

Notification

No. 12/2003-Central Excise (N.T.)

New Delhi, dated the 1<sup>st</sup> March, 2003  
10 Phalgun, 1924 (Saka)

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely:-

1. (1) These rules may be called the Central Excise (Second Amendment) Rules, 2003.  
(2) Save as otherwise provided, they shall come into force on the 1<sup>st</sup> day of April, 2003.
2. In the Central Excise Rules, 2002 (hereinafter referred to as the said rules), in rule 8,-
  - (a) for sub-rule (1), the following sub-rule shall be substituted, namely:-

“(1) The duty on the goods removed from the factory or the warehouse during a month shall be paid by the 5th day of the following month:  
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 availing of the exemption under a notification based on the value of clearances in a financial year, the duty on goods cleared during a calendar month shall be paid by the 15th day of the following month except in case of goods removed during the month of March for which the duty shall be paid by the 31st day of March.

*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.”;
- (b) for sub-rule (3), the following shall be substituted, namely:-

“(3) If the assessee fails to pay the amount of duty by the due date, he shall be liable to pay the outstanding amount along with an interest at the rate of two per cent. per month or rupees one thousand per day, whichever is higher, for the period starting with the first day after due date till the date of actual payment of the outstanding amount:

Provided that the total amount of interest payable in terms of this sub-rule shall not exceed the amount of duty which has not been paid by due date:

Provided further that till such time the amount of duty outstanding and the interest payable thereon are not paid, it shall be deemed that the goods in question in respect of which the duty and interest are outstanding, have been cleared without payment of duty and the consequences and the penalties as provided in these rules shall follow.

*Illustration 1.*- X, an assessee, fails to pay excise duty of Rs. 31 lakhs payable on the goods cleared in February, by the 5th of March. X pays the amount on 10th of March. The default has continued for 5 days. The interest payable by X is computed as follows:-

$$2\% \text{ of the amount of default for 5 days} = 2\% \text{ of Rs. 31 lakhs} \times \frac{5}{31} = \text{Rs. 10000} \quad \text{- (A)}$$

$$\text{Rs. 1000 per day of default} = 5 \times \text{Rs. 1000} = \text{Rs. 5000} \quad \text{- (B)}$$

The interest payable is the higher of the amounts (A) and (B).

*Illustration 2.*- Y, an assessee, was liable to pay an excise duty of Rs. 5 lakhs payable on the goods cleared in June. Y pays only Rs. 4 lakhs by the 5th of July. Thus Y has defaulted in respect of Rs. 1 lakh. Y pays the balance amount on 30th of July. The default is for 25 days. The interest payable by Y is computed as follows:-

$$2\% \text{ of the amount of default for 25 days} = 2\% \text{ of Rs. 100000} \times \frac{25}{31} = \text{Rs. 1613} \quad \text{- (A)}$$

$$\text{Rs. 1000 per day of default} = 25 \times \text{Rs. 1000} = \text{Rs. 25000} \quad - \text{ (B)}$$

The interest payable is the higher of the amounts (A) and (B).

*Illustration 3.-* C, an assessee availing the SSI exemption scheme, fails to pay excise duty of Rs. 10000 payable on the goods cleared in May, by the 15th of June. C pays the amount on 20th of August. The default is for 2 months and 5 days. The interest payable by C is computed as follows:-

$$2\% \text{ per month of the amount of default} = 2\% \text{ of Rs. 10000} \times (2 + \frac{5}{31}) = \text{Rs. 432} \quad - \text{ (A)}$$

$$\text{Rs. 1000 per day of default} = (30+31+5) \times \text{Rs. 1000} = \text{Rs. 66000} \quad - \text{ (B)}$$

The interest payable is the higher of the amounts (A) and (B) subject to a maximum of the amount of default = Rs. 10000.”;

(c) for sub-rule (4), the following shall be substituted, namely:-

“(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.”.

3. In the said rules, in rule 13, with effect from the 1<sup>st</sup> day of March, 2003, for the words “The duty on matches shall be paid by affixing to each box”, the words “At the option of the assessee, the duty on matches shall be paid by affixing to each box” shall be substituted.

4. In the said rules, after rule 13, with effect from the 1<sup>st</sup> day of March, 2003, the following shall be inserted, namely:-

“13A. Utilisation of amount paid for procurement of Central Excise Stamps for payment of duty.- A registered person having a stock of unused Central Excise Stamps, other than those purchased on credit, as on the 1<sup>st</sup> day of March 2003, may surrender the same to the Superintendent of Central Excise. The registered person may utilize an amount equal to the total price of such unused Central Excise Stamps as may be certified by the Superintendent of Central Excise, for paying duty on matches in the manner as prescribed in rule 8. In case such utilization is not possible for any reason, the registered person shall be allowed refund of such amount.”.

5. In the said rules, rules 13, 13A and 14 shall be omitted.

[F.No. 334/1/2003-TRU]

(Alok Shukla)  
Deputy Secretary to the Government of India

Footnote.- The principal rules were published in the Gazette of India *vide* notification No. 4/2002-Central Excise (N.T.), dated the 1<sup>st</sup> March, 2002, *vide* number GSR 143 (E), dated the 1<sup>st</sup> March, 2002, and were last amended *vide* notification No. 6/2003-Central Excise (N.T.), dated the 11<sup>th</sup> February, 2003, *vide* number GSR 102 (E), dated the 1<sup>st</sup> March, 2002.