

CENTRAL EXCISE

CENTRAL EXCISE ACT 1944

CENVAT CREDIT RULES 2004

Central Excise Valuation Rules 2004

- In Economics **indirect tax** is the other term for duty.
- Excise duty is a **duty on production or manufacture of goods within India**.
- The duty is levied **on manufacturer or producer** of goods in respect of goods produced or manufactured by him.
- Immaterial whether goods are **sold or not**.

Types of Excise duties:

Duties under Central Excise Act –Basic duty and special duty of excise

- 1) **Basic excise duty** to be termed as CENVAT
- 2) **Special duty of excise**—luxury goods like cars air conditioner, soft drinks and pan masala are levied.
- 3) **Excise duty in case of clearance by EOU/ SEZ**—they are expected to export their goods. But if they clear their goods in domestic tariff area excise duty at import duty rate shall be charged.
- 4) **Additional duty on goods of special importance**— to avoid multiple level taxes, revenue from this duty is shared among state govts. Eg.--sugar , silk, wool etc.

Excise duty—12% + Education cess 2% +Secondary and Higher Education cess 1%= 12 % +0.24% +0.12% =12.36%.

Definitions—

- ❖ **Excisable goods—**
 - Goods which are subject to levy of duty specified in **Schedule to Central Excise Tariff Act** and includes salt.
 - **Movable** --The goods should be Movable(not attached to ground)

- **Marketable**(utility value and exchangeability) capable of being bought and sold.

Excisable—gas, steam, electricity, computer software.

Not excisable—road, dam, land. Leviable even if consumed within factory but must be marketable when consumed.

❖ **Manufacture**—

- Process incidental to completion of manufactured product and specified in in CETA as amounting to manufacture.
- Transformation into different commercial commodity –usable+ marketable+movable.
- Sale not essential.
- Examples—wheat to wheat floor, assembly of TV., fruit pulp to fruit drink etc.

❖ **Taxable event**—

- There must be **excisable goods**.
- Goods must be **movable** and
- Goods must be **marketable**
- Goods should be **produced / manufactured** .—produced—tobacco, tea, coal.
- Manufactured **in India**-Goods should be produced / manufactured **in India**.

❖ **Exempt goods**—Produced in Free Trade zone (Kandla FTZ, Santacruz Electronics export processing zone) or 100% EOU.

CETA classifies all goods under 20 categories.

Excise Duty is payable on the following basis—

- a) **Specific Duty**—payable on volume, length, weight etc—more the length of cigarette more the duty.
- b) **Ad-Valorem Duty**—basis of value—more the price more the duty.
- c) **Value based on MRP**—Maximum Retail Price—Assessable value for duty is MRP less abatement allowed.

- d) **Compounded Levy Duty**-- duty for specified period on the basis of size of equipments used . Applicable to unorganized sector which do not keep proper record of production-- like no. of powerlooms used.
 - e) **NCCD—National Calamity Contingent Duty**—currently charged on branded chewing tobacco, , cigarettes , domestic cude oil, pan masala containing tobacco.. Duty is for general revenue and cess for definite purpose.
 - f) **Education cess & Secondary and Higher Education cess**
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Types of Values to be considered :

- **Assessable Value**— The value on which duty is payable as a % . More the value more the duty. Generally price mentioned on **Bill/ Invoice** is assessable value. In most cases , Transaction value as per Sec 4 of CE Act is assessable value; this is covered u/s4A.
- **Tariff value**— Tariff value is prescribed u/s 3(2) .If tariff value is **fixed by govt.** for that class of goods, that tariff value shall be called as assessable value. Tariff value is the notional value fixed by the govt. Example—Bidi manufactured by hand and by machine have different tariff values.
- **Value based on MRP**—this is covered u/s4A. MRP shall be called as assessable value. For goods covered under MRP , Assessable value= MRP - Abatement.
- **Transaction Value--** Transaction value means price payable for the goods . It is the selling price/invoice price of goods. Transaction value is relevant only when goods are sold at the time and place of removal. It includes **amount that buyer is liable to pay for**—advertisement /publicity, marketing/selling expenses, storage, warranty, commission. But it excludes --excise duty, sales tax, trade discount, interest payable, freight outward. Packing charges , Design and Enginering charges , free sales service in warranty period,loading and handling charges-- are part of Transaction value.

Duty is charged on transaction value if the following conditions are satisfied:

- a) **Goods are sold at factory**—goods are to be assessed at ex-factory price.
- b) **Delivery at place of removal**

- c) **Assessee and buyer are not related**—to avoid paying excise duty a mfr. may sell goods at lower price to a relative to have a low assessable value, and the relative then subsequently shall sell at higher price. To avoid this assessee and buyer should not be related or should not be interconnected undertakings.
- d) **Price should be sole consideration for sale**—Each transaction should be at arms length (without pressurization) and on principal to principal basis.

Situations where transaction value does not apply—

- 1) When sales is through related persons or interconnected undertakings
 - 2) Goods consumed captively—within factory
 - 3) Goods issued as free samples
 - 4) Goods removed for testing by agencies
 - 5) Removal from factory to depot / consignment agent
 - 6) When tariff value is prescribed u/s 3
 - 7) When duty is based on MRP
 - 8) When duty is at specified rate eg. Per kg., per litre etc.
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Central Excise Valuation Rules

In case Transaction Value does not apply then Central Excise Valuation Rules shall apply-

- 1) When goods are given as free samples—since goods are removed from factory excise duty on samples is also payable.
 - 2) When goods are sold for delivery at a place other than the place of removal(factory), then assessable value shall be the transaction value excluding cost of transportation, provided transportation cost is separately charged.
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CENVAT Credit

- Cenvat provides relief to the manufacturer on the excise duty payable by him.
- Duty paid on materials (inputs) purchased which are used for producing finished products is deducted from duty payable on goods produced.
- Inputs means all goods other than light diesel oil, high speed diesel oil and motor spirit(petrol). Inputs include—paint or packing material, fuel/steam used for mfr., lubricating oils, greases and coolants.

- Thus according to CENVAT CREDIT Rules 2004- Manufacturer can take credit of duty paid on the input /purchases used for producing the excisable goods.
- Capital goods are considered as inputs if they are used as part or components in manufacture of final products. Otherwise input credit excludes capital goods.
- **Capital goods** mean—goods used for the manufacture of final products or for providing output service, but does not include computer and equipments used in office.

Utilisation of credit—credit of basic excise duty, service tax and additional custom duty paid can be utilised (deducted) while paying basic excise duty. The credit can be used for payment of education cess but not vice versa ie. education cess cannot be utilised for payment of basic excise duty. Education cess on excisable goods and on taxable services can be utilised for payment of education cess on excisable goods and on taxable services.

Eligibility of Cenvat Credit—Basic conditions for taking Cenvat Credit—

- There should be manufacture
- Inputs (goods) should be used in manufacture of final products
- Input service should be used in manufacture of final products
- No credit if final product is exempt from duty
- Credit is available on the basis of specified documents only

Conditions for allowing Cenvat credit (sec 4):

Rule4(1)-- Cenvat credit is available as soon as inputs are received in the factory of the manufacturer.

Rule4(2)— Cenvat credit for capital goods

- Cenvat credit for capital goods is allowed upto 50% in the year capital goods are received(purchased) and balance 50% in subsequent years.
- 100% credit can be taken in 1st year itself in case of small scale mfrs. (clearance-goods produced is less than 4 crores).
- No credit available if final product is exempt from duty/ taxfree goods .
- Input credit not available for computer, equipments used in office, high speed diesel oil, motor spirit(petrol).

Rule3- Eligible duties--Mfr/producer can take credit of

- i) Excise duty
Special Excise duty
- ii) Additional Excise duty on textile articles

- iii) National Calamity Contingent duty
- iv) Education cess on excise duty
- v) Education cess
- vi) Additional custom duty
- vii) Service tax
- viii) Education cess on Service tax

Rule4(4) –

- Cenvat credit for capital goods is allowed even if the capital goods are acquired on lease, hire purchase or loan.
- But the assessee should not claim depreciation on excise portion of value of capital goods. Thus Mfr. Cannot enjoy the benefit of both depreciation as well as cenvat credit.

Rule4(5) —

- Inputs and capital goods can be sent out for job work but should be brought back within 180 days.
- If the goods are not returned within 180 days the credit shall be reversed .
- However credit can be retaken once the goods come back.(job work means processing, repairing, testing etc.)

Rule4(6) —

Cenvat credit is available on jigs, fixtures, moulds and dies even if sent to job worker for production of goods on behalf of mfr.

Rule4(7) —

Cenvat credit of input service is allowed only after payment towards value of service and service tax is made. Ie. Cenvat credit in respect of input service is allowed on/after the day on which the payment is made.

Rule 5 —

- If the goods or output service are cleared for exports and Cenvat credit cannot be availed ie adjusted against payment of excise duty, then cash refund of cenvat shall be made to the Mfr.
- Cash refund is possible only for EXPORT and not for home clearance
- Refund of duty shall not be allowed if the Mfr. or provider of output service avails Customs Duty drawback.

Rule 6—Cenvat credit shall not be allowed if input or input service is used for manufacture of exempted final products.

Central Excise Procedure

Registration—Sec 6 of CE Act provides that any person who is engaged in production /manufacture of specific goods shall get himself registered under this Act. Thus mfr. /dealer who wants to issue cenvatable invoices should be registered themselves. Excise records should be preserved for 5 years.

Exemption from Registration—

- i) Small scale mfrs.-Aggregate value of clearance (goods) Rs 150,00,000.
- ii) Person mfrs. goods chargeable at NIL rate of duty.
- iii) Person engaged in wholesale trade.
- iv) Consumers.

Records---- records to be maintained—cash book, sales register, purchase register,daily stock register, journal, ledger. Records of receipts and payments for input of services and output of services.Excise records should be preserved for 5 years.

Daily Stock Register—Particulars to be recorded—

- i) Description of goods mfrd.,
- ii) Opg. quantity of finished goods ,
- iii) Quantity of finished goods mfrd. during the day,
- iv) Quantity of finished goods removed from the factory during the day,
- v) Clg. quantity of finished goods at the end of the day,
- vi) Assessable value,
- vii) Amount of excise duty payable ,
- viii) Excise duty actually paid.

Payment of duty—

- When goods have been cleared from the factory , duty becomes payable.
- Duty is payable monthly ie 5th of following month.
- SSI units have to pay duty on quarterly basis within 10 days from close of quarter.

- In case of e-payment 6th of next month or 6th day of month following the quarter.
- In case of March duty shall be payable by 31st March itself.
- E-payment is mandatory in case assessee has paid Rs.10lakh or more excise duty in preceding financial year.
- TR-6 challan is used when payment is made in authorised bank.
- When payment is made by electronic mode , GAR7 form is used.

Returns—Return in ER-1 should be filed monthly to Central excise Authorities, before 10th of following month. SSI units have to file return in form ER-3 on quarterly basis within 10 days from close of quarter. Return to be filed in 6 copies. All excise returns to be filed electronically.
