

Notification No.16 /2001-Central Excise (N.T.)

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, 1944, namely:-

1. (1) These rules may be called the Central Excise (Fifth Amendment) Rules, 2001.

(2) They shall come into force on the 1st day of May, 2001.

2. In the Central Excise Rules, 1944 (hereinafter referred to as the said rules), in rule 7, after the proviso, the following shall be inserted, namely:-

"Provided further that in respect of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), manufactured on job-work, the provisions of these rules shall apply subject to the provisions of rule 7AA."

3. In the said rules, after rule 7A, the following rule shall be inserted, namely:-

'7AA. Recovery of duty on articles of apparel manufactured on job work.-Every person who gets the goods, falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), 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 may be specified under these rules, whether the payment of such duty be secured by bond or otherwise, as if such goods have been manufactured by such person:

Provided that such person may authorise the job worker to pay the duty leviable on such goods on his behalf and the job worker so authorized undertakes to discharge all liabilities and comply with all the provisions of these Rules:

Explanation.- For the purposes of this rule, the expression "job worker" shall be deemed to mean the person who undertakes the process or processes that brings into existence the finished goods, complete in all respects, falling under Chapter 62 of the said First Schedule, in his factory. For the removal of doubt, it is further clarified that the job-worker may also get part of the processing required for the manufacture of the said goods done by another person but should bring back the same for the completion of the manufacturing process in his factory.'

4. In rule 9 of the said rules, in the third proviso, for the words "Provided further that such goods may be removed", the following shall be substituted, namely:-

"Provided also that the goods falling under Chapter 62 of the First Schedule to Central Excise Tariff Act, 1985 (5 of 1986) produced or manufactured by a job worker may be removed without payment of duty leviable thereon and the duty of excise leviable on such goods shall be paid by the person referred to in rule 7AA, as if such goods have been produced or manufactured by him, on the date of removal of such goods from his premises registered under rule 174:

Explanation.- It is hereby clarified that where such person has authorised the job worker to pay the duty leviable on such goods under rule 7AA, such duty shall be paid by the job worker on the date of removal of such goods from his registered premises:

Provided also that such goods may be removed".

5. In rule 9A of the said rules, in sub-rule (1), after clause (iii), the following clause shall be inserted, namely:-

"(iv) in the case of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), produced or manufactured on job work, on the date of removal of such goods by the person referred to in rule 7AA from his premises registered under rule 174."

6. After rule 9C of the said rules, the following rule shall be inserted, namely:-

"9D. Application of rules in relation to articles of apparel and clothing accessories, not knitted or crocheted.- 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 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) under rule 7AA as if such goods have been manufactured by him."

7. In rule 57AA of the said rules, after clause (d), the following shall be inserted, namely:-

'(e) "manufacturer" or "producer" in respect of goods falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) shall include a person who is liable to pay the duty of excise leviable on such goods under rule 7AA.'

8. In rule 57AC of the said rules, in sub-rule (1), the following shall be added at the end, namely:-

"Provided that in respect of final products falling under Chapter 62 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), CENVAT credit of the duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who gets such final products manufactured on his account on job work subject to the condition that such inputs are used in the manufacture of such final products by the job worker."

9. In the said rules, after section E-X., the following section shall be inserted, namely:-

'E-XA.- Processed Textile Fabrics

96 ZNA. Application to avail of special procedure.-(1) Where an independent processor of textile fabrics, who is engaged exclusively in the manufacture or production of processed textile fabrics falling under heading Nos. 52.07, 52.08, 52.09, 54.06, 54.07, 55.11, 55.12, 55.13 or 55.14, or processed textile fabrics of cotton or man-made fibres, falling under heading Nos. or sub-heading Nos. 58.01, 58.02, 5806.10, 5806.40, 6001.12, 6001.22, 6001.92, 6002.20, 6002.30, 6002.43, or 6002.93 (hereinafter in this section referred to as the "said goods") of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), with the aid of a hot-air stenter (hereinafter in this section referred to as "independent textile processor"), makes in the proper form, an application to the Commissioner, in this behalf, the special provisions contained in this section shall, on such application being granted by the Commissioner, apply to such independent textile processor in respect of the said goods in substitution of the provisions contained elsewhere than in this section, subject to such conditions and limitations as hereinafter laid down.

(2) The independent textile processor, who wants to avail the special provisions contained in this section for the period from 1st May, 2001 to 31st March, 2002, in respect of his processing factory existing as on the 1st May, 2001, shall make the application to the Commissioner of Central Excise in the prescribed format, by the 20th May, 2001. If such application made by the 20th May, 2001, is granted by the Commissioner of Central Excise, the facility to avail the provisions under this section shall be deemed to be available from 1st May, 2001. Pending grant of such application by the Commissioner of Central Excise, the independent textile processor may avail the provisions of this section on a provisional basis. However, if the application is rejected by the Commissioner of Central Excise, then he shall not be eligible to avail the provisions of this section from the 1st May, 2001 and he shall discharge the duty liability as per the provisions contained elsewhere than in this section and the duty, if any, paid under the provisions of this section or the notifications issued thereunder, shall be adjusted against the duty payable on such goods.

Provided that an independent textile processor commencing production for the first time in a new processing factory coming into existence after the 1st May, 2001, shall make the application prior to the commencement of commercial production so as to cover the period upto 31st March, 2002.

Explanation I.-For the purposes of this section, " independent textile processor" means a manufacturer who undertakes bleaching, dyeing or printing or any one or more of these processes with the aid of power or steam and who also has the facility in his factory (including plant and equipment) for carrying out heat setting or drying, with the aid of power or steam exclusively in a hot air stenter and who has no proprietary interest in any factory primarily and substantially engaged in the spinning of yarn or weaving or knitting of fabrics, on or after the 1st day of May, 2001.

Explanation II.-For the removal of doubt, it is hereby clarified that the provisions of this section shall not apply to an independent processor who carries out heat setting or drying with the aid of an open-air stenter installed in his factory.

96 ZNB. Conditions for availing of special procedure.- (1) The original value of the investment in the plant and machinery installed in the factory of the independent textile processor of the said goods, as on the 1st March, 2001 or on the 1st of May, 2001, whichever is higher, for an existing factory of the independent textile processor or on the date of making the application under rule 96ZNA in the case an independent textile processor commencing production for the first time in a new factory coming into existence after the 1st of May, 2001, shall not exceed three crore rupees, irrespective of whether such plant and machinery is in use or not, or is in working condition or not, and the independent textile processor shall declare the original value of investment in such plant and machinery installed in his factory, on the dates mentioned above, in the prescribed format duly certified by a Chartered Accountant or Cost Accountant. The Commissioner of Central Excise may require any such documentary evidence as he considers appropriate in respect of such original value before granting the application.

(2) If any additional plant and machinery is installed by the independent textile processor at any point of time, he shall intimate the same to the Commissioner of Central Excise within 7 days of such installation and the original value of investment in plant and machinery together with the original value of investment in such additional plant and machinery shall not exceed three crore rupees. Where such original value of investment exceeds the limit of three crore rupees, the provisions of this section shall not apply from the first day of the month in which such investment exceeded the said limit of three crore rupees.

(3) The independent textile processor shall not remove any unstentored textile fabrics from his factory.

(4) An independent textile processor of the said goods who has made the application under rule 96ZNA to pay the sum of duty in accordance with rule 96ZNC shall not be allowed any abatement on account of closure of factory, except as provided under rule 96ZND.

(5) The independent textile processor opting for the provisions of this section shall not be eligible to avail of any credit of duty paid on inputs or capital goods under these Rules or any notification issued thereunder.

(6) The provisions of this section shall apply to the said goods which are manufactured or produced on or after the 1st day of May, 2001.

(7) Nothing contained in this section shall apply to-

1. the said goods which are manufactured or produced prior to the 1st day of May, 2001 and cleared on or after that date;
2. a composite mill, i.e., a manufacturer or processor, who is engaged in the processing of fabrics with the aid of power along with the spinning of yarn from fibres and weaving or knitting or crocheting of fabrics within the factory and includes a

multi-locational composite mill, i.e., a public limited company which is engaged in the processing of fabrics with the aid of power along with the spinning of yarn from fibres and weaving or knitting or crocheting of fabrics in one or more factories owned by the same public limited company; or

3. fabrics other than the said goods produced or manufactured by the independent textile processor.

96ZNC. Discharge of liability for duty on payment of certain sum, etc.- (1) Having regard to the average production of the said goods per month per chamber of a hot-air stenter installed for the processing of the said goods and any other relevant factor, the Central Government may, by notification in the Official Gazette, fix, from time to time, the rate of duty per such chamber of a hot-air stenter per month, subject to such conditions and limitations as it may think fit to impose, and may fix different rates for different varieties of the said goods; and if a manufacturer whose application has been granted under rule 96ZNA pays a sum calculated according to such rate of duty in the manner and subject to the conditions and limitations hereinafter laid down or in any notification issued under any of the provisions of this section, such payment shall be a full discharge of his liability for duty leviable on his production of the said goods during the period for which the said sum has been paid:

Provided that if there is any alteration in the rates of duty, the sum payable shall be recalculated on the basis of the revised rates, from the date of alteration and liability for duty leviable on the production of the said goods from that date shall not be discharged unless the differential duty is paid, and where the amount of duty so recalculated, is less than the sum paid, the balance shall be refunded to the manufacturer:

(2) The sum payable under sub-rule (1) read with any notification issued thereunder shall be debited by the independent textile processor in the account current maintained by him under sub-rule (1) of rule 173 G of the Central Excise Rules, 1944.

(3) Fifty per cent. of the sum payable for a calendar month under sub-rule (1) read with any notification issued thereunder shall be paid by the 20th of that month and the remaining sum shall be paid by the 5th of the immediately succeeding month.

(4) The independent textile processor shall maintain records, and file returns, pertaining to production or manufacture, clearance, storage, delivery or disposal of goods, including the materials received for or consumed in the manufacture of the said goods or other goods, the goods and materials in stock with him and the duty paid by him, as prescribed under these Rules or any notification issued thereunder:

Provided that the independent textile processor of the said goods shall further declare in the monthly return required to be filed under these Rules that the original value of investment in the plant and machinery installed in his factory for the month to which the said return pertains has not exceeded three crore rupees.

(5) If an independent textile processor fails to pay the sum under sub-rule (1) or any part thereof by the date specified in sub-rule(3), he shall be liable to,-

(i) pay the outstanding sum along with interest at the rate of twenty-four per cent. per annum calculated for the outstanding period on the outstanding sum; and

(ii) a penalty equal to the sum outstanding from him for a month payable by the 5th of the succeeding month or rupees five thousand, whichever is greater.

(6) If an independent textile processor removes the said goods without complying with any of the requirements contained in sub-rule (4), then, the said goods shall be liable to confiscation and the independent textile processor shall be liable to a penalty not exceeding ten thousand rupees.

96 ZND. Procedure for claiming abatement.- (1) Where an independent textile processor does not produce or manufacture the said goods during any continuous period of not less than thirty days may claim abatement of the sum payable by him under rule 96 ZNC read with any notification issued thereunder, and such abatement shall be allowed by an order passed by the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be, of such amount as may be specified in such order, subject to fulfilment of the following conditions, namely:-

1. the abatement shall be applicable only on complete closure of the factory and not on closure of any one or more hot-air stenters;
2. during the period of closure no manufacturing activity, whatsoever, including bleaching, dyeing or printing, in respect of the said goods shall be undertaken and no removal of the said goods shall be effected by the independent textile processor;
3. the independent textile processor shall inform, in writing, about the closure of the factory to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, with a copy to the Superintendent of Central Excise, at least three days prior to the date of closure;
4. the stenter or stenters shall be sealed in such manner as may be prescribed by the Commissioner of Central Excise;
5. the independent textile processor, when he starts production again, shall inform in writing about the date of starting of production to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, with a copy to the Superintendent of Central Excise, at least three days prior to the date of starting

production, and get the seal opened in such manner as may be specified by the Commissioner of Central Excise before recommencing production;

6. the independent textile processor shall, while sending information under condition (e), declare that his factory remained closed for a continuous period starting from the hour and date to the hour and date, such hours and dates to be specified in the declaration;
7. if the claim for abatement by the independent textile processor has been disallowed by the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be, by a written order made in this regard, the independent textile processor shall pay the sum of duty, and interest if any applicable, prior to getting the stenter or stenters sealed under condition (d) reopened for resuming production;

Provided that the Joint Commissioner of Central Excise or the Additional Commissioner of Central Excise, as the case may be, where he is satisfied that the delay in giving information under condition (c) was caused due to unavoidable circumstances, may, for reasons to be recorded in writing, condone such delay.'

10. In rule 174 of the said rules, in sub-rule (1),-

1. for the words "Every person", the words " Every person , including a person liable to pay the duty of excise under rule 7AA" shall be substituted;

1. the following Explanation shall be added at the end, namely:-

"Explanation.- In the case of a person liable to pay the duty of excise under rule 7AA, other than the job worker who has been authorized to pay the duty of excise, the premises for registration shall be the private store-room or warehouse where the inputs required for the manufacture of the goods specified in the said rule are received and distributed to the job worker and the said goods are received from the job worker for further distribution or sale."

11. In the said rules, in Appendix-I, under the heading "FORMS",-

1. under the sub-heading "(I) List of Central Excise Forms",

(I) against Series No. 3, in the column "Description of Form", the words, figure and letters "/pay duty under rule 7AA." shall be added at the end;

(II) after Series No. 85 and the entries relating thereto, the following shall be inserted, namely:-

Series No.	Description of Form	Rule No.	Short Title
"85A	Application for permission to avail of the special procedure relating to processed textile fabrics	96ZNA	A.S.P.1" ;

(b) under the sub-heading " (II) Specimen Forms", after Central Excise Series No. 85 and Form relating thereto, the following Central Excise Series No. and Form shall be inserted, namely:-

"Central Excise Series No. 85A

Original

Duplicate

Triplicate

FORM A.S.P. 1

Application for permission to avail of the special procedure relating to processed textile fabrics

(Rule 96 ZNA)

Name of factory/factories.....Address.....

I/We.....manufacture(s) of processed textile fabrics residing at.....and holder (s) of Central Excise Licence No.dated.....hereby apply to avail myself/ourselves, during the period beginning with.....200.....and ending with.....200....of the special provisions contained in Section EX.A of Chapter V of the Central Excise Rules, 1944, in respect of the production or manufacture of processed textile fabrics with the aid of power or steam at my/our above-mentioned factory/factories.

2. I/We declare below the particulars of processed textile fabrics produced or manufactured in my/our above-mentioned factory:-

S. No.	Description of processed textile fabrics	Classification of processed textile fabrics
(1)	(2)	(3)

3. I/We declare below the particulars of each of the plant and machinery installed in my/our above-mentioned factory:-

Number of plant and machinery separately for each type	Name of manufacturer of plant and machinery	Brand name and other identifying particulars of plant and machinery	Serial Number/ Identification Number of the plant and machinery	Date and year of purchase	Date and year of installation	Original value of investment in each of the plant and machinery, as on 1-3-2001 and 1-5-2001 in case of existing factory / on the date of making this application in case of new factory (Delete whichever is not applicable)	Total value of investment in the plant and machinery, as on 1-3-2001 and 1-5-2001 in case of existing factory / on the date of making this application in case of new factory (Delete whichever is not applicable)
1	2	3	4	5	6	7	8

4. I/We declare below the particulars of each hot-air stenter installed in my/our above-mentioned factory:-

Number of hot-air stenters installed as on 1-3-2001 and 1-5-2001 in case of existing factory / on the date of making this application in case of new factory (Delete whichever is not applicable)	Name of manufacturer of each of the hot-air stenter	Brand name and other identifying particulars of the hot-air stenters	Serial Number/ Identification Number of the hot-air stenters	Date and year of purchase	Date and year of installation	Number and size (both length and width in centimeters) of chambers in each of the hot-air stenters, as on 1-3-2001 and 1-5-2001 in case of existing factory / on the date of making this application in case of new factory (Delete whichever is not applicable)	Total value and quantity of processed textile fabrics produced/manufactured in the preceding F.Y.	Total value and quantity of processed textile fabrics cleared in the preceding F.Y.	Average value of processed textile fabrics cleared in the preceding F.Y.
1	2	3	4	5	6	7	8	9	10

5. I/We hereby declare that the particulars furnished above are true and correct in all respects. In case any of the particulars are found to be untrue/incorrect, I/We undertake to pay any additional amount of excise duty on the processed textile fabrics manufactured by me/us as per the provisions the Central Excise Act, 1944 or the rules or notifications issued thereunder.

6. I/We further declare that the original value of investment made in the above-mentioned factory is Rs..... in support of which the following documents and the Certificate of the Chartered Accountant/Cost Accountant is enclosed herewith.

7. I/We hereby agree to abide by the terms, conditions and limitations of the said section or any notification issued thereunder throughout the said period.

Signature of manufacturer(s) or his/their
authorised agent(s).

Place:

Date:

COUNTERSIGNED

.....of Central Excise

Range.....

Circle.....

Place:

Date:

Permission granted for the financial year

Place:	the period
Date:	beginning with.....

and ending with.....

Commissioner of Central Excise....".

(G.D. Lohani)

Under Secretary to the Government of India

F.No. B-4/6/2001-TRU

Footnote.- The principal rules were published vide notification No. IV D-C.E., dated the 28th February, 1944 and were last amended vide notification No. 10/2001-Central Excise, dated the 14th March 2001, published in the Gazette of India vide number G.S.R. 183 (E), dated the 14th March, 2001.