



Chapter 1 INTRODUCTION

India is a welfare state and therefore to carry out its constitutional obligation, it needs money and such money are being raised by way of taxes and duties.

Central Excise Act, 1944 (in short CEA) has been enacted pursuant to the provisions of Seventh Schedule to the Entry No. 84 of list I of Seventh Schedule to the Constitution which reads as follows : “*Duties of excise on tobacco and other goods manufactured or produced in India, except alcoholic liquors for human consumption, opium, narcotics, but including medical and toilet preparations containing alcohol, opium or narcotics.*”. Hence all such goods manufactured or produced in India will be covered by the law of Central Excise.

Section 3 of Central Excise Act (often called the ‘*Charging Section*’) states that ‘There shall be **levied and collected** in such manner as may be prescribed duties on all excisable goods (*excluding goods produced or manufactured in special economic zones*) which are produced or manufactured in India '. This definition of charging Section of Central Excise is vital, because it clearly signifies that there are four basic conditions for levy of Central Excise duty. (1) The duty is on goods. (2) The goods must be excisable. (3) The goods must be manufactured or produced and (4) such manufacture or production must be in India.

Other essential requirement is that the goods must be ‘*excisable*’. Section 2(d) of Central Excise Act defines Excisable Goods as ‘Goods specified in the Schedule to Central Excise Tariff Act, 1985 as being subject to a duty of excise and includes salt’. ‘Goods’ includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable [*Explanation* to section 2(d) of CEA].

The word “goods” has not been defined under the Central Excise Act. However, Article 366(12) of the Constitution defines ‘goods’ as ‘goods includes all materials, commodities and articles’. Further, the Sale of Goods Act defines that “**Goods**” means every kind of movable property other than actionable claims and money; and includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. In short, for purpose of levy of Excise duty, goods must satisfy two requirements i.e. (a) they must be movable **and** (b) they must be marketable. It may please be noted that ‘marketability’ has to be decided on the basis of the state in which it is produced.

Section 2(f) of Central Excise Act states that “*manufacture*” includes any process - (i) incidental or ancillary to the completion of manufactured product *or* (ii) which is specified in relation to any goods in the Section or Chapter notes of the Schedule to the Central Excise Tariff Act, 1985 as amounting to manufacture, *or* (iii) which, in relation to goods specified in third schedule to the Central Excise Act, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers or declaration or alteration of retail sale price or any other treatment to render the product marketable to consumer. [*clauses (ii) and (iii) are called deemed manufacture*]. - - Thus, definition of ‘manufacture’ is inclusive and not exhaustive.

Manufacture is possible at intermediate stage also. If a product which is complete, identifiable and which can be sold in market comes into existence during the manufacturing process at intermediate stage, it will amount to ‘manufacture’ and will be dutiable even if it is not sold and it is used within the same factory captively.

A job worker who is engaged in the manufacture / production of goods on behalf of other person, is also a ‘manufacturer’ within the meaning assigned to it under Section 2(f) of the CEA.



Some of the excise duties in force are illustrated below:

- (1) BASIC EXCISE DUTY TO BE TERMED AS CENVAT -
- (2) EDUCATION CESS &
- (3) SECONDARY HIGHER EDUCATION CESS ON EXCISE DUTY
- (4) NATIONAL CALAMITY CONTINGENT DUTY
- (5) ADDITIONAL DUTY ON GOODS OF SPECIAL IMPORTANCE
- (6) ADDITIONAL DUTIES OF EXCISE ON TEXTILES AND TEXTILE ARTICLES
- (7) DUTIES UNDER OTHER ACTS -
- (8) DUTY ON MEDICAL AND TOILET PREPARATIONS -.
- (9) ADDITIONAL DUTY ON MINERAL PRODUCTS -

Apart from the above, specific duties are also prescribed for certain specified commodities where the value of goods has no bearing in determining the duty liability.

In terms of Section 3(A) of the Central Excise Act, compounded levy is imposed on manufacturers of certain specified tobacco products. In these cases, duty liability will be determined based on the capacity of production. Presently, Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 is in force which covers products such as Pan Masala, Gutka, etc.

For effective implementation of the Central Excise Act, Central Excise Rules, 2002 has been issued to deal with various procedures to be followed by both the departmental officer and also the registered assessee.

In order to facilitate the assessee in correct determination of the classification of his excisable goods and for applying the applicable rate of duty read with exemption notification, if any, in respect of excisable goods manufactured / produced by him, Central Excise Tariff Act, 1985 has been promulgated which contains various schedules listing the goods with tariff codes upto 8 digit level and their standard / preferential rate of duty. For example, a company is engaged in the manufacture of mobile handset, then the classification of the said goods would be under the Tariff Heading 8517 12 90 of the Central Excise Tariff Act.

Keeping in view the public interest, the Government has powers to increase or decrease the rate of duty or tariff value or any other duty leviable under the Central Excise law. Grant of full or partial or conditional exemption from duty and/ or observance of prescribed procedure is also made keeping in view the public interest. Such changes are brought out by way of Notification under Section 5A of the Central Excise Act. Though, these changes are generally made in Union Budget of each financial year, intermittent changes are always permitted under the law. Tariff and Non-Tariff are the two types of notifications issued in relation to rate of duty and other allied matters.

The Central Excise Act is being enforced by the union Ministry of Finance (Department of Revenue) through Central Board of Excise & Customs and its field formations such as Chief Commissioner's Zone / Directorates/Commissionerate/Division/ Range.

In so far as Bangalore Central Excise Zone is concerned, it is headed by the Chief Commissioner of Central Excise and has the jurisdiction over the following 3 Commissionerates which are headed by Commissioner of Central Excise:

- (1) Commissioner of Central Excise, Bangalore I Commissionerate
- (2) Commissioner of Central Excise, Bangalore II Commissionerate
- (3) Commissioner of Central Excise, Bangalore III Commissionerate



The jurisdiction of the Commissionerate is on territorial basis and each Commissionerate has specified Divisions / Ranges in their jurisdiction for interfacing with the manufacturers (also known as assessee). The present jurisdiction of the Zone as well as the Commissionerate / Division / Range have been set out in Trade Notice No. 1/2002 dated 23.07.2002.

Based on the above territorial demarcation, if for example a factory of an assessee is located in Whitefield Industrial Area, then his jurisdiction details will be as under:

Commissionerate : BANGALORE I (09)
Division : BANGALORE IV (04)
Range: WHITEFIELD (090408)

The above details of Commissionerate / Division / Range mapping has to be shown in the specified Excise invoices for removal / clearance of excisable goods from the registered premises besides being used for others purposes such as registration, filing of returns, etc.

The following are some of the statutes being dealt on day to day basis by the department:

- (i) Central Excise Act, 1944
- (ii) Central Excise Tariff Act, 1985
- (iii) Central Excise Rules, 2002
- (iv) Central Excise (Appeals) Rules, 2001
- (v) Cenvat Credit Rules, 2004
- (vi) Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000
- (vii) Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001
- (viii) Authority for Advance Rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005
- (ix) Central Excise (Advance Rulings) Rules, 2002
- (x) Central Excise (Compounding of Offences) Rules, 2005
- (xi) Central Excise (Determination of Retail Sale Price of Excisable Goods) Rules, 2008
- (xii) Customs and Central Excise Duties and Service Tax Drawback Rules, 1995
- (xiii) Central Excise (Removal of Difficulties) Rules, 2005
- (xiv) Central Excise (Settlement of Cases) Rules, 2007
- (xv) Consumer Welfare Fund Rules, 1992
- (xvi) Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982
- (xvii) Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008

Chapter 2 REGISTRATION

In the fiscal law provisions, be it direct tax or indirect tax, every person who is liable to pay tax or duty, has to first get registered and obtain a registration certificate containing inter alia the details of registered premises, commodities registered for production, etc. This is mandatory as the tax / duty concessions, etc. are applicable to only those who are registered with the concerned department and paying prescribed tax.

Section 6 of the Central Excise Act, 1944 stipulates compulsory registration for (a) every manufacturer or producer of excisable goods and (b) purchase or sale whether on his own account or as broker or commission agent or for storage of any specified goods included in the first schedule to the Central Excise Tariff Act.



Rule 9 of the Central Excise Rules, 2002 also mentions that every person who produces, manufacturers, carries on trade, holds private store rooms or warehouse or otherwise uses excisable goods shall get, registered. Under this Rule, powers are vested with the Board to issue any notification (a) specifying conditions and procedures for registration and (b) granting exemption to person or class of person from application of the Rule.

Notification No. 35/2001-CE (NT) dated 00.00.2001 so issued under aforesaid Rule 9, contains the requirements of registration and they are :

- Separate registration is required for each separate premises, if person has more than one premises
- If business is transferred, fresh registration has to be obtained by the transferee since registration is not transferable
- Change in constitution of partnership firm or company should be intimated within 30 days of change for amending the registration certificate
- If the registered manufacturer or any other registered person ceases to carry on operation for which he is registered, he shall surrender the registration forthwith after clearing dues, if any
- Registration can be revoked or suspended if the holder of registration or any person his employment commits breach of any of the provisions of Central Excise Act or the Rules or has been convicted under Section 161 of Indian Penal Code. Thus registration once issued is permanent unless suspended, revoked or surrendered

The application for registration in the prescribed form shall be accompanied by self attested document viz copy of PAN card issued by the Income Tax department. For details please visit ACES website and follow the instructions given therein.

There is no fee or any other charges to be paid for obtaining registration. Registration Certificate issued by the department shall be prominently displayed in conspicuous part of the registered premises. Further, the registration number also known Excise Control Code (ECC) Number generated on the basis of PAN number, has to be compulsorily (1) printed on all invoices issued for clearance or sale of excisable goods from the registered premises. (2) mentioned in the duty paying documents and (3) quoted in the tax returns.

Manufacture without applying for registration is an offence under Rule 25 (1) of the Central Excise Rules and hence penalty as specified in the Rule can be imposed besides ordering confiscation of the offended goods. It is also an offence under the provisions of Section 9 of the Central Excise Act and the offender is liable for prosecution as prescribed under the law.

CHAPTER 3 LEVY AND PAYMENT OF DUTY

As mentioned in the earlier chapter, levy of excise duty is related to the act of



‘manufacture’ and the incidence of duty accrues on clearance of such manufactured goods. ‘Taxable event’ is an event, which on its occurrence creates or attracts the liability to tax. It is said that tax becomes payable when liability to pay tax arises and liability to pay tax arises by the happening of the taxable event. Thus, taxable event for Excise Duty – will be the completion of act of manufacture. The Courts have held that sale or the ownership of the end-product is absolutely irrelevant for the purposes of ‘taxable event’ under Central Excise’.

It may be noted that Rule 4(1) of Central Excise Rules makes it clear that excise duty is payable by the manufacturer or producer of excisable goods at the time of removal. In case where goods are allowed to be stored in a warehouse without payment of duty, the duty liability is of the person who stores the goods. Rule 4(1) makes it clear that goods can be removed from the place where they are manufactured or produced or warehoused, only on payment of duty. Rule 20 of Central Excise Rules permit warehousing of certain goods in warehouses without payment of duty. In such cases, the duty liability is on the person who stores the goods.

Levy of duty is dependent on two important factors namely classification of the product in the schedule to the Central Excise Tariff and the effective rate of duty based on relevant notification covering the product in question.

Classification is done on basis of entries in the schedules to the Central Excise Tariff Act. Goods are classified in 20 Sections in the said Tariff. Each section consists of various chapters. Tariff is based on 8 digit classification of goods. First two digits indicate chapter, next two digits indicate heading and next two are sub-classification. Single, double and triple dashes are used to denote the groups and sub-groups. Eight digit classifications are termed as ‘tariff item’. Rate of duty is indicated only against ‘tariff item’. Classification is also done on basis of General Interpretative Rules which are part of Tariff. Titles of sections and chapters are only for reference. Section notes and chapter notes have overriding effect in certain cases.

Though against each entry in the schedule to tariff, rate of duty is specified, for effective rate, the relevant notification has to be referred to for payment of such effective rate of duty.

Once the tariff classification and effective rate of duty applicable is determined, the next action would be assessment to duty. Rule 6 of the Central Excise Rules obligates the assessee himself to assess the duty payable on goods manufactured by him. However exception is made with regard to Cigarettes where the Superintendent or Inspector of Central Excise in charge of the unit shall assess the duty payable before removal by the assessee.

Presently, the rate structure envisaged in the Tariff emphasizes on *ad valorem* basis as it is expected to represent the actual transaction taking place between the manufacturer and buyer of the excisable goods.

Section 4 of the Central Excise Act, 1944 refers to ‘valuation of excisable goods’ at the time of their removal for the purpose of levy of duty on *ad valorem* basis. It is known as ‘transaction value’. According to the said Section, transaction value is the price paid or



payable for the goods at the time and place of removal, 'by reason of, or in connection with sale', inclusive of all expenses but excluding taxes. Another important aspect of 'transaction value' is that the goods must be sold at the time and place of removal where buyer is unrelated to seller and price is the sole consideration of such transaction. Thus, any amount charged is includible in assessable value if it is by reason of or in connection with sale of such goods.

In case the goods are required for further consumption in the same factory of manufacture for further production or at another place of the same, duty is payable on basis of cost of production plus 10%. Cost of production shall be calculated on the basis of CAS - 4 Standards.

Unless otherwise stated, goods manufactured by job worker shall not be leviable to duty since the principal manufacturer would have undertaken to pay such duty on the goods produced by the job worker. If in case job worker is required to pay duty, then valuation is done in the manner prescribed under Rule 10A of the said Valuation Rules,

Section 4A of the CEA provides for assessment of duty based on retail sale price printed on the excisable goods. The duty liability will be on the RSP less abatement as provided in the relevant notification

Since clearances of excisable goods will be continuous throughout the month, a provision has been made for consolidated monthly payment of duty. Such consolidated payment of duty by setting off the credit availed on inputs, capital goods and input services as per the Cenvat Credit Rules, will have to be made by 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. In the case of clearances made in the month of March of any financial year, such payment has to be made by the 31st day of March itself.

Assesseees who are availing the benefit of duty concession based on value of clearances (commonly known as SSI turnover) 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.

In respect of electronic payment through internet banking, detailed instructions have been given in CBEC Circular No. 919/09/2010 – CX dated 23.03.2010 & No. 956/17/2011- CX dated 28.09.2011.

CHAPTER 4 REMOVAL OF GOODS

Once the assessment of goods ready for clearance is complete in the manner discussed in previous chapter, assessee can raise an invoice for clearance or despatch outside their factory premises. Invoice format is not prescribed in the Central Excise rules. However as per Rule 11 of the Central Excise Rules, the invoice shall inter alia contain the details like registration number, address of the concerned Central Excise Division / Range,



location code, name of the consignee, description, classification, time and date of removal, mode of transport and vehicle registration number, rate of duty, exemption notification number, if any, quantity and value of the goods and the duty payable thereon. Please note that all such invoices shall be serially numbered and pre printed and no hand written number is permissible. If in case the invoice is generated through computer, then serial number has to be printed at the time of preparation and printing of the invoice itself. It has to be ensured that computers do not generate same invoice number more than once as it would lead to removal of excess goods without payment of duty, etc.

Rule 11 clearly specifies that invoice shall be prepared in triplicate and marked as under :

- Original for buyer
- Duplicate for transporter
- Triplicate for assessee

Only the above three copies of invoice will be valid for purpose of assessment, removal, payment and collection of duty from the buyer. If any extra copies are required, assessee has to ensure that they are marked as 'Not for CENVAT purpose. Assessee has to ensure that only one set of invoice book is in use at a time and the person who is eligible to sign or authenticate the invoices are given in Rule 11(5) of the Central Excise Rules. Before making use of the invoice book, the serial numbers of the same shall be intimated to the jurisdictional Superintendent of Central Excise in writing.

Cancellation of invoices should be avoided as far as possible. If there are any invoices cancelled and not put into use, the details of the same has to be intimated to the jurisdictional Range Officer within the specified time limit. Attestation or endorsement of invoice in favour of another person for any purpose is not permissible.

The amount of duty being shown in the invoices shall be rounded off to the nearest rupee as per Section 37D of the Central Excise Act and the duty amount so rounded off should be mentioned both in figures and words.

CHAPTER 5 RECORDS & RETURNS

Rule 10 of the Central Excise Rules prescribes maintenance of Daily Stock Account (commonly known as RG-1 register). The assessee on their own have to maintain private accounts on all other important aspects such as receipt, purchase, manufacture, storage, sales or delivery of the goods. Rule 9(6) of the Cenvat Credit Rules, 2004 envisages maintenance of proper accounts in respect of credit availed inputs, capital goods and input services.

In terms of Rule 22, every registered assessee has to intimate the list of such records maintained to the jurisdictional office.

The following are the prescribed returns for all registered assessee under the Central Excise Rules.

Name of Return	Description of the return	Who is required to file	Frequency /due date
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ER-1	Return by large units	Manufacturers other than SSI	10th of the following month
ER-2	Return by EOU	EOU units	10th of the following month
ER-3	Quarterly Return by SSI	SSI concession units	10th of next month of the quarter
ER-4	Annual Financial Information Statement	Assesseees who have paid combined duty of Rs one Crore or more per annum	Annually by 30th November of succeeding year
ER-5	Information relating to principal inputs	Assesseees who have paid combined duty of Rs one Crore or more per annum	Annually, by 30th April of the succeeding year
ER-6	Monthly return of receipt and consumption of each of Principal Inputs	Assesseees who are filing ER-5 return	10th of following month
ER-7	Annual Installed Capacity Statement	All assesseees, except those manufacturing biris, matches RCC pipes	Annually, by 30th April for the previous year
ER - 8	Return of clearances of goods with concessional duty	All assesseees paying 1% duty on specified 130 commodities	10 th of the following month of quarter
Form as per Notification No. 73/2003-CE(NT)	Quarterly return of Cenvatable Invoices issued	Registered dealers	By 15th of following month

E-filing facility is available for the assessee enabling him to file the returns online in a hassle-free manner. The registered assesseees, who are desirous of availing the facility of e-filing of the return, may make an application in this regard to their jurisdictional AC/DC indicating their e-mail address and postal address for communication to which the user log-in-ID, Password and the location code are to be intimated. After verification of the particulars, Systems Manager of the Commissionerate Hqrs. office will communicate the initial password to the assessee. The 15 digit R.C. Number will serve as assessee's user-ID. The assessee can thereafter access the e-filing website: <http://exciseandservicetax.nic.in> through internet and e-file the return. The main advantages of e-filing would that it is



available round the clock, can be filed from anywhere anytime and there would not be any necessity to visit the Range Office unless there is any technical problem in getting the data uploaded. For detailed instructions on the subject matter, CBEC Circular No.955/16/2011-CX dated 15.09.2011 may be referred to.

CHAPTER 6 CENVAT CREDIT

New Cenvat Credit Rules 2004 introduced with effect from 10-9-2004 is integrated rules covering the Cenvat Credit scheme for manufacturers and service providers. As per the Rules, an assessee can avail credit of duty paid on inputs, capital goods and input services. The inputs or capital goods or input services shall be used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production. Likewise, the input credit is also permissible for providing any output service.

Input service includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, inward transportation of inputs or capital goods and outward transportation upto the place of removal.

The aforesaid credit can be utilized for payment of excise duty on final products and service tax on output services. Credit taken on input services can be used for payment of excise duty and vice versa. The normal usage / utilization of credit is in respect of following activities:

- a) payment of duty of excise on any final product or
- b) for paying an amount equal to Cenvat credit taken on inputs if inputs itself are removed as such or after being partially processed, or
- c) to pay an amount equal to the cenvat credit taken on capital goods if they are removed as such or
- d) paying an amount under sub rule (2) of rule 16 of Central Excise rules 2002 or
- e) Service tax on any output service.

A manufacturer or provider of output service is eligible to take credit of the following duties.

- 1) Excise duty
- 2) Special Excise duty
- 3) Additional Excise duty under Section 3 of the Additional Duties of Excise (Textile and Textiles Articles) Act, 1978



- 4) Additional duty of Excise
- 5) National Calamity Contingent duty
- 6) Education Cess
- 7) Additional custom duty
- 8) Additional Excise duty leviable under section 157 of the finance act 2003
- 9) Service tax
- 10) Education Cess on taxable services

Transitional provision in the Rules allows a manufacturer to take credit of the duty paid on inputs lying in stock or in process or inputs contained in the final products lying in the stock on the date on which any goods manufactured by the said manufacturer becomes excisable or dutiable on account of any change in taxation. Similar provision also exist for output services as and when they are brought into tax net.

Some of the important features of the Rules are as follows:

- (1) available only on receipt of the materials into the registered premises alongwith prescribed invoice (duplicate copy for transportation), evidencing payment of excise duty
- (2) only 50% of credit available in respect of capital goods in the first year of its purchase
- (3) simultaneous availment of capital goods credit and depreciation under Section 32 of the Income Tax Act, 1961 is not permissible
- (4) credit availed inputs can be sent to job worker for further processing and return.
- (5) credit in respect of input service will be allowed on or after the day which payment towards value of the input service is made
- (6) no input credit is available in respect of duty paid on HSD and Petrol
- (7) no input credit admissible if the final product or output service is exempt or chargeable to NIL rate of duty / tax
- (8) subject to provisions of Rule 10 transfer of credit admissible if the unit is shifted or sold or leased or amalgamated with another company

A proper account of receipt, issue and consumption of inputs / capital goods / inputs services has to be maintained for the purpose of availing / utilization of credit. The relevant details of the same has to be furnished in the prescribed return discussed in previous chapter.

CHAPTER 7 SMALL SCALE EXEMPTION

Certain duty concession have been given to small scale industries vide Notification No. 8/2003-CE dated 1-3-2003. There is no requirement of any SSI certificate for availing the benefit of said notification. According to the notification, the value of first clearances upto Rs. 150 Lakhs is exempted from payment of duty and this duty exemption upto Rs. 150 lakhs will be available for all such small scale units whose annual turnover is less than Rs. 4 crores in the previous financial year. In other words, if the value of clearances of a SSI unit is say Rs. 380 Lakhs in the financial year 2011-12, then during the financial year 2012-13, no duty is chargeable on value of first clearances amounting to Rs. 150 Lakhs. All clearances in excess of the said limit of Rs. 150 lakhs will be chargeable to duty and the unit has to follow all the prescribed procedure including obtaining of registration, payment of



duty filing of returns, etc. Cenvat credit will be available on inputs and input services once the said limit is crossed.

For the purpose of determining the exemption limit of Rs 400/150 lakhs – (a) turnover of exports, deemed exports, turnover of non-excisable goods, goods manufactured with other's brand name and cleared on full payment of duty, job work done under notification No. 214/86-CE, 83/94-CE and 84/94-CE, processing not amounting to manufacture and traded goods is to be excluded (b) value of intermediate products (when final product is exempt under notification other than SSI exemption notification), branded goods manufactured in rural area and cleared without payment of duty, export to Bhutan and goods cleared on payment of duty is to be included (c) value of turnover of goods exempted under notification (other than SSI exemption notification or job work exemption notification) is to be included for purpose of limit of Rs 400 lakhs, but excluded for limit of Rs 150 lakhs.

SSI units eligible for SSI concession are required to pay duty on quarterly basis and file quarterly return in form ER-3.

Turnover of all units belonging to a manufacturer will be clubbed for calculating SSI exemption limit. If two SSI units are genuinely independent, they are eligible for SSI exemption, even if some or even most partners/directors are common. Financial control, flow back of profits and unity of interest are the major tests to determine whether turnover of two units is required to be clubbed.

CHAPTER 8 DEMANDS & RECOVERY

If duty is short paid or not paid or erroneously refunded, show cause notice can be issued under Section 11A(1) of CEA within one year from the 'relevant date'. In case of allegation of suppression of facts, willful mis-statement, fraud or collusion, the show cause notice can be issued upto extended period of five years from the relevant date of cause of action.

Show cause notice shall be issued by authority who is empowered to adjudicate the case. Such notices will be adjudicated by the adjudicating authority after observing the principles of natural justice including grant of personal hearing for a maximum of 3 times. The order in original will be self contained and issued to the person to whom notice has been issued and shall be appealable before the appropriate authority mentioned in the preamble of the order.

The adjudication levies including interest, fine and penalty if any, imposed in the order shall liable to be paid within the prescribed time limit. Provisions of Section 11 AB and Section 11AC of the Central Excise Act, 1944 may be referred to.

Penalty can include confiscation of the offending goods apart from imposition of mandatory penalty equal to the amount of duty payable on the said contravening goods. *Mens rea* (guilty mind) is not required for imposition of penalty. Confiscated goods can be released on payment of redemption fine depending upon the facts of the case. Personal



penalty can also be imposed on partner, director, employee, transporter or driver or any other person if it is proved that they were intentionally involved in the commission of offence leading to evasion of duty.

If in case the party to adjudication proceedings fails to honor the order or fails to get any stay of the said order, action to recover the government dues can be initiated in terms of Section 11 of the Central Excise Act, 1944 read with Section 142 of the Customs Act, 1962 as made applicable to Central Excise provisions and such action *inter alia* includes attachment of both moveable and immovable property.

CHAPTER 9 EXPORTS

Exports are free from taxes and duties. Thus, all excisable goods can be exported without payment of excise duty under bond under Rule 19 of the Central Excise Rules, 2002 or under claim of rebate of duty under Rule 18 *ibid* excepting in the case of export to Bhutan which is required to be made on payment of duty

In order to obviate the difficulty of getting the services of officer from the department for sealing of containers meant for export, self sealing permission is granted to all registered manufacturers who are not claiming any export benefits. For details CBEC circular No. 860/18/2007 CX dated 22.11.2007 and No. 952/13/2011 dated 08.09.2011 may be referred to.

Excisable Goods should be exported under cover of invoice and ARE-1 form. Export should be made within 6 months from date of clearance from the factory. A merchant exporter has to execute a bond and obtain CT-1 for procuring duty free goods from the manufacturer, for eventual export. Export returns has to be cleared on payment of duty for home consumption and any benefit of rebate availed at the time of export has to be refunded with appropriate interest.

Rebate under Rule 18 can be either of duty paid on final products or duty paid on inputs used in the exported goods but not both. Detailed procedure has been provided in Notification No. 19/2004-CE (NT) dated 06.09.2004 (as amended).

