ST. (Please refer to S.No. 6 above)
- 5. The Units enjoying exemption are also required to pay service tax under reverse charges/partial reverse, on services mentioned in notification no. 30/2012-ST applicable on business entity/partnership firm/body corporate/corporate etc. as the case may be. (As enumerated in Service Tax Reverse Charges Section before)

#### SMALL SCALE INDUSTRIES IN EXCISE

#### UNITS OPTING FOR DUTY AFTER - NOT REGISTERED UNDER EXCISE

- 1. Apply for registration through ACES system as per registration procedure vide Notification 7/2015 C.E. (N.T.) Dated 01.03.2015 is given as under (w.e.f. 01.03.15):
- > Application for registration/cancellation shall be filed ONLY by online method
- > PAN No is must for getting registration under Excise except government department
- > Temporary Registrant should apply for PAN based registration within 3 month
- Email Id, Mobile Number, details of other government Registration details is compulsorily to be quoted on registration application. **Existing applicant should incorporate these details within 3 month.**
- > Once duly completed application form is received online on ACES, registration would be granted within two working days and Registration Certificate will be issued online without any examination of the documents and verification of documents or premises before the grant of registration.
- ➤ Registration Certificate issued online is sufficient proof of registration. No need to have hard copy of registration. Signature of issuing authority is not required on online registration certificate.
- ➤ Verification of the documents and premises shall be carried out post facto. The applicant shall submit self-attested copy of the following prescribed documents at the time of the verification of the premises
  - (i) Hard copy of application (ii) Copy of PAN (iii) Copy of ground plan (iv) Partnership Deed/Memorandum of Association (v) Rent / Ownership documents (vi) Personal I.D. Proof
- > In case of Change in constitution of assessee amounting to change in PAN number, fresh registration is to be obtained. In other cases, intimation of such changes is to be given with 30 days
- 2. The person obtaining registration will be entitled to claim transitional Cenvat credit of duty paid on input, work-in-process and finished goods available as on the date of registration, provided the person has documentary evidence to substantiate payment of duty on input lying in stock at various stages. The person thereafter shall prepare the statement of input along with details of duty paying documents and declare to the department before making any clearance.
- 3. Every assessee is required to submit a list in duplicate of records maintained in respect of transactions of receipt, purchase, sales or delivery of goods including inputs and capital goods, input services and financial records and statements including trial balance.
- 4. All other particulars and procedures as per rules to be followed.
- 5. Procedure for job work (for incoming) as per notification 83/94 or 214/86 as the case may be has to be followed.
- 6. Procedure for job work (outgoing) under notification 214/86 read with rule 4(5)(a) of Cenvat credit rules to be followed.
- 7. For job work incoming from Merchant Traders or fully Exempted consumer units under any other notification Excise is leviable on selling price of the principal manufacturer or value as determined as per valuation rules (and not Landed cost of Kraft Paper plus job charges) and these can be cleared on Excise Invoice only.

- 8. The SSI unit is required to pay duty for a quarter of the financial year by the **6**<sup>th</sup> **day** of the month following the quarter, except for the quarter January to March, duty shall be paid by **the 31**<sup>st</sup>. **day of March**.
- 9. Such units are also entitled for submission of quarterly return, <u>electronically only</u>, by the 10<sup>th</sup> day of the month after each quarter in prescribed format. The benefits will be applicable to the unit during the entire financial year.

## 10. Every assessee shall electronically pay the service tax payable by him, through internet banking – w.e.f. 01.10.14

- 11. Compulsory Electronic Filing of quarterly Returns by all assesses.
- 12. Service tax on all the services availed in the factory or office as enumerated in cenvat credit rules as per procedure can be taken as cenvat credit.
- 13. They will continue to pay service tax on Goods transport charges by road, if they as a consignor or consignee are paying the transport charges and fall under any of the six category as per notification 30/2012-ST.
- 14. The Units are also required to pay service tax under reverse charges/partial reverse, on services mentioned in notification no. 30/2012-ST. applicable on business entity/partnership firm/body corporate/corporate etc. as the case may be. (As enumerated in Service Tax Reverse Charges Section before)
- 15. Every assessee shall submit to the Superintendent of Central Excise, an Annual Installed Capacity Statement in Form ER -7 (Format Enclosed) declaring the annual production capacity of the factory for the financial year by **30**th **day of April**, as per notification No. 38/2008 Central Excise (N.T.) dated 29.09.08 (Not Required to be filed w.e.f. 01.04.2016)
- 16. Inform change in boundary of premises, address, name of authorized person, change in name of partners, directors or Managing Director in form A-1.
- 17. Storage Of Inputs Outside Place Of Manufacture The D.C. of C.E. or the A.C. of Central Excise, as the case may be, having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances, by an order, permit the manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify. (Clause 8 of C.C. Rules 2004)
- 18.Registration of different portions of same factory Often a factory has different portions located in adjoining premises, or premises separated by road, railway line or canal. In such case, Commissioner can allow single registration, subject to proper accounting of movement of goods from one premise to other and other conditions and limitations as he may specify. (Para 3 of notification No. 36/2001-CE (NT) dated 26.6.2001.)

#### UNITS NOT AVAILING/NOT ELIGIBLE FOR SMALL SCALE BENEFITS

UNITS WHOSE CLEARANCE VALUE IS MORE THAN 4 CRORES FOR HOME CONSUMPTION IN THE PREVIOUS FINANCIAL YEAR OR UNITS OPTING FOR DUTY FROM 1st. APRIL WITHOUT SSI BENEFITS

- 1. All the formalities of Excise to be followed.
- 2. Monthly payment within 6<sup>th</sup>. of next month through internet banking, for goods removed during March, payment within 31<sup>st</sup>. March and monthly return in ER-1 within 10<sup>th</sup> day of following month.
- 3. Every assessee shall electronically pay the service tax payable by him, through internet banking w.e.f. 01.10.14
- 4. For job work (incoming )either procedure under notification 83/94 C.E. dated 11.04.94 or procedure under notification no.214/86 C.E. dated 25.03.86 has to be followed i.e. declaration of undertaking under these notifications has to be submitted by the person sending the raw materials to your jurisdictional A.C. concerned and other details as prescribed have to be maintained. (Formats enclosed in Declaration section)
- 5. Procedure for job work (outgoing) under notification 214/86 read with rule 4(5)(a) of Cenvat credit rules to be followed.
- 6. Manual attestation of transporters copy of invoice not required in case of digitally signed invoices.
- 7. Compulsory filing of returns electronically through online.
- 8. Service tax on all the services availed in the factory or office as enumerated in cenvat credit rules as per procedure can be taken as cenvat credit. They will continue to pay service tax on Goods transport charges by road if they as a consignor or consignee are paying the transport charges and fall under any of the six categories as per notification 30/2012 ST. The Units enjoying exemption are also required to pay service tax under reverse charges/partial reverse, on services mentioned in notification no. 30/2012-ST. applicable on business entity/partnership firm/body corporate/corporate etc. as the case may be. (As enumerated in Service Tax Reverse Charges Section before)
- 9. Every assessee shall submit to the Superintendent of Central Excise, an Annual Installed Capacity Statement in Form ER -7 (Format Enclosed) declaring the annual production capacity of the factory for the previous financial year by <u>30<sup>th</sup> day of April</u>, as per notification No. 38/2008 Central Excise (N.T.) dated 29.09.08 (Not Required to be filed W.E.F. 01.04.2016)
- 10. Inform change in boundary of premises, address, name of authorized person, change in name of partners, directors or Managing Director in form A-1.
- 11. Storage Of Inputs Outside Place Of Manufacture The D.C. of C.E. or the A.C. of Central Excise, as the case may be, having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances, by an order, permit the manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify. (Clause 8 of C.C. Rules 2004)
- 12. Registration of different portions of same factory Often a factory has different portions located in adjoining premises, or premises separated by road, railway line or canal. In

such case, Commissioner can allow single registration, subject to proper accounting of movement of goods from one premise to other and other conditions and limitations as he may specify. (Para 3 of notification No. 36/2001-CE (NT) dated 26.6.2001.)

The same has been amended vide Notification 19/2016 – CE (NT) dated 1.03.2016 to provide that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations, as may be prescribed, allow single registration.

# UNITS PAYING ANNUALLY DUTY OF MORE THAN RUPEES ONE CRORES (CENVAT CREDIT + PLA.) - OTHER ROUTINE PROCEDURES (Not Required To Be Filed W.E.F. 01.04.2016)

- 1. To submit to the Superintendent of Central Excise, annual declaration in Form ER 5 (attached herewith) for preceding financial year by <u>30<sup>th</sup>. April</u> as per Notification No. 40/2004 C.E. (N.T) dated 25.11.2004 giving details of principal inputs, description of finished goods & input/output ratio.
- 2. To submit to the Superintendent of Central Excise, monthly declaration in Form ER 6 (attached herewith) giving monthly details of each principal inputs opening balance, receipts, consumption, description & production of finished goods & scrap generated. The declaration is to be filed by **10th**. **of the following month** as per notification no. 41/2004 C.E. (N.T.) dated 25.11.2004.
- 3. Submit "Annual Financial Information Statement" in Form ER- 4 (rule 12(2) of Central Excise Rules) by <u>30<sup>th</sup>. November 2014</u> vide Notification No. 36/2004 C.E. (N.T.) Dated 01.11.2004. (Format Enclosed)

The Returns are to be filed electronically.

#### **ROUTINE PROCEDURES - AS SERVICE RECEIVER**

#### A. REGISTRATION

Procedure, conditions and safeguards for registration under service tax will be as prescribed by CBE&C by order – rule 4(9) of Service Tax Rules, inserted w.e.f. 1-3-2015.

The procedure, as prescribed in order No. 1/2015-ST dated 28-2-2015 issued by CBE&C, is as follows –

- ➤ Online application for registration in form ST-1 is mandatory. Application should be through ACES (Automation of Central Excise and Service Tax)
- Applicant must have Income Tax PAN. He must have mobile number and e-mail address. On application, applicant will be granted registration within two days. The number will be generated electronically. Online registration through website is adequate proof, even if not signed.
- Assessee can start paying service tax after obtaining registration number electronically
- ➤ After application, documents prescribed in CBE&C order No. 1/2015-ST dated 28-2-2015 should be submitted with seven days. These cover copy of PAN, photograph and proof of identity of person, proof of possession of premises, details of main bank account, memorandum and articles and Board resolution.
- ➤ Business transaction number with other authorities like Customs Registration Number, IEC (Import Export Code), State Sales Tax Number, CST, Company Index Number etc. should be submitted.
- Verification of premises can be done only with permission of Additional/Joint Commissioner.
- ➤ If required clarifications are not provided by assesse, registration can be cancelled after granting personal hearing. If premises are nonexistent, registration can be cancelled by Deputy/Assistant Commissioner

#### **B. PAYMENT & ACCOUNTING CODES**

- 1. Service Tax is payable within **6<sup>th</sup> day of month** after each quarter. However, service tax for January to March is to be paid within **31<sup>st</sup>. March**. (For Proprietor, Partnership & HUF concerns)
- 2. Service Tax is payable monthly within 6<sup>th</sup> day of next month. However, service tax for March is to be paid within 31<sup>st</sup>. March. (For Companies)
- 3. Every assessee shall electronically pay the service tax payable by him, through internet banking w.e.f. 01.10.14
- 4. Negative List based comprehensive approach to taxation of services came into effect from the first day of July, 2012. Accounting code for the purpose of payment of service tax under the Negative List approach ["All Taxable Services" 00441089] was prescribed vide Circular 161/12/2012, dated 6th July, 2012.
- 5. The Circular No. 165 / 16 / 2012–S.T. dated 20th November 2012 revives the old system of category specific tax code for payment of Service Tax and other dues. It also requires that the liability of interest against late payment of Service Tax has to be discharged under a separate code. This is applicable not only to the Service Tax payers, especially who have been

providing multiple services but also for the assesses obliged to pay service Tax under Reverse Charge Mechanism. A specific sub-head has been created for payment of "penalty" under various descriptions of services. Henceforth, the sub-head "other receipts" is meant only for payment of interest payable on delayed payment of service tax. Accounting Codes under the sub-head "deduct refunds" is not to be used by the taxpayers, as it is meant for use by the field formations while allowing refund of tax.

#### C. RETURNS

- 1. Service Tax return for April to September is to be submitted in Form ST-3 within 25<sup>th</sup>. October & for October to March within 25<sup>th</sup>. April.
- 2. Annual return for the period April to March to filed by 30<sup>th</sup> November of the succeeding financial year .( certain assesses may not be required to file the returns). The return may be revised within a period of 30 days.
- 3. Service Tax Return to be made electronically by all assesses.

#### D. POINT OF TAXATION IN CASE OF REVERSE CHARGE:

Reverse charge Mechanism- Under this concept service receiver is liable for payment of service tax to the account of the govt. Point of taxation in case of reverse charge is discussed below –

- a) In case advance payment is made to the service provider then date of advance payment is the Point of taxation.
- b) If payment is made within three months from date of the invoice then date of payment will be considered as Point of taxation.
- c) If payment is made after three months from the date of invoice then Point of taxation will be –
- a) The first day after 3 months from the Date of invoice provided that the invoice has been issued within 30/45 days (as applicable) from completion of provision of service;

### E. COMPUTING TAXES - INVOICE

**Invoice** by the service provider in the above cases, to be raised, as per Rule 4A of the Service Tax Rules 1944 indicate the name, address and the registration no. of the service provider; the name & address of the service receiver, the description & value of taxable service; and the service tax payable thereon, including service tax payable by the provider. The service provider may not charge any service tax as his turnover is below rupees ten lakhs in proceeding, till they cross the turnover of rupees ten lakhs in the current year.



Illustration: Computing taxes

Example: Say A is SP and B is SR such that they fall under reverse charge and ratio applicable is 25-75 for SP & SR respectively. Say an invoice of 15 Lacs (excluding tax) has been raised on 1st August, 2013. For the given facts the computation of service tax shall be as under:

Particulars	Amount (Rs)
Invoice Value (excluding tax)	15,00,000/-
Service Tax (Total Service tax) @ 12.36% (A)	1,85,400/-
Total Value	16,85,400/-
Less: Tax Attributable to service receiver and to be borne by SR himself (75% of (A))	1,39,050/-
Amount Payable by SR to SP	15,46,350/-
ST payable by SR	1,39,050/-
ST payable by SP	46,350/-

Against ST payable the Cenvat available with respective parties can be utilised subject to <u>Cenvat credit rules</u>, <u>2004</u>.

### RAISING SERVICE INVOICE

Above mentioned table shall be our reference point to discuss raising a service invoice. In this case the total service tax payable of Rs. 1, 85,400/- needs to be disclosed. In addition to that service tax attributable to service receiver i.e. Rs. 1, 39,050/- shall be disclosed on invoice so that the SR knows the amount of service tax that is required to be paid by him.

The 14 Days time limit for issuing invoice increased to 30 days from the date of provision of service. The 14 Days time limit for issuing invoice increased to 45 days in case of banking company / financial institutions. In case of continuous supply of services, 14 days time limit increased to 30 days of the completion of each taxable event. No invoice is required to be issued in case of the amount received by service provider from service receiver is in excess of amount mentioned in the invoice by Rs. 1000/-.

#### F. ACCOUNTING ISSUES

It will be evident from the above that in case of car hire, manpower supply, works contract; the liability is fastened on the recipient of service provided the service provider is of specified person. In case of service provider is other organization like Company, Society, the tax is payable by the service provider himself. The organization responsible for payment of service tax will also have to file ST-3 return for the payment of service tax made by them. It has been the experience that during audit, the auditors invariably ask the company to tally the value of taxable service with the amount shown in the ledger. It will therefore be advisable to maintain separate ledger code for the service for which service tax is payable under reverse charge and service tax payable as service provider. This will help the company in reconciling the amount in the return.



### G. CENVAT CREDIT

### Time limit for taking Cenvat Credit of Input Services at a glance

Description	When service tax is payable	When Cenvat Credit can be taken	When the Cenvat Credit is required to be reversed?
Entire service tax payable by service provider (normal provision)	Service provider liable to pay service tax on issue of invoices – rule 3(a) of POTR (except where his value of taxable services were less than Rs 50 lakhs per annum in previous financial year, in which case, service tax payable on receipt basis – third proviso to rule 6(1) of Service Tax Rules)	On receipt of invoice of service provider (but within one year from date of invoice of service provider (w.e.f. 01.03.15)  (earlier within 6 months w.e.f. 01.09.14 till 28.02.15)  - rule 4(7) of Cenvat Credit Rules)	If payment of value of input service plus service tax is not made to service provider within three months – Later when payment is made, the Cenvat credit can be taken back – third provisoto rule 4(7) of Cenvat Credit Rules
Entire service tax payable by service receiver (under reverse charge)	Service receiver liable to pay service tax on payment of value of input service plus service tax to service provider <i>or</i> three months from date of invoice of service provider (whichever is earlier) – rule 7 of POPS	On payment of service tax by the service receiver by GAR-7 challan (but within one year w.e.f. 01.03.15 from date of GAR-7 challan –  (earlier within 6 months w.e.f. 01.09.14 till 28.02.15) -  rule 4(7) of Cenvat Credit Rules)	No question of reversal of Cenvat Credit
Portion of service tax charged by service provider in his invoice, in cases where remaining portion of service tax is payable by service receiver under reverse charge	Service provider liable to pay service tax on issue of invoices – rule 3(a) of POTR (except where his value of taxable services were less than Rs 50 lakhs per annum in previous financial year, in which case, service tax payable on	On receipt of invoice of service provider (but within one year from date of invoice of service provider (w.e.f. 01.03.15)  (earlier within 6 months w.e.f. 01.09.14 till 28.02.15)  rule 4(7) of Cenvat	If payment of value of services plus service tax is not made to service provider within three months – Later when payment is made, the Cenvat credit can be taken back – third provisoto rule 4(7) of Cenvat



	receipt basis – third proviso to rule 6(1) of Service Tax Rules)	Credit Rules)	Credit Rules
Portion of service tax payable by service receiver, in cases where partial service tax is payable by service receiver (under reverse charge)	Service receiver liable to pay his portion of service tax, on payment of value of input service plus service tax to service provider or three months from date of invoice of service provider (whichever is earlier) – rule 7 of POPS	On payment of service tax by the service receiver by GAR-7 challan, irrespective of whether payment is made to the service provider — w.e.f. 01.04.15  (but within one year from date of GAR-7 challan.)  (Prior to 01.04.15 — On payment of value of services plus service tax to service provider and payment of portion of service tax paid by servicer receiver by GAR-7 challan (but within six months from date of GAR-7 challan — see sixth proviso to rule 4(7) of Cenvat Credit Rules)	No question of reversal of Cenvat Credit



### LIST OF RETURNS/STATEMENTS - EXCISE

	Description	Who is required to file	Time limit for filing
Return			return
ER-1 [Rule 12(1) of Central Excise Rules]	Monthly Return by large units	Manufacturers not eligible for SSI concession	10th of following month
ER-2 [Rule 12(1) of Central Excise Rules]	Return by EOU	EOU units	10th of following month
ER-3 [Proviso to Rule 12(1) of Central Excise Rules]	Quarterly Return by SSI	concession	10th of following quarter
ER-4 [rule 12(2) of Central Excise Rules]		Assesses paying duty of Rs one crore or more per annum through Cenvat & PLA	Annually by 30th November of succeeding year
ER-5 [Rules 9A(1) and 9A(2) of Cenvat Credit Rules]	_	Assesses paying duty of Rs one crore or more per annum through Cenvat & PLA and manufacturing goods under specified tariff headings	Annually, by 30th April for the current year (e.g. return for 2015-16 is to be filed by 30-4-2015].
ER-6 [Rule 9A(3) of Cenvat Credit Rules]  ER-7 [Rule 12(2A)(a) of Cenvat Credit Rules]	receipt and consumption of each of Principal	submit ER-5 return	10th of following month  Annually, by 30th April for the current year (e.g. return for 2015-16 is to be filed by 30-4-2015].

Note: The Excise returns in ER4, ER5, ER6 and ER-7 are not required to be filed from 01.04.2016 vide Notification No.08/2016dated 01.03.2016

Page 42 RETURNS UNDER EXCISE



### **CENVAT CREDIT**

Credit of inputs, input services and capital goods	Cenvat scheme allows credit of excise duty paid on inputs goods, capital goods and service tax paid on input services [Rule 3(1) of Cenvat Credit Rules]	
Utilisation of Cenvat Credit	This credit can be utilised for payment of excise duty on dutiable final products and service tax on taxable output services [Rule 3(4) of Cenvat Credit Rules]	
Credit only if manufacture or provision of service	Cenvat credit is available only if there is 'manufacture' or 'provision of taxable output service'.	
One to one relation not required	Cenvat Credit Rules do not require one to one relationship [Rule 3(1) read with 3(4) of Cenvat Credit Rules] Entire Cenvat credit is common pool which can be utilised for payment of any eligible duty, service tax or amount.	

INPUT (GOODS) ELIGIBLE FOR CENVA	T CREDIT
Inputs used in or in relation to manufacture	Inputs which are used in or in relation to manufacture of taxable final product and inputs directly used for provision of taxable output service are eligible for Cenvat credit [Rule 2(k) of Cenvat Credit Rules]  Input may be used directly or indirectly in manufacture. Any input integrally connected with manufacturing process is eligible. Process loss is eligible.
Consumables eligible	Consumables are eligible for Cenvat credit.
Accessories, packing material, paint	Accessories, packing material and paints are eligible as inputs.
LDO, HSD and petrol not eligible	LDO, HSD and petrol are not eligible for Cenvat credit [Explanation 1 to Rule 2(k) of Cenvat Credit Rules]
Cement, angles, channels etc. not eligible	Input does not include cement, angles, channels, CTD or TMT used for construction of factory shed, building or foundation or structures to support capital goods [Explanation 2 to Rule 2(k) of Cenvat Credit Rules]
Instant credit	Cenvat credit on input (goods) is instant, i.e. as soon as inputs are received in the factory.



CAPITAL GOODS ELIGIBLE FOR CENVAT CREDIT		
Capital goods eligible for Cenvat credit	Only capital goods as defined in Rule 2(a) of Cenvat Credit Rules are eligible for Cenvat Credit.	
Capital goods to be used in factory	Capital goods should be used in the factory of manufacturer.	
Equipment or appliances used in office not eligible to manufacturer	Capital goods does not include equipment or appliance used in an office of manufacturer (this restriction does not apply to service provider)	
Eligibility of Motor vehicles	Motor Vehicles except certain specified vehicles have been included in the definition of Capital Good used in the factory of the manufacturer of final products -Notification no. 18/2012 C.E. (N.T.)	
Sending out capital goods	Capital goods should be used in factory. These can be sent outside for job work but should be brought back within two years (against present limit of 180 days [Rule 4(5)(a) of Cenvat Credit Rules] – w.e.f. 1-03-2015	
	Capital goods can be sent to job worker's place from the supplier manufacturer. The purchaser manufacturer can avail Cenvat credit of those capital goods as soon as goods reach the place of job worker – amendment to rule 4(2)(a) of Cenvat Credit Rules w.e.f. 1-3-2015	
	Moulds, dies, jigs and fixtures can be sent outside without restriction of return within 180 days [Rule 4(5)(b) of Cenvat Credit Rules	
Partial use of capital goods for exempted goods allowable	Capital goods used exclusively for manufacture of exempted goods are not eligible for Cenvat credit. Thus, partial use for exempted goods is allowable i.e. full Cenvat credit is available.	
Capital goods on hire purchase/lease/loan	Capital goods obtained on hire purchase/lease / loan are eligible [Rule 4(3) of Cenvat Credit Rules]	
Duty paying documents	Duty paying documents eligible are same for Cenvat on inputs.	
Depreciation should not be availed on Cenvat portion	Depreciation under section 32 of Income Tax Act should not be claimed on the excise portion of the Capital Goods. – Rule 4(4) of Cenvat Credit Rules (Otherwise, the manufacturer will get double deduction for Income Tax - one credit as Cenvat and another credit as depreciation) <i>e.g.</i> if cost of 'capital goods' is Rs 1.16 lakhs, out of which Rs 0.15 lakh is duty paid, assessee can claim depreciation under Income Tax only on Rs one lakh, if he has availed Cenvat credit of Rs 0.16 lakh. The requirement gets satisfied only if the assessee follows accounting procedure specified in guidelines issued by Institute of Chartered Accountants of India	
Credit to be availed in two installments	Cenvat credit on capital goods is required to be availed in more than one year, i.e. upto 50% credit can be availed when these are received and balance in any subsequent financial year. The condition for taking balance credit is that the capital goods should be in possession of manufacturer of final products in subsequent years. SSI units can avail entire 100% Cenvat credit in first year itself – Rule 4(2) (a) of Cenvat Credit Rules.	
Removal of capital goods as such,	Capital goods on which Cenvat credit was taken can be removed 'as such' on payment of 'amount' equal to Cenvat credit availed	



after use or as scrap	[Rule 3(5) of Cenvat Credit Rules] If capital goods are cleared after use as second hand capital goods, 'amount' is payable at reduced rate by reducing credit taken @ 2.5% per quarter OR transaction amount, whichever is higher. If cleared as scrap, duty is payable on the scrap value billed.
INPUT SERVICE	
Input service eligible for Cenvat credit	Cenvat credit is available of service tax paid on input services.  Definition of 'input service' is very wide [Rule 2(l) of Cenvat Credit Rules]. Inclusive part of the definition expands the scope much beyond manufacture or provision of taxable service.
Any service in relation to business is input service	Decisions in <i>Coca Cola</i> (Bombay High Court) and <i>ABB</i> (LB of CESTAT) have cleared most of doubts about interpretation of 'input service' and it is clear that any relation with manufacture or provision of taxable service is not required. any service in relation to business of manufacturer or service provider is 'input service'
Credit availment conditions	Please refer to section – "Routine Procedures Under Service Tax)

UTILISATION OF CENVAT CREDIT		
Utilisation for any eligible purpose	Cenvat credit is a pool. The credit in this pool can be utilised for payment of any excise duty on excisable final product and service tax on taxable output service. The credit can also be used for payment of certain 'amounts' [Rule 3(4) of Cenvat Credit Rules]	
Credit only of inputs and services received upto end of month	Credit can be utilised only of inputs and input services received upto end of the month [First proviso to Rule 3(4) of Cenvat Credit Rules] (even if excise duty/service tax is payable at a later date)	
Inter-changeability of credit of various duties	Credit of Basic excise duty, CVD, Special CVD and service tax can be utilised for payment of <i>any</i> duty on final product or service tax on output services, except duty payable u/s 85 of Finance Act on pan masala and certain tobacco products [provisos to Rule 3(4) of Cenvat Credit Rules]	
Restrictions on interchangeability	Cenvat Credit of education cess, NCCD and additional excise duty paid on inputs under section 85 of Finance Act (and corresponding CVD on imported inputs) can be utilised only for payment of corresponding duty on final product i.e. the credit is not inter-changeable.	
Credit of special CVD	Credit of special CVD (present rate is @ 4%) u/s 3(5) of Customs Tariff Act can be utilised by manufacturer but not by service providers [third <i>proviso</i> to Rule 3(4) of Cenvat Credit Rules]	
Credit of education cess and SAHE cess	Credit of education cess paid on input goods and paid on input services is inter-changeable. Similarly, credit of SAH Education cess paid on input goods and paid on input services is inter-changeable.	



DUTY PAYING DOCUMENT FOR AVAILING CENVAT CREDIT		
Eligible duty/tax paying document	Cenvat credit can be availed on basis of eligible duty documents as specified in Rule 9(1).	
	Invoice of Manufacturer, Bill of Entry, Supplementary Invoice, Dealer's Invoice and GAR-7 challan when service receiver is liable to pay service tax are major eligible documents.	
Transit Invoice	Credit can be availed on basis of transit invoice i.e. on basis of invoice of manufacturer when goods purchased through dealer and name of ultimate buyer is shown as consignee.	
Time limit for availing Cenvat credit	Time limit for availing Cenvat Credit is one year w.e.f. 01.03.15, (earlier within 6 months w.e.f. 01.09.14 till 28.02.15) -rule 4(7) of Cenvat Credit Rules)	
Credit cannot be denied on account of minor defects	There is ample case law that Cenvat credit cannot be denied for minor defects in duty paying document.	
Endorsement of duty paying document	Duty/tax paying document need not be in name of the manufacturer using the input/input services for manufacture/provision of taxable output service. It is sufficient if these are endorsed in his name with certificate that endorser has not availed Cenvat credit.	
Burden of proof	Person taking credit must take reasonable steps while availing Credit. Burden of proof of admissibility of Cenvat credit is on him [Rule 9(5) of Cenvat Credit Rules]	

DEALER'S INVOICE FOR CENVAT	
First stage and second stage dealer can issue Cenvatable Invoice	Cenvat credit can be availed on basis of Invoice issued by dealer registered with Central Excise [Rule 9(1) of Cenvat Credit Rules]  First stage and second stage dealer registered with Central Excise can issue Cenvatable Invoice. First stage dealer means dealer purchasing goods from manufacturer or his depot or consignment agent. They have to submit quarterly return to department within 15 days from close of quarter [Rule 9(8) of Cenvat Credit Rules]
Optional refund of 4% special CVD	If the first stage dealer claims refund of special CVD of 4%, the buyer cannot avail Cenvat credit. (This is not compulsory on dealer. It is optional).
Transit Invoice	Transit Invoice is also permissible. In such case, dealer need not be registered, if name of ultimate buyer is shown as consignee in the invoice issued by manufacturer.
Cenvat credit of CVD and special CVD on imported goods	Cenvat credit can be availed in respect of imported goods purchased through dealer, by either issuing dealer's invoice or by endorsement of Bill of Entry.



Removal of inputs as such	Inputs on which Cenvat credit was taken can be removed 'as such' on payment of 'amount' equal to Cenvat credit availed [Rule 3(5) of Cenvat Credit Rules]
Sending inputs for job work	Inputs on which Cenvat credit was availed can be sent outside for job work. These should come back within 180 days [Rule 4(5)(a) of Cenvat Credit Rules]
	W.E.F. 01.03.15, Cenvat Credit can be availed, if the input goods are sent directly to the job worker, under the direction of the manufacturer, without bringing the goods to the factory, the invoice should mention the name of the manufacturer as the buyer & the job worker as consignee – Rule 11(2) of C.C.R. The processed goods should be returned within 180 days, as before.
Direct dispatch from place of job worker	Direct dispatch of final product from place of job worker can be done with permission of AC/DC for one financial year [Rule 4(6) of Cenvat Credit Rules]. The same permission is valid for 3 years as per Budget 2016.

REMOVAL OF WASTE	
Waste is final product Waste is final product for excise purposes and duty is as if final product is being cleared. This applies only if 'produced' or 'manufactured' and is excisable goods.	
Waste not mentioned in Tariff	If a particular waste is not mentioned in Central Excise tariff, neither any amount nor duty is payable at the time of clearance.

Records of Cenvat credit	Manufacturer/service provider is required to maintain records of inputs and capital goods, records of credit received and utilised. [Rule 9(5) of Cenvat Credit Rules]
	The records can be digitally maintained, where each page is authenticated by digital signature – w.e.f. 01.03.15 – Rule 10 of Central Excise Rules 2002
Return of Cenvat credit availed and utilised	Returns of details of Cenvat credit availed, Principal Inputs and utilization of Principal Inputs in forms ER-1 to ER-7 is to be submitted [Rule 9A of Cenvat Credit Rules]
Revised return	Revised return of Cenvat credit can be submitted within 60 days [Rule 9(11) of Cenvat Credit Rules]
Returns by dealers, input service distributor	Dealer/service provider/input service distributor is also required to submit returns [Rule 9(6) and 9(10) of Cenvat Credit Rules]



OTHER PROVISIONS RELATING TO CENVAT		
SSI to reverse Cenvat at end of year	SSI unit can opt out of Cenvat at end of the year. He has to reverse Cenvat credit on inputs in stock as on 31st March [Rule 11(2) of Cenvat Credit Rules]	
SSI can take Cenvat of duty on inputs in stock	When he starts payment of duty during financial year after exemption is over, he can avail Cenvat credit of duty paid on inputs in stock	
Simultaneous exemption	Simultaneous exemption and availment of Cenvat is permissible by SSI only in specified cases.	
Cenvat credit to exporter	Exporter of final product or taxable services can avail Cenvat credit on inputs and input services. He can claim refund of Cenvat credit if he cannot utilise the Cenvat credit for payment of duty on sale made within India on payment of duty [Rule 5 of Cenvat Credit Rules]	
Refund of credit of input services	Merchant exporter can claim refund of specified input services used while exporting final product.	
Transfer, amalgamation of undertaking	If undertaking is transferred, merged or shifted, Cenvat credit can be transferred [Rule 10 of Cenvat Credit Rules].	
Penalty for improper Cenvat credit	Penalty can be imposed for wrongfully taking or utilising Cenvat credit [Rules 15 and 15A of Cenvat Credit Rules]	
Accounting for Cenvat and stock valuation	Accounting for Cenvat should be as per guidance note issued by ICAI.	
	Inventory valuation should be as per AS-2 which requires exclusion of Cenvat credit. However, for income tax purposes, Cenvat credit has to be added in valuation in view of section 145A of Income Tax Act.	

### CENVAT CREDIT ELIGIBILITY OF VARIOUS SERVICES AS INPUT SERVICES

In view of the changes in the Cenvat Credit Rules; following is summary of various input services eligible and not eligible. (Of course, litigation is inevitable in many cases.)

Service	Comment about eligibility		
Accounting Expenses	Eligible as specifically included in definition		
Advertisement (may be for recruitment,	Eligible as specifically included in definition		
tenders, sales promotion, legal etc. as no restriction)			
Air travel of employees	Eligible if in relation to manufacture or		
in traver or employees	provision of taxable goods/services,		
	modernization or repairs of factory or office,		
	storage, quality control, recruitment, accounts,		
	audit, sales promotion, procurement of inputs,		
	legal services, financing, computer networking		
Airport Service	Specifically excluded – Hence not		
	eligible except for airport, construction or		
	works contract		
Architect Services	Specifically excluded – Hence not eligible		
	except in case of construction or works		
Auditing Commiss	contract services		
Auditing Service Authorised Service Station	Eligible as specifically included in definition  Specifically excluded – Hence not eligible		
Addionsed Service Station	except where motor vehicle is eligible as capital		
	goods		
Banking and other financial services	Eligible under 'Financing'		
Beauty Treatment	Specifically excluded – Hence not eligible		
Brand Ambassadors	Eligible as relating to 'sales promotion'		
Business exhibition	Eligible as specifically included in definition		
Business Support Service	Eligible if in relation to manufacture or		
••	provision of taxable goods/services,		
	modernization or repairs of factory or office,		
	storage, quality control, recruitment, accounts,		
	audit, sales promotion, procurement of inputs,		
	legal services, financing, computer networking		
Canteen Expenses for employees	Not Eligible as specifically excluded		
Clearing & Forwarding Agent	Eligible for inputs and for final products upto		
	place of removal (port is place of removal for export)		
Club Membership	Specifically excluded for employee – Hence not		
Oldo Montocionip	eligible [Club membership fee of a director (who		
	is not employee) would be eligible		
Commercial Coaching and training	Eligible as specifically included in definition		
Commission Agent	Eligible as relating to 'sales promotion' or		
_	'procurement of inputs'		
Computer networking	Eligible as specifically included in definition		
Consignment Agent's expenses	Eligible as consignment agent's place is 'place		
	of removal' when sale is from depot		
Construction of a building or a civil	Specifically excluded – Hence not		
structure or a part thereof	eligible except for construction or works		
	contract service		
Consulting – Engineering, management	Eligible if in relation to manufacture or		
	provision of taxable goods/services,		
	modernization or repairs of factory or office, storage, quality control, recruitment, accounts,		
	siorage, quality control, recruitment, accounts,		



	audit, sales promotion, procurement of inputs,
	legal services, financing, computer networking
Courier	Eligible if related to modernization or repairs of
	factory or office, accounts, financing,
	procurement of inputs, sales promotion,
	inward and outward transportation, share
	registry, recruitment, legal services
Credit rating	Eligible as specifically included in definition
Customs House Agent	Eligible for procurement of inputs and also for
	exports as port is place of removal for export
Depot expenses	Eligible as depot is 'place of removal' when sale
	is from depot
Erection, commissioning or installation	Eligible since in relation to manufacture or
	provision of taxable goods/services
Financing (Bank charges, Lease, Hire Purch.)	Eligible as specifically included in definition
Foundation or support of capital goods	Specifically excluded - Hence not
	eligible <i>except</i> for construction or works contract service
Gardening	Eligible if done as a statutory requirement or if
_	in relation to modernization or renovation of
	factory or office, otherwise not.
General Insurance for machinery, building	Eligible as in relation to manufacture,
and transportation of inputs, capital goods	provision of taxable services, procurement of
and final products upto place of removal	inputs, transportation of inputs and final
	products
General Insurance of motor vehicles	Specifically excluded – Hence not eligible
	except where motor vehicle is eligible as capital
4.4	goods
Health Insurance	Insurance of employees not eligible [Insurance
	of a director (who is not employee) would be eligible
Hire purchase	Eligible under 'Financing'
Information Technology Software	Eligible if in relation to manufacture or
information recimology bottware	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, recruitment, accounts,
	audit, sales promotion, procurement of inputs,
	legal services, financing, computer networking
Insurance for machinery, building and	Eligible as in relation to manufacture,
transportation of inputs, capital goods and	provision of taxable services, procurement of
final products upto place of removal	inputs, transportation of inputs and final
	products
Insurance (Life or Health)	Insurance of employees not eligible [Insurance
	of a director (who is not employee) would be
Intellectual December Course	eligible
Intellectual Property Service	Eligible if in relation to manufacture or
	provision of taxable goods/services, quality control, sales promotion, computer networking
Inward transport	Specifically included under 'Inward
inwaru transport	transportation of inputs or capital goods'
Job work	Eligible if in relation to manufacture or
OOD WOLK	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, computer networking
Labour contractor	Eligible if in relation to manufacture or
Passai continued	Linguiste if it relation to manufacture of



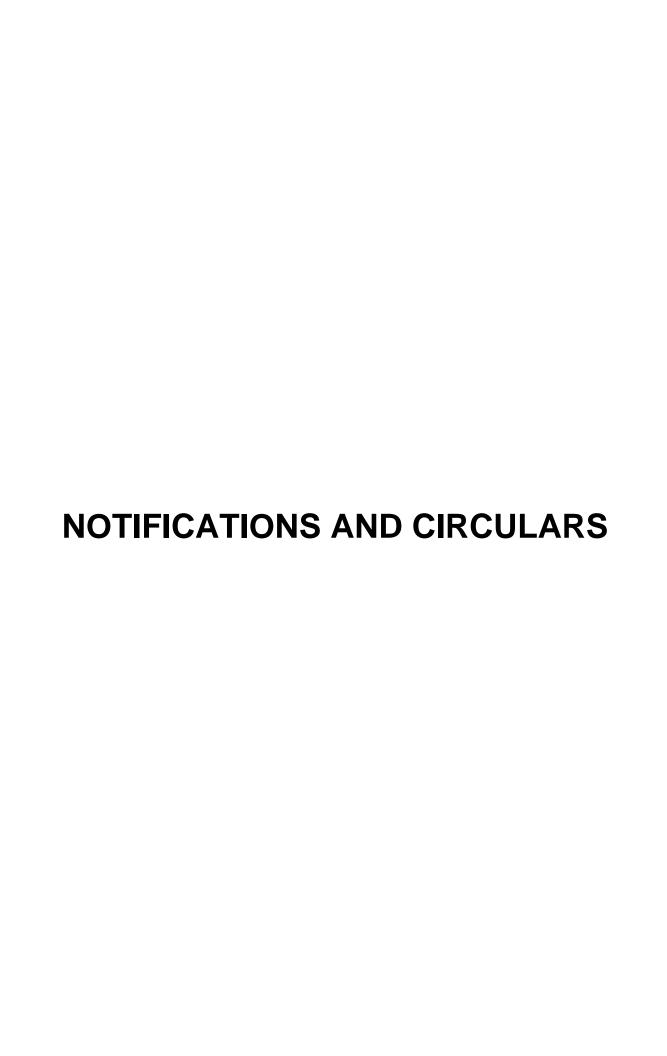
	provision of service or modernization or repairs
	of factory or office, accounts, financing,
	procurement of inputs, sales promotion,
	inward and outward transportation, share
	registry, recruitment, legal services
Leasing	Covered under 'Financing'
Legal Consultancy	Specifically included under 'legal services'
Life Insurance	Insurance of employees not eligible [Insurance
	of a director (who is not employee) would be
	eligible
Maintenance and repairs	Eligible if in relation to manufacture or
	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, <b>except</b> of motor
	vehicles
Mandap Keeper	Eligible if in relation to recruitment, accounts,
<b>T</b>	audit, sales promotion, procurement of inputs,
	legal services, financing, computer networking
Manpower recruitment and supply	Eligible if in relation to manufacture or
Power construction and copped	provision of taxable goods/services,
	modernization or repairs of factory or office,
	recruitment, storage, quality control, accounts,
	sales promotion, financing, computer
	networking
Market Research	Eligible as specifically included in definition
Mobile phones (even if in name of	
employees, if endorsed in favour of	factory or office, accounts, financing,
employer and reimbursed by employer)	procurement of inputs, sales promotion,
omployer and remination by employer,	inward and outward transportation, share
	registry, recruitment, legal services <b>but</b> not for
	personal use of employees
Motor Vehicle Expenses	Presently credit on all motor vehicles is not
motor veniore zaponsos	available except to a few specified service
	providers. This is being liberalised and credit
	on motor vehicles, other than those falling
	under tariff heading 8702, 8703, 8704, 8711
	and their chassis, will be allowed. The credit of
	service tax paid on their hiring, insurance and
	repair will also be allowed.
Outdoor catering	Not eligible when given to employee – should be
G	eligible if for sales promotion, training,
	auditing, legal services, security or to directors
	who are not employees
Outward transportation	Outward transportation upto the place of
•	removal (port is place of removal for export)
Personal Insurance of employees	Not eligible
Port Service	Specifically excluded - Hence not
	eligible <i>except</i> for port, construction or works
	contract
Procurement Expenses	Eligible under 'Procurement of inputs'
Quality Control	Eligible as specifically included in definition
Realer Estate Agent service	May not be eligible
Recruitment	Eligible as specifically included in definition
Renovation of factory or office building	Renovation of a factory, premises of provider of
	Louitnut gerrine or an office relating to sinch
	output service or an office relating to such factory or premises are eligible



Renting of a cab	Specifically excluded – Hence not eligible except where motor vehicle is eligible as capital
	goods
Renting of immovable property	Eligible if in relation to manufacture or
	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, recruitment, accounts,
	audit, sales promotion, procurement of inputs,
	legal services, financing, computer networking
Repairs of factory or office building	Repairs of a factory, premises of provider of
	output service or an office relating to such
	factory or premises are eligible
Repairs of vehicles	Specifically excluded - Hence not eligible
-	except where motor vehicle is eligible as capital
	goods
Residential Colony/quarters Expenses	Not eligible except security and legal services
Residential Complex	Specifically excluded - Hence not
<u> </u>	eligible <i>except</i> for construction or works
	contract service
Sales Promotion Expenses	Eligible as specifically included in definition
Security at factory, offices, godown,	Eligible as specifically included in definition
residential colonies	as 'Security' (no restriction where used)
Share registry	Eligible as specifically included in definition
Showroom Expenses	Eligible as 'sale promotion'
Software	Eligible if in relation to manufacture or
	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, recruitment, accounts,
	audit, sales promotion, financing, computer
	networking
Storage of inputs and final products	Eligible as specifically included in definition as
	'Storage upto place of removal'
Supply of tangible goods	Specifically excluded – Hence not eligible
	except where motor vehicle is eligible as capital
	goods
Supply of tangible goods for use service	Eligible if in relation to manufacture or
	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, recruitment, accounts,
	audit, sales promotion, procurement of inputs,
	legal services, financing, computer networking
Telephones and telephones at residence of	Eligible if related to modernization or repairs of
employees	factory or office, accounts, financing,
	procurement of inputs, sales promotion,
	inward and outward transportation, share
	registry, recruitment, legal services <b>but</b> not for
Tuoining	personal use of employees
Training Transport charges for transport of ampleyees	Eligible as specifically included in definition
Transport charges for transport of employees	Not eligible as specifically excluded
Travel by air, road or water except by motor	Eligible if in relation to manufacture or
vehicle	provision of taxable goods/services,
	modernization or repairs of factory or office,
	storage, quality control, recruitment, accounts,
	audit, sales promotion, procurement of inputs,
World Control Coming	legal services, financing, computer networking
Works Contract Service	Specifically excluded - Hence not eligible



provided for services specifically excluded
under clause A of 2(l) <i>except</i> for construction or
works contract service if the service is used for
other purpose shall i.e. finishing services ,
repair, alteration, or restoration , these should
be eligible.





## CONCESSIONAL RATE OF EXCISE DUTY ON PAPER, BOARD, BOXES & SCRAP

### Notification No. 12 /2012-Central Excise

(Only Relevant Portion Reproduced Below)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

New Delhi, the 17th March, 2012

G.S.R. (E).-In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) and in supersession of (i) notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 3/2005-Central Excise, dated the 24th February, 2005, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 95(E), dated the 24th February, 2005, (ii) notification No. 3/2006-Central Excise, dated the1st March,2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 93 (E), dated the1st March,2006,(iii) notification No. 4/2006-Central Excise, dated the 1st March, 2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 94 (E) dated the 1st March, 2006, (iv) notification No. 5/2006-Central Excise, dated the 1st March, 2006, published in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (i), vide number G.S.R 95 (E) dated the1st March,2006,(v) notification No. 6/2006-Central Excise, dated the 1st March, 2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 96 (E) dated the1st March,2006, and (vi) notification No. 10/2006-Central Excise, dated the1st March,2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R 100 (E) dated the 1st. March, 2006, except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the excisable goods of the description specified in column (3) of the Table below read with relevant List appended hereto and falling within the Chapter, heading or sub-heading or tariff item of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the Excise Tariff Act), as are given in the corresponding entry in column (2) of the said Table, from so much of the duty of excise specified thereon under the First Schedule to the Excise Tariff Act, as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table and subject to the relevant conditions annexed to this notification, if any, specified in the corresponding entry in column (5) of the Table aforesaid:

Provided that nothing contained in this notification shall apply to the goods specified against serial number 296 and 297 of the said Table after the 31st day of March, 2013.

Explanation 1.- For the purposes of this notification, the rates specified in column (4) of the said Table are ad valorem rates, unless otherwise specified.

Explanation 2.- For the purposes of this notification, —brand name means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and a person using such name or mark with or without any indication of the identity of that person.



### Table

Schedule			No.
(2)	(3)	(4)	(5)
4707	Waste paper and paper scrap	6%	-
48	Paper and paperboard or articles made there from manufactured, starting from the stage of pulp, in a factory, and such pulp contains not less than 75% by weight of pulp made from materials other than bamboo, hard woods, soft woods, reeds (other than sarkanda) or rags	6%	12
4819 10	Cartons, boxes and cases, of corrugated paper or paperboard whether or not pasted with <b>duplex sheets</b> on the outer surface	6%	13
	(2) 4707 48	4707 Waste paper and paper scrap  48 Paper and paperboard or articles made there from manufactured, starting from the stage of pulp, in a factory, and such pulp contains not less than 75% by weight of pulp made from materials other than bamboo, hard woods, soft woods, reeds (other than sarkanda) or rags  4819 10 Cartons, boxes and cases, of corrugated paper or paperboard whether or not pasted with	4707 Waste paper and paper scrap 6%  48 Paper and paperboard or articles made there from manufactured, starting from the stage of pulp, in a factory, and such pulp contains not less than 75% by weight of pulp made from materials other than bamboo, hard woods, soft woods, reeds (other than sarkanda) or rags  4819 10 Cartons, boxes and cases, of corrugated paper or paperboard whether or not pasted with

### **ANNEXURE**

Condition No	Conditions
12	<ul><li>(1) The exemption shall not be applicable if the factory in which the said goods are manufactured has a plant attached thereto for making bamboo or wood pulp.</li><li>(2) The exemption shall not be applicable to a manufacturer of the said goods who avails of the exemption under the notification of the Government of India in</li></ul>
	the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No. 8/2003-Central Excise, dated the 1st March, 2003.
13	The exemption shall be applicable to units manufacturing cartons, boxes or cases, as the case may be, starting from the stage of kraft paper, corrugated paper, corrugated sheet, corrugated board or any one or more of these stages and not having the facility to manufacture kraft paper in the same factory.

[F.No.334/1/2012-TRU]

(Raj Kumar Digvijay)

Under Secretary to the Government of India



F. No. 354/342/2011/TRU Government of India Ministry of Finance Department of Revenue Tax Research Unit

New Delhi, dated the 24th February, 2012

To.

All Directors General All Chief Commissioners of Central Excise and Customs All Chief Commissioners of Central Excise

Sir/Madam,

Subject: Serial No.96E of Notification No. 4/2006-CE dated 01.03.2006; Tariff classification of Corrugated Paper Board Boxes manufactured from corrugated Paper & Paper Board - Using Kraft Paper & Duplex Board- reg.

Kind attention is invited to Serial No.96E of Notification No. 4/2006-CE dated 01.03.2006 as amended by Notification No. 4/2011-CE Dated 01.03.2011, whereby a concessional rate of 5% central excise duty has been made available to available to Cartons, boxes and cases, of corrugated paper or paperboard whether or not pasted with duplex sheets on the outer surface. Under column (2) of this entry the chapter or heading for Tariff Item of the Schedule has been indicated as 4819 10.

- 2. Reresentations have been received by this unit wherein it has been stated that some field formations have raised the issue on a member unit; of non eligibility of concessional Excise Duty; on Corrugated Board Boxes manufactured using Corrugated Board made of Kraft Paper & Duplex Paper Board on the ground that the product cannot be classified under Tariff Heading 4819 as Duplex Board has been used & that Kraft Paper is not predominant in the total quantum of Paper & Board used. Therefore demand for Duty of 10% has been raised on such clearances.
- 3. Board has examined similar issues in the past on more than one occasion. For example, vide Circular no.60/95 dated 4th June, 1995 and Circular no.9/96-Cus dated 13.2.1996, it has been clarified that the benefit of exemption will be available to goods where the goods are squarely covered by the description even though the goods mentioned in the notification are not covered by the Chapter/Heading Nos. /Sub-heading Nos. mentioned in the notification or if the heading no. indicated against the description is "incorrect".
- 4. In view of this position it is clear that the benefit of concessional rate of excise duty in the instant case is available to Cartons, boxes and cases, of corrugated paper or paperboard whether or not pasted with duplex sheets on the outer surface, subject to Condition No.12 of Notification 4/2006-CE dated 01.03.2006.
- 5. In this regard, it is requested that all the field formations under your jurisdiction may be advised accordingly, so that pending disputes, if any, may be decided.

Yours faithfully,

(Vivek Johri) Joint Secretary (TRU-I) Tel: 011-23092687 Fax: 011-23092031

Email: johri.vivek@nic.in

### Eastern India Corrugated Box Manufacturers' Association

Affiliated to : Bharat Chamber of Commerce 9, Park Mansions, 2nd Floor,

57A, Park Street, Kolkata-700 016 Phone: 2229 9608/9591 Fax: 033-2229 4947

Gram: Varatchamb, Kolkata



R & D Centre Merlin Links, 3F & 3G 166B, S. P. Mukherjee Road, Kolkata-700 026 Phone : 2465 6691 Fax : 033-2465 6691

e.mail: eicma@vsnl.net

#### COPY

"Government of India Ministry of Finance Department of Revenue Central Board of Excise & Customs

New Delhi, Dated 15th April, 2005.

To Shri Harish Madan Federation of Corrugated Box Manufacturers of India 138, Mittal Estate No. 3 Mumbal – 400 059.

Subject: Standard Units of Quantity - regarding

Sir,

- Please refer to your representation to Secretary Finance dated March 4, 2005 on units of measurement in the 8-digit Central Excise Tariff Schedule.
- The Additional Note No. (3) to Central Excise Tariff Act 1985 is reproduced below for case of reference.

"In column (3), the standard unit of quantity as specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics".

3. Thus, standard units of quantity for each tariff item have been specified to facilitate collection, comparison and analysis of trade statistics. The units of quantity are indicative and have not been made mandatory. It would be pertinent to mention here that exactly similar note exists in the 8 digit Customs Tariff also that is in existence since February, 2003. On customs side also it is not mandatory to declare the quantity in terms of the said units of quantity in the bill of entry/shipping bill.

Yours faithfully, Sd/-[Abhol Kumar Srivastav] Deputy Secretary (CX I)"

Copy forwarded for information to : All Members of the Association.

[A Mukherjee]
Deputy Secretary

sdn/c/copy13

(CA)

Member of: "FEDERATION OF CORRUGATED BOX MANUFACTURERS OF INDIA". MUMBAI

### Letter No. 61/39/86-CX.2, dated 2-9-1986

"Dividers, partitions, plates made out of corrugated paper/paper board"

Classification [Chapter 48] Government of India Ministry of Finance (Department of Revenue) New Delhi

- 1. A doubt has been raised as to whether dividers, partitions, plates and other accessories made out of corrugated paper/paper board and used as inherent fitments placed inside the corrugated box with a view to adequately protect and keep the packed products in their position, are part and parcel of the corrugated boxes classifiable along with the same or such partitions, dividers, are classifiable under 4818.90 as other articles of paper/paper board.
- 2. The matter has been examined in the Ministry and it is clarified that such parts of boxes used for the above said purpose cannot be separately classified under sub-heading 4818.90 as other articles of paper/paper board. They will be classifiable under the heading under the box itself is classifiable.

### CAPITAL GOOD - CENVAT ON REMOVAL - AFTER BEING PUT TO USE

(Ref: Notification No. 18/2012 - Central Excise (N.T.) Dated 17.03.12)

- 1 Prior to 17/03/12, as per third proviso to Rule 3(5) of CENVAT Credit Rules, 2004 if the capital goods, in respect of which CENVAT Credit has been taken, are removed, after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method at the specified rate for each quarter of a year or part thereof from the date of taking the CENVAT Credit.
- 2 Further, prior to 17/03/12, Rule 3(5A) of CENVAT Credit Rules, 2004 provides that if capital goods are cleared as waste and scrap, the manufacturer was required to pay an amount equal to duty leviable on Transaction Value.
- 3 Thus, there was a difference in amount required to be paid on removal of capital goods when the same is removed as other than waste and scrap and the same is removed as waste and scrap. Now, such difference has been removed. Now, third proviso to Rule 3(5) has been omitted and Rule 3(5A) has been substituted to provide if the capital goods on which CENVAT credit has been taken are removed after being used whether as capital goods or scrap or waste, assessee shall be required to pay:
- (i) An amount equivalent to CENVAT credit taken reduced by percentage specified for retaining the CENVAT credit amount, OR
- (ii) An amount equivalent to duty leviable on Transaction value,

whichever is higher.

For the purpose of clause (i) hereinabove, the rate for retaining the CENVAT credit are as under:

- a) for computers and computer peripherals:
  - for each quarter in the first year @10%
  - for each quarter in the second year @8%
  - for each quarter in the third year @ 5%
  - for each quarter in the fourth and fifth year @1%
- b) for capital goods, other than computers and computer peripherals
  - @ 2.5% for each quarter.

If capital goods are cleared after use, an 'amount' payable by reducing the original Cenvat credit @ 2.5% per quarter i.e. 10% per year. (Higher reduction in case of computers)

- " If excise duty calculated on basis of transaction value of the old capital goods is higher, then 'amount' equal to that duty payable.
- For example, capital goods were purchased on which Cenvat Credit availed was `1,00,000. These were cleared after use for five years. Then 'amount' to be paid (i.e. Cenvat credit to be reversed) is `50,000 (10% per year). However, capital goods were sold for `5,00,000 on which excise duty payable at current rate of 12.36% is 61,800. In that case, 'amount' payable will be `61,800.

IF THE MANUFACTURER HAS NOT TAKEN CENVAT CREDIT AT THE TIME OF PURCHASE, THEN THE QUESTION OF PAYMENT OF ANY AMOUNT SHOULD NOT ARISE.



### CHANGES IN RELATION TO CAPITAL GOODS CLEARED AS SCRAP - W.E.F. 27.09.13

(Ref: Notification No. 12/2013 – Central Excise (N.T.) Dated 27.09.13)

The Cenvat Credit Rules 2004, relating to cenvat & payment of duty on Capital Goods cleared after use have been amended vide Notification No. 12/2013 – C.E. (N.T.) dated 27.09.13 as enclosed herewith.

CBEC has further amended the Cenvat Credit Rules, 2004 wherein new rules called Cenvat Credit (Second Amendment) Rules, 2013 have been introduced.

The Rule 3(5A) has been amended vide this notification whereby the new rule specifies different provision for clearance of used capital goods and the capital goods cleared as waste and scrap.

With respect to used capital goods, the amount that is required to be paid is cenvat credit reduced by percentage points calculated on Straight Line Method for each quarter of a year or part thereof from the date of taking cenvat credit or the duty leviable on the transaction value, whichever is higher, remains unchanged.

However, it has been specified that for capital goods cleared as waste or scrap, the manufacturer is liable to pay duty leviable on the transaction value. Earlier, the provision was same for both used capital goods and capital goods cleared as waste and scrap.

The amendment is summarised as follows -

#### **Cleared As Capital Goods**

If the capital goods on which CENVAT credit has been taken are removed after being used whether as capital goods, assessee was and is required to pay:

- (i) An amount equivalent to CENVAT credit taken reduced by percentage specified for retaining the CENVAT credit amount, OR
- (ii) An amount equivalent to duty leviable on Transaction value,

whichever is higher.

### Cleared As Scrap & Waste

If the Capital Goods are cleared as <u>Scrap & Waste</u>, the manufacturer was earlier required to pay duty as per above rule, NOW shall pay **an amount equal to duty leviable on transaction value.** 

The above amendments shall come into force from the date of publication of the notification in the official gazette.

### Notification No. 18/2012 - Central Excise (N.T.)

(Only Relevant Portions Re-Produced Below)

[TO BE PUBLISED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB SECTION (i)]

Government of India

Ministry of Finance

Department of Revenue

New Delhi, the 17th March, 2012

- G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely: -
- 1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2012.
  - (2) Save as otherwise provided in these rules, they shall come into force on the 1st day of April, 2012.
- 3. In rule 3 of the said rules,-
- (a) in sub-rule (5), the third proviso shall be omitted with effect from the 17th day of March, 2012.
- (b) for sub-rule (5A), the following sub-rule shall be substituted with effect from the 17<sup>th</sup> day of March, 2012, namely:-
- − (5A) If the capital goods, on which CENVAT credit has been taken, are removed after being used, whether as capital goods or as scrap or waste, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CEVAT Credit, namely:-
- (a) for computers and computer peripherals : for

each quarter in the first year @ 10% for each quarter in the second year @ 8% for each quarter in the third year @ 5% for each quarter in the fourth and fifth year @ 1%

(b) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

Provided that if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.

(Samar Nanda) Under Secretary to the Government of India

Note. - The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), dated the 10th September, 2004, vide notification number 23/2004-Central Excise (N.T.), dated the 10th September, 2004, vide number G.S.R. 600(E), dated the 10th September, 2004] and was last amended vide notification number 3/2012- Central Excise (N.T.), dated the 12th March, 2012, vide number G.S.R. 138(E), dated the 12th March, 2012.

### Notification No. 12/2013 - Central Excise (N.T.)

(Only Relevant Portions Re-Produced Below)

[TO BE PUBLISED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

Notification No. 12/2013(NT)

New Delhi, the 27th September, 2013

- G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:
- 1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2013.
  - (2) They shall come into force on the date of their publication in official Gazette .
- 2. In rule 3 of the CENVAT credit rules ,2004, for sub-rules (5A), the following sub-rule shall be substituted-
- "(5A) (a) if the capital goods, on which CENVAT credit has been taken, are removed after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CEVAT Credit, namely:-
- (i) for computers and computer peripherals:

for each quarter in the first year @ 10% for each quarter in the second year @ 8% for each quarter in the third year @ 5% for each quarter in the fourth and fifth year @ 1%

(ii) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

**Provided** that if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.

**(b)** If the capital goods are waste and scrap the manufacturer shall pay an amount equal to the duty leviable on transaction value."

F.NO. 267/42/2012-CX8

(Vikash Kumar) Director to the Government of India



### Circular: 19/90-CX. 8 dated 30-Mar-1990

Waxed paper —Levy of cess

Circular No. 19/90-CX.8, dated 30-3-1990

[From F. No. 262/5/90-CX.8]

Government of India
Central Board of Excise & Customs
New Delhi

Subject: Levy of cess on waxed paper manufactured from base paper purchased from the market.

Enclose find a copy of Ministry of Industry (Department of Industrial Development) letter No. 20(2)/85 - Paper dated 29-1-1990 on the subject for information and necessary action at your end.

Copy of letter No. 20(2)/85 Paper dated 29-1-1990 from Ministry of Industry (Department of Industrial Development)

Subject: Levy of cess on waxed paper manufactured from base paper purchased from the market - Draft Audit Para No. 122/85-86 - regarding.

Reference D.O. letter No. 232/364/89-CX.7, dated 6th October, 1989 received from Member (CX), Central Board of Excise & Customs on the subject cited above and to say that this Department has reconsidered the issue. It is reiterated that in terms of Order No. S.O. 862(E), dated 27th October, 1980 as amended by Order No. S.O. 87(E) dated the 3rd February, 1981, a duty of excise shall be levied and collected as a cess for the purpose of development of industries under the IDR Act, 1951 on paper & paper boards, all sorts (including newsprint, paste board, mill board, straw board, card board and corrugated boards). As regards applicability of cess on paper products, Department of Industrial Development is of the view that cess is leviable only on base paper. If, however, paper products like waxed paper, coated paper etc. are produced as a result of single integrated manufacturing process, cess becomes leviable on the product.

- 2. Further, cess is not leviable on waxed paper, manufactured by a paper converter in his premises after buying base paper from the market. These views are based on the advice of Ministry of Law.
  - 3. This issues with the approval of JS (Paper).



F. No. 209/03/11-CX-6
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi dated 15th February, 2011

To

The Chief Commissioners of Central Excise (All)
The Commissioners of Central Excise (All)
The Directors General of Customs and Central Excise (All)

Subject: Exemption from filing of ER-4, ER-5 & ER-6 returns -reg.

Sir/Madam,

The undersigned is directed to refer to Notification No. 20/2010-Central Excise (NT) dated 18.05.2010, Notification No. 21/2010-Central Excise (NT) dated 18.05.2010, Notification No. 17/2006-Central Excise (NT) dated 01.08.2006 and Notification No. 39/2004-Central Excise (NT), dated 25.11.2004.

- 2. It has been brought to the notice of the Board that there is lack of clarity regarding the exemption from filing the Annual Financial Information Statement (ER-4) prescribed under Rule 12(2)(a) of the Central Excise Rules, 2002 and the annual declaration (ER-5) and the monthly return (ER-6) relating to Principal Inputs prescribed under Rule 9A(1) and Rule 9A(3) of the CENVAT Credit Rules, 2004 respectively.
- 3. Notification No. 17/2006-Central Excise (NT) dated 01.08.2006, as amended, issued under Rule 12(2)(b) of the Central Excise Rules, 2002, inter alia, exempts assessees who paid duty of excise less than Rs. 1 crore in the preceding financial year, from filing the ER-4 return. Similarly, Notification No. 39/2004 Central Excise(NT) dated 25.11.2004, as amended, issued Rule 9A(4) of the CENVAT Credit Rules, 2004, exempts the specified class of manufacturers who paid duty of excise less than Rs. 1 crore in the preceding financial year, from filing ER-5 declaration and ER-6 return. Notification No. 20/2010-Central Excise (NT) and Notification No. 21/2010-Central Excise (NT) both dated 18.05.2010, prescribe that assessee who paid total duty of Rs. 10 lacs or more including the duty paid by utilization of CENVAT credit in the preceding financial year, shall file such return/declaration electronically. A doubt has arisen on account of the different threshold limits prescribed for exemption from filing these returns and for filing these returns electronically.
- 4. The matter has been examined. The exemption provided under Notification No. 17/2006-Central Excise (NT) dated 01.08.2006 and Notification No. 39/2004-Central

Excise (NT), dated 25.11.2004, as amended, is available to interalia assessee who paid duty of excise less than Rs. 1 crore including the amount paid by utilization of CENVAT credit. It is, therefore, clarified that the assessees or class of assessees who are not required to file the ER-4, ER-5 & ER-6 returns because of the above exemption, are not required to file such returns electronically even it the duty paid by them including the amount paid by utilization of CENAT credit in the preceding financial year exceeds Rs. 10 lacs.

Trade and industry as well as field formations may be informed suitably.

Yours faithfully,

15-2-1 (V.P.Singh)

Under Secretary to the Government of India



25th November. 2004

Notification No. 39/2004 - Central Excise (N.T).

In exercise of the powers conferred by sub-rule (4) of the rule 9A of the CENVAT Credit Rules, 2004, the Central Government being satisfied that it is necessary and expedient in the public interest so to do, hereby exempts the following class of manufacturers of final products who manufacture excisable goods -

- (i) Specified in column (2) of the Table annexed hereto and falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and have paid duties of excise less than rupees one hundred lakhs through account current during the preceding financial year,
- (ii) Other than those specified in column (2) of the said Table annexed hereto and falling under the First schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

From the operation of rule 9A of the said rules.

#### **TABLE**

S. No.	Description of Goods
(1)	(2)
1.	All goods falling under Chapters 22, 28, 29, 30, 32, 33, 34, 38, 39, 40, 48, 72, 73, 74, 76, 84, 85, 87, 90 and 94
2.	All goods falling under Heading Nos. 54.02, 54.03, 55.01, 55.02, 55.03 and 55.04

F.No.224/52/2004-CX 6

Neerav Kumar Mallick Under Secretary to the Government of India

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No. 41/2009 Control Evoi

Notification No.41/2008-Central Excise (N.T.)

New Delhi, the 29th September, 2008

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) read with sub-rule (4) of rule 9A of the CENVAT Credit Rules, 2004, the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance Department of Revenue) No. 39/2004-Central Excise (N.T) vide number G.S.R. 768 dated the 25th November, 2004, namely: In the said notification, in clause (i), the words "through account current" shall be omitted.

[F.No.224/52/2004-CX 6]
(Rahul Nangare)
Under Secretary to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, subsection (i) vide notification No. 39/2004-Central Excise (N.T.), dated the 25<sup>th</sup> November, 2004, number G.S.R.768 (E) dated the 25<sup>th</sup> November, 2004.



1st August, 2006.

#### Notification No.17/2006-Central Excise (N.T.)

- **G.S.R. (E)** In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) read with clause (b) of sub-rule (2) of rule 12 of the Central Excise Rules, 2002 and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 35/2004-Central Excise (N.T.) dated the 1st November 2004, G.S.R. 725(E) dated the 1st November 2004, the Central Government, being satisfied that it is necessary and expedient in the public interest so to do, hereby exempts the following assessee or class of assessee from the operation of clause (a) of sub-rule (2) of rule 12 of the said Central Excise Rules, namely:-
- (i) Assessee who paid duty of excise less than one hundred lakh rupees from account current during the financial year to which Annual Financial Information Statement relates;
- (ii) Indian Ordnance Factories, Department of Defence Production, Ministry of Defence.

		[F.No. 201/35/20	06-CX-6]

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

#### GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

#### Notification No.42/2008-Central Excise (N.T.)

New Delhi, 29th September, 2008

**G.S.R. (E)**.- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) read with clause (b) of sub-rule (2) of rule 12 of the Central Excise Rules, 2002, the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 17/2006-Central Excise (N.T) vide number G.S.R. 455 dated the 1st August, 2006, namely:-

In the said notification, in clause (i), the words "from account current" shall be omitted.

[F.No.201/35/2006-CX 6]

(Rahul Nangare) Under Secretary to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, subsection (i), vide notification No. 17/2006-Central Excise (N.T.), dated the  $1^{st}$  August, 2006, number G.S.R. 455(E) dated the  $1^{st}$  August, 2006.

#### <u>SSI EXEMPTION - EXCISE</u> Notification No. 8/2003 - Central Excise

#### (As Amended)

1st March, 2003

Exemption to first clearances of specified goods upto a value of `1.5 Crore, if CENVAT facility not availed and exemption to goods captively consumed.

[Notification No. 8/2003-CE., dt. 1.3.2003 as amended by Notfn. Nos. 30/03, 67/03, 24/04, 10/05, 8/06, 39/06, 45/06, 48/06, 8/07, 8/08 (w.e.f. 1.4.08), 47/08, 2/09, 9/09, 24/10,8/11, 28/11, 15/12].

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) (herein after referred to as the Central Excise Act) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8/2002-Central Excise, dated the 1st March, 2002, published in the Gazette of India vide number G.S.R. 129(E), dated the 1st March, 2002, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts clearances, specified in column (2) of the Table below (hereinafter referred to as the said Table) for home consumption of excisable goods of the description specified in the Annexure appended to this notification (hereinafter referred to as the specified goods), from so much of the aggregate of, -

- (i) the duty of excise specified thereon in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (herein after referred to as the First Schedule); and
- (ii) the special duty of excise specified thereon in the Second Schedule to the said Central Excise Tariff Act, 1985 (herein after referred to as the Second Schedule), as is in excess of the amount calculated at the rate specified in the corresponding entry in column (3) of the said Table:

Provided that nothing contained in this notification shall apply to a manufacturer who has availed the exemption under notification No. 39/2001-Central Excise, dated the 31st July, 2001, published in the Gazette of India vide number G.S.R. 565 (E), dated the 31st July, 2001, in the same financial year.

Provided further that exemption contained in this notification shall not apply to goods which are chargeable to nil rate of duty or are exempt from the whole of the duty of excise leviable thereon.

#### Table

S.No.	Value of clearances	Rate of duty
(1)	(2)	(3)
1.	First clearances up to an aggregate value not exceeding one hundred lake rupees *(one hundred and fifty lakh rupees) made on or after the 1st day of April in any financial year	n Nil
2.	All clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods.	Nil

2. The exemption contained in this notification shall apply subject to the following conditions, namely: -

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<sup>\*</sup> The words "one hundred and fifty lakh rupees" effective w.e.f. 1st day of April, 2007.

- (i) A manufacturer has the option not to avail the exemption contained in this notification and instead pay the normal rate of duty on the goods cleared by him. Such option shall be exercised before effecting his first clearances at the normal rate of duty. Such option shall not be withdrawn during the remaining part of the financial year;
- (ii) while exercising the option under condition (i), the manufacturer shall inform in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise with a copy to the Superintendent of Central Excise giving the following particulars, namely:-
- (a) name and address of the manufacturer;
- (b) location/locations of factory/factories;
- (c) description of inputs used in manufacture of specified goods;
- (d) description of specified goods produced;
- (e) date from which option under this notification has been exercised;
- (f) aggregate value of clearances of specified goods (excluding the value of clearances referred to in paragraph 3 of this notification) till the date of exercising the option;
- (iii) the manufacturer shall not avail the credit of duty on inputs under rule 3 or rule 11 of the CENVAT Credit Rules, 2002 (herein after referred to as the said rules), paid on inputs used in the manufacture of the specified goods cleared for home consumption, the aggregate value of first clearances of which, as calculated in the manner specified in the said Table does not exceed rupees one hundred lakh \*(one hundred and fifty lakh rupees);

Provided that nothing contained in this clause shall apply to the inputs used in the manufacture of specified goods bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4.

- (iv) the manufacturer also does not utilise the credit of duty on capital goods under rule 3 or rule 11 of the said rules, paid on capital goods, for payment of duty, if any, on the aforesaid clearances, the aggregate value of first clearances of which does not exceed one hundred lakh \*(one hundred and fifty lakh rupees), as calculated in the manner specified in the said Table;
- (v) where a manufacturer clears the specified goods from one or more factories, the exemption in his case shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each factory;
- (vi) where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer;
- (vii) the aggregate value of clearances of all excisable goods for home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturers, does not exceed rupees three hundred lakhs in the preceding financial year.

[The words "rupees three hundred lakhs", shall be substituted as "rupees four hundred lakhs" w.e.f. 1st day of April, 2005]

Provided that for the purposes of availing of exemption under this notification for the financial year 2012-13, the aggregate value of clearances of articles of jewellery (other than silver jewellery) falling under Chapter heading 7113 of the First Schedule, for home consumption by a

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manufacturer from one or more factories, or from a factory by one or more manufacturers, for the financial year 2011-12 shall be calculated on the basis of tariff value fixed in accordance with notification no. 09/2012-Central Excise (NT), dated the 17th March, 2012.

- 3. For the purposes of determining the first clearances upto an aggregate value not exceeding rupees one hundred lakh \*(one hundred and fifty lakh rupees) made on or after the 1<sup>st</sup> day of April in any financial year, mentioned against serial no.1 of the said Table, the following clearances shall not be taken into account, namely:-
- \* The words "one hundred and fifty lakh rupees" effective w.e.f. 1st day of April, 2007
- (a) clearances, which are exempt from the whole of the excise duty leviable thereon (other than an exemption based on quantity or value of clearances) under any other notification or on which no excise duty is payable for any other reason;
- (b) clearances bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4;
- (c) clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods;
- (d) clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene.
- 3A. For the purposes of determining the aggregate value of clearances of all excisable goods for home consumption, mentioned in clause (vii) of paragraph 2 of this notification, the following clearances shall not be taken into account, namely:-
- (a) clearances of excisable goods without payment of duty-
- (i) to a unit in a free trade zone; or
- (ii) to a unit in a special economic zone; or
- (iii) to a hundred percent export-oriented undertaking; or
- (iv) to a unit in an Electronic Hardware Technology Park or Software

Technology Park; or

- (v) supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No.108/95- Central Excise, dated the 28th August, 1995, vide number GSR. 602 (E), dated the 28th August, 1995.
- (b) clearances bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4;
- (c) clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods;
- (d) clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene.
- (e) clearances, which are exempt from the whole of the excise duty leviable thereon under notifications No. 214/86-Central Excise, dated the 25th March, 1986 (G.S.R. 547 (E), dated the 25th March, 1986), or No. 83/94-Central Excise, dated the 11th April, 1994 (G.S.R. 375(E), dated the 11th April 1994), or No. 84/94-Central Excise, dated the 11th April, 1994 (G.S.R. 376(E), dated the 11th April, 1994).

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4. The exemption contained in this notification shall not apply to specified goods bearing a brand name or trade name, whether registered or not, of another person, except in the following cases:

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(a) where the specified goods, being in the nature of components or parts of any machinery or equipment or appliances, are cleared for use as original equipment in the manufacture of the said machinery or equipment or appliances by following the procedure laid down in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of \* The words "one hundred and fifty lakh rupees" effective w.e.f. 1st day of April, 2007

Provided that manufacturers, whose aggregate value of clearances of the specified goods for use as original equipment does not exceed rupees one hundred lakhs in the financial year 2002-2003 as calculated in the manner specified in paragraph 1, may submit a declaration regarding such use instead of following the procedure laid down in the said Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001;

- (b) where the specified goods bear a brand name or trade name of-
- (i) the Khadi and Village Industries Commission; or
- (ii) a State Khadi and Village Industry Board; or
- (iii) the National Small Industries Corporation; or
- (iv) a State Small Industries Development Corporation; or
- (v) a State Small Industries Corporation;
- (c) where the specified goods are manufactured in a factory located in a rural area;
- (d) where the specified goods are account books, registers, writing pads and file folders falling under heading 4820 or 4821 of the said First Schedule.
- (e) where the specified goods are in the nature of packing materials and are meant for use as packing material by or on behalf of the person whose brand name they bear.

Provided that in respect of plastic containers and plastic bottles, the exemption under this notifications shall apply only where such plastic containers or plastic bottles are meant for use as packing materials by the person whose brand name such goods bear

Explanation - For, the removal of doubts it is hereby clarified that "packing material" includes labels of all kinds.

- 4A. Notwithstanding anything contained in the preceding paragraphs, the exemption in respect of goods specified in entries (xi), (xii) and (xiv) of the Annexure, contained in this notification, shall be restricted to rupees ten lakhs during the month of March of the financial year 2005-06.
- 4B. Notwithstanding anything contained in the preceding paragraphs, the exemption in respect of goods specified in clause (e) of paragraph 4, contained in this notification, shall be restricted to rupees ninety lakhs for the remaining part of the financial year 2008-09.
- 5. This notification shall come into force on the 1stday of April, 2003.

Explanation.- For the purposes of this notification,-

- (A) "brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person;
- (B) where the specified goods manufactured by a manufacturer bear a brand name or trade name, whether registered or not, of another manufacturer or trader, such specified goods shall not, merely by reason of that fact, be deemed to have been manufactured by such other manufacturer or trader;

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- (C) "value" means,-
- (i) in respect of specified goods which have been notified under section 4A of the Central Excise Act, the value as determined in accordance with the provisions of that section, and
- (ii) in respect of specified goods other than those referred to in sub clause (i), the value as determined in accordance with the provisions of section 4 of the Central Excise Act, or the tariff value fixed under section 3 of the said Act;
- (D) in the determination of the value of clearances of Chinaware or Porcelain ware or both, where a manufacturer gets Chinaware or Porcelain ware or both fired in a kiln belonging to or maintained by a Pottery Development Centre run by the Central Government or a State Government or by the Khadi and Village Industries Commission, the value of the Chinaware or Porcelain ware or both, belonging to the said manufacturer and fired in such kiln shall be taken into account;
- (E) where the specified goods are manufactured in a factory belonging to or maintained by the Central Government or by a State Government, or by a State Industries Corporation, or by a State Small Industries Corporation or by the Khadi and Village Industries Commission, then the value of excisable goods cleared from such factory alone shall be taken into account;
- (F) "normal rate of duty" means the aggregate of duty of excise specified in the said First Schedule and the special duty of excise specified in the said Second Schedule read with any relevant notification (other than this notification or a notification in which exemption is based on the value or quantity of clearance) issued under sub-section (1) of section 5A of the Central Excise Act;
- (G) "clearances for home consumption", wherever referred to in this notification, shall include clearances for export to Bhutan and Nepal;
- (H) "rural area" means the area comprised in a village as defined in the land revenue records, excluding-
- (i) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee, or
- (ii) any area that may be notified as an urban area by the Central Government or a State Government.
- (I) In respect of goods falling under chapter 61, 62 or 63 of the First Schedule, the expression "manufacturer" shall include a person who is liable to pay the duty of excise leviable on such goods under sub-rule (1A) of rule 4 of the Central Excise Rules, 2002.
- (J) "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration of such sale;

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#### **ANNEXURE**

Description of excisable goods falling under Chapter, heading, sub-heading or tariff items of the First Schedule to the Central Excise Tariff Act, 1985, namely:-

(i)	all goods falling under Chapter 2, 3, 4 and 5			
(ii)	all goods falling under Chapter 7 or 8			
(iii)	all goods falling under Chapter 9 (except heading 0902)			
(iv)	all goods falling under sub-heading 2101			
(v)	all goods falling under heading 2102, 2103 or 2104			
(vi)	all goods falling under tariff item 2105 00 00			
(vii)	all goods falling under heading 2106 (except tariff item 2106 90 20)			
(viii)	all goods falling under heading 2201 or 2202			
(ix)	all goods falling under tariff item 2207 20 00			
(x)	all goods falling under heading 2209			
(xi)	Tobacco, used for smoking through 'hookah' or 'chilam', commonly known as 'hookah'			
, ,	tobacco or 'gudaku' falling under tariff item 2403 10 10			
(xii)	Other smoking tobacco falling under tariff item 2403 10 90, other than those bearing a			
` ′	brand name			
(xiii)	Chewing tobacco, chewing tobacco preparations and tobacco extracts and essences,			
' '	falling under heading 2403, other than those bearing a brand name			
(xiv)	Other manufactured tobacco and manufactured tobacco substitutes falling under 2403			
()	99 90, other than those bearing a brand name			
(xv)	all goods falling under Chapters 25, 26, 27, 28, 29, 30 (except sterile absorbable			
` '	surgical or dental yarns and sterile surgical or dental adhesion barriers), 31 or 32.			
(xvi)	all goods falling under Chapter 33 (except tariff item 3301 29 37)			
(xvii)	all goods falling under Chapter 34 or 35			
(xviii)	all goods falling under heading 3601, 3602, 3603 or 3604			
(xix)	Bengal lights falling under heading 3605			
(xx)	all goods falling under heading 3606			
(xxi)	all goods falling under heading 3703 (except photographic paper and paper board)			
(xxii)	all goods falling under heading 3704, 3705, 3706 or 3707			
(xxiii)	all goods falling under Chapter 38			
(xxiv)	all goods falling under Chapter 39 (other than strips of plastics intended for weaving of			
(12111)	fabrics or sacks of polyurethane foam, falling under Ch. 39 of the said First Schedule.			
(xxv)	all goods falling under Chapter 40, 41, 42, 43, 44, 45, 46, 47, 48 or 49			
(xxvi)	all goods falling under-			
(12111)	(a) Chapter 57, 61, 62, 63, 64, 65, 66, 67 or 68			
	(b) Headings 5805, 5807			
	(c) Tariff item 5601 10 00			
(xxvii)	all goods falling under Chapter 69 (excluding ceramic tiles other than those subjected			
(===,	to the process of printing, decorating or ornamenting in a factory which does not have			
	the facilities (including plant and equipment) of producing ceramic tiles)			
(xxviii)	all goods falling under Chapter 70 or 71			
(xxix)	all goods falling under Chapter 72 (except stainless steel patties /pattas)			
(xxx)	all goods falling under Chapters 73			
(xxxi)	all goods falling under headings 7401 and 7402			
(xxxii)	following goods falling under tariff item 7403 21 00, namely:-			
()	(a) cast brass bars/rods of a length not exceeding three feet			
	(b) cast brass bars/rods of a length not exceeding ten feet used in the factory of			
	production for making wires of copper alloys falling under sub-heading 7408			
	(other than wire of which the maximum cross-sectional dimension exceeds 6 mm			
	and wire of which the maximum cross-sectional dimension does not exceed 0.315			
	mm and used for manufacture of Zari)			
	(c) copper flats of a weight not exceeding two kilograms used for making copper strips			
	falling under heading.7409			
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	(d) brass billets weighing up to five kilograms
(xxxiii)	all goods falling under heading 7404, 7405 or 7406
(xxxiv)	all goods falling under heading 7407 (except bars and rods of refined copper and
	copper
	alloys)
(xxxv)	all goods falling under heading 7408 (except wire of which the maximum cross-
	sectional
	dimension exceeds 6 mm and )
(xxxvi)	copper strips produced from copper flats of a weight not exceeding two kilograms,
	falling
	under heading 7409
(xxxvii)	all goods falling under headings 7410, 7411, 7412, tariff item 7413 00 00, headings
	7415, 7418 or 7419 (except copper circles, whether or not trimmed)
(xxxviii)	all goods falling under Chapter 75 or 76 (except aluminum circles, whether or not
, , ,	trimmed)
(xxxix)	all goods falling under Chapters 77, 78, 79, 80, 81, 82 or 83
(xl) all goods falling under Chapter 84* (w.e.f the date of publication of 1	
(1:)	no.39/06- C.E. dated 10.8.06 in the official Gazette and till 31.12.06).
(xli)	all goods falling under Chapter 85 or 86 all goods falling under headings 8707, 8708, 8709, 8710, 8712, 8713, 8714, 8715 or
(xlii)	8716
(xliii)	powered cycles and powered cycle rickshaw ("powered cycle" or powered rickshaw
(231111)	means a mechanically propelled cycle or, as the case may be, mechanically propelled
	cycle rickshaw, which may also be peddled, if any necessity arises for so doing) falling
	under heading 8711
(xliv)	all goods falling under Chapters 88, 89 or 90
(xlv)	watches of retail sale price not exceeding `500 per piece and parts thereof, falling
	under heading 9101 or 9102
(xlvi)	all goods falling under headings 9103, 9104, 9105, 9106, 9107, 9108, 9109, 9110,
	9111, 9112, 9113 or 9114
(xlvii)	all goods falling under Chapters 92
(xlviii)	all goods falling under headings 9301 or 9305
(xlix)	parts falling under heading 9306 or 9307
(1)	air guns, air rifles and air pistols which are exempt from the provisions of the Arms
	Act, 1959 (54 of 1959), falling under tariff item 9304 00 00
(1i)	all goods falling under Chapters 94 or 95
(lii)	all goods falling under Chapters 96 (except tariff item 9605 00 10).

<sup>\*</sup> For the entry (xl), with effect from 1st day of April, 2006, the following entry substituted: "all goods falling under Chapter 84 {other than power driven pumps primarily designed for handling water which do not conform to standards specified by BIS (Bureau of Indian Standards) for such pumps"}

- 1 In paragraph 3, sub-paragraph (d) and entries relating thereto shall be omitted w.e.f. 1st day of April 2008.
- 2 In paragraph 3A, sub paragraph (d) and the entries relating thereto shall be omitted w.e.f. 1st day of April 2008.
- 3 In the annexure, for Sl. No. (xxiv) and entries relating thereto, the following entry shall be substituted w.e.f 1st April 2008:
- "(xxiv) All goods falling under chapter 39 (other than polyurethane foam and articles of polyurethane foam) of the said First Schedule."

Alok Shukla Deputy Secretary to the Government of India

F. No.334/1/2003 -TRU



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

#### Notification No.47/2008-Central Excise

New Delhi, the 1st September, 2008

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 8/2003-Central Excise, dated the 1st March, 2003 [G.S.R. 138(E), dated the 1st March, 2003], namely: -

In the said notification,

- (i) in paragraph 4, after clause (d), the following shall be inserted, namely: -
- "(e) Where the specified goods are in the nature of packing materials, namely, printed cartons of paper or paper board, metal containers, HDPE woven sacks, adhesive tapes, stickers, PP caps, crown corks, metal labels."
- (ii) after paragraph 4A, the following shall be inserted, namely:-
- "4B Notwithstanding anything contained in the preceding paragraphs, the exemption in respect of goods specified in clause (e) of paragraph 4, contained in this notification, shall be restricted to rupees ninety lakhs for the remaining part of the financial year 2008-09."

[F.No. 354/124/2008-TRU] (Unmesh Wagh) Under Secretary to the Government of India

Note: The principal notification No.8/2003-Central Excise, dated the 1st March, 2003 was published in the Gazette of India, Extraordinary, vide number G.S.R.138 (E), dated the 1st March, 2003 and was last amended by notification No.8/2008-Central Excise, dated the 1st March, 2008 which was published in the Gazette of India, Extraordinary [vide number G.S.R. 136(E), dated the 1st March, 2008].



[TO BE PUBLISHED IN GAZETTE OF INDIA,
EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No: 24 /2009-Central Excise (N.T.)

New Delhi, the 21st October, 2009

G.S.R (E) – Whereas the Central Government is satisfied that a practice was generally prevalent regarding levy of duty of excise (including non-levy thereof) under section 3 of the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the said Act), on goods of description given in column (2) of the table below, manufactured by a unit availing benefit of Notification number given in column (4) of the table below, affixing the brand name or trade name of another person who was not eligible for the grant of exemption under the said notification and that such goods were liable to duty of excise which was not being levied under section 3 of the said Act according to the said practice during the period as specified in column (3) of the said table, namely:-

#### **TABLE**

Sl.No.	Description	Period	Notification number.
(1)	(2)	(3)	(4)
1.	Packing materials, namely, printed cartons of paper or paper board, metal containers, high density polyethylene woven sacks, adhesive tapes, stickers, pilfer proof caps, crown corks, metal labels.	1stOctober, 1987 to 31stAugust, 2008	(i)Notification No.175/86-CE, dated 1.3.1986 (ii)Notification No.1/93-CE, dated 28.2.1993 (iii)Notification No.16/97-CE, dated 1.4.1997 (iv)Notification No.38/97- CE, dated 27.6.97 (v)Notification No.8/98-CE, dated 2.6.1998 (vi)Notification No.9/98-CE, dated 2.6.1998 (vii)Notification No.8/99-CE, dated 28.2.1999 (viii)Notification No.8/99-CE, dated 8.2.1999 (ix)Notification No.8/2000-CE, dated 3.2000 (x)Notification No.8/2000-CE, dated 1.3.2000 (xi)Notification No.8/2001-CE, dated 1.3.2001 (xii)Notification No.8/2001-CE, dated 1.3.2001 (xiii)Notification No.8/2002-CE, dated 1.3.2002 (xiv)Notification No.8/2002-CE, dated 1.3.2002 (xv)Notification No.8/2003-CE, dated 1.3.2003 till issue of amending Notification No.47/2008-CE, dated 1.9.2008 (xvi)Notification No.9/2003-CE, dated 1.3.2003 (Rescinded vide Notification No.11/2005- CE, dated 1.3.2005)
2	Plastic bags	1 <sup>st</sup> October, 1987 to 10 <sup>th</sup> February 2009	(i)Notification No.175/86-CE, dated 1.3.1986 (ii)Notification No.1/93-CE, dated 28.2.1993 (iii))Notification No.16/97-CE, dated 1.4.1997 (iv)Notification No.38/97-CE, dated 27.6.97 (v)Notification No.8/98-CE, dated 2.6.1998 (vi)Notification No.9/98-CE, dated 2.6.1998 (vii)Notification No.8/99-CE, dated 28.2.1999 (viii)Notification No.9/99-CE, dated 28.2.1999 (ix)Notification No.8/2000-CE, dated 1.3.2000 (x)Notification No.9/2000- CE, dated 1.3.2000 (xi)Notification No.8/2001-CE, dated 1.3.2001



			(xii)Notification No.9/2001-CE, dated 1.3.2001 (xiii)Notification No.8/2002-CE, dated 1.3.2002 (xiv)Notification No.9/2002-CE, dated 1.3.2002 (xv)Notification No.8/2003-CE, dated 1.3.2003 till issue of amending Notification No.2/2009-CE, dated 11.2.2009 (xvi) Notification No.9/2003-CE, dated 1.3.2003 (Rescinded vide Notification No.11/2005 CE, dated 1.3.2005)
3.	Printed laminated rolls	1stOctober, 1987 to 6th July, 2009	(i) Notification No.175/86- CE, dated 1.3.1986 (ii) Notification No.1/93-CE, dated 28.2.1993 (iii) Notification No.16/97-CE, dated 1.8.1997 (iv) Notification No.38/97-CE, dated 27.6.97 (v) Notification No.8/98-CE, dated 2.6.1998 (vi) Notification No.9/98-CE, dated 2.6.1998 (vii) Notification No.8/99-CE, dated 28.2.1999 (viii) Notification No.9/99-CE, dated 28.2.1999 (ix) Notification No.8/2000-CE, dated 1.3.2000 (x) Notification No.9/2000-CE, dated 1.3.2000 (xi) Notification No.8/2001-CE, dated 1.3.2001 (xii) Notification No.9/2001-CE, dated 1.3.2001 (xiii) Notification No.8/2002-CE, dated 1.3.2002 (xiv) Notification No.9/2002-CE, dated 1.3.2002 (xv) Notification No.8/2003-CE, dated 1.3.2003 till issue of amending Notification No 9/2009-CE, dated 7.7.2009 (xvi) Notification No.9/2003-CE, dated 1.3.2003 (Rescinded vide Notification No.11/2005 CE, dated 1.3.2005)

2. Now, therefore, in exercise of the powers conferred by section 11C of the said Act, the Central Government hereby directs that the whole of duty of excise leviable under the said Act on such goods manufactured by a unit, where the manufacturer has affixed the specified goods with a brand name or a trade name of another person who is not eligible for grant of exemption under the relevant notification, and has not paid the excise duty leviable thereon on the reasonable belief that he was entitled to the benefit of said notification, but for the said practice, shall not be required to be paid for the period as specified in column (3) of the said table in accordance with the said practice.

Explanation: 'Brand name' or 'Trade name' means 'Brand name' or 'Trade name' as defined in the notification numbers given in column (4) of the table above.

[F.No.115/1/2009-CX-3]

(Rajesh Verma)

**Under Secretary to the Government of India** 



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

New Delhi, the 29th April, 2010

#### Notification No. 24/2010-Central Excise

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 8/2003-Central Excise, dated the 1st March, 2003, published in the Gazette of India, Extraordinary, vide number G.S.R. 138(E), dated the 1st March, 2003, namely:-

In the said notification, in paragraph 4, for clause (e) and proviso thereto, the following shall be substituted, namely: -

"(e) where the specified goods are in the nature of packing materials and are meant for use as packing material by or on behalf of the person whose brand name they bear."

[F.No. B-1/22/2010-TRU]

(Prashant Kumar)

**Under Secretary to the Government of India** 

Note. - The principal notification number 8/2003-Central Excise, dated the 1st March, 2003 published vide number G.S.R. 138(E), dated the 1st March, 2003 was last amended vide notification number. 4/2010-Central Excise, dated the 27<sup>th</sup> February, 2010, published vide number G.S.R. 467(E), dated the 27<sup>th</sup> February, 2010.



#### SSI UNITS - QUARTERLY PAYMENTS & RETURNS

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

New Delhi, the 27th February, 2010

#### Notification No. 5/2010-CE (NT) Dated 27/2/2010

Central Excise (Amendment) Rules, 2010.- G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely:-

- 1. (a) These rules may be called the Central Excise (Amendment) Rules, 2010.
  - (b) They shall come into force from the 1st day of April, 2010.
- 2. In the Central Excise Rules, 2002, -
- (a) in rule 8, in sub-rule(1), for the second proviso, the following proviso and explanations shall be substituted, namely:-"Provided further that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year , the duty on goods cleared during a quarter of the financial year shall be paid by the 6th day of the month following that quarter, if the duty is paid electronically through internet banking and in any other case , by the 5th day of the month following that quarter , except in case of goods removed during the last quarter, starting from the 1st day of January and ending on the 31st day of March, for which the duty shall be paid by the 31st day of March.

Explanation.1. - For the purposes of this proviso, it is hereby clarified that an assessee shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs.

Explanation.2. - The manner of payment as specified in this proviso shall be available to the assessee for the whole of the financial year." -

- (a) In rule 11, sub-rule (5) shall be omitted;
- (b) In rule 12, in sub-rule (1)-
  - (i) In the second proviso, clause (a) shall be omitted;
- (ii)After the second proviso, the following proviso and explanations shall be inserted, namely: "Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, he shall file a quarterly return in the form specified ,by notification, by the Board, of production and removal of goods and other relevant particulars within ten days after the close of the quarter to which the return relates.

Explanation1. - For the purposes of this proviso, it is hereby clarified that an assessee shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.

Explanation.2. - The filing of returns as specified in this proviso shall be available to the assessee for the whole of the financial year."

[F. No.334/1/2010]
(Prashant Kumar)
Under Secretary to the Government of India



#### Levy of Education Cess & SHES On Other Cesses

Circular No.978/2/2014-CX

F.No.262/2/2008-CX.8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 7th January, 2014

To

- (1) The Chief Commissioner of Central Excise (All)
- (2) The Chief Commissioner of Central Excise & Customs (All)
- (3) The Chief Commissioner of Customs (All)
- (4) Directors General (All)
- (5) Webmaster.cbec@icegate.gov.in

Madam/Sir,

# Sub: Levy of the Education Cess and the Secondary and Higher Education Cess on other cesses- reg.

Attention is invited to Circular No.345/2/2004-TRU (Pt.) dated 10th August, 2004, in which it was clarified that the Education Cess chargeable under Section 93(1) of the Finance (No.2) Act, 2004 is to be calculated by taking into account only such duties which are both levied and collected by the Department of Revenue.

- 2. Representations have been received from trade and field formations seeking clarification as to whether the Education Cess chargeable under Section 93(1) of the Finance (No.2) Act, 2004 and the Secondary and Higher Education Cess chargeable under Section 138(1) of the Finance Act, 2007 should be calculated taking into account the cesses which are collected by the Department of Revenue but levied under an Act which is administered by different departments such as Sugar Cess levied under Sugar Cess Act, 1982, Tea Cess levied under Tea Act, 1953 etc.
- 3. The matter has been examined. A cess levied under an Act which is not administered by Ministry of Finance (Department of Revenue) but only collected by Department of Revenue under the provisions of that Act cannot be treated as a duty which is both levied and collected by the Department of Revenue.
- 4. It is, therefore, reiterated that the Education Cess and the Secondary and Higher Education Cess are not to be calculated on cesses which are levied under Acts administered by Department/Ministries other than Ministry of Finance (Department of Revenue) but are only collected by the Department of Revenue in terms of those Acts.
- 5. All pending assessment may be finalized accordingly.
- 6. Difficulties, if any, may be brought to the notice of Board.

Yours faithfully,

(Vikas Kumar) Director (CX.8)

Page 79 LEVY OF E CESS



#### I.T. CIRCULARS - TDS U/S 194C Not APPLICABLE ON PRINTED MATERIAL "SOLD"

#### **CIRCULAR -INCOME-TAX ACT**

Section 194C of the Income-tax Act, 1961 - Deduction of tax at source - Payments to contractors and sub-contractors - Applicability of TDS provisions of section 194C on Contract for Fabrication of Article or Thing as per Specifications given by the Assessee - Contradiction between two Circulars of CBDT - Resolution thereof

#### Circular No. 13/2006, dated 13-12-2006

- 1. Representations have been received in the Board seeking clarification on the applicability of section 194C on such transactions, where the assessee has outsourced certain work relating to fabrication or manufacturing of article or thing in accordance with the specifications given by the assessee. Circular No. 681, dated 8-3-1994 of the Board clarifies in para 7(vi) that the provisions of section 194C would not apply to contracts for sale of goods and further clarifies that where the property in the article or thing so fabricated passes from the fabricator-contractor to the assessee only after such article or thing is delivered to the assessee, such contract would be a contract for sale and so outside the purview of section 194C. However, in reply to question No. 15 in Circular No. 715, dated 8-8-1995 on the subject of applicability of section 194C, in respect of contract for supply printed material as per prescribed specifications, it has been said that such contracts would also be covered under section 194C. It has been represented that the views expressed in these two circulars, to the extent as pointed out above, are in contradiction to each other.
- 2. The matter has been examined by the Board and it is considered that exclusive reliance on Question/Answer No. 15 of Circular No. 715, without taking into account the principles laid down in Circular No. 681 is not justified. Before taking a decision on the applicability of TDS under section 194C on a contract, it would have to be examined whether the contract in question is a 'contract for work' or a 'contract for sale' and TDS shall be applicable only where it is a 'contract for work'.
- 3. It is, therefore, clarified that the provisions of section 194C would apply in respect of a contract for supply of any article or thing as per prescribed specifications only if it is a contract for work and not a contract for sale as per the principles in this regard laid down in para 7(vi) of Circular No. 681, dated 8-3-1994.



Circular: No. 681, dated 8-3-1994.

### SECTION 194C I PAYMENTS TO CONTRACTORS AND SUB-CONTRACTORS

1114. Applicability of section 194C to service contracts - Clarification regarding Supreme Court judgment in Associated Cement Co. Ltd. v. CIT [1993] 67 Taxman 346/201 ITR 435

7. The conclusion flowing from the aforesaid judgments of the Supreme Court and the Patna High Court is that the provisions of section 194C would apply to all types of contracts, including transport contracts, labour contracts, service contracts etc. In the light of these judgments, the Board has decided to withdraw their above-mentioned Circular Nos. 86 and 93 and para 11 of Circular No. 108 and issue the following guidelines in regard to the applicability of the provisions of section 194C:

(vi)The provisions of this section will not cover contracts for sale of goods —

(b)Where, however, the contractor undertakes to supply any article or thing fabricated according to the specifications given by Government or any other specified person and the property in such article or thing passes to the Government or such person only after such article or thing is delivered, the contract will be a contract for sale and as such outside the purview of this section.

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Circular: No. 714, dated 3-8-1995.

1126. Clarifications on various provisions relating to tax deduction at source regarding changes introduced through Finance Act, 1995

The Finance Act, 1995, has enlarged the scope of income-tax deduction at source by making various amendments. In regard to the changes introduced through the Finance Act, 1995, a number of queries have been received from the various associations and professional bodies on the scope of tax deduction at source. It would be desirable to clarify the doubts by issuing a public circular in the form of question answers as under:

<sup>1</sup>Question 15: Whether section 194C would apply in respect of supply of printed material as per prescribed specifications?

Note: Only Clauses/Portions of Circular Nos. 681 & 714 justifying non-applicability of TDS on Printed material re-produced here. Full text of circulars available under circulars in Income Tax Web site

Answer Yes

Circular No. 1003/10/2015-CX

Dated 05.05.2015

F.No.267/29/2015-CX-8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

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Sub: Clarification regarding Cenvat Credit in transit sale through dealer - reg.

Kind attention is invited to Notification No. 8/2015 – Central Excise (NT) dated 1-3-2015 amending Central Excise Rules, 2002 (CER). Representations have been received from trade regarding the scope and purpose of third and fourth proviso inserted in sub-rule (2) of rule 11 particularly with reference to procedural requirement after the amendment where an indenting or unregistered dealer negotiates transit sale. For ease of reference these two provisos are reproduced below –

"Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice:

Provided also that if the goods imported under the cover of a bill of entry are sent directly to buyer's premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises."

- 2. Clarification has also been requested by the trade regarding continued applicability of circular no 96/7/95-CX dt 13-2-1995, 137/48/95-CX dt 18-7-1995 and 218/52/96-CX dt 4-6-1996, in so far as these circulars pertain to availment of credit on strength of original manufacturer's invoice where a dealer including an indenting dealer has procured order and has arranged direct transport of the goods from the premises of the manufacturer to the premises of the consignee. Further, clarification has also been sought regarding change in the requirement of registration for dealers consequent upon amendment in the rules.
- 3. The issue involved has been examined. It is clarified that the purpose of inserting the third and fourth provisos in sub-rule (2) of Rule 11 of CER is to allow an additional facility for direct transport of goods from the manufacturer or the importer to the consignee where the consignee avails Cenvat Credit on the basis of the Cenvatable invoice issued by the registered dealer or the registered importer. This facility obviates the need for the goods to be brought to the premises of the registered importer or the registered dealer for subsequent transport of the goods to the consignee.
- 4. It is further clarified that the provisions of the circulars on the issues referred in Para 3 would continue to apply as no amendment has been made in rule 9 of the Cenvat Credit Rules, 2004 which prescribes the document on the basis of which Cenvat Credit can be availed. No amendments have been made regarding registration requirements also.
- 5. Various specific issues referred to by the trade are clarified as follows –

- (i) Where a registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. In such cases no Cenvatable invoice shall be issued by the registered dealer in favour of the consignee though commercial invoice can be issued. Where a registered dealer negotiates sale of goods from the total stock ordered on a manufacturer or an importer to multiple buyers and orders direct transportation of goods to the consignees and the manufacturer or the importer is willing to issue individual invoices for each sale in favour of the consignees for such individual sale, the same procedure shall apply.
- (ii) Where a registered dealer negotiates sale by splitting a consignment procured from a manufacturer or a registered importer and issues Cenvatable invoices for each of the sale, it would now be possible for the dealer to order direct transport of the consignments as per the individual sales to the consignee without bringing the goods to his godown. This would save time and transportation cost for the dealer adding to ease of doing business. This is a new facility which flows from the amended provisions. Procedure as prescribed in the third proviso of rule 11(2) shall be applicable in such case.
- (iii) Where a un-registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. As the dealer is not registered, there is no question of issuing any Cenvatable invoice by him . Such dealers as in the past can continue to be un-registered.
- (iv) Where goods are sold by the registered importer to an end-user (say a manufacturer) who would avail credit on the basis of importer's invoice and the goods are transported directly from the port or warehouse at the port to the buyer's premises, the amendment prescribes that for such movement the factum of such direct transport to the buyer's premises needs to be recorded in the invoice.
- 6. It may be noted that the new provisos are meant to improve the ease of doing business by providing an additional facility to the registered dealer or importer for direct dispatch of goods from the manufacturer to the consignee, when he is issuing Cenvatable invoice,. They do not withdraw any past facility. These amendments should therefore be harmoniously interpreted with the existing rules and circulars in conformity with the legal provisions, keeping the intention of the Government in mind. Difficulty faced, if any, should be brought to the notice of the Board. Hindi version would follow.

Shankar Prasad Sarma Under Secretary to the Government of India



Circular No. 1016/4/2016-CX

F.No. 96/18/2016-CX.1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

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New Delhi, dated the 29<sup>th</sup> February, 2016

To,

Principal Chief Commissioner / Chief Commissioner of Central Excise (All), Principal Chief Commissioner / Chief Commissioner of Central Excise and Service Tax (All), Principal Commissioner of Central Excise, Service Tax (All), Web-master, CBEC

Madam/Sir.

### Subject: Registration of two or more premises as one registrant in CentralExcise -reg

Notification No. 36/2001-Central Excise (NT), dated 26.06.2001 has been amended vide Notification No. 19/2016-Central Excise(NT), dated 01.03.2016 to provide that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations, as may be prescribed, allow single registration.

- 2. In light of the above, sub-paragraph (1) of paragraph 3 of Circular No. 586/23/2001-CX dated the 12th September, 2001, and instructions in paragraph 3.2 of Chapter 2 (Registration) of Central Excise Manual of Supplementary Instructions, 2005, stands amended accordingly.
- 3. This circular shall come into force from 1st of March, 2016. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board. Hindi version follows. The trade, industry and field formations may suitably be informed.

Santosh Kumar Mishra Under Secretary to the Government of India

Circular No. 1018/6/2016-CX

F. No. 96/54/2014-CX.1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

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New Delhi, dated the 29<sup>th</sup> February, 2016

To,

Principal Chief Commissioners/Chief Commissioners of Central Excise (All), Principal Chief Commissioners/Chief Commissioners of Central Excise & Service Tax (All), Principal Commissioner of Central Excise, Service Tax (All), Web-master, CBEC

Sir/Madam.

# Subject: - Withdrawal from prosecution in Central Excise cases older than 15 years involving duty less than rupees five lakhs.- reg.

CAG submitted its report regarding administration of prosecution and penalty in Central Excise and Service Tax wherein regarding withdrawal of old cases of prosecution, it noted that "though the discretion to allow withdrawal of prosecution ultimately rests with the Court, it is the department's responsibility to ensure periodic monitoring of the status of long pending cases as to ensure that cases which in the opinion of the department merit withdrawal are being brought to the notice of the Court alongwith all supporting facts at the proper time in terms of Sections 257 and 321 of CrPC 1973."

- 2. The issue has been examined. The present limit for arrest and prosecution in Central Excise cases is Rupees one crore which was made effective vide Circular No. 1010/17/2015-CX dated 23.10.2015. Earlier, the limit for launching prosecution was Rs.25 Lakhs, which came into effect vide letter F.No. 208/31/97-CX6 dated 04.04.1994. Taking into consideration this increase in the limit for prosecution over a period of time, expenditure involved in continuing with old prosecution and equivalent value of the present threshold limit of rupees one crore in the past, it was decided to collect information on prosecution pending in courts for more than fifteen years where the duty involved is less than rupees five lakhs. On the basis of the reports received, it was found that there are 288 cases older than fifteen years, involving duty of rupees five lakh or less. In these 288 cases, the total amount of duty evasion involved was found to be Rs.2.31 crore, which comes to an average of Rs. 80,000/- per case.
- 3. Provisions relating to withdrawal of prosecution are contained in Section 257 and Section 321 of the CrPC. Further, in the case of Sheo Nandan Paswan Vs. State of Bihar and Others, (1983) 1 SCC 438, Hon'ble Supreme Court noted, while examining the scope of Section 321, four grounds for seeking withdrawal from prosecution. Out of these four grounds, two relevant grounds for Central Excise are as under:-
- (i) Inexpediency of the prosecution for reasons of State and Public Policy, and
- (ii) Adverse effects that the continuance of the prosecution will bring to the public interest in the light of the changed situation.

- 4. In the light of the legal provisions under section 257 and 321 of the Code of Criminal Procedure 1973, and the judgement of the Hon'ble Supreme Court, it appeared that Central Excise cases involving duty amount less than Rs. five lakhs and undergoing prosecution in the courts for more than fifteen years may be considered for withdrawal from prosecution. Accordingly, these cases where evasion of Central Excise duty is less than Rs. 5 lakh and pending in court for more than 15 years were brought to the notice of the Competent Authority suggesting that withdrawal from prosecution would be desirable in these cases on the following grounds:
- 4.1 Present limit for arrest and prosecution in Central Excise is Rupees one crore. This enhanced limit of one crore was prescribed on 23.10.2015. Before this date, the limit since 1994 was rupees twenty five lakhs. The present enhanced monetary limit indicates a liberal policy of the government in relation to prosecution. If this limit is interpolated to a value fifteen years back, it would be higher than Rupees five lakh. Therefore, it would be reasonable to conclude that the equivalent cases, of the cases under consideration, would not undergo prosecution today,
- 4.2 Withdrawal from prosecution would be in conformity with the policy of the Government to reduce litigation in taxation,
- 4.3 Expenditure involved in continuing with such prosecution may not be commensurate with the result likely to be achieved,
- 4.4 The Human resources saved can be redeployed to garner more revenue for the exchequer.
- 4.5 Withdrawal of such cases would send a positive message to the manufacturing sector in which policy of "Make in India" is being actively pursued.
- 5. After due consideration, it has been decided with the approval of the competent authority to recommend filling of application before the Hon'ble Court to withdraw from prosecution of the cases where evasion of Central Excise duty is less than Rupees five lakhs and prosecution is pending for more than fifteen years. Chief Commissioner shall give direction to the Central Excise Officer in the concerned Commissionerate to request the Public Prosecutor to file an application requesting the Court to allow withdrawal from prosecution in accordance with law. It may be noted that on filing of such applications, it is for Hon'ble Courts to finally decide whether or not to pursue the prosecution.
- 6. Attention is also invited to the circular no. 1010/17/2015-CX dated 23.10.2015 on withdrawal from prosecution where quasi-judicial proceedings on identical facts have failed. Appropriate action as per this Circular may be taken where necessary.
- 7. Application should also be moved for withdrawal from prosecution against the conoticees in a case, where the prosecution, against the main noticee is proposed to be withdrawn, as the grounds for withdrawal of prosecution would apply equally to the conoticees.
- 8. On examination of specific cases, if there are more grounds available for discontinuation of prosecution proceedings, the same may be incorporated in the application before writing to the Public Prosecutor to file the application. On the other hand, if there are valid grounds available for continuation of the prosecutions proceedings, the same should be examined by the Chief Commissioner and where it is proposed to continue with prosecution, it should be brought to the notice of the Central Excise wing in the Board with necessary justification.
- 9. This shall come into force from 1st of March, 2016. Difficulty, if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version will follow.



Santosh Kumar Mishra Under Secretary to the Government of India



Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)		(4)
4820 40 00	<ul> <li>Manifold business forms and interleaved carbon sets</li> </ul>	kg.	12.5%
4820 50 00	- Albums for samples or for collections	kg.	12.5%
4820 90	- Other:		
4820 90 10	Blotting papers cut to size	kg.	12.5%
4820 90 90	Other	kg.	12.5%
4821	PAPER OR PAPERBOARD LABELS OF ALL KINDS, WHETHER OR NOT PRINTED		
482110	Printed:		
4821 10 10	Paper tags	kg.	12.5%
48211020	Labels	kg.	12.5%
4821 10 90	Other	kg.	12.5%
4821 90	- Other:		
4821 90 10	Labels	kg.	12.5%
4821 90 90	Other	kg.	12.5%

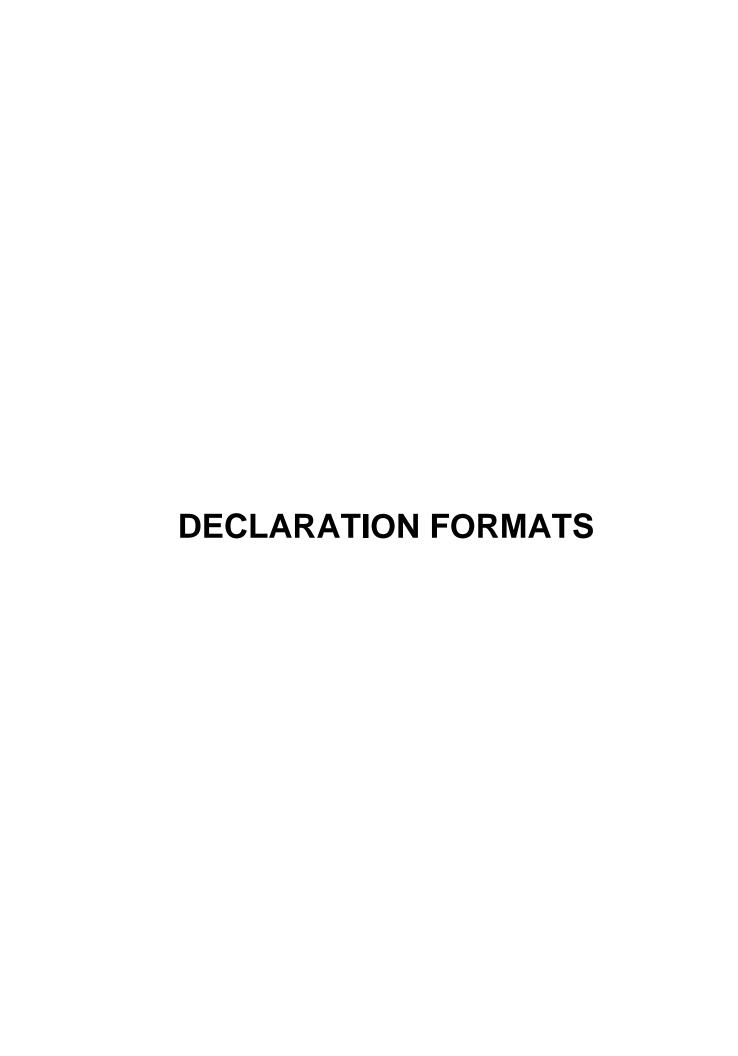
### Excise Duty & Tariff Code - Printed Labels of Paper or Paper Board

Duplex Board is cleared by Paper Board Mills under Tariff 48101390 @6% Excise Duty. If a Corrugated Box Manufacturer is purchasing Duplex Board and send them for Printing to Printer under Job work challan observing all formalities, then printer will not charge any duty.

If we purchase Printed Duplex Board from the printer, then they will clear under <u>Tariff 4821 1020</u> as <u>Printed Labels of Paper Or Paper Board</u> charging duty @12.5%, for manufacturing Corrugated Board Boxes using these as label we can take Cenvat Credit as charged and pay appropriate duty on Corrugated Board Boxes @6% under Heading 48191010 read with relevant notification.

Therefore, the printer may be advised to use the <u>Tariff Sub Heading 4821 1020</u> & <u>Description Paper Or Paper Board Labels - Printed on their Excise Invoices & challans to ensure that the buyer may avail Cenvat Credit & correct clearance are made at your end.</u>

Page 88 PRINTED LABELS TARIFF





### DECLARATION U/N NO. 214/86 C.E. - REGISTERED UNIT - JOB WORK

Da	ate:
(Ce Ce Ad	ne Assistant Commissioner oncerned A.C. of Job Worker) entral Excise, Division, Range Idress ty – Pin Code
Dε	ear Sir/Madam
Re Su	ef: Central Excise Registration No.:  ab: Declaration Vide Notification No. 214/86 C.E. Dated 25.03.1986
W	e are a manufacturer registered with Central Excise.
Οι	ar factory is located at
	e will be sending some raw materials/semi-finished goods for processing/job work and turn to (Name & address of the job worker)
	terms of para 2 of Notification No. 214/86 CE dated 25.3.1986 we hereby give adertaking that The goods received back by us after job work will be-
1)	Used in or in relation to manufacture of final products in our factory or
2)	Removed from our factory without payment of duty to FTZ/EOU/STP/EHTP unit or
3)	Removed on payment of duty for home consumption from our factory as such or
4)	Used in the manufacture of goods of the description specified in column(2) of table annexed to Notification No.214/86 by another job worker who will utilize it in terms of notification No.214/86 CE.
or	e also undertake to produce evidence that the goods received from job worker are used removed in the manner prescribed above. We also undertake to discharge liabilities in spect of Central Excise duty leviable on our finished products.
Th	is is for your information.
Th	anking you
Yo	ours faithfully
Fo	r
Dε	esignation

Page 89 214/86 C.E.



### UNDERTAKING U/N NO. 83/94 - EXEMPTED UNITS - JOB WORK

Date:
To, The Assistant Commissioner of Central Excise, (A.C. falling under Job Workers Jurisdiction) Central Excise, Commissionerate –, Division - City – Pin Code
Dear Sir/Madam
Sub: Undertaking under Notification No. 83/94 dated 11-04-1994.
We are a SSI. Unit exempt under Notification no. 8/2003 (as amended) dated 1/03/2003, as our turnover is below Rs. 150 lakhs. Our factory is located at
We will be sending from time to time some raw materials/semi-finished goods for processing/job work and return as per following details: -
Name & address of job worker/processor –
1
In terms of Notification No. 83/94-dated 11/04/1994, we hereby give following undertaking –
a) The goods received back by us after job work will be used by us in our factory in or in relation to manufacture of final products in our factory which are exempted from whole of excise duty leviable thereon u/n no. 8/2003.
b) In the event of our failure to do so, we undertake to pay excise duty, if any, payable on such goods, but for the exemption contained in this notification, as if such goods are manufactured by us and sold on our account.
c) We also undertake to produce evidence that the goods received from job worker are used or removed in the manner prescribed above.
Kindly acknowledge receipt on a copy of this letter & oblige.
Thanking you,
Yours faithfully,
For
Designation

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### UNDERTAKING U/N NO. 84/94 - EXEMPTED UNITS - JOB WORK

Date:
To The Assistant Commissioner of Central Excise, (A.C. falling under the units own Jurisdiction) Central Excise, Commissionerate – Division - City – Pin Code
Dear Sir/Madam
Sub: Undertaking under Notification No. 84/94 dated 11-04-1994.
We are a SSI. Unit exempt under Notification no. 8/2003 dated 1/03/2003 as amended as our turnover is below Rs. 150 lakhs. Our factory is located as
We will be sending from time to time some raw materials/semi-finished goods for processing/job work and return as per following details: -
Name & address of job workers/processors –
1
In terms of Notification No. 84/94-dated $11/04/1994$ , we hereby give following undertaking –
(a) The goods received back by us after job work will be used by us in our factory in or in relation to manufacture of final products in our factory which are exempted from whole of excise duty leviable thereon u/n no. 8/2003.
(b) In the event of our failure to do so, we undertake to pay excise duty, if any, payable on such goods, but for the exemption contained in this notification, as if such goods are manufactured by us and sold on our account.
(c) We also undertake to produce evidence that the goods received from job worker are used or removed in the manner prescribed above.
Kindly acknowledge receipt on a copy of this letter & oblige.
Thanking you, Yours faithfully,
For
Designation

Page 91 84/94



## DECLARATION U/N NO 36/2001 C.E. (N.T.) - REGISTRATION EXEMPTION

Date:
To The Assistant Commissioner, Central Excise, Commissionerate – Division Range <u>City – Pin Code</u>
Dear Sir/Madam
Sub: Declaration Under Notification No. 36/2001 C.E. (N.T.) Dated 26.06.01 As Amended
I/Wedeclare that to the best of my/our knowledge and belief the information furnished in the Schedule below is true and complete.
I/We undertake to apply for a Central Excise registration certificate in the proper form as soon as the value of the goods, mentioned in the said Schedule, cleared for home consumption in a financial year, reaches the full exemption limit.
I/We undertake to apply for a Central Excise Registration in the proper form as soon as the goods mentioned in the Schedule become chargeable to duty.
I/We undertake to maintain such records and follow such procedure as may be prescribed by the Commissioner in relation to the exempted goods.
I/We also undertake to intimate any change in the information furnished in the said Schedule.
THE SCHEDULE
1. Name and full address of the factory:
2. Name and addresses of other factories/manufacturers (producing such goods) in whom the manufacturer claiming the exemption has proprietary interest:
3. Status of business (tick only one box):
Proprietorship Partnership Registered Company
Unregistered Company Society Others
4. Permanent Account Number (PAN) allotted by the Income tax Dep't:

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Designation

5.		VAT registra	ation 1	number	allotted	by the S	State V	AT Dep't	:		_
6.	De	etails of ele	ctricit	y connec	etion:						
(a)	Nan	ne of electi	ricity s	supplyin	g compa	ny					
											]
(b)		Total numb	er of e	lectricity	y meters	installe	ed in th	ne factory	,		
(c)	(i) E	Electricity c	onsun	ner num	ber:			1 1		1	1
											]
	(ii)	Electricity 1	meter	number	r(s):						
											]
(d)	San	ctioned elec	ctricity	y load:							
(i)	Unit o	of measurer	nent (l	HP/KWh	n/others	-specify	)				
(ii)	Quant	tity									
		s of the ex year <u>2016-</u> 2		e goods	manufa	actured	by th	e factory	duri duri	ng the <sub>l</sub>	precedin
	S.No.	Description		lassifica	tion	Value		Notifica		Sr. No. i	
		of excisal goods	So C Ta	nder chedule entral ariff Act of 1986	Excise t, 1985		nce	No. date, availed		notificati any).	on (if
H	1.	2.	3.		) <u> </u>	4.		5.		<u></u> б.	
Kin	dly acl	knowledge	receip	t on a co	opy of th	•	& obli			υ,	

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### DECLARATION U/N NO. 8/2003 CE. - SSI EXEMPTION - 01.04.2017 REGISTERED UNIT PAYING DUTY UPTO 31.3.2017

Date:

The Assistant Commissioner Central Excise, Division -, Range Address City - Pin Code

Dear Sir/Madam,

Ref: Central Excise Registration No.:

Sub: Exercising of the option under Para 2 of Notification no.8/2003 CE. Dated 1.3.2003

We hereby exercise our option to avail exemption under Notification No.8/2003 CE. dated 1.3.2003 with effect from 1.4.2017.

We will discontinue taking Cenvat Credit from 1.4.2017 and we are sending separately a list of Cenvat Credit involved in our finished product, semi finished product and raw materials lying in stock as on 1.4.2017 opening.

We will clear goods as specified under full exemption upto a clearance value of Rs.150 lakhs for home consumption.

Our particulars as required are as under:

- (a) Name and Address of the Manufacturer:
- (b) Location of factory:
- (c) Description of specified goods produced: goods under Heading Nos. 48081010, 48191010, 48191090, 48192020, 48192090, 48195010, 48195090 & 47079000. (Whichever is applicable to be stated)
- (d) Date from which option under this notification is being exercised: 01.04.2017
- (e) Aggregate value of clearances of the specified goods till the exercising of the option: (Aggregate value of the clearance of the preceding financial year shall be stated here.)

Kindly acknowledge the receipt.

Yours	faithfully,	
For		

Designation

Enclosed: List of Cenvat Credit On Opening Stock

Page 94 8/2003



### Form E.R.-4 Original / Duplicate

[See rule 12(2)(a) of the Central Excise Rules, 2002]

		FINANCIAL INF e relating to value									FINA	NCI	AL '	YEAI	R		-
1. Registration Number																	
2.	Name Asses	of the ssee															
3.	Deta	ils of expenditur	e:														
	(i) [	Details of inputs in	cluding p	ackir	ng n	nate	rial a	and c	omp	one	ntsı	used	for i	manı	ufact	ure.	
	<ul> <li>(a) Total value of inputs including packing materials and components used for manufacturing on which CENVAT credit availed (value as per purchase invoice or import document excluding all taxes).</li> <li>(b) Total value of inputs including packing materials used for manufacturing on which CENVAT credit not availed.</li> <li>(c) Value of raw material including packing material and components consumed as per Profit and loss account.</li> </ul>																
	(ii) \	/alue and quantity	of each	majo	or ra	w m	ater	ial co	onsu	med	l in t	he m	anu	factu	re of	f good	ds <sup>#</sup> .
	(a) [	Description of raw	material					Ra	aw N	<b>1</b> ate	rial '/	Α'					
						Qua	antit	y (Pl	ease	spe	ecify	the	unit	also)	Va	llue	
		Opening stock of	f Raw ma	ateria	I												
		(+) Purchase of	raw mate	rial													
		(-) Closing Stock	of Raw	Mate	rial												
		Raw Material co	nsumptio	n													

(b) Please state description of final product {as mentioned at Sr. No. 4 (ii) below}, where the raw material is principally used

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## **DECLARATIONS**

(iii) Details of other expendit
---------------------------------

	(a)	Total Inward Freight	Rs						
	(b)	Total Outward Freight	Rs						
	(c)	Advertisement/Sales Promotion	Rs						
	(d)	Commission paid for sales of manufactured goods	Rs						
	(e)	Total R & D expenditure	Rs						
	(f)	Wages	Rs						
	(g)	Power and Fuel	Rs						
	(h)	Other expenses* {excluding (a) to (g) above}.	Rs						
(iv	(iv) Details of goods got manufactured by the assessee through job workers:								
	(a)	Whether goods are got manufactured through job worke	er?	Yes/No					
	(b)	If yes, whether any raw material/inputs are supplied to j worker?	ob	Yes/No					
	(c)	Whether any raw material/inputs are used by the job wo which are not supplied by the assessee?	orker	Yes/No					
	(d)	Total amount paid by the assessee to jobworker		Rs					

#### 4. Details of Income:

TIL TOTAL DAIES VALUE TOTOSSI AS DEL L'IOTIL & LOSS ACCOUNT L	(i	) Total Sales value	(Gross)	as per	Profit &	Loss acc	count Rs	
---	----	---------------------	---------	--------	----------	----------	----------	--

(ii) Value and quantity of each major manufactured finished goods sold <sup>@.</sup>
Please mention description and Chapter sub-heading. Finished Good 'A'

	Quantity (Please specify the unit also)	Value (excluding Taxes)
Opening stock of finished goods		
(+) Production of finished goods		
(-) Closing Stock of finished goods		
Finished goods sold		

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# **DECLARATIONS**

(iii) Details of trading activity {excluding inputs cleared as such as per Sr. No.(viii) below}

	Quantity (Please also specify the unit)	Value (excluding Taxes)
Opening stock of Trading Goods		
(+) Purchase of Trading Goods		
(-) Closing Stock of Trading Goods		
Trading Goods sold		

(iv)	Sale value of non-excisable and fully exempted goods (excluding the goods exported) cleared during the financial year.	Rs
(v)	Value of goods exported under Bond	Rs
(vi)	Value of goods exported under claim for rebate	Rs
(vii)	Total value of sale of waste and scrap.	Rs
(viii)	Value of inputs on which CENVAT credit has been availed and cleared as such:	D.
	(a) On payment of amount equal to the credit availed.	Rs
	(b) Without payment of any such amount to job worker (excluding the value of both the inputs as such or the inputs used in job worked goods, received back by the assessee from job worker).	Rs
(ix)	Total Sales Tax paid	Rs
(x)	Details of other income:	

Sl.No.	Category	Amount
1.	Warranty charges from buyers	
2.	Advertisement/Marketing expenditure recovered form customers	
3.	Handling, storage, packing and forwarding charges	
4.	Pre-delivery inspection charges	
5.	Product development, drawing, design and development charges	
6.	Transportation charges received	
7.	Erection and Commissioning charges received	
8.	Technical, Engineering, consultancy etc. charges received	
9.	Other receipts/Income (excluding (1) to (8) above	

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# **DECLARATIONS**

(xi) Total "Other income" as p	as per Profit and Loss Account. Rs						
(xii) Details of job work undertaken by the assessee for others:							
(a) Whether any such job work activity carried out by the assessee?							
	done using own raw mate the person for whom job-		ner than Yes/N	lo			
(c) Whether job work of payment of duty	hout Yes/N	lo					
(d) Total amount of job	work charges received	during the financial	year Rs				
5. CENVAT Credit detail	ils:						
	Credit Availed (Rs.)	Credit utilised (Rs.	)				
On inputs							
On Capital Goods							
On Taxable input Service							
6. (i) I/We with the records and boo to the best of my/our known							
(ii) I/we am/are authorized	to sign this return.						
			letters and signature				
Place: Date:		of the assessee of	or authorized signato	ory)			
Note: # To be given separately of	and distinctly for each n	najor raw material c	onsumed on the line	S			
SI. No. 3 (ii) (a) (1) of Part II of 1956(1of 1956), i.e. each such more of the total value of the re	raw material which in va						
* other expenses include all ex Profit and loss Account.	openses like interest, dep	preciation, other ove	rheads as shown in				
<sup>@</sup> To be given separately and of finished goods which in value if finished goods sold as clarified section 211 of the Companies	independently accounts in Note 3 to the para 3	for 10 % or more of	the total value of the	е			

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Please enclose copy of Profit and Loss Account and Balance Sheet.



### **ACKNOWLEDGEMENT**

Annual Financial Information Statement For The Financial Year												
	D	D		М	М		Υ	Υ	Υ	Υ		
Date of receipt												
									Nan	ne ar	nd signature of the officer with seal	
Place:												
Date:												

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### Instructions

Ref. No.	Particulars sought for	Purpose
3 (i) (a) to (c)	Value of raw material consumption	To compute the ratio of value of CENVATable purchase to Gross sales of excisable goods and to match it with the ratio of CENVAT to Cash duty.
3 (ii)	Item-wise value and quantity of major raw material consumed	(i) Computation of physical input-output ratio  (ii) Co-relation with CENVAT availment  (iii) Computation of unit value of raw material for checking value addition.
3 (iii) (a)	Value of Capital Goods supplied free of cost by the customer	To ascertain whether the amortised value is included in the value of the final product.
3 (iii) (b)	Value of Capital Goods sold /cleared	To facilitate scrutiny of appropriate payment of duty on the said Capital Goods
3 (iii) (c)	Amount of balance 50% CENVAT credit brought forward from previous year and availed during the year	To ascertain correctness of availment of Capital goods credit.
3 (iv) (a) to (h)	Total Freight  Advertisement/Sales  Promotion  Commission paid for sales of manufactured goods	To calculate ratio of individual items of expenditure to Gross Sales Value to find out possibility of unaccounted sales (e.g. where electricity charges are accounted for in the books but goods produced are removed without accounting for, on comparing the ratio of similar units,

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	R & D Expenditure  Wages, Power & Fuel and  Other expenses (other than  (a) to (e) above	variation in ratio may show such cases. The said ratio coupled with trend of freight outward to sale value ratio may also indicate same trend). Also it indicates whether any taxable service received for taking action against service provider.
3 (v) (a) to (c)	Details of goods manufactured from Job worker	To co-relate with valuation and verify whether CENVAT credit provisions are complied with
4 (i)	Total Sales value (Gross)	Used in determining all the ratios and derive the value of excise duty payable and match with duty payment in the tax return.
4 (ii)	Item-wise value and quantity of major finished goods sole	(i) Computation of unit value of finished products for checking value addition.      (ii) Computation of physical input-output ratio
4 (iii)	Details of trading activity (other than trading of inputs on CENVAT Credit availed and removed as such)	(i) To calculate ratio of Trading Sales Value to gross sales value (chances of clearance of manufactured goods in the guise of trading goods & clearances of credit availed goods as Trading goods)  (ii) To ascertain the trend in profit margin of trading goods vis-à-vis goods manufactured by the assessee.
4 (iv)	Sales value of non excisable / exempted	To calculate ratio of value of exempted goods to gross sales value

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	goods	
4 (v)	Value of goods exported	To derive value of dutiable sales and
&	under Bond and/or under	compare with value shown in tax return
(vi)	rebate	
4	Total value of scrap sales	To calculate ratio of scrap sales value to
(vii)		gross sales value.
4	Value of inputs cleared as	To facilitate scrutiny of CENVAT
(viii)	such on which CENVAT	availment during audit i.e. whether
	credit availed	appropriate duty payment made.
4 (ix)	Total Sales Tax paid	To calculate ratio of Sales Tax to Excise
		duty
4 (x)	Details of other incomes as	Whether individual elements of other
	per Profit & Loss A/c	income form part of valuation of goods.
		Whether appropriate ST has been
		discharged on each of the elements
		under specified service tax category.
4 (xi)	Total "Other income" as	To calculate ratio of other income to total
	per P & L A/c.	sales value. To validate the information
		given in 4 (x)
4	The information on Job	To ascertain whether Job Work is
(xii)	work carried out	relevant as a source of risk.
(a)		
to	Whether own raw	To co-relate with valuation and availment
(d)	material/inputs used in	of CENVAT credit on inputs.
	manufacture of job work	To co-relate with valuation and to study
	goods	trends in job work income vis-à-vis total
	Job Work goods cleared on	sales value.
	payment of duty or without	
	payment of duty	
	Total amount of job work	
	received during the	

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	financial year	
5	CENVAT Credit details	To co-relate with actual availment of CENVAT credit and to calculate ratio of CENVAT credit availment to total duty payment. The availment and utilisation of taxable input service credit would indicate cross sectoral service tax credit trend.

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finished goods mentioned in column

(5)

7

6



#### **FORM ER-5**

{sub-rule (1) of rule 9A of CENVAT Credit Rules, 2004}

1.	Name of the ma	nufacturer:					
2.	PAN based Reg	istration Num	nber:				
3.	Annual Declarat	ion eclaration					
	(ii) Amend	ments to dec	laration alre	ady filed			
	(Pl. tick the app	oropriate box	)				
4.	Declaration for t	he Financial	Year				
Sr. No.	Description of principal inputs		Quantity code*	Description of finished goods in which principal input mentioned in column (2) is used	Central Excise Tariff Sub- Heading No. of finished goods	Quantity code*	Quantity of principal input mentioned in column (2) required for use in the manufacture of unit quantity of

\*NOTE. - Please indicate the abbreviation referred to in Instruction No. 7 mentioned in Form E.R.-1 and Form E.R.-3 specified in the Government of India, Ministry of Finance (Department of Revenue) vide Notification No.25/2004-Central Excise (N.T.), dated the 27<sup>th</sup> September, 2004 published vide G.S.R.No.643 (E) dated the 25<sup>th</sup> September, 2004.

5

4

2

1

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5. correct	(i) and co	I/We		that the information given above is true, ur knowledge and belief.								
	(ii)	I/We am/are authorized to	o sign this declar	ration.								
				(Name in capital letters and signature of the assessee or authorized signatory)								
Place:												
Date:												
Declara	ACKNOWLEDGEMENT  Declaration for the Financial Year											
Date o	f receip	DD M M	Y Y Y Y									
Place:												
Date:												
			Na	ame and signature of the officer with seal								

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#### FORM ER-6

{sub-rule (3) of rule 9A of CENVAT Credit Rules, 2004}

1. Name of the manufacturer:

		 				 	 	_	
2.	PAN based Registration Number:								

- Month to which the return relates:
- 4. Details of receipt and consumption of principal inputs and finished excisable goods:

### **TABLE**

Sr. No.	Description of principal inputs		Opening Balance	Receipt	for use ed Balar in the as manufac such for ture of export dutiable or for and home exempte con-		Closing Balance	goods	ed out	Quantity code of finished goods*	Quantity of finished goods manu- factured
1	2	3	4	5	d finished goods	sumptio n	8	9(A)	9(B)	10	11

5. Details of waste and scrap arising during manufacture and cleared/destroyed:

#### **TABLE**

S.No.	Description of waste and scrap	Quantity code*	Quantity				
			Cleared	Destroyed			
1	2	3	4(A)	4(B)			

NOTE. - (1) Finished goods mentioned in Column (9B) should be stated in respect of each of the inputs mentioned in Columns (2) and (6).

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<sup>(2) \*</sup>Please indicate the abbreviation referred to in Instruction No. 7 mentioned in Form E.R.-1 and Form E.R.-3 specified in the Government of India, Ministry of Finance (Department of Revenue) vide No.25/2004-Central Excise (N.T.), dated the 27<sup>th</sup> September, 2004 published vide G.S.R.No.643 (E) dated the 25<sup>th</sup> September, 2004.



6. (i) compa correct	I/We red with the records and b to the best of my/our know	ooks of my/our factory/	culars declared above have been warehouse and the same are true and
(ii)	I/we am/are authorized to	sign this return.	
			(Name in capital letters and signature of the assessee or authorized signatory)
Place:			
Date:			
		ACKNOWLEDGEN	MENT
Return of rec	eipt and consumption of p	rincipal inputs and finis	hed excisable goods for the month ending
	DD N	MM YYYY	
	Date of receipt		
			Name and signature of the officer with seal
		,	and signature of the officer min out

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### Form E.R.-7

### **Annual Installed Capacity Statement**

1.	Name of t			rer:													
2.	Address o Central ex		-	ion n	umł	er:											
			Sistin														
									_								
4.	(i) Annu	ıal de	claratio	n													
	(ii) Ame (Pl.		ents to d the appr					y filed	l [								
5.	Installed capacity as on																
6.	. Details of installed capacity of the factory																
	SI No	c	Descript lass of g		Unit	of	measure	;	I	Annual production capacity							
7.	Details	of ma	in plant	and	mac	hin	eries	instal	led								
	Sl. No	1	Descrip main ma plant			s	l	nical te, mo		specifica , etc.)	atio	ns	Year of installation				
8.	Details (a) Na		-				ng co	mpani									
	(a) Na	une o	f electri	city s	supp	ıyıı	ig co	шрап,	y								
	(b) To	tal nu	ımber o	felec	etric	ity 1	meter	s inst	alle	d in the	fac	tory					
	(c) (i) Ele	ectric	ity cons	umei	r nui	nbe	r:										
							_										

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(ii)	Electric	ity met	er numb	er(s):							
(d) Sai	nctioned	electric	ity load	:							
(i)	Unit of	measur	ement (	HP/KWh/	others-s	pecify)					
(ii)	Quantity	y									
(e)		Whether captive power plant installed  If so, its installed capacity									
). (i)	I/We hereby declare that the information given above is true, correct and complete in every respect to the best of my/our knowledge and belief.										
(ii)	(ii) I/We am/are authorized to sign this declaration.										
Place: Date:	(Name in capital letters and signature of the assessee or authorized signature)										
ACKNOWLEDGEMENT											
		D	D	M	M		Y	Y	Y	Y	
Date o receipt											
Place: Date:											

Name and signature of the officer with seal

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### INSTRUCTIONS

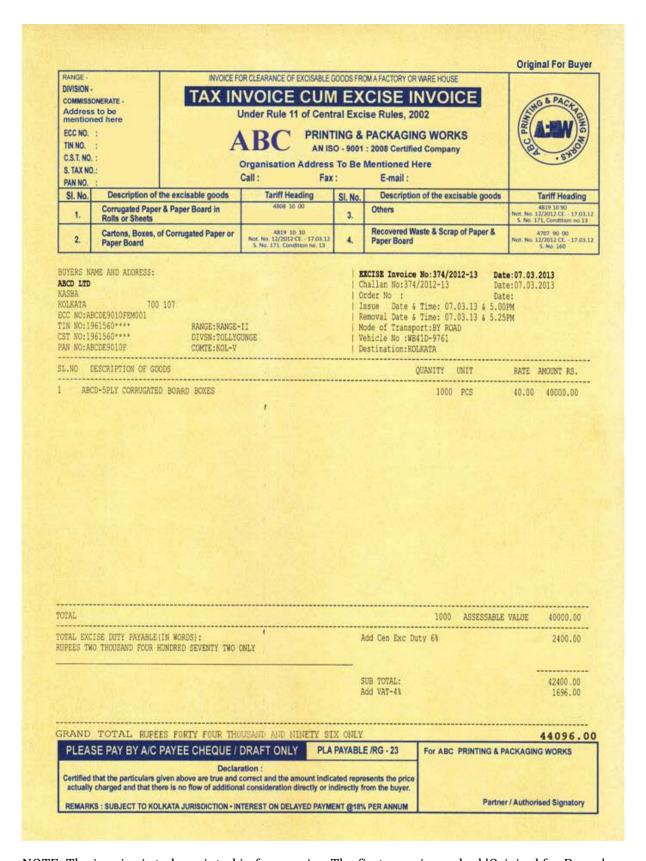
- In serial number 6, 'Each Class of Goods' means a broad category of goods which are cleared/sold from factory. For example, for a pharmaceutical unit, all types of tablets, capsules and syrup will be regarded as different classes of goods
- 2. In serial number 7, 'Main machineries/plant' means the machineries/plant producing the final product or intermediate product. For example, for a factory producing steel bar from iron ore, the kiln (used for making sponge iron), furnace (used for making ingot) and rolling mill (used for making steel bar) would be regarded as the main machinery/plant.
- 3. Where the excise duty is levied at specific rate, the same quantity measurement code as applicable for payment of duty shall be used for providing installed capacity.
- 4. Wherever quantity codes appear, indicate relevant abbreviations as given below.

Quantities	Abbreviations	Quantities	Abbreviations	
Centimetre(s)	cm	Metre(s)	m	
Cubic	cm3	Square metre(s)	M2	
centimetre(s)				
Cubic metre(s)	m3	Millimetre(s)	mm	
Gram(s)	g	Metric tonne	mt	
Kilogram	kg	Number of pairs	pa	
Kilolitre	kl	Quintal	q	
Litre(s)	1	Tonne(s)	t	
Thousand in	Tu	Number	u	
number				

5. In case, any substantial expansion/addition of machineries is carried out during the year resulting into increase in the installed capacity by more than 25% of one class of product, an amendment to the declaration should be filed within 30 days of commencement of production of these new machineries."

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NOTE: The invoice is to be printed in four copies. The first copy is marked 'Original for Buyer' as per specimen above. The other three copies would have the same format and would be marked 'Sellers Copy', 'Duplicate for Transporter' & 'Extra Copy' respectively.

Page 111 INVOICE



Date:

To Name of Organisation Address <u>City – Pin Code</u>

Dear Sir

Sub: Declaration - Non Deduction of TDS - (Current) F.Y. -\_\_\_\_

This to declare that the number of goods carriage vehicles, owned by me/us during the (previous) financial year \_\_\_\_\_\_ is/are \_\_\_\_\_.

We are pleased to enclose herewith, our self attested Pan Card.

Since the goods carriage owned by us are not more than **TEN** in the <u>previous financial</u> <u>year</u>, we are covered under provisions of section 44AE of the Income Tax Act & since we are furnishing our Pan Card details, we request you, not to deduct TDS on freight charges paid or credited to our account for the <u>current financial year</u>.

Yours truly

for (Name of Transporter)

**Authorised Signatory** 

Enclosed: a/a

# **Regional Associations**























