

Notification

No. 12/2005 - Central Excise (N.T.)

New Delhi, dated the 1st March, 2005

10 Phalgun, 1926 (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 (First Amendment) Rules, 2005.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Excise Rules, 2002, after rule 12A, the following rule shall be inserted, namely:-

“12AA. Job work in article of jewellery.- (1) Notwithstanding any thing 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 falling under heading 7113 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:

Provided that the job worker may, at his option, agree to obtain registration, maintain accounts, pay the duty leviable on such goods, prepare the invoice and comply with the other provisions of these rules and in such a case the provisions of these rules shall not apply to the said person.

(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 any thing 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 2.- For the purposes of this rule, article of jewellery shall mean articles of jewellery on which brand name or trade name is indelibly affixed or embossed on itself.

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".

[F.No. 334/1 /2005-TRU]

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Deputy Secretary to the Government of India

Note.- The principal rules were published in the Gazette of India, Extraordinary *vide* notification No. 4/2002-Central Excise (N.T.), dated the 1st March, 2002, *vide* number G.S.R. 143 (E), dated the 1st March, 2002, and were last amended *vide* notification No.34/2004-Central Excise (N.T.), dated the 1st November 2004 *vide* number G.S.R. 724 (E), dated 1st November 2004.