



Central Board of Indirect Taxes & Customs

Department of Revenue, Ministry of Finance, Government of India


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Circular No. 458/24/99-CX
dated 27/5/1999

F.No. 201/10/99-CX.6

Government of India
Ministry of Finance, Department of Revenue,
Central Board of Revenue
New Delhi

Subject : Central Excise - Proposal to permit SSI units to pay excise duty on a monthly basis with effect from 1.6.1999 based on the Budget Speech 1999-2000 of the Finance Minister - instructions regarding -

I am directed to say that in pursuance of the announcement by the Finance Minister in his Budget Speech 1999-2000 that as a measure of simplification of administrative procedure, the SSI units will be permitted to pay excise duty on monthly basis with effect from 1st June 1999, Notification No. 36/99-Central Excise (N.T.) dated 26th May, 1999 has been issued whereby new Rule 173GG has been inserted. (The erstwhile Rule 173GG has since been deleted by Notification No. 35/00-Central Excise (N.T.) dated 18.5.99). The Notification No. 36/99-Central Excise (N.T.) dated 26th May, 1999 shall come into effect from 1st June 1999.

2. Under the Central Excise provision, the status of a Small Scale industry is recognised with reference to the exemption granted to a manufacturer on the basis of the aggregate value of the clearances in a financial year. Currently, there are exemption notifications issued under section 5A of the Central Excise Act, 1944 which exempt excisable goods specified in those notifications and such exemptions are availed by the manufacturers at different rates depending upon the aggregate value of clearances for home consumption. The manufacturers/factories are eligible for such exemption in the next financial year provided their aggregate value of clearances in the preceding financial year remain below the limit specified in such notifications. The criterion has been adopted in Rule 173GG also. In this new rule, it has been provided that a manufacturer availing exemption under notification based on value of clearances in a financial year will be applicable to the manufacturers availing of exemption under the following notifications, namely :

1. No. 5/99-CE dated 28.2.99 - Goods specified in Serial No. 70 only
2. No. 8/99-CE dated 28.2.99
3. No. 9/99-CE dated 28.2.99
4. No. 10/99-CE dated 28.2.99

(The scheme will continue to apply to any notification issued in supersession of the aforementioned notifications)

3. It is also clarified that a manufacturer availing exemption in the current financial year will continue to avail this facility even if his aggregate value of clearances exceeds the upper limit specified in such notification. For example, under Notification No. 9/99-CE dated 1st March 1999, a manufacturer will be eligible for this facility in a financial year even if his aggregate value of clearances for home consumption exceeds Rs. 300 lakhs in that financial year. In the next financial year, the facility will not be available to such manufacturer for the simple reason that manufacturer will not be entitled to SSI exemptions.

4. An eligible manufacturer who intends to avail this facility is required to give a written intimation to the Jurisdictional Assistant Commissioner or the Deputy Commissioner of Central Excise specifying the month and the date from which he will avail this facility. It is clarified that a manufacturer may avail the facility from any day during a month, and discharged his duty liability by 15th day of the succeeding month for the period covered by this scheme. For example, if a manufacturer intimates 15th June 1999 as the date from which he wishes to avail this facility, he will discharge his duty liability, in respect of removals during 15th June 1999 to 30th June 1999, by 15th July 1999.

5. Though duty has to be paid on monthly basis under this facility, the Assessment of duty due on any excisable goods intended for removal has to be assessed by the manufacturer, consignment-wise and the particulars of such consignments have to be recorded in RG-1 Register. The RG-1 Register has to be maintained in the usual manner. However, entries in Columns 5, 6, 7 & 8 relating to removals from the factory will be in reference to "duty payable" instead of "on payment of duty" and in Column 14 amount shall be specified for "duty payable".

6. Board has specified in circular No. 29/29/94-CX dated 21.3.94 the particulars which are required to be incorporated in the invoices issued under rule 52A. Under the new scheme, entries relating to payment of duty will require modification. It has, therefore, been decided that in the invoices issued by manufacturer availing the procedure of new Rule 173GG, instead of indicating "total duty paid", "total duty payable" will be indicated. The "serial numbers" of debit entry in PLA/RG23 need not be mentioned at all. The manufacturer shall endorse on the invoices issued by him the following phrase "WORKING UNDER RULE 173GG" (in bold letters). This is necessary in order to identify an invoice issued by a manufacturer availing this facility.

7. Under this provision, the total duty payable for a month by such manufacturer has to be determined by him at the end of the month by summing up the excise duty payable on the consignments removed during that calendar month. He will, thereafter, discharge the duty liability latest by the 15th day of the next calendar month by debiting accounts in Form RG-23A part-II or Form RG-23C Part-II or the account current [Personal Ledger Account (PLA)]. The manufacturer shall ensure that at the time of making debit entries, there are sufficient credits available in these accounts to cover up the duty liability. The credit in PLA will continue to be made by cash deposits in the treasury. The receipted copy of TR-6 challans will continue to be submitted with the Quarterly RT-12 Return.

8. In order to ensure that this facility is not misused, provision for charging interest @30% per annum and penalty of rupees five hundred per day have been incorporated in the new rule. However, a maximum limit of the amount of penalty impossible has been prescribed in the proviso to sub-rule (7). In case of delay in discharging the duty liability, penalty per day should be determined. The sum of duty liability for the month in which the manufacturer failed to pay duty in time, interest and penalty should not exceed the value of clearances during that calendar month. For example, the value of clearances for the month of July, 1999 is Rs. 1 Lakh. The duty payable is Rs. 15000/- (whether from PLA of RG 23A or RG 23C), the maximum amount of interest and penalty will be Rs. 85,000/- for failure to pay duty in time for that month.

9. It has also been provided that if a manufacturer fails to discharge duty on two occasions in a financial year, he will be disallowed this facility during the rest of the financial year. It has further been provided that the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise will pass an order disallowing this facility as soon as it comes to his notice that a manufacturer has failed to pay duty on time on two occasions in a financial year.

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10. The manufacturer will file Quarterly Return in terms of Sub-rule (8) of Rule 173G. This return, however, can be filed by 20th day of the close of the quarter by virtue of clause (ii) of Rule 173G. The Commissioner should issue a general order permitting aforesaid class of manufacturers under the said clause to file the return by the 20th day of the close of the quarter.

11. Sub-rule (2) in new Rule 173GG has been made to incorporate a deeming provision which provides that even if the duty payable against the clearances under new Rule 173GG are paid on the monthly basis, the removal shall be deemed to be on payment of duty subject to observance of the prescribed (modified) procedure in Sub-rule (1) of Rule 173GG, and the modvat credit will be available as usual. In other words, the downstream industry (user of the input/capital goods) receiving the inputs/capital goods from the manufacturers working under Rule 173GG will be eligible for modvat credit as if such goods are "duty paid", notwithstanding the fact that duty is not discharged at the time of removal but only by the 15th day of the succeeding calendar month.

12. The Board ensures that the Commissioners should carefully examine this scheme and ensure its proper implementation. Any difficulties noticed should be intimated to the Board at the earliest.

13. The trade and the field formations may suitably be informed before 1st June, 1999.

Sd/-
(P K Sinha)
Under Secretary (CX.6)



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