

Notification

No. 13/2003-Central Excise (N.T.)

New Delhi, dated the 1st 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 CENVAT Credit Rules, 2002, namely:-

1. (1) These rules may be called the CENVAT Credit (Second Amendment) Rules, 2003.
(2) Save as otherwise provided, they shall come into force on the date of their publication in the Official Gazette.
2. In the CENVAT Credit Rules, 2002 (herein after referred to as the said rules), in rule 2,-
 - (a) in clause (g), after the word "except", the words "light diesel oil," shall be inserted;
 - (b) in *Explanation* 1, for the words "The high speed diesel oil", the words "The light diesel oil, high speed diesel oil" shall be substituted.
3. In the said rules, in rule 3,-
 - (a) in sub-rule (1), for clause (v), the following shall be substituted, namely:-

“(v) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), as amended by clause 161 of the Finance Bill, 2003, which clause has, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), the force of law; and”;
 - (b) in sub-rule (3), for the Proviso, the following shall be substituted with effect from the 1st day of April, 2003, namely:-

“Provided that while paying duty, the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month for payment of duty relating to the month.”;
 - (c) for sub-rule (4), the following shall be substituted, namely:-

“(4) When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, the manufacturer of the final products shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 7.”;
 - (d) in sub-rule (6),-
 - (A) for clause (b), the following shall be substituted, namely:-

“(b) CENVAT credit in respect of -

 - (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);
 - (ii) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 as amended by clause 161 of the Finance Bill, 2003, which clause has, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931, the force of law; and
 - (iii) the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under clauses (i) and (ii) above,shall be utilized only towards payment of duty of excise leviable under the said Additional Duties of Excise (Textiles and Textile Articles) Act, or the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 as amended by clause 161 of the Finance Bill, 2003, which clause has, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931, the force of law, respectively, on any final products manufactured by the manufacturer or for payment of such duty on inputs themselves if such inputs are removed as such or after being partially processed;

Explanation.- For removal of doubts, it is clarified that the credit of the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), may be utilised towards payment of duty of excise

leviable under the First Schedule or the Second Schedule of the Central Excise Tariff Act, 1985 (5 of 1986);”;

(B) clause (d) shall be omitted with effect from the 1st day of April, 2003.

4. In the said rules, in rule 6,-

(a) in sub-rule (3), in clause (a),-

(i) sub-clause (iv) shall be omitted;

(ii) after sub-clause (vi), the following shall be inserted, namely:-

“(vii) Naptha (RN) and furnace oil falling within Chapter 27 of the said First Schedule used for generation of electricity;

(viii) goods supplied to defence personnel or for defence projects or to the Ministry of Defence for official purposes, under any of the following notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue), namely:-

(1) No. 70/92-Central Excise, dated the 17th June, 1992, G.S.R. 595 (E), dated the 17th June, 1992;

(2) No. 62/95-Central Excise, dated the 16th March, 1995, G.S.R. 254 (E), dated the 16th March, 1995;

(3) No. 63/95-Central Excise, dated the 16th March, 1995, G.S.R. 255 (E), dated the 16th March, 1995;

(4) No. 64/95-Central Excise, dated the 16th March, 1995, G.S.R. 256 (E), dated the 16th March, 1995;”;

(b) in sub-rule (5), after clause (vi), the following shall be inserted, namely:-

“(vii) gold or silver falling within Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or zinc by smelting.”.

5. In the said rules, after rule 6, the following shall be inserted, namely:-

“6A. Storage of inputs outside the factory of the manufacturer: The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of such manufacturer, by an order, permit such manufacturer to store the inputs in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify:

Provided that where such inputs are not used in the manner prescribed in these rules for any reason whatsoever, the manufacturer of the final products shall pay an amount equal to the credit availed in respect of such inputs.”.

6. In the said rules, in rule 7,-

(a) after sub-rule (1), the following shall be inserted, namely:-

“(1A) CENVAT credit under rule 3 shall not be denied on the grounds that any of the documents mentioned in sub-rule (1) does not contain all the particulars required to be contained therein under these rules, if such document contains details of payment of duty, description of the goods, assessable value, name and address of the factory or warehouse:

Provided that the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of a manufacturer intending to take CENVAT credit is satisfied that duty due on the inputs has been paid and such inputs have actually been used or are to be used in the manufacture of final products, and such Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise shall record the reasons for not denying the credit in each case.”;

(b) in sub-rule (4), for the word “purchased”, the word “procured” shall be substituted.

7. In the said rules, in rule 8, in sub-rule (2), for the word “Commissioner”, the words “Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be” shall be substituted.

[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. 5/2002-Central Excise (N.T.), dated the 1st March, 2002, GSR 144 (E), dated the 1st March, 2002, and were last amended *vide* notification No. 7/2003-Central Excise (N.T.), dated the 12th February, 2003, GSR 105(E), dated the 1st March, 2002.

