

LESSON–19

CENTRAL EXCISE LAWS

Mr. Surender Munjal

STRUCTURE

- 19.0 Introduction
- 19.1 Objective
- 19.2 Nature of Excise Duty
 - 19.2.1 Taxable Event
 - 19.2.2 Rates of Excise Duty
- 19.3 Chargeability of Excise Duty
- 19.4 Definitions and Concepts
 - 19.4.1 Factory
 - 19.4.2 Goods
 - 19.4.2 Manufacture
 - 19.4.3 Manufacturer
- 19.5 Classification of Goods
 - 19.5.1 Scheme of Classification
 - 19.5.2 Broad Grouping in CETA
 - 19.5.3 Trade Parlance Theory
- 19.6 Valuation of Goods
- 19.7 Registration of Goods
- 19.8 Clearance of Goods
- 19.9 Duty Payment Provisions
- 19.10 Excise Duty Setoff Provisions
- 19.11 Let us Sum Up
- 19.12 Glossary
- 19.13 Self-Assessment Exercise
- 19.14 Further and Suggested Readings

19.0 INTRODUCTION

Tax is of two types Direct Tax and Indirect Tax. Direct Tax is the tax, which is paid directly by people to the government, while indirect tax is the tax, which is paid indirectly by people to the government. Income Tax is paid directly to the government therefore it is a direct tax while excise duty is paid by people to the manufacturer who pays it to the government, therefore it is an indirect tax.

The Constitution of India (COI) has given power to levy tax to central and state government under seventh schedule. The taxation in India is either charged by the state governments or by the central government. In the basic scheme of taxation in India, it is conceived that central government will levy

and collect tax revenue from Income Tax (except on Agricultural Income), Excise (except on alcoholic drinks) and Customs while state government will get tax revenue from sales tax, excise on liquor and tax on Agricultural Income and the municipalities will get tax revenue from octroi and house property tax.

Central Excise Law is a combined study of:

1. Central Excise Act (CEA), 1944;
2. Central Excise Tariff Act (CETA), 1985;
3. Central Excise Rules, 2002; and
4. CENVAT Credit Rules, 2004

19.1 OBJECTIVE

After going through this lesson you should be able to understand:

- Meaning and nature of excise duty
- Various concept and definitions used in Central Excise Act
- Rates of excise duty
- Classification and Valuation of goods for excise purpose
- When and how excise duty is paid
- Registration and clearance of goods; and
- Scheme of setoff of the excise duty.

19.2 NATURE OF EXCISE DUTY

As per section 3 of Central Excise Act (CEA) excise duty is levied if: -

- 1) There is a good.
- 2) Goods must be moveable
- 3) Goods are marketable
- 4) Goods are mentioned in the central excise tariff act (CETA).
- 5) Goods are manufactured in India.

If production or manufacture is in special economic zone then no excise duty is levied.

Therefore we can say that excise duty is not levied on:

- 1) Services such as doctors treating the patients, accountants preparing the accounts, in these cases service tax are levied.
- 2) Immovable goods such as roads, bridges and buildings.
- 3) Non-Marketable goods, i.e., goods for which no market exists, e.g., melted iron ore at 1600 degree Celsius.
- 4) Goods that are not mentioned in CETA; and
- 5) Goods manufactured or produced out of India.

Excise duty is levied on production or manufacture and not on sale. At the time of sale another tax called Value Added Tax (VAT) or Sales Tax is applicable.

19.2.1 TAXABLE EVENT

Taxable event means the stage when tax is levied/ applied. Manufacture or production in India is the stage of levying tax. However, the government, at the time, when the goods are removed from the factory, i.e., goods are taken out from factory, collects tax.

Since, excise duty is levied at the time of removal of goods. Thus, it becomes taxable at the time of their removal and therefore, the date of its actual production is not relevant. The date of removal is relevant and the rate of excise duty applicable on the date of removal shall be actual rate of excise duty to be paid.

19.2.2 RATES OF EXCISE DUTY

The basic rate of excise duty is 16% while in some cases there is a special duty of 8% which makes the excise duty in those cases at 24%. There is at present a cess for education called education cess, which is 2% of the excise duty; therefore, the effective excise duty comes out as 16.32% or 24.48%.

CHECK YOUR PROGRESS

Activity A

Discuss whether the following are liable for excise duty:

- a) Telephone and mobile operators like Airtel, Hutch, Idea or MTNL
- b) Education in schools and colleges
- c) Books used in schools and colleges
- d) Mobile phone instruments like NOKIA or MOTOROLA
- e) LAPTOP produced in USA.
- f) Dams and electricity plant installed at the bank of a river.
- g) Unmarketable waste produced from a factory.

Activity B

An item was exempted from Excise when it was produced. When it was sent out of factory the central government withdraws the exemption. Whether excise duty will be payable on it or not?

19.3 CHARGABILITY OF EXCISE DUTY

Excise duty is levied on production of goods but the liability of excise duty arise only on removal of goods from the place of storage, i.e., factory or warehouse.

Excise duty is levied even if the duty was paid on the raw material used in production.

Excise duty is levied on government undertakings also, e.g., Railways is liable to duty on the goods manufactured by it.

Excise duty is an expense while calculating the profits in accounting.

Excise duty is levied if goods are marketable. Actual sale is not relevant. Therefore, goods, which are given for free replacement during warranty period, are also liable for excise duty.

CHECK YOUR PROGRESS

Activity C

Discuss whether Excise duty arises or not:

- a) Telephone department of government of India.
- b) A car gifted (not sold) by Maruti Udyog Ltd. to the winner of Kaun Banega Carorpati.
- c) Spare Parts produced by a computer company for replacement during warranty (not sold).

Activity D

Name any five key words you come across in the above sections.

19.4 DEFINITIONS AND CONCEPTS

Central Excise Law is levied on manufacturer or production of goods. The liability of paying the central excise is on the manufacturer. So let us examine the concept and definitions of goods, manufacture and manufacturer in detail.

19.4.1 FACTORY

According to section 2(e) Factory means any premises where any part of the excisable goods other than salt are manufactured or any manufacturing process is carried out.

19.4.2 GOODS

Goods have not been defined in Central Excise Act. As per Article 366(12) of Constitution of India, Goods includes all material commodities and articles.

Sale of Goods Act defines that “**Goods**” means every kind of movable property other than actionable claims and money; and includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Goods must be: i) Movable; and
 ii) Marketable

Moveable means goods, which can be shifted from one place to another place, e.g., motor car, mobile phone, computer etc.

The goods attached to earth are immovable goods, such as, Dams, Roads, and Buildings etc.

Moveable Goods are manufactured or produced but immoveable goods are constructed.

Marketable means goods which are capable of being sold, e.g., Molten iron ore at 1300 degree to 1400 degree Celsius is not marketable, therefore not a good. Similarly, flour produced in own factory for use as raw material in own

Remember you have learnt in section 19.1, Sales Tax or VAT is applicable on actual sales. Excise duty is applicable on production of goods. Actual sale is not relevant.
--

Goods produced for free distribution, as sample, gifts, or replacement during warranty period is also liable of excise duty.

Excisable Goods are those goods, which are mentioned in the items of tariff in CETA. Sec 2(d) defines “Excisable Goods as goods specified in the schedule of CETA 1985 as being subject to a duty of excise and includes salt.”

19.4.3 MAUFACTURE OR PRODUCTION

According to Section 2(f) of Central Excise Act “manufacture” includes any process: -

- i. Incidental or ancillary to the completion of manufactured product or
- ii. Which is specified in relation to any goods in the Section or Chapter notes of the Schedule to the Central Excise Tariff Act, 1985 as amounting to manufacture, or
- iii. Which, in relation to goods specified in third schedule to the CEA, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers or declaration or alteration of retail sale price or any other treatment to render the product marketable to consumer.

Clause (ii) and (iii) are called deemed manufacture. Thus, definition of ‘manufacture’ is inclusive and not exhaustive.

The word Manufacture as specified in various Court decisions shall be called only when a new and identifiable goods emerge having a different name, character, or use; e.g., manufacture has taken place when table is made from wood or of pulp is converted into base paper, or sugar is made from sugarcane.

DEEMED MANUFACTURE – Deemed manufacture is of two types: –

- i. CETA specifies some processes as ‘amounting to manufacture’. If any of these processes are carried out, goods will be said to be manufactured, even if as per Court decisions, the process may not amount to ‘manufacture’ [Section 2(f) (ii)].
- ii. In respect of goods specified in third schedule of Central Excise Act, repacking, re-labelling, putting or altering retail sale price etc. will be ‘manufacture’. The goods included in Third Schedule of Central Excise Act are same as those on which excise duty is payable u/s 4A on basis of MRP printed on the package. [Section 2(f) (iii)].

PRODUCTION – Production has also not been defined in CEA but production is used to cover items like coffee, tea, tobacco, etc. which are called to have been manufactured not produced.

ASSEMBLY – Assembly of various parts and components amount to manufacture provided it result in movable goods which have distinctive identity, use, character, name etc. e.g., assembly of computer is manufacture.

Assembly of air conditioner in a car is not manufacture as no new identifiable product emerges.

19.4.4 MANUFACTURER

Manufacturer is a person who actually manufactures or produces the excisable goods. A person who gets the production of other and sell it after putting its own brand then he will not be called manufacturer, e.g., if Khaitan company gets the fans made from some person and sell it after putting their brand name, the Khaitan company will not be manufacturer. The person actually making the fans will be called manufacturer.

CHECK YOUR PROGRESS

Activity E

Define the concepts of:

- a) Goods
- b) Excisable Goods
- c) Factory
- d) Manufacture
- e) Manufacturer

19.5 CLASSIFICATION OF GOODS

The excise duty is chargeable at different goods at different rates. Therefore, goods are classified for determination of duty.

The classification of goods adopted in central excise Tariff Act and Custom Act is common. The classification uses 8-digit nomenclature. CETA consists of two schedules; the first schedule gives basic excise duty (i.e., CENVAT duty) and second schedule gives export duties.

There are only 26 items in second schedule out of which 24 are exempt from export duty.

19.5.1 SCHEME OF CLASSIFICATION

CETA and Customs Act both have sections and chapters. Remember you have read above that the scheme of class is common for both CETA and Customs Act. Each section has various chapters. A section relate t a class of goods e.g., Section – I is ‘Animal Products’, Section – XI is ‘Textile Products’, Section – XVII is ‘Vehicles, Aircraft, Vessels and Other Transport Equipments’.

A chapter contains goods of one class e.g., Section – XI of Textile Products has Chapter 50 relating to Silk, Chapter 51 relating to Wool and Chapter 52 relating to Cotton.

<p>There are 20 Sections in CETA and 21 Sections in Customs Act. There are 96 chapters in CETA and 99 Chapters in Customs Act.</p>
--

Each Chapter is further divided into headings and headings are divided into sub-headings, e.g., Chapter 50 of silk has 5 headings:

- 50.01 Silk and Cocoons
- 50.02 Raw Silk
- 50.03 Silk Waste
- 50.04 Silk Yarn

The heading 50.04 ‘Silk Yarn’ has sub-headings 5004.11 Silk Yarns with 85% or more silk and sub-heading 5004.19 relates to Silk Yarns with less than 85% silk.

In this classification scheme let us elaborate on 5004.19, in this there are upto 6 digits. The first two digits ‘50’ is chapter number; next two digits ‘04’ is heading number and next two digits after decimal ‘19’ is subheading number.

The 2 more digits (to make these 6 digits to 8 digits) are additional digit to facilitate and provide flexibility in international trade.

19.5.2 BROAD GROUPING IN CETA

Following is broad grouping of goods in CETA:

1. Animal Products (Section I - Chapters 1 to 5)
2. Vegetable Products (Section II - Chapters 7 to 14)
3. Animal or vegetable fats (Section III - Chapter 15)
4. Prepared foodstuffs, beverages (Section IV - Chapters 16 to 24)
5. Mineral Products (Section V - Chapters 25 to 27)
6. Chemicals, Fertilisers, soap etc. (Section VI - Chapters 28 to 38)
7. Plastics and Rubber and their articles (Section VII - Chapters 39 and 40)
8. Leather and articles (Section VIII - Chapters 41 to 43)
9. Wood, cork, straw and their articles (Section IX - Chapters 44 and 46)

10. Pulp, Paper, Paper-board and articles (Section X - Chapters 47 to 49)
11. Textile and Textile Products (Section XI - Chapters 50 to 63)
12. Footwear, Headgear, Umbrellas, Articles of human hair (Section XII - Chapters 64 to 67).
13. Articles of stone, plaster, ceramic, glass (Section XIII - Chapters 68 to 70)
14. Pearls, precious metals (Section XIV - Chapter 71)
15. Base metals and articles of base metal (Iron, Steel, Copper, Nickel, Zinc, Tin etc.). (Section XV - Chapters 72 to 83)
16. Machinery and mechanical appliances, electrical equipments, television etc. (Section XVI - Chapters 84 and 85)
17. Vehicles, Aircrafts, vessels (Section XVII - Chapters 86 to 89)
18. Optical, photographic, medical, surgical instruments, clocks, musical instruments (Section XVIII - Chapters 90 to 92)
19. Arms and Ammunition (Section XIX - Chapter 93)
20. Misc. Manufactured articles like Furniture, toys etc. (Section XX - Chapters 94 to 96)
21. Works of Art, collectors' pieces and antiques (Section XXI - Chapters 97 to 99) – This section is only in Customs Tariff and not in Central Excise Tariff.

19.5.3 TRADE PARLANCE THEORY

Trade Parlance Theory emerged out of case of Grenfell vs. IRC (1876), where justice Pollok concluded that nay word in statue should be interpreted (understood in its popular sense, in which people understand it.

Some examples:

- A mirror is not a glass wear, as glass loses its character after it is converted into mirror.
- Windscreen of motor vehicle (front glass of car) is not a glass it is understood as automobile part.
- Plastic pen has a separate identity. It cannot be classified as article of plastic like pipes, plastic sheets etc.
- Carbon paper is not a paper because paper is used for writing, Printing, drawing etc.

A product is also classified on the basis of its end use, if classification is related to the function of the goods.

CHECK YOUR PROGRESS

Activity F

Briefly discuss the scheme of classification?

Activity G

Analyse the following Classification code and state the Section, chapter heading and sub-heading number of it.

- a) 4412.21
- b) 3556.16

Activity H

Which chapter number belongs to the following product category?

- a) Leather Shoes
- b) Pistols
- c) Soaps and Detergents

19.6 VALUATION OF GOODS

Excise duty is payable on the basis of:

1. Specific duty based on measurement like weight, volume, length etc.
2. Percentage of Tariff value.
3. Maximum Retail Price.
4. Compounded levy Scheme.
5. Percentage of Assessable Value (Ad-valour duty)

Specific Excise Duty: Specified excise duty is the duty on units like weight, length, volume, etc.

<u>Items</u>	<u>Basis of Specific Excise Duty</u>
--------------	--------------------------------------

Cigarettes	length of cigarette
------------	---------------------

Matches	per 100 boxes
---------	---------------

Sugar	per quintal
-------	-------------

Marble slab and tiles	square meter
-----------------------	--------------

Colour TV	screen size in cm.
-----------	--------------------

Cement	per tonne
--------	-----------

Excise Duty on Tariff Value: Tariff Value is the value fixed by government from time to time. Government can fix different tariff value for different classes. Tariff Value is fixed for Pan Masala, Ready Made Garments.

Excise Duty on MRP: Government can specify the goods on which excise duty will be based on MRP.

MRP shall be the maximum price at which excisable goods shall be sold to the final consumers. It includes taxes, freight and transport charges, commission to dealers etc.

Excise duty on MRP is applicable on products on which quoting of MRP is necessary under the Weights and Measurements Act, e.g., Chocolates, Biscuits, Wafers, Ice Creams, Camera, Refrigerators, Fans, Footwear, Toothpaste etc.

Compounded Levy Scheme: In case of small manufacturer, government allow small manufacturer to pay excise duty on the basis of specified factors like size of equipment employed, at the specified rates.

Excise Duty on Assessable Value: Assessable Value is the value of transaction i.e., the value at which transaction takes place, in other words it is the price actually paid or payable for the goods on sales. It is also called transaction value. It includes freight and transportation charges, commissions to dealer etc.

Excise duty is paid on transaction value or assessable value if:

1. Goods are sold at the time and place of removal.
2. Buyer and assessee (Manufacturer/seller) are not related.
3. Price is the only consideration for sale, i.e., money or some valuable item is received on sale.

Assessable Value excludes amount of excise duty, sales tax or other tax actually paid.

Following items are included:

1. Primary packing or main packing or necessary packing.
2. Royalty charges.
3. Commission to sales agent.

Following items are excluded:

1. Secondary packing.
2. Returnable primary packing like cold drinks bottles, LPG cylinders.
3. Discount given at the time of sales.

$\text{Assessable Value} = \frac{\text{Sales Price less Deductions}}{(1+\text{rate of duty})}$
--

Illustration 19.1

If the sales price of a good is Rs. 10, which includes the cost of bottle of Rs. 2 and the excise duty of 16% plus 2% education cess. What will be the assessable value?

Solution:

Assessable value = Price Less Deduction – Allowable deductions/ (1+ rate of duty)

$$\text{Assessable Value} = (10 - 2) / (1+0.1632) = \text{Rs.9.54}$$

CHECK YOUR PROGRESS

Activity I

Briefly discuss the various bases of valuations?

Activity J

What do you understand by the term Specific Excise Duty?

Activity K

What is the compounded levy scheme of excise duty?

Activity L

Indicate what kind of excise duty is applicable on the following products:

- a) Cigarettes
- b) Pan Masala
- c) Branded Television
- d) Unbranded Television
- e) Ice Creams
- f) Camera
- g) Foot Wears

- h) Tooth Paste
- i) Refrigerators

Activity M

What will be Assessable Value if the sale price is Rs. 100 and there is a discount on sale of 10%? The rate of duty is 16.32%.

19.7 REGISTRATION OF GOODS

According to section 6 of Central Excise Act, every manufacturer or producer, who produces excisable goods, must get two types of registration:

1. Registration for manufacturer.
2. Registration for warehouse, where goods are stored.

Rules of Registration

Following are the rules of registration:

1. Separate registration is required for each premise.
2. Registration is not transferable.
3. Registration certificate shall be given within 7 days of application for registration.
4. If manufacturer cease to produce i.e., stops the production permanently then he should apply for de-registration.
5. Registration can be revoked or suspended by AC/DC if any condition of the Act or Rules is breached.

Procedure for Registration

Following are the steps for registration under central excise act.

1. Application for registration is given in prescribed format to the Assistant Commissioner or Deputy Commissioner in duplicate.
2. Application should be accompanied by a self-attested copy of Permanent Account number (PAN) allotted by income tax department.
3. In case of company and partnership firms name of company or partnership should be mentioned as name of business and not the name of owner who sign the application.
4. On receipt of application of registration the excise department allots the registration certificate within 7 days.

5. The registration certificate mentions the Excise Control Code (ECC), the ECC is a 15 digit number which has first 10 digits of PAN, next two digits are either 'XM' for manufacturer or 'XD' for dealer and the last three digits are number like 001,002 etc.

The registration certificate includes:

1. Name of assessee
2. Constitution of the business
3. Types of business (Manufacturer, Dealer or warehouse or depot or Export Oriented Unit (EOU)).
4. Address of the business
5. The Excise Control Code (ECC).

CHECK YOUR PROGRESS

Activity N

Write a short note on registration in Central Excise Law.

Activity O

What is the meaning of 'XD' and 'XM' on registration number?

Activity P

ECC stand for:

19.8 CLEARANCE OF GOODS

Clearance means taking goods out of factory. Thus, finished goods can be stored not removed in the place of manufacture (factory) without payment of duty. There is not time limit for removal of goods from place of manufacture i.e., factory.

The records have to be maintained by manufacturer indicating particulars regarding:

1. Description of goods manufactured or produced
2. Opening Balance of goods manufactured or produced.
3. Quantity produced or manufactured.
4. Stock of goods.
5. Quantity of goods removed
6. Assessable Value
7. Amount of duty payable; and
8. Amount of duty actually paid.

The record should be preserved for 5 years. If the records are not maintained then penalty up to duty payable can be imposed and goods can be confiscated.

If goods are stored at any other place other than factory, then goods can be cleared from factory without payment of duty, if commissioner permits.

Goods can be cleared out of factory without payment of duty for carrying out tests and omission per unit.

CHECK YOUR PROGRESS

Activity Q

Write a short note on Clearance of goods; what records are required to be maintained for clearance of goods?

Activity R

For how many years the records for clearance are to be kept?

- a) 5 years
- b) 8 years
- c) 3 years

19.9 DUTY PAYMENT PROVISIONS

Goods cleared from factory are cleared under an invoice. Duty is payable on monthly basis by 5th of the next month in which duty payment becomes due, i.e., the month in which goods are cleared from the factory. Duty is paid through current account called PLA and /or Central Value Added Tax Credit, i.e., CENVAT Credit.

Small Scale Industry (SSI) is required to pay the duty by 15th of the next month. However, the duty for the month of March is paid by 31st March itself not on 5th of next month i.e., 5th of April because government accounts closes on 31st March.

If the due date is Sunday or holiday, the duty can be paid on next working day.

If duty is not paid then assessee is liable to pay the interest also on outstanding amount. If duty and interest is not paid for 30 days after due date, then the facility to pay duty on monthly basis will be withdrawn till the time interest and duty is paid or 2 months, whichever later. Thus, the facility of monthly payment of excise duty is withdrawn at least for 2 months. During this period duty will be paid on removal basis.

Duty is paid by assessee through current account known as PLA (Personal Ledger Account). The PLA is credited when duty is paid i.e., deposited in the bank by filling a challan called TR-6 on monthly basis. Only excise duty paid comes in PLA the items like fine, penalty, interest does not appear in PLA.

A PLA contains:

1. Serial number and date
2. Details of TR-6 challan number
3. Balance duty etc.

The PLA is maintained in triplicate using both sided carbon.

Excise Return: Excise return is submitted to the excise department with the two copies of PLA and TR-6 challan. The excise return is prepared in form ER-1 and ER-3.

CENVAT: CENVAT has its origin from the system of VAT, which is very common in European countries. VAT means Value added Tax; it is a system of taxation in which tax is paid only on the value addition. Value addition is the difference between the sale price and the purchase price. Thus, if a person buys a good for Rs. 40 and sells it for Rs. 100 after doing some works on it. Then he has added value of Rs. 60 on these goods. If the rate of taxation is 10% then the tax will be Rs. 6, i.e., 10% of Rs. 60.

This system of VAT was introduced in Central Excise Act in 1986 and it was named as MODVAT (Modified VAT) later in 200 the name was changed to CENVAT.

The system of Vat was brought in Service Tax in 2002 and now it is brought even in Sales Tax Law too.

19.10 EXCISE DUTY SET OFF PROVISIONS

As discussed above tax on value addition of Rs. 60 is Rs. 6, let us elaborate on it. Tax of Rs. 6 can also be calculated using the concept of set off of tax.

Tax on sale of Rs. 100 is Rs. 10; tax on purchase of Rs. 40 is Rs. 4. Thus, if a manufacturer pay tax on the total value of goods manufactured by him of Rs. 100, i.e., Rs. 10 he can claim back Rs. 4 as his tax liability on value addition of Rs. 60 is only Rs. 6. This claiming back of tax is called tax credit or set off of duty scheme.

CENVAT System: CENVAT is applicable on central excise duty. In Central Excise the manufacturer has to pay tax on the value of goods manufactured but taking the VAT system he can claim the tax credit i.e., CENVAT credit of the tax paid on:

1. Input goods used in manufacture
2. Input services used in manufacture.

It should be noted that no CENVAT credit is available if:

1. Final production is exempt from excise duty.
2. The document showing proof of payment of duty on input is not available.

It is worth to note that duty paid on input cannot be enchased / refunded it can only be adjusted against duty on finished goods.

Input output relation: There need not be an input –output relation for claiming CENVAT credit, e.g., duty paid on automobile components used in automobile manufacturer can be adjusted against duty on textile production.

CENVAT credit on Capital Goods: Any duty paid on machinery and plant, spare parts of machine, tools, dies etc. used in manufacture can also be

adjusted against duty payable on production. However, up to 50% credit is available in current year and balance in subsequent financial year.

Motorcar is not a capital asset and for the purpose of CENVAT Credit for all manufacture. However it may be taken as capital good for service tax in case of service provider uses motor car for service providing purpose e.g., Courier, tour operator, rent-a-cab, cargo, outdoor caterer, pandal and shamiana operator, and goods transport agency.

CHECK YOUR PROGRESS

Activity S

What is the due date of payment of duty in case of SSI and other manufacturers?

Activity T

What are the penal provisions for non-payment of duty and interest?

Activity U

What is PLA?

Activity V

Write a short note on CENVAT Credit.

Activity W

Whether CENVAT credit will be available to a textile manufacturer in following cases?

- a) Motors used in transportation of inputs and outputs
- b) Cotton input used in manufacture of textile.
- c) Plant and Machinery used in textile manufacture
- d) Furniture not used in textile manufacture
- e) Chemicals used in textile manufacture.

19.11 LET US SUM UP

Excise Duty is a duty levied by central government. It is not a subject matter of state government, except Alcohol. The basic rate of excise duty is 16% plus education cess of 2%. Excise duty is levied on value of goods, measurement or

some specified factors like size of plant and machinery. The value of goods is calculated either on MRP or Transaction Value or on Tariff Value.

The goods are classified in various sections. The sections are further classified in chapters. The chapters are divided into headings and headings are further divided into sub-headings. The classification is 8-digit classification, which has two digits each of section, headings and sub-headings.

The excise duty liability arises on the removal of goods not on actual production of goods. Even goods removed from factory for free distribution is also liable for excise duty. The liability of excise duty is on the manufacturer. The manufacturer should get a registration for himself and each of his places of storage of goods from where the goods will be removed for distribution. The registration is granted within 7 days of application of registration. On registration a 15 digit Excise Control Code is provided by the Excise department.

Any duty paid on the input used in manufacture of product including the capital goods used in production except the motorcar can be setoff against the duty payable on manufacture or production of goods. The duty paid or setoff is credited to the current account if excise duty called Personal Ledger Account (PLA).

19.12 GLOSSARY

The various key words appeared in this chapter are:

Assessable Value: Assessable value is the value at which the transaction of sale takes place. It is also known as transaction value.

CENVAT: Stands for Central Value Added Tax It is a scheme of giving tax credit in the Central Excise Law.

Excisable Goods: Excisable goods mean those goods, which are mentioned in the Central Excise Tariff Act, 1985. These are the goods on which the excise duty is paid.

Factory: Factory is the place where the excisable goods are produced.

Goods: Goods means every kind of moveable property other than actionable claim and money, and includes stock and shares, growing crops, grass and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale.

Manufacture: Manufacture includes any process incidental or ancillary to the completion of manufactured product which is specified in relation to any goods in the section or chapter notes of the schedule to the central excise tariff Act, 1985 as amounting to manufacture, or which, in relation to goods

specified in third schedule to the CEA, involves packing or repacking of such goods in a unit container or labelling or re-labelling of container or declaration or alteration of retail sale price or any other treatment to render the product marketable to consumer.

Manufacturer: Manufacturer is a person who actually manufactures or produces the excisable goods.

Maximum Retail Price: MRP is the maximum retail price that shall be chargeable to final consumers.

Personal Ledger Account: PLA is the current account prepared for keeping the account of duty paid and duty payable.

Tariff Value: Tariff Value is the value fixed by government from time to time for valuation of certain excisable goods.

Trade Parlance Theory: The theory states that the goods must be classified in the CEA, in the sense in which it is understood in the trade.

Set-Off: Set-Off mean adjusting the duty paid on inputs with the duty payable on finished goods.

Warehouse: Warehouse is the place at which the goods are stored after their production in factory.

19.13 SELF-ASSESSMENT QUESTIONS

- 1) What are the basic conditions for levy duty under section 3 of the Central Excise Act, 1944?
- 2) State the different types of duties leviable on excisable goods?
- 3) Explain trade Parlance Theory?
- 4) Explain the MRP based valuation and compare it with Transaction Value base if valuation?
- 5) What are the rules and procedure for Registration in CEA, 1944?
- 6) State the scheme of excise duty payment, set off.

19.14 FURTHER READINGS AND SOURCES

Central Excise Act, 1944, Taxmann Publication, New Delhi, Latest Edition.

Central Excise Tariff Act, 1985, Taxmann Publication, New Delhi, Latest Edition.

Central Excise Rules, 2002, Taxmann Publication, New Delhi, Latest Edition.

CENVAT Credit Rules, 2004, Taxmann Publication, New Delhi, Latest Edition.

Datey, V.S, *Indirect Taxes Law and Practice*, Taxmann Publication Pvt. Ltd., Delhi, Latest Edition.

Kumar, Sanjeev, *Indirect Taxes*, Bharat Law House Pvt. Ltd., New Delhi, Latest Edition.