

CENTRAL EXCISE RULES, 2002

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 (No. 2) Rules, 2001, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

RULE 1. Short title, extent and commencement. — (1) These rules may be called the Central Excise Rules, 2002.

(2) They extend to the whole of India

(3) They shall come into force from the 1st day of March, 2002.

RULE 2. Definitions. — 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 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 authorized 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;
- (ea) “large tax payer” means a person who, –
 - (i) has one or more registered premises under the Central Excise Act, 1944 (1 of 1944); or
 - (ii) has one or more registered premises under Chapter V of the Finance Act, 1994 (32 of 1994); and is an assessee under the Income-Tax Act, 1961 (43 of 1961), who holds a Permanent Account Number issued under section 139A of the said Act, and satisfies the conditions and observes the procedures as notified by the Central Government in this regard.
- (f) “notification” means the notification published in the Official Gazette;
- (g) “Tariff Act” means the Central Excise Tariff Act, 1985 (5 of 1986);
- (h) “warehouse” means any place or premises registered under rule 9; and
- (i) words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

RULE 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 Chief Commissioner of Central Excise, Commissioner of Central Excise 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.

RULE 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:

“(1A) Notwithstanding anything contained in sub-rule (1), every person who gets the goods, falling under Chapter 61 or 62 or 63 of the First Schedule to the Tariff Act, produced or manufactured on his account on job work, shall pay the duty leviable on such goods, at such time and in such manner as is provided under these rules, as if such goods have been manufactured by such person:

Provided that where any person had, instead of paying duty, authorized job worker to pay the duty leviable on goods manufactured in his behalf under the provisions of sub-rule (1A) as it stood prior to the publication of this notification, he shall be allowed to obtain registration any comply with the provisions of these rules within a period of thirty days from the date of publication of this notification in the Official Gazette.”

(2) Notwithstanding anything contained in sub-rule (1), where molasses are produced in a khandsari sugar factory, the person who procures such molasses, whether directly from such factory or otherwise, for use in the manufacture of any commodity, whether or not excisable, shall pay the duty leviable on such molasses, in the same manner as if such molasses have been produced by the procurer.

(4) Notwithstanding anything contained in sub-rule (1), Commissioner 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.

RULE 5. Date for determination of duty and tariff valuation. — (1) The rate of duty or tariff value applicable to any excisable goods, other than khandsari molasses, 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.

(2) The rate of duty in the case of khandsari molasses, shall be the rate in force on the date of receipt of such molasses in the factory of the procurer of such molasses.

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.

RULE 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.

RULE 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 finalizing 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 Commissioner of Central Excise for a further period not exceeding six months and by the Chief Commissioner of Central Excise for such further period as he may deem fit.

(4) The assessee shall be liable to pay interest on any amount payable to Central Government, consequent to order for final assessment under sub-rule (3), at the rate specified by the Central Government by notification issued under section 11AA of the Act from the first day of the month succeeding the month for which such amount is determined, till the date of payment thereof.

(5) Where the assessee is entitled to a refund consequent to an order for 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.

RULE 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 purposes of this proviso, it is hereby clarified that an assessee shall be eligible, if his aggregate value of clearances of all excisable goods for home

consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs.

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

Provided also that an assessee, who has paid total duty of rupees ten lakh or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year, shall thereafter, deposit the duty electronically through internet banking.

Explanation. - 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 realization of that cheque.

(1A) Notwithstanding anything contained in sub-rule (1), the duty on the goods removed from the factory or the warehouse, in the State of Gujarat, during the second fortnight of February, 2002 and the month of March, 2002 shall be paid by the 31st March, 2002:

Provided that where an assessee in the State of Gujarat is availing of the exemption under a notification based on the value of clearances in a financial year, the duty on goods cleared during the month of February, 2002 shall be paid by the 31st March, 2002.

Explanation. - For removal of doubts, it is hereby clarified that 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.

(2) 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.

(3) 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.

(3A) If the assessee defaults in payment of duty beyond thirty days from the due date, as prescribed in sub-rule (1), then notwithstanding anything contained in said sub-rule (1) and sub-rule (4) of rule 3 of CENVAT Credit Rules, 2004, the assessee shall, pay excise duty for each consignment at the time of removal, without utilizing the CENVAT credit till the date the assessee pays the outstanding amount including interest thereon; and in the event of any failure, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules shall follow.

(4) The provisions of section 11 of the Act shall be applicable for recovery of the duty as assessed under rule 6 and the interest under sub-rule (3) in the same manner as they are applicable for recovery of any duty or other sums payable to the Central Government.

Explanation.- 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, 2004.

RULE 8A. Manner of payment in respect of specified goods on which excise duty has been imposed with effect from 1st March, 2002. — (1) Notwithstanding anything contained in rule 8, the duty on the goods, specified in the Annexure to this rule, removed from the factory or the warehouse during the period commencing on and from the 1st March, 2002 and ending with and including the 31st May, 2002, shall be paid by the 15th day of June, 2002.

Explanation. — For removal of doubts, it is hereby clarified that 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.

(2) 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.

(3) 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 issued 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.

(4) If the assessee defaults in payment of duty by the 15th day of June, 2002, then, the assessee shall forfeit the facility to pay the dues in installments as provided under sub-rule (1) of rule 8 for the clearances made after the 1st day of June, 2002 for a period of two months, commencing on and from the date of communication of the order passed by the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, in this regard, or till such date on which the dues are paid, whichever is later, and during this period the assessee shall be required to pay excise duty for each consignment by debiting to the account current and in the event of any failure to do so, it shall be deemed that such goods have been cleared without payment of duty and the consequences and penalties as provided in these rules, shall follow.

Annexure

(1) All goods specified at S. Nos. 9 to 50 of the Table to the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 10/2002-Central Excise, dated the 1st March, 2002 published in the Gazette of India vide number G.S.R. 131 (E), dated the 1st March, 2002, which were exempt from whole of the duty leviable thereon immediately prior to 1st March, 2002 and on which duty has become leviable with effect from 1st March, 2002, at the rate of 4% *ad valorem*, subject to the conditions specified in that notification or, as the case may be, at the rate of 16% *ad valorem*.

(2) Granite falling under heading No. 68.07 manufactured by units which would have been eligible for exemption from duty whether in whole or in part under notification No. 8/2001-Central Excise or No. 9/2001-Central Excise, dated the 1st March, 2001, as they existed before 1st March, 2002 and granite falling under heading No. 68.07 manufactured by units which would have been eligible for exemption whether in whole or in part if such exemption had not been withdrawn under Notification No. 8/2002-Central Excise or, as the case may be, under Notification No. 9/2002-Central Excise, both dated the 1st March, 2002.

(3) Woven fabrics of cotton, falling under Chapter 52, when subjected to any one or more of the following processes, namely :-

- (a) flannellete raising;
- (b) stentering;
- (c) damping on grey and bleached sorts;

- (d) back filling on grey and bleached sorts;
- (e) singeing, that is to say, burning away of knots and loose ends in the fabrics;
- (f) cropping or butta cutting;
- (g) curing or heat setting;
- (h) padding, that is to say, applying starch or fatty material on one or both sides of the fabric; or
- (i) expanding,

if such fabrics are processed in a factory which does not have the facilities (including plant and equipment) for carrying out bleaching, dyeing or printing or any one or more of these processes with the aid of power or steam and such fabrics were exempt from whole of the duties leviable thereon under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), immediately prior to 1st March, 2002 and on which duties have become leviable with effect from 1st March, 2002 at the rate of 12% *ad valorem*.

(4) Woven fabrics of man-made fibres, falling under Chapter 54 or Chapter 55, when subjected to any one or more of the following processes, namely :—

- (a) singeing, that is to say, burning away of knots and loose ends in the fabrics;
- (b) padding, that is to say, application of natural starch to one or both sides of the fabrics;
- (c) back filling, that is to say, application of starch to one side of the fabrics;
- (d) cropping, that is to say, cutting away mechanically of loose ends from the fabrics; or
- (e) the process of blowing (steam pressing) carried out on woven fabrics of acrylic fibre,

if such fabrics are processed in a factory which does not have the facilities (including plant and equipment) for carrying out bleaching, dyeing or printing or any one or more of these processes with the aid of power or steam, and such fabrics were exempt from whole of the duties leviable thereon under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), immediately prior to 1st March, 2002 and on which duties have become leviable with effect from 1st March, 2002, at the rate of 12% *ad valorem*.

RULE 9. Registration. — (1) Every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods, shall get registered:

Provided that a registration obtained under rule 174 of the Central Excise Rules, 1944 or rule 9 of the Central Excise (No. 2) Rules, 2001 shall be deemed to be as valid as the registration made under this sub-rule for the purpose of 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.

RULE 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.

RULE 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 authorized 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:

Provided that a manufacturer of yarns or fabrics falling under Chapter 50, 51, 52, 53, 54, 55, 58 or 60 or readymade garments falling under Chapter 61 or 62 of First Schedule to the Tariff Act may remove the said goods under a proforma invoice signed by him or his authorised agent. The provisions of sub-rules (2) to (5) shall apply to the proforma invoice except that the said invoice shall not contain the details of the duty payable. The manufacturer shall, within five working days from the issuance of the proforma invoice prepare the invoice in terms of this rule after making adjustments in respect of the goods rejected and returned by the buyer. The proforma invoice and the invoice issued in terms of this sub-rule shall have cross reference to each other by way of their serial numbers:

Provided further that the said period of five working days, as referred to in the first proviso, may be extended upto a period not exceeding twenty-one days, inclusive of the said period of five working days, by the Commissioner of Central Excise, on receipt of a request from the said manufacturer.

(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.

(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 TRIPLICATE 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.

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

(7) The provisions of this rule shall apply *mutatis mutandis* to goods supplied by 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 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 shall be admissible.

Explanation. - For the purposes of this rule, “first stage dealer” and “second stage dealer” shall have the meanings assigned to them in CENVAT Credit Rules, 2004.

RULE 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 falling under tariff item 2106 90 20 or pan masala containing tobacco falling under tariff item 2403 99 90, 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 preceeding 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.

Provided also that, where an assessee is availing the exemption notification of the Government of India, Ministry of Finance (Department of Revenue) No. 49/2003-Central Excise, dated the 10th June, 2003 vide number G.S.R. 471(E), published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (i) dated the 10th June, 2003 or No. 50/2003-Central Excise, dated the 10th June, 2003 vide number G.S.R. 472(E), published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (i), dated the 10th June, 2003, he shall file a quarterly return with the jurisdictional Commissioner of Central Excise, in the form specified by notification by the Board, of production and removal of goods and

other relevant particulars, within twenty days after the close of the quarter to which the return relates and in case of goods produced and removed during the quarter ending on the 31st day of December, 2007, such return shall be submitted by the 20th February, 2008.

Provided also that, where an assessee is availing the exemption,-

- (i) under the notification No. 1/2011- Central Excise, dated the 1st March, 2011; or
- (ii) in respect of goods falling under Sl No. 67, 128, 199(I) and 200(I), of Notification No. 12/2012 – Central Excise, dated the 17th March 2012;

and does not manufacture any other excisable goods other than those specified in the said notification, 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.

(2)(a) Notwithstanding anything containing in sub-rule (1), every assessee shall submit to the Superintendent of Central Excise, an Annual Financial Information Statement for the preceding financial year to which the statement 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 require to submit such an Annual Financial Information Statement.

(2A)(a) Every assessee shall submit to the Superintendent of Central Excise, an Annual Installed Capacity Statement declaring the annual production capacity of the factory for the financial year to which the statement relates in the form specified by notification by the Board by 30th day of April of the succeeding financial year :

Provided that for the year 2007-08, the said statement shall be furnished by 31st day of October, 2008.

(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 require to submit such an Annual Installed Capacity Statement.

(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, scrutinize 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) Every assessee other than assessee availing the exemption under notification No. 49/2003-Central Excise, dated the 10th June 2003 or notification No. 50/2003-Central Excise, dated the 10th June 2003, shall file electronically the return or the statement, as the case may be, specified in this rule.

RULE 12A. Filing of return in respect of specified goods on which excise duty has been imposed on and from the 1st March, 2002. — Notwithstanding anything contained in rule 12, every assessee shall submit, in respect of goods specified in the Annexure to rule 8A, to the Superintendent of Central Excise a return for the months of March, April and May, 2002, in the form specified by notification by the Board, of production and removal of the said goods and other relevant particulars, by the 10th day of June, 2002.

RULE 12AA. Job work in article of jewellery or other articles of precious metals.

- (1) Notwithstanding anything contained in these rules, every person (not being an export-oriented unit or a unit located in special economic zone) who gets article of 'jewellery or other articles of precious metals following under Heading 7113 or 7114 as the case may be' of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the Tariff Act), produced or manufactured on his behalf, on job work basis, (hereinafter referred to as "the said person") shall obtain registration, maintain accounts, pay duty leviable on such goods and comply with all the relevant provisions of these rules, as if he is an assessee :

(2) If the said person desires clearance of excisable goods for home consumption or for exports from the premises of the job worker, he shall pay duty on such excisable goods and prepare an invoice, in the manner referred to in rules 8 and 11 respectively except for mentioning the date and time of removal of goods on such invoice.

(3) The original and the duplicate copy of the invoice so prepared shall be sent by him to the job worker from whose premises the excisable goods after completion of job work are intended to be cleared, before the goods are cleared from the premises of the job worker.

(4) The job worker shall fill up the particulars of date and time of removal of goods before the clearance of goods and after such clearance the job worker shall intimate to the said person, the date and time of the clearance of goods for completion of the particulars by the said person in the triplicate copy of the invoice.

(5) The said person may supply or cause to supply to a job worker, the following goods, namely:-

(a) inputs in respect of which he may or may not have availed CENVAT credit in terms of the CENVAT Credit Rules, 2004, without reversal of the credit thereon; or

(b) goods manufactured in the factory of the said person without payment of duty; under a challan, consignment note or any other document (herein referred to as 'document') with such information as specified in sub-rule (2) of rule 11 of the Central Excise Rules, 2002, duly signed by him or his authorised agent.

(6) The responsibility in respect of accountability of the goods, referred to in sub-rule (5) shall lie on the said person.

(7) Notwithstanding anything contained in these rules, the job worker shall not be required to get himself registered or shall not be required to maintain any record evidencing the processes undertaken for the sole purposes of undertaking job work under these rules unless he has exercised his option in terms of the proviso to sub-rule (1).

(8) The job worker, with or without completing the job work may,-

- (i) return the goods without payment of duty to the said person; or
 - (ii) clear the goods for home consumption or for exports;
- subject to receipt of an invoice from the said person, as mentioned in sub-rule (4).

(9) The job worker shall clear the goods after filling in invoice the time and date of removal and authentication of such details. The rate of duty on such goods shall be the rate in force on date of removal of such goods from the premises of the job worker and no excisable goods shall be removed except under the invoice.

Explanation 1. - For the purpose of this rule, “job worker” means a person engaged in manufacture or processing on behalf and under the instructions of the said person from any inputs or goods supplied by the said person or by any other person authorized by the said person, so as to complete a part or whole of the process resulting ultimately in manufacture of articles of jewellery falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985, and the term “job work” shall be construed accordingly.

Explanation 3. - For the purposes of this notification, ‘brand name or trade name’ means a brand name or trade name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

Explanation 4. - For the removal of doubts, it is hereby clarified that if any goods or part thereof is lost, destroyed, found short at any time before the clearance of articles of jewellery falling under heading 7113 of the First Schedule to the Tariff Act or waste, by-products or like goods arising during the course of manufacture of such goods, the said person shall be liable to pay duty thereon as if such goods were cleared for home consumption.

RULE 12BB. Procedure and facilities for large tax payer. - Notwithstanding anything contained in these rules, the following procedure shall apply to a large tax payer. —

(1) A large taxpayer may remove excisable goods, except motor spirit, commonly known as petrol, high speed diesel and light diesel oil (hereinafter referred to as the intermediate goods), without payment of duties of excise, under the cover of a transfer challan or invoice, from any of his registered premises, (hereinafter referred to as the sender premises) where such goods are produced, manufactured or warehoused to his other registered premises, other than a premises of a first or second stage dealer (hereinafter referred to as the recipient premises), for further use in the manufacture or production of such other excisable goods (hereinafter referred to as the subject goods) in recipient premises subject to condition that—

(a) the subject goods are manufactured or produced using the said intermediate goods and cleared on payment of appropriate duties of excise leviable thereon within a period of six months, from the date of receipt of the intermediate goods in the recipient premises; or

(b) the subject goods are manufactured or produced using the said intermediate goods and exported out of India, under bond or letter of undertaking within a period of six months, from the date of receipt of the intermediate goods in the recipient premises,

and that any other conditions prescribed by the Commissioner of Central Excise, large tax payer unit in this regard are satisfied.

Explanation 1. — The transfer challan or invoice shall be serially numbered and shall contain the registration number, name, address of the large tax payer, description, classification, time and date of removal, mode of transport and vehicle registration number, quantity of the goods and registration number and name of the consignee.

Provided that if the subject goods manufactured or produced using the said intermediate goods are not cleared on payment of appropriate duties of excise leviable thereon or are not exported out of India within the said period of six months, duties of excise payable on such intermediate goods shall be paid by the recipient premises with interest in the manner and rate specified under section 11AA of the Act.

Illustration. — Excise duty is payable on intermediate goods, namely, electronics goods, manufactured by factory A which are removed without payment of duties of excise for use in the manufacture of subject goods, namely, machines, in factory B of the large tax payer. In case such machines are not exported or are removed without payment of duties of excise, then factory B shall pay duties of excise payable on the electronic goods so cleared along with interest:

Provided further that if any duty of excise is payable on such intermediate goods and if the said duty is not payable on such subject goods, the said duty of excise as equivalent to the total amount payable on such intermediate goods along with interest under section 11AA of the Act shall be paid by the recipient premises.

Illustration. — National Calamity Contingent duty is payable on intermediate goods namely, polyester yarn manufactured by factory A. Such yarn is removed without payment of duty of excise for use in the manufacture of subject goods, namely, grey fabrics in factory B of a large tax payer, (on which such National Calamity Contingent duty is not payable), then factory B shall pay an amount equivalent to the National Calamity Contingent duty that would have been payable on the polyester yarn along with interest under section 11AB of the Act.

Explanation 2. — The duty payable under the first and second provisos shall be the duty payable on the date and time of removal of the intermediate goods from the sender's premises:

Provided also that nothing contained in this sub-rule shall be applicable if the recipient premises is availing following notifications of Government of India in the Ministry of Finance (Department of Revenue), -

- (i) No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];
- (ii) No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];
- (iii) No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565(E), dated the 31st July, 2001];
- (iv) No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
- (v) No. 57/2002-Central Excise, dated 14th November, 2002 [G.S.R. 765(E), dated the 14th November, 2002];
- (vi) No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513(E), dated the 25th June, 2003]; and
- (vii) No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717(E), dated the 9th September, 2003]:

Provided also that nothing contained in this sub-rule shall be applicable to a export-oriented unit or a unit located in a Electronic Hardware Technology Park or Software Technology Park.

Explanation 3. — If a large tax payer fails to pay any amount due in terms of the first and second provisos, it shall be recovered along with interest in the same manner as provided under section 11A and section 11AA respectively of the Act.

(2) Where a registered premises of a large tax payer manufacturing excisable goods has paid to the credit of Central Government any duty of excise in excess of duty of excise payable on account of arithmetical error, the said large tax payer may adjust the excess duty so paid by him, against his duty liability for the subsequent period subject to the limitations prescribed under clause (b) of sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004 :

Provided that such adjustment shall be admissible only if the said registered premises has not passed on the incidence of such excess duty so paid to any other person, and the consignee does not avail credit of such duty under the said CENVAT Credit Rules, 2004.

(3) Any notice issued but not adjudged by any of the Central Excise officer administering the Act or rules made thereunder immediately before the date of grant of acceptance by the Chief Commissioner of Central Excise, large tax payer unit, shall be deemed to have been issued by Central Excise officers of the said Unit.

(4) A large tax payer shall submit the monthly returns, as prescribed under these rules, for each of the registered premises.

(5) A large tax payer, on demand, may be required to make available the financial, production, stores and CENVAT credit records in electronic media, such as, compact disc or tape for the purposes of carrying out any scrutiny and verification as may be necessary.

(6) A large tax payer may, with intimation of at least thirty days in advance, opt out to be a large tax payer from the first day of the following financial year.

(7) Provisions of these rules, insofar as they are not inconsistent with the provisions of this rule shall *mutatis mutandis* apply in case of a large tax payer.

RULE 12C. Maintenance of records and payment of duty by the independent weaver of unprocessed fabrics. — An independent weaver of unprocessed fabrics falling under Chapter 50, 51, 52, 53, 54, 55, 58 or 60 of the First Schedule to the Tariff Act, may, at his option, authorize another person, on his behalf, to maintain accounts, pay duty, prepare invoice and comply with any of the provisions of these rules except that of rule 9 :

Provided that primary responsibility to comply with the provisions of these rules shall lie with the said independent weaver and in case of short payment or non-payment of duty on such unprocessed fabrics, consequences and penalties shall apply both to the said independent weaver and his authorized agent.

Explanation. - Independent weaver means a weaver who works on his own, purchases the yarn himself and sells the grey fabrics manufactured by him.

RULE 12CCC. 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, and default in payment of, excise duty, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including suspension of registration in case of a dealer, types of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.

RULE 12 D. Application of the rules. — The provisions of these rules shall apply to a person who is liable to pay the duty or duties of excise leviable on goods falling under Chapter 61 or 62 or 63 of the First Schedule to the Tariff Act under sub-rule (1A) of rule 4 as if such goods have been manufactured by him.”.

RULE 15. 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.

RULE 16. 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, 2002 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 (2) 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 Commissioner.

RULE 16A. 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.

RULE 16B. Special procedure for removal of semi-finished goods for certain purposes. — The Commissioner of Central Excise may by special order and subject to conditions as may be specified by the Commissioner of Central Excise, 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.

RULE 16C. Special procedure for removal of excisable goods for carrying out certain processes. — The Commissioner of Central Excise may, 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.

Rule 17. Removal of goods by a Hundred per cent. 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.

(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.

RULE 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 fulfillment of such procedure, as may be specified in the notification.

Explanation. - “Export” includes goods shipped as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.

RULE 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 Commissioner.

(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 Commissioner.

(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.

RULE 20. 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.

RULE 21. Remission of duty. — Where it is shown to the satisfaction of the Commissioner 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 “Commissioner”, 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 “Commissioner”, 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 “Commissioner”, the expression “Joint Commissioner of Central Excise or Additional Commissioner of Central Excise, as the case may be,” has been substituted.

RULE 22. Access to a registered premises. — (1) An officer empowered by the Commissioner 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, and first stage and second stage dealer shall furnish to the officer empowered under sub-rule (1), a list in duplicate, of -

- (i) 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 capital goods, as the case may be;
- (ii) all the records prepared and maintained for accounting of transaction in regard to payment for input services and their receipt or procurement; and
- (iii) all the financial records and statements (including trial balance or its equivalent).

(3) Every assessee, and 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 Commissioner or the Comptroller and Auditor General of India, or a cost accountant or chartered accountant nominated u/s 14A or section 14AA 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 233B of the Companies Act, 1956 (1 of 1956); and

(iii) the Income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961), for the scrutiny of the officer or audit party or the cost accountant or the chartered accountant within the time limit specified by the said officer or the audit party or the cost accountant or the chartered accountant, as the case may be.

Explanation. - For the purposes of this rule, “first stage dealer” and “second stage dealer” shall have the meanings assigned to them in CENVAT Credit Rules, 2004.

RULE 23. 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.

RULE 24. 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.

RULE 24A. 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 there under, 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 Commissioner of Central Excise 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.

RULE 25. Confiscation and penalty. — (1) Subject to the provisions of section 11AC of the Act, if any producer, manufacturer, registered person of a warehouse or a registered dealer, -

(a) removes any excisable goods in contravention of any of the provisions of these rules or the notification 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 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 [rupees two thousand], whichever is greater.

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

RULE 26. 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 greater.

(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 there under like claiming of CENVAT credit under the CENVAT Credit Rules, 2004 or refund, shall be liable to a penalty not exceeding the amount of such benefit or five thousand rupees, whichever is greater.

RULE 27. 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.

RULE 28. 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.

RULE 29. 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 Commissioner may direct.

RULE 30. 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.

RULE 31. Power to issue supplementary instructions. — (1) The Board or the Chief Commissioner or the Commissioner, may issue written instructions providing for any incidental or supplemental matters, consistent with the provisions of the Act and these rules.

RULE 33. Transitional provision. — Any notification, circular, instruction, standing order, trade notice or other order issued under the Central Excise (No. 2) Rules, 2001 by the Board, the Chief Commissioner or the Commissioner of Central Excise, and in force as on the 28th day of February, 2002, 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.