

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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Anand Giri
Offtg.Dy.Director General

EPC/SEZ/AM-18/F-14
June 30, 2017

EPCES CIRCULAR NO. 250

Dear Member,

We are sending, as attachment, DGFT Trade Notice No. 11 and Central Excise Notification No. 19/2017(NT) both dated 30.6.2017.

DGFT Trade Notice No. 11 dated 30.6.2017 contains chapter-wise provisions of Foreign Trade Policy under GST.

Central Excise Notification No. 19 (NT) dated 30.6.2017 provides Central Excise Rules 2017, suppressing Central Excise Rules 2002.

Members are requested to kindly go through the Trade Notice and Notification carefully and act accordingly.

This is for kind information of the members.

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
UdyogBhawan, New Delhi

Date - 30.06.2017

Trade Notice No 11/12018

To,

1. All RA's of DGFT
2. Members of Trade and Industry
3. All EPCs/Commodity Boards

Subject: Important FTP provisions in the context of the implementation of the GST regime applicable w.e.f. 01.07.2017

The chapter wise provisions of the [FTP 2015-20](#):

General Provision:

- With effect from July 1, 2017, the term "Central Excise Authority" used in Foreign Trade Policy 2015-20 and Foreign Trade procedures 2015-20 should be read as "Jurisdictional Customs Authority".

Chapter 2:

Changes in IEC notified through Trade Notice NO.09/2018 dated 12.06.2017

Chapter 3

- The Duty Credit Scrips (issued under Chapter 3 of the FTP) cannot be used for payment of IGST and GST compensation cess in imports, and CGST, SGST, IGST and GST compensation cess for domestic procurement.

Chapter 4:

- Under the GST regime, no exemption from payment of Integrated GST and Compensation Cess would be available for imports under Advance Authorisation.
- Importers would need to pay IGST and take input tax credit as applicable under GST rules.
- However, imports under Advance Authorisation would continue to be exempted from payment of Basic Customs Duty, Additional Customs Duty specified under Section 3(1), 3(3) and 3(5) of the Customs Tariff Act, Education Cess, Anti-dumping Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, wherever applicable.
- Applicable GST would need to be paid while making local procurement, using an invalidation letter of Advance Authorisation/DFIA. Recipient of goods can take Input Tax Credit (ITC) of the GST paid on such local procurement. This Input Tax Credit can be utilized as per GST rules.
- Advance Release Order facility shall not be available for procurement of inputs under Advance Authorization scheme except for inputs listed in Schedule 4 of Central Excise Act, 1944 read with The Taxation Laws (Amendment) Act 2017 No 18 of 2017, with effect from July 1, 2017. RAs are directed not to issue ARO except for Schedule-4 items as stated above.
- Imports/exports under the replenishment schemes for the Gems and Jewellery sector covered under chapter 4 of FTP and HBP shall be subject to Customs Notification issued/ to be issued in this regard.

Chapter 5:

- Importers would need to pay IGST and take input tax credit as applicable under GST rules.
- ARO facility shall not be available for sourcing of Capital Goods manufactured indigenously.

Chapter 6:

- **Import by EOU/EHTP/STP/BTP**

EOU are allowed duty free Imports of goods for their authorised operations. In GST regime, the import of goods covered under GST would be exempted from the whole of the duty of customs specified under the First Schedule to the Customs Tariff Act, 1975 (BCD) enabled by Notification no. 52/2003 - Cus. But such goods would attract integrated tax and compensation cess leviable under sub-section (7) and (9) of the said Act. The taxes so paid on imports will be neutralized by ITC.

The import of goods covered under Fourth Schedule of the Central Excise Act would be exempted from the whole of the duty of customs specified under the First Schedule to the Customs Tariff Act, 1975 (BCD) and also from the additional duty leviable under sub-sections (1),(3) and (5) of section (3) of the said Act (CVD & SAD) enabled by Notification no. 52/2003 - Cus.

- **Domestic procurements:** For the indigenous procurement of goods covered under GST, the EOU will not get ab-initio exemptions. Such supplies would be on payment of CGST/SGST/IGST. The taxes so paid will be neutralized by ITC. For the indigenous procurement of goods covered under Fourth Schedule, the EOU will continue to get ab-initio exemptions from central excise duty.

- **DTA clearances of finished goods covered under GST:**

EOUs would be required to pay only CGST & SGST or IGST, as the case may be, besides paying back of whole of the duty of customs specified under the First Schedule to the Customs Tariff Act, 1975 (BCD) exemptions, if availed, on inputs used in manufacture of such finished goods.

The DTA clearances of finished goods covered under Fourth Schedule of the Central Excise Act, 1944, the EOUs would be required to pay central excise duty equal to the aggregate of duties of customs in view

of proviso to Section 3(1) of the Central Excise Act, the effective rate of such duties being covered by Notification no. 2312003 - CE

• **Inter unit transfer/supply for EOU to other EOUs:**

Applicable GST would be payable on the transfer/supply of goods from one unit of EOU / EHTP / STP / BTP to another.

Chapter 7:

• **Supplies made prior to the date of operationalization of GST:**

The supplies made to different deemed exports categories till the date prior to the date of operationalization of GST, the benefits would be available as per the provisions existed till the date of operationalization of GST.

• **Supplies after the date of operationalization of GST:**

- **Advance Authorization benefits** under Chapter 4 shall be available for supplies under The duty exemption benefits under AA would be limited to exemption from basic custom duty only. The exemption for items under Central Excise would be available for the items which continue under Schedule 4 of Central Excise Act, 1944 provided the items are eligible under the Advance Authorization.
- **Deemed Export Drawback:** The drawback as provided under Chapter 7 would be limited to the refund of basic custom duty only. In respect of eligible items covered under Schedule 4 of Central Excise Act, 1944 refund would also be covered under the drawback provided the item is eligible for such supply.
- **The TED refund :** TED refund would be available only if exemption is not available in respect of items covered under Schedule 4 of Central Excise Act, 1944 provided the items are eligible for supply under the said category of deemed exports.

This is issued with the approval of Competent Authority.

NikunjSrivastava
Additional Director General of Foreign Trade
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[Issued from File 0.: 01I9411801172/AM17/PC-4]

[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. 19/2017 - Central Excise (N.T.)

New Delhi, the 30th June, 2017

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and in supersession of the Central Excise Rules, 2002, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement.- (1) These rules may be called the Central Excise Rules, 2017.

(2) They extend to the whole of India.

(3) They shall come into force on the 1 st day of July, 2017.

2. Definitions.- (1) In these rules, unless the context otherwise requires, -

(a) "Act" means the Central Excise Act, 1944 (1 of 1944);

(b) "assessment" includes self-assessment of duty made by the assessee under Rule 6 and provisional assessment under rule 7;

(c) "assessee" means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorised agent of such person;

(d) "Board" means the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 (54 of 1963);

(e) "duty" means the duty payable under section 3 of the Act;

(f) "notification" means the notification published in the Official Gazette;

(g) "warehouse" means any place or premises registered under rule 9; and

(2) The words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Appointment and jurisdiction of Central Excise Officers.- (1) The Board may, by notification, appoint such person as it thinks fit to be Central Excise Officer to exercise all or any of the powers conferred by or under the Act and these rules.

(2) The Board may, by notification, specify the jurisdiction of a Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be, Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be or Commissioner of Central Excise (Appeals) for the purposes of the Act and the rules made thereunder.

(3) Any Central Excise Officer may exercise the powers and discharge the duties conferred or imposed by or under the Act or these rules on any other Central Excise Officer who is subordinate to him.

4. Duty payable on removal.- (1) Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse, shall pay the duty leviable on such goods in the manner provided in rule 8 or under any other law, and no excisable goods, on which any duty is payable, shall be removed without payment of duty from any place, where they are produced or manufactured, or from a warehouse, unless otherwise provided.

(2) Notwithstanding anything contained in sub-rule (1), Principal Commissioner or Commissioner, as the case may be, may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of the manufacturer where the goods are made, permit a manufacturer to store his goods in any other place outside such premises, without payment of duty subject to such conditions as he may specify.

5. Date for determination of duty and tariff valuation.- The rate of duty or tariff value applicable to any excisable goods shall be the rate or value in force on the date when such goods are removed from a factory or a warehouse, as the case may be.

Explanation.- If any excisable goods are used within the factory, the date of removal of such goods shall mean the date on which the goods are issued for such use.

6. Assessment of duty.-The assessee shall himself assess the duty payable on any excisable goods:

Provided that in case of cigarettes, the Superintendent or Inspector of Central Excise shall assess the duty payable before removal by the assessee.

7. Provisional assessment.- (1) Where the assessee is unable to determine the value of excisable goods or determine the rate of duty applicable thereto, he may request the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, in writing giving reasons for payment of duty on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, may order allowing payment of duty on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of duty on provisional basis may be allowed, if the assessee executes a bond in the form prescribed by notification by the Board with such surety or security in such amount as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, deem fit, binding the assessee for payment of difference between the amount of duty as may be finally assessed and the amount of duty provisionally assessed.

(3) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall pass order for final assessment, as soon as may be, after the relevant information, as may be required for finalising the assessment, is available, but within a period not exceeding six months from the date of the communication of the order issued under sub-rule (1):

Provided that the period specified in this sub-rule may, on sufficient cause being shown and the reasons to be recorded in writing, 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 six months and by the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be, for such further period as he may deem fit.

(4) The assessee shall be liable to pay interest on any amount paid or payable on the goods under provisional assessment, but not paid on the due date specified under sub-rule (1) of rule 8 and the first proviso thereto, as the case may be, at the rate specified by the Central Government, vide, notification under section 11AA of the Act, for the period starting with the first day after the due date till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.

Explanation. - For the removal of doubt, it is hereby declared that the goods under provisional assessment, cleared in the month of January, 2017, say a provisional duty of Rs. 5000 is paid on the 6th February, 2017 [due date under sub-rule (1) of rule 8], a further duty of Rs 9000 is paid on the 15th April, 2017, and on the same day the documents for final assessment are submitted by the assessee. Final assessment order is issued on the 18th June, 2017, assessing the duty payable on goods as Rs. 15000, and consequently the assessee pays a duty of Rs 1000 on the 30th June, 2017, then no interest shall be payable on Rs 5000, interest shall be payable on Rs 9000 from the 7th February, 2017, till the 15th April, 2017, and interest shall be payable on Rs 1000 from the 7th February, 2017, till the 30th June, 2017, as due date for payment of duty of Rs 15000 is the 6th February, 2017.

(5) Where the assessee is entitled to a refund consequent to an order of final assessment under sub-rule (3), then, subject to sub-rule (6), there shall be paid an interest on such refund as provided under section 11BB of the Act.

(6) Any amount of refund determined under sub-rule (3) shall be credited to the Fund:

Provided that the amount of refund, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to-

(a) the duty of excise paid by the manufacturer, if he had not passed on the incidence of such duty to any other person; or

(b) the duty of excise borne by the buyer, if he had not passed on the incidence of such duty to any other person.

8. Manner of payment.- (1) The duty on the goods removed from the factory or the warehouse during a month shall be paid by the 6th day of the following month, if the duty is paid electronically through internet banking and by the 5th day of the following month, in any other case:

Provided that in case of goods removed during the month of March, the duty shall be paid by the 31st day of March:

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 removal of doubts, 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.

(2) Every assessee shall electronically pay duty through internet banking:

Provided that the Assistant Commissioner or the Deputy Commissioner of Central Excise, for reasons to be recorded in writing, allow an assessee payment of duty by any mode other than internet banking.

(3) The duty of excise shall be deemed to have been paid for the purposes of these rules on the excisable goods removed in the manner provided under sub-rule (1) and the credit of such duty allowed, as provided by or under any rule.

(4) If the assessee fails to pay the amount of duty by due date, he shall be liable to pay the outstanding amount along with interest at the rate specified by the Central Government vide notification under section 11AA of the Act on the outstanding amount, for the period starting with the first day after due date till the date of actual payment of the outstanding amount.

(5) If the assessee fails to pay the duty declared as payable by him in the return within a period of one month from the due date, then the assessee is liable to pay the penalty at the rate of one per cent on such amount of the duty not paid, for each month or part thereof calculated from the due date, for the period during which such failure continues.

Explanation.- For the purposes of this sub-rule, 'month' means the period between two consecutive due dates for payment of duty specified under sub-rule (1) or the first proviso to sub-rule (1), as the case may be.

(6) The provisions of section 11 of the Act shall be applicable for recovery of the duty as assessed under rule 6 and mentioned in the return filed under these rules, the interest under sub-rule (4) and the penalty under sub-rule (5) in the same manner as they are applicable for recovery of any duty or other sums payable to the Central Government.

Explanation 1.- For the purposes of this rule,-

(a) the duty liability shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the specified date;

(b) if the assessee deposits the duty by cheque, the date of presentation of the cheque in the bank designated by the Central Board of Excise and Customs for this purpose shall be deemed to be the date on which the duty has been paid subject to realisation of that cheque.

Explanation 2.- For the purposes of this rule, the expressions 'duty' or 'duty of excise' shall also include the amount payable in terms of the CENVAT Credit Rules, 2017.

9. Registration.- (1) Every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods or an importer who issues an invoice on which CENVAT credit can be taken, shall get registered:

Provided that a registration obtained under rule 9 of the Central Excise Rules, 2002 shall be deemed to be valid as the registration made under these rules.

(2) The Board may, by notification and subject to such conditions or limitations as may be specified in such notification, specify person or class of persons who may not require such registration.

(3) The registration under sub-rule (1) shall be subject to such conditions, safeguards and procedure as may be specified by notification by the Board.

10. Daily stock account.- (1) Every assessee shall maintain proper records, on a daily basis, in a legible manner indicating the particulars regarding description of the goods produced or manufactured, opening balance, quantity produced or manufactured, inventory of goods, quantity removed, assessable value, the amount of duty payable and particulars regarding amount of duty actually paid.

(2) The first page and the last page of each such account book shall be duly authenticated by the producer or the manufacturer or his authorised agent.

(3) All such records shall be preserved for a period of five years immediately after the financial year to which such records pertain.

(4) The records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature.

(5) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.

Explanation.- For the purposes of this rule and rule 11, the expressions, "authenticate", "digital signature" and "electronic form" shall have the respective meanings as assigned to them in the Information Technology Act, 2000 (21 of 2000).

11. Goods to be removed on invoice.- (1) No excisable goods shall be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorised agent and in the case of cigarettes, each such invoice shall also be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the cigarettes are removed from the factory.

(2) The invoice shall be serially numbered and shall contain the registration number, address of the concerned Central Excise division, name of the consignee, description, classification, time and date of removal, mode of transport and vehicle registration number, rate of duty, quantity and value, of goods and the duty payable thereon:

Provided that in case of a proprietary concern or a business owned by Hindu Undivided Family, the name of the proprietor or Hindu Undivided Family, as the case may be, shall also be mentioned in the invoice:

Provided further that if goods are directly sent to a job worker on the direction of a manufacturer, the invoice shall also contain the details of the manufacturer as buyer and contain the details of job worker as the consignee:

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.

(3) The invoice shall be prepared in triplicate in the following manner, namely:-

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

(4) Only one copy of invoice book shall be in use at a time, unless otherwise allowed by the Assistant Commissioner of Central Excise, or the Deputy Commissioner of Central Excise, as the case may be, in the special facts and circumstances of each case.

(5) Before making use of the invoice book, the serial numbers of the same shall be intimated to the Superintendent of Central Excise having jurisdiction.

(6) The provisions of this rule shall apply mutatis mutandis to goods supplied by an importer who issues an invoice on which CENVAT credit can be taken, or a first stage dealer or a second stage dealer:

Provided that in case of the first stage dealer receiving imported goods under an invoice bearing an indication that the credit of additional duty of customs levied on the said goods under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall not be admissible, the said dealer shall on the resale of the said imported goods, indicate on the invoice issued by him that no credit of the additional duty levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall be admissible:

Provided further that in case of the second stage dealer receiving imported goods under an invoice bearing an indication that the credit of additional duty of customs levied on the said goods under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall not be admissible, the said dealer shall on the resale of such imported goods, indicate on the invoice issued by him that no credit of the additional duty levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall be admissible.

(7) An invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature:

Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter shall be used for transport of goods.

(8) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice.

Explanation.- For the purposes of these rules, first stage dealer and second stage dealer shall have the meanings assigned to them in CENVAT Credit Rules, 2017.

12. Filing of return.- (1) Every assessee shall submit to the Superintendent of Central Excise a monthly 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 month to which the return relates:

Provided that an assessee, manufacturing pan masala containing tobacco falling under tariff item 2403 99 90 and paying duty of Central Excise more than rupees five lakhs in the month, shall also file, along with the return, for the month to which the said return relates, a statement summarizing,-

- (i) the purchase invoices for the month with the names and addresses of the suppliers of betel nut, tobacco and packing material along with the quantity of the said goods purchased; and
- (ii) the sales invoices for the month with the names and addresses of the buyers, description, quantity and value of goods sold by the assessee.

Explanation.- When the goods are not sold from the factory, the address of the premises to which the goods are dispatched from the factory shall also be provided:

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, 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.

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 filing of returns as specified in this proviso shall be available to the assessee for the whole of the financial year.

(2)(a) Notwithstanding anything contained in sub-rule (1), every assessee shall submit to the Superintendent of Central Excise, an Annual Return for the preceding financial year to which the return relates in the form specified by notification by the Board by 30th day of November of the succeeding year.

(b) The Central Government may, by notification, and subject to such conditions or limitations as may be specified in such notification, specify assessee or class of assessee who may not be required to submit such an Annual Return.

(c) The provision of this sub-rule and clause (b) of sub-rule (7) shall mutatis mutandis apply to a hundred per cent Export- Oriented Unit.

(3) The proper officer may on the basis of information contained in the return filed by the assessee under sub-rule (1), and after such further enquiry as he may consider necessary, scrutinise the correctness of the duty assessed by the assessee on the goods removed, in the manner to be prescribed by the Board.

(4) Every assessee shall make available to the proper officer all the documents and records for verification as and when required by such officer.

(5) Where any return referred to in this rule is submitted by the assessee after due date as specified for every return, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement.

(6) The Central Board of Excise and Customs may, by an order extend the period specified in this rule by such period as deemed necessary under the circumstances of special nature to be specified therein.

(7)(a) An assessee, who has filed a return in the form referred to in sub-rule(1) within the date specified under that sub-rule or the second proviso thereto, may submit a revised return by the end of the calendar month in which the original return is filed.

Explanation.- Where an assessee submits a revised return under clause (a), the 'relevant date' for the purpose of recovery of Central Excise duty, if any, under section 11A of the Act shall be the date of submission of such revised return.

(b) An assessee who has filed Annual Return referred to in clause (a) of sub-rule (2) by the due date mentioned in clause (a) of that sub-rule, may submit a revised return within a period of one month from the date of submission of the said Annual Return.

13. Power to impose restrictions in certain types of cases.- Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of evasion of duty, nature and type of offences or such other factors as may be relevant, is of the opinion that in order to prevent evasion of, or default in payment of duty of excise, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, a registered importer, first stage and second stage dealer or an exporter may, by notification in the Official Gazette, specify the nature of restrictions including suspension of registration in case of an importer or a dealer, types of facilities to be withdrawn and procedure for issue of such order by the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be.

14. Special procedure for payment of duty.- (1) The Central Government may, by notification, specify the goods in respect of which an assessee shall have the option to pay the duty of excise on the basis of such factors as may be relevant to production of such goods and at such rate as may be specified in the said notification, subject to such limitations and conditions, including those relating to interest or penalty, as may be specified in such notification.

(2) The Central Government may also specify by notification the manner of making an application for availing of the special procedure for payment of duty, the abatement, if any, that may be allowed on account of closure of a factory during any period, and any other matter incidental thereto.

15. Credit of duty on goods brought to the factory. - (1) Where any goods on which duty had been paid at the time of removal thereof are brought to any factory for being re-made, refined, re-conditioned or for any other reason, the assessee shall state the particulars of such receipt in his records and shall be entitled to take CENVAT credit of the duty paid as if such goods are received as inputs under the CENVAT Credit Rules, 2017 and utilise this credit according to the said rules.

(2) If the process to which the goods are subjected before being removed does not amount to manufacture, the manufacturer shall pay an amount equal to the CENVAT credit taken under sub-rule (1) and in any other case the manufacturer shall pay duty on goods received under sub-rule (1) at the rate applicable on the date of removal and on the value determined under sub-section (3) of section 3 or section 4 or section 4A of the Act, as the case may be.

Explanation:- The amount paid under this sub-rule shall be allowed as CENVAT credit as if it was a duty paid by the manufacturer who removes the goods.

(3) If there is any difficulty in following the provisions of sub-rule (1) and sub-rule (2), the assessee may receive the goods for being re-made, refined, re-conditioned or for any other reason and may remove the goods subsequently subject to such conditions as may be specified by the Principal Commissioner or Commissioner, as the case may be.

16. Warehousing provisions.- (1) The Central Government may by notification, extend the facility of removal of any excisable goods from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty.

(2) The facility under sub-rule (1) shall be available subject to such conditions, including penalty and interest, limitations, including limitation with respect to the period for which the goods may remain in the warehouse, and safeguards and procedure, including in the matters relating to dispatch, movement, receipt, accountal and disposal of such goods, as may be specified by the Board.

(3) The responsibility for payment of duty on the goods that are removed from the factory of production to a warehouse or from one warehouse to another warehouse shall be upon the consignee.

(4) If the goods dispatched for warehousing or re-warehousing are not received in the warehouse, the responsibility for payment of duty shall be upon the consignor.

17. Remission of duty.- (1) Where it is shown to the satisfaction of the Principal Commissioner or Commissioner, as the case may be, that goods have been lost or destroyed by natural causes or by unavoidable accident or are claimed by the manufacturer as unfit for consumption or for marketing, at any time before removal, he may remit the duty payable on such goods, subject to such conditions as may be imposed by him by order in writing:

Provided that where such duty does not exceed ten thousand rupees, the provisions of this rule shall have effect as if for the expression "Principal Commissioner or Commissioner, as the case may be ", the expression "Superintendent of Central Excise" has been substituted:

Provided further that where such duty exceeds ten thousand rupees but does not exceed one lakh rupees, the provisions of this rule shall have effect as if for the expression "Principal Commissioner or Commissioner, as the case may be", the expression "Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be", has been substituted:

Provided also that where such duty exceeds One lakh rupees but does not exceed five lakh rupees, the provisions of this rule shall have effect as if for the expression " Principal Commissioner or Commissioner, as the case may be ", the expression "Joint Commissioner of Central Excise or Additional Commissioner of Central Excise, as the case may be", has been substituted.

(2) The authority referred to in sub-rule (1) shall, within a period of three months from the date of receipt of an application, decide the remission of duty:

Provided that the period specified in this sub-rule may, on sufficient cause being shown and reasons to be recorded in writing, be extended by an authority next higher than the authority before whom the application for remission of duty is pending, for a further period not exceeding six months.

18. Rebate of duty.- Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfilment of such procedure, as may be specified in the notification.

Explanation.- For the purposes of this rule, "export", with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.

19. Export without payment of duty.- (1) Any excisable goods may be exported without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, as may be approved by the Principal Commissioner or Commissioner, as the case may be.

(2) Any material may be removed without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, for use in the manufacture or processing of goods which are exported, as may be approved by the Principal Commissioner or Commissioner, as the case may be.

(3) The export under sub-rule (1) or sub-rule (2) shall be subject to such conditions, safeguards and procedure as may be specified by notification by the Board.

20. Removal of goods for job work, etc.- Any inputs received in a factory may be removed as such or after being partially processed to a job worker for further processing, testing, repair, re-conditioning or any other purpose subject to the fulfilment of conditions specified in this behalf by the Commissioner of Central Excise having jurisdiction.

21. Special procedure for removal of semi-finished goods for certain purposes.- The Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be may by special order and subject to conditions as may be specified by the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, permit a manufacturer to remove excisable goods which are in the nature of semi-finished goods, for carrying out certain manufacturing processes, to some other premises and to bring back such goods to his factory, without payment of duty, or to some other registered premises and allow these goods to be removed on payment of duty or without payment of duty for export from such other registered premises.

22. Special procedure for removal of excisable goods for carrying out certain processes. - The Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, by special order and subject to such conditions as may be specified by him, permit a manufacturer to remove excisable goods manufactured in his factory, without payment of duty, for carrying out tests or any other process not amounting to manufacture, to any other premises, whether or not registered, and after carrying out such tests or any such other process may allow,-

(a) bringing back such goods to the said factory without payment of duty, for subsequent clearance for home consumption or export, as the case may be; or

(b) removal of such goods from the said other premises, for home consumption on payment of duty leviable thereon or without payment of duty for export, as the case may be:

Provided that this rule shall not apply to the goods known as "prototypes" which are sent out for trial or development test.

23. Removal of goods by a Hundred percent Export-Oriented Undertaking for Domestic Tariff Area.-

(1) Where any goods are removed from a hundred per cent export-oriented undertaking to domestic tariff area, such removal shall be made under an invoice by following the procedure specified in rule 11, and the duty leviable on such goods shall be paid by utilizing the CENVAT credit or by crediting the duty payable to the account of the Central Government in the manner specified in rule 8.

(2) The unit shall maintain in the form specified by notification by the Board appropriate account relating to production, description of goods, quantity removed, and the duty paid.

(3) The unit shall electronically submit a monthly return, in the form specified, by notification, by the Board, to the Superintendent of Central Excise, within ten days from the close of the month to which the return relates, in respect of excisable goods manufactured in, and receipt of inputs and capital goods in, the unit:

Provided that the Central Board of Excise and Customs may, by an order extend the period by such period as deemed necessary under the circumstances of special nature to be specified therein.

(4) The proper officer may on the basis of information contained in the return filed by the unit under sub-rule (3), and after such further enquiry as he may consider necessary, scrutinise the correctness of the duty assessed by the assessee on the goods removed, in the manner to be prescribed by the Board.

(5) Every assessee shall make available to the proper officer all the documents and records for verification as and when required by such officer.

(6) Where the return is submitted under sub-rule (3) by the assessee after the due date as mentioned in that sub-rule, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each return.

(7) An assessee, who has filed a return in the form referred to in sub-rule (3) within the date specified under that sub-rule, may submit a revised return by the end of the calendar month in which the original return is filed.

Explanation.- Where an assessee submits a revised return under this sub-rule, the “relevant date” for the purpose of recovery of Central Excise duty, if any, under section 11A of the Act shall be the date of submission of such revised return.

24. Access to a registered premises.- (1) An officer empowered by the Principal Commissioner or Commissioner, as the case may be in this behalf shall have access to any premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every assessee, an importer who issues an invoice on which CENVAT credit can be taken, first stage and second stage dealer shall furnish to the officer empowered under subrule (1), a list in duplicate, of all the records prepared and maintained for accounting of transaction in regard to receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and all the financial records and statements (including trial balance or its equivalent).

(3) Every assessee, an importer who issues an invoice on which CENVAT credit can be taken, first stage and second stage dealer shall, on demand make available to the officer empowered under sub-rule (1) or the audit party deputed by the Principal Commissioner or Commissioner, as the case may be or the Comptroller and Auditor- General of India, or a cost accountant or chartered accountant nominated under section 14A or section 14 AA of the Act,-

(i) the records maintained or prepared by him in terms of sub-rule (2);

(ii) the cost audit reports, if any, under section 148 of the Companies Act, 2013 (18 of 2013); and

(iii) the income-tax audit report, if any, under section 44 AB of the Income-tax Act, 1961 (43 of 1961),

for the scrutiny of the officer or the audit party or the cost accountant or chartered accountant, within the time limit specified by the said officer or the audit party or the cost accountant or chartered accountant, as the case may be.

25. Power to stop and search.- Any Central Excise Officer, may search any conveyance carrying excisable goods in respect of which he has reason to believe that the goods are being carried with the intention of evading duty.

26. Power to detain or seize goods.- If a Central Excise Officer, has reason to believe that any goods, which are liable to excise duty but no duty has been paid thereon or the said goods were removed with the intention of evading the duty payable thereon, the Central Excise Officer may detain or seize such goods.

27. Return of records.- The books of accounts or other documents, seized by the Central Excise Officer or produced by an assessee or any other person, which have not been relied on for the issue of notice under the Act or the rules made thereunder, shall be returned within thirty days of the issue of said notice or within thirty days from the date of expiry of the period for issue of said notice:

Provided that the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, may order for the retention of such books of accounts or documents, for reasons to be recorded in writing and the Central Excise Officer shall intimate to the assessee or such person about such retention.

28. Confiscation and penalty.- (1) Subject to the provisions of section 11 AC of the Act, if any producer, manufacturer, registered person of a warehouse, or an importer who issues an invoice on which CENVAT credit can be taken, or a registered dealer,

(a) removes any excisable goods in contravention of any of the provisions of these rules or the notifications issued under these rules; or

(b) does not account for any excisable goods produced or manufactured or stored by him; or

(c) engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act; or

(d) contravenes any of the provisions of these rules or the notifications issued under these rules with intent to evade payment of duty,

then, all such goods shall be liable to confiscation and the producer or manufacturer or registered person of the warehouse, or an importer who issues an invoice on which CENVAT credit can be taken, or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (c) or clause (d) has been committed, or five thousand rupees, whichever is greater.

(2) An order under sub-rule (1) shall be issued by the Central Excise Officer, following the principles of natural justice.

29. Penalty for certain offences.- (1) Any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or two thousand rupees, whichever is higher:

Provided that where any proceeding for the person liable to pay duty have been concluded under clause (a) or clause (d) of sub-section (1) of section 11AC of the Act in respect of duty, interest and penalty, all proceedings in respect of penalty against other persons, if any, in the said proceedings shall also be deemed to be concluded.

(2) Any person, who issues- (i) an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; or

(ii) any other document or abets in making such document, on the basis of which the user of said invoice or document is likely to take or has taken any ineligible benefit under the Act or the rules made thereunder like claiming of CENVAT credit under the CENVAT Credit Rules, 2017 or refund, shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is higher.

30. General penalty.- A breach of these rules shall, where no other penalty is provided herein or in the Act, be punishable with a penalty which may extend to five thousand rupees and with confiscation of the goods in respect of which the offence is committed.

31. Confiscated property to vest in Central Government.- (1) When any goods are confiscated under these rules, such thing shall thereupon vest in the Central Government.

(2) The Central Excise Officer adjudging confiscation shall take and hold possession of the things confiscated, and every Officer of Police, on the requisition of such Central Excise Officer, shall assist him in taking and holding such possession.

32. Disposal of confiscated goods.- Confiscated goods in respect of which the option of paying a fine in lieu of confiscation has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the Principal Commissioner or Commissioner, as the case may be may direct.

33. Storage charges in respect of goods confiscated and redeemed.- If the owner of the goods, the confiscation of which has been adjudged, exercises his option to pay fine in lieu of confiscation, he may be required to pay such storage charges as may be determined by the adjudicating officer.

34. Power to issue supplementary instructions.- The Board or the Principal Chief Commissioner or Chief Commissioner, as the case may be or the Principal Commissioner or Commissioner, as the case may be, may issue written instructions providing for any incidental or supplemental matters, consistent with the provisions of the Act and these rules.

35. Transitional provision. - (1) Any notification, circular, instruction, standing order, trade notice or other order issued under the Central Excise (No. 2) Rules, 2001 or Central Excise Rules, 2002, as the case may be, by the Central Government, the Central Board of Excise and Customs, the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be or the Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be, and in force at the commencement of these rules, shall, to the extent it is relevant and consistent with these rules, be deemed to be valid and issued under the corresponding provisions of these rules.

(2) References in any rule, notification, circular, instruction, standing order, trade notice or other order to the Central Excise (No. 2) Rules, 2001 or Central Excise Rules, 2002, as the case may be, and any provision thereof, on the commencement of these rules, be construed as references to the Central Excise Rules, 2017 and any corresponding provision thereof.

[F. No. 201/08/2017-CX.6]

(ROHAN)
Under Secretary to the Government of India