

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8/2001-Central Excise, dated the 1st March, 2001, published in the Gazette of India vide number G.S.R. 133(E), dated the 1st March, 2001, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts clearances, specified in column (2) of the Table below (hereinafter referred to as the said Table) for home consumption of excisable goods of the description specified in the Annexure appended to this notification (hereinafter referred to as the specified goods), from so much of the aggregate of, -

- (i) the duty of excise specified thereon in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); and
- (ii) the special duty of excise specified thereon in the Second Schedule to the said Central Excise Tariff Act,

as is in excess of the amount calculated at the rate specified in the corresponding entry in column (3) of the said Table:

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

Table

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

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

(i) a manufacturer has the option not to avail the exemption contained in this notification and instead pay the normal rate of duty on the goods cleared by him. Such option shall be exercised before effecting his first clearances at the normal rate of duty. Such option shall not be withdrawn during the remaining part of the financial year;

(ii) while exercising the option under condition (i), the manufacturer shall inform in writing to the Deputy Commissioner or Assistant Commissioner of Central Excise with a copy to the Superintendent of Central Excise giving the following particulars, namely:-

- (a) name and address of the manufacturer;
- (b) location/locations of factory/factories;
- (c) description of specified goods produced;
- (d) date from which option under this notification has been exercised;
- (e) aggregate value of clearances of specified goods (excluding the value of clearances referred to in paragraph 3 of this notification) till the date of exercising the option;

(iii) the manufacturer shall not avail the credit of duty on inputs under rule 3 or rule 11 of the CENVAT Credit Rules, 2002, paid on inputs used in the manufacture of the specified goods cleared for home consumption, the aggregate value of first clearances of which, as calculated in the manner specified in the said Table does not exceed rupees one hundred lakhs;

(iv) the manufacturer also does not utilise the credit of duty on capital goods under rule 3 or rule 11 of the said rules, paid on capital goods, for payment of duty, if any, on the aforesaid clearances, the aggregate value of first clearances of which does not exceed rupees one hundred lakhs, as calculated in the manner specified in the said Table;

(v) where a manufacturer clears the specified goods from one or more factories, the exemption in his case shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each factory;

(vi) where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer;

(vii) the aggregate value of clearances of all excisable goods for home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturers, does not exceed rupees three hundred lakhs in the preceding financial year.

3. For the purposes of determining the aggregate value of clearances for home consumption, the following clearances shall not be taken into account, namely:-

(a) clearances, which are exempt from the whole of the excise duty leviable thereon (other than an exemption based on quantity or value of clearances) under any other notification or on which no excise duty is payable for any other reason ;

(b) clearances bearing the brand name or trade name of another person, which are ineligible for the grant of this exemption in terms of paragraph 4 ;

(c) clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods;

(d) clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene:

Provided that the clearances for home consumption of goods falling under Chapter 62 of the said First Schedule, whether on payment of duty or otherwise, between 1st April, 2001 and 30th April, 2001 (both days inclusive) shall be taken into account while computing the aggregate value of clearances for the financial year 2001-2002.

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

(a) where the specified goods, being in the nature of components or parts of any machinery or equipment or appliances, are cleared for use as original equipment in the manufacture of the said machinery or equipment or appliances by following the procedure laid down in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001:

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

(b) where the specified goods bear a brand name or trade name of-

(i) the Khadi and Village Industries Commission; or

(ii) a State Khadi and Village Industry Board; or

(iii) the National Small Industries Corporation; or

(iv) a State Small Industries Development Corporation; or

(v) a State Small Industries Corporation;

(c) where the specified goods are manufactured in a factory located in a rural area.

5. This notification shall come into force on the 1st day of April, 2002.

Explanation.- For the purposes of this notification,-

(A) “brand name” or “trade name” means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person;

(B) where the specified goods manufactured by a manufacturer bear a brand name or trade name, whether registered or not, of another manufacturer or trader, such specified goods shall not, merely by reason of that fact, be deemed to have been manufactured by such other manufacturer or trader;

(C) “value” means,-

(i) in respect of specified goods which have been notified under section 4A of the Central Excise Act 1944, the value as determined in accordance with the provisions of that section, and

(ii) in respect of specified goods other than those referred to in sub clause (i), the value as determined in accordance with the provisions of section 4 of the Central Excise Act, 1944, or the tariff value fixed under section 3 of the said Act;

(D) in the determination of the value of clearances of Chinaware or Porcelainware or both, where a manufacturer gets Chinaware or Porcelainware or both fired in a kiln belonging to or maintained by a Pottery Development Centre run by the Central Government or a State Government or by the Khadi and Village Industries Commission, the value of the Chinaware or Porcelainware or both, belonging to the said manufacturer and fired in such kiln shall be taken into account;

(E) where the specified goods are manufactured in a factory belonging to or maintained by the Central Government or by a State Government, or by a State Industries Corporation, or by a State Small Industries Corporation or by the Khadi and Village Industries Commission, then the value of excisable goods cleared from such factory alone shall be taken into account;

(F) “normal rate of duty” means the aggregate of duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 and the special duty of excise specified in the Second Schedule to the said Central Excise Tariff Act read with any relevant notification (other than this notification or a notification in which exemption is based on the value or quantity of clearance) issued under sub-section (1) of section 5A of the said Central Excise Act, 1944 ;

(G) “clearances for home consumption”, wherever referred to in this notification, shall include clearances for export to Bhutan and Nepal;

(H) “ rural area” means the area comprised in a village as defined in the land revenue records , excluding-

(i) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee, or

(ii) any area that may be notified as an urban area by the Central Government or a State Government.’

(I) for the purpose of goods falling under Chapter 61 or 62 of the said First Schedule, the expression “manufacturer” shall include a person who is liable to pay the duty of excise leviable on such goods under sub-rule (3) of rule 4 of the Central Excise Rules, 2002.

ANNEXURE

All goods specified in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), other than the following , namely:-

- (i) all goods which are chargeable to nil rate of duty or are exempt from the whole of the duty of excise leviable thereon;
- (ii) all goods falling under heading No. 09.02;
- (iii) all goods falling under heading No. 21.06 and sub-heading Nos. 2101.10 and 2101.20;
- (iv) all goods falling under Chapter 24 of the First Schedule (other than unbranded chewing tobacco, preparations containing chewing tobacco and tobacco extracts and essences, falling under heading No. 24.04);
- (v) all goods falling under heading No. 25.04 and granite slabs and tiles, falling under heading No. 25.05;
- (vi) sandalwood oil;
- (vii) all goods falling under heading No. 36.05;
- (viii) all goods falling under heading Nos. 37.01, 37.02, and sub-heading No. 3703.10;
- (ix) strips of plastics intended for weaving of fabrics or sacks, polyurethane foam and articles of polyurethane foam, falling under Chapter 39 of the First Schedule;
- (x) all goods falling under Chapter 51 of the First Schedule other than those falling under sub-heading Nos. 5105.30 and 5105.40 and heading Nos. 51.06, 51.07, 51.08, 51.09, 51.10 and 51.11 (except woven fabrics of wool falling under heading Nos. 51.10 or 51.11) and 51.12;
- (xi) all goods falling under Chapter 52 of the First Schedule other than goods falling under heading No. 52.04;
- (xii) all goods falling under Chapter 53 of the First Schedule except goods falling under heading Nos. 53.01, 53.02, 53.04, 53.05,53.08(other than goods falling under sub-heading No. 5308.14), 53.11(other than woven fabrics of ramie);
- (xiii) all goods falling under Chapter 54 of the First Schedule except goods falling under heading Nos. 54.01;
- (xiv) all goods falling under Chapter 55 of the First Schedule except goods falling under heading Nos. 55.05, 55.08 and shoddy yarn manufactured from used or new rags falling under heading No. 55.09 or 55.10;
- (xv) all goods falling under Chapter 56 of the First Schedule except goods falling under heading Nos. 56.01, 56.02, 56.03, 56.04, 56.05, chenille yarn falling under sub-heading No. 5606.00,56.07(other than of jute), 56.08 and 56.09;
- (xvi) all goods falling under Chapter 57 of the First Schedule;
- (xvii) all goods falling under Chapter 58 of the First Schedule except goods falling under heading Nos. 58.03, 58.06, 58.07, 58.08, uncut grey (unprocessed) woven weft pile fabrics of cotton manufactured from grey unprocessed cotton yarn falling under sub-heading No.5801.21, unprocessed woven pile fabrics of cotton falling under sub-heading No.5801.21 and unprocessed woven pile fabrics of man-made fibres falling under sub-heading No.5801.31, fabrics of cotton or man-made fibres falling under sub-heading No.5802.51, and unprocessed cotton terry towelling fabrics falling under sub-heading No.5802.21;

- (xviii) all goods falling under Chapter 59 of the First Schedule except goods falling under Heading Nos. 59.01, 59.05, 59.06, 59.08, 59.09 59.10, 59.11 and textile fabrics coated or laminated with preparations of low-density polyethylene;
- (xix) all goods falling under Chapter 60 of the First Schedule except goods falling under sub-heading No.6002.10 and fabrics of cotton man-made fibres not subjected to any process falling under heading Nos. 60.01 or 60.02;
- (xx) blankets of wool falling under Chapter 63 of the First Schedule;
- (xxi) aluminium circles, whether or not trimmed, falling under Chapter 76 of the First Schedule;
- (xxii) (A) All goods falling under –
 (a) heading No. 74.03, excluding the following goods falling under sub-heading No. 7403.21,namely:-
 (i) cast brass bars/rods of a length not exceeding three feet;
 (ii)cast brass bars/rods of a length not exceeding ten feet used in the factory of production for making wires falling under sub-heading No. 7408.29;
 (iii)copper flats of a weight not exceeding two kilograms used for making copper strips falling under heading No. 74.09;
 (iv)brass billets weighing upto five kilograms;
 (b) heading No. 74.09 (excluding copper strips produced from copper flats of a weight not exceeding two kilograms);
 (c) sub-heading Nos. 7407.11, 7407.12, 7408.11, 7408.21; and
 (B) copper circles, whether or not trimmed;
- (xxiii) ball or roller bearings falling under Chapter 84 of the First Schedule;
- (xxiv) all goods falling under heading Nos 87.01, 87.02, 87.03, 87.04, 87.05, 87.06 and 87.11 [other than powered cycles and powered cycle rickshaw (“powered cycle”or powered rickshaw means a mechanically propelled cycle or, as the case may be, mechanically propelled cycle rickshaw, which may also be peddled, if any necessity arises for so doing)];
- (xxv) all goods falling under heading Nos 91.01 or 91.02;
- (xxvi) all goods falling under
 a) heading Nos. 93.02, 93.03, 93.04 [except air guns, air rifles and air pistols which are exempt from the provisions of the Arms Act, 1959 (54 of 1959)],
 b) heading Nos.93.06 and 93.07 (except parts falling under heading Nos. 93.06 or 93.07);
- (xxvii) all goods falling under sub-heading No. 9605.10.

[F. No. 334/1/2002-TRU]

(T.R. Rustagi)
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