

NOTIFICATION
June, 1998
No.9/98-CENTRAL EXCISE
(1920 Saka)

New Delhi, dated the 2nd
12 Jyaishtha

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.38/97- Central Excise, dated the 27th June, 1997, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts clearances, specified in column (2) of the Table below, (hereinafter referred to as the said Table) for home consumption, of excisable goods of the description specified in the Annexure appended to this notification (hereinafter referred to as the specified goods), from so much of the duty of excise leviable thereon which is specified in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), as is in excess of the amount calculated at the rate specified in the corresponding entry in column (3) of the said Table:

T A B L E

S.No.	Clearances	Rate of duty
(1)	(2)	(3)
1.	First clearances upto an aggregate value not exceeding fifty lakh rupees in the financial year 1998-99.	Sixty percent of normal rate of duty
2.	Clearances upto an aggregate value not exceeding fifty lakh rupees immediately following the clearances specified against S.No. 1 above during the financial year 1998-99.	Eighty percent of normal rate of duty

Note I: If any clearances for home consumption have been effected before the 2nd day of June, 1998 under notification No.16/97-CE dated 1st April, 1997, whether at nil rate or otherwise, or under notification No.38/97-CE dated 27th June, 1997, such clearances together with clearances for home consumption, if any, effected on or after the 2nd day of June, 1998 under notification No.9/98-CE dated 2nd June, 1998 shall be taken into account for computing the limit of fifty lakh rupees, for S.No.1 above.

ILLUSTRATIONS REGARDING S. NO.1 OF THE TABLE:

[Illustration I: A manufacturer operating as on 1st day of June, 1998 under notification No.38/97-CE dated 27th June, 1997 makes clearances worth Rs. 40 lakhs at the concessional rate of 60% of normal rate of duty, is entitled to additional clearances at the same concessional rate upto an additional value of Rs.10 lakhs during the remaining part of the financial year 1998-99.

Illustration II: A manufacturer who was operating as on 1st April, 1998 under notification No.16/97- CE dated 1st April, 1997 makes clearances worth Rs. 30 lakhs at nil rate of duty. Thereafter, he opted for payment of duty under notification No.38/97-CE dated 27th June, 1997 and cleared goods having a value of Rs.5 lakhs at the concessional rate of 60% of normal duty till 1st June, 1998. He is entitled under this notification (i.e. 9/98-CE) to additional clearances (at the concessional rate of 60% of normal rate of duty) upto a value of Rs.15 lakhs during the remaining part of the financial year 1998-99.

Illustration III: A manufacturer avails, as from 1st April, 1998, of exemption under notification No.16/97-CE dated 1st April, 1997. He makes clearances worth Rs. 30 lakhs at nil rate of duty and Rs.5 lakhs of clearances at the concessional rate of 3% ad valorem. Thereafter, he opts for payment of duty under notification No.38/97-CE and clears goods of a value of another Rs. 7 lakhs (at the concessional rate of 60% of normal duty) till 1st June, 1998. He is entitled, under this notification (9/98-CE) to additional clearances (at the concessional rate of 60% of normal rate of duty) upto a value of Rs.8 lakhs $[50 - \{30 + 5 + 7\}]$ during the remaining part of the financial year 1998-99.

Illustration IV: A manufacturer operating as on 1st April, 1998 under notification no.16/97- CE makes clearances worth Rs. 30 lakhs at nil rate of duty till 1st June, 1998. With the coming into effect of notification No.8/98-CE on 2nd June, 1998, he is deemed to have switched over to that notification. He makes further clearances for home consumption after 2nd of June, 1998, having a value of Rs.8 lakhs and thereafter he opts for payment of duty under this notification (i.e. 9/98-CE). He is entitled to additional clearances (at the concessional rate of 60% of normal duty) upto a value of Rs.12 lakhs during the remaining part of the financial year.]

Note II: Further, if the aggregate of the aforesaid clearances exceeds Rs. 50 lakhs, then such of the aggregate amount which is in excess of Rs.50 lakhs shall be taken into account for the purposes of S. No. 2. ILLUSTRATION REGARDING S. NO. 2 OF TABLE

A manufacturer who avail of exemption under notification No. 38/97-CE dated 27th June, 1997 made clearances worth Rs.50 lakhs at the concessional rate of 60% of normal rate of duty and Rs. 12 lakhs worth of clearances at the concessional rate of 80% of normal rate of duty, upto 1st June, 1998. Such a manufacturer shall be entitled to additional clearances upto a value of Rs.38 lakhs only (at the concessional rate of 80% of normal rate of duty) in the remaining part of this financial year.

2. The exemption contained in this notification shall apply only subject to the following conditions, namely –

(i) a manufacturer who commences his first clearances in the year 1998-99 on or after 2nd June, 1998 and intends to avail the exemption under this notification shall exercise his option in writing for availing the exemption under this notification before effecting the first clearances and such option shall be effective from the date of exercise of the option which shall not be withdrawn during the remaining part of the financial year. A manufacturer who was availing of exemption under notification No. 38/97-CE dated 27th June, 1997 prior to 2nd June, 1998 is allowed to continue to avail of exemption under this notification and no fresh option is required. The manufacturer shall not be permitted to change this option in favour of notification No. 8/98-CE dated 2nd June, 1998 during the remaining part of the financial year 1998-99.

(ii) Where a manufacturer clears the specified goods from one or more factories, the exemption in his case shall apply to the total value of clearances mentioned against each of the serial numbers in the said Table, and not separately for each factory;

(iii) Where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the total value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer;

(iv) The aggregate value of clearances of all excisable goods for home consumption by a manufacturer from one or more factories, or from a factory by one or more manufacturers, has not exceeded rupees three hundred lakhs in the preceding financial year.

3. For the purpose of determining the aggregate value of clearances for home consumption, the following clearances shall not be taken into account, namely :-

- (a) clearances, which are exempt from the whole of the excise duty leviable thereon (other than an exemption based on quantity or value of clearances) under any other notification or on which no excise duty is payable for any other reason ;
- (b) clearances bearing the brand name or trade name of another person, which are ineligible for the grant of exemption under this notification in terms of paragraph 4 below
- (c) clearances of specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods, provided that clearances of specified goods, which are used as inputs chargeable to nil rate of duty or exempt from the whole of the duty of excise leviable thereon under any other notification, shall not be deemed to be exempt

- (d) clearances of strips of plastics used within the factory of production for weaving of fabrics or for manufacture of sacks or bags made of polymers of ethylene or propylene.

4. The exemption contained in this notification shall not apply to goods bearing a brand name or trade name, whether registered or not, of another person, except in the following cases, namely :-

- (a) where specified goods, being in the nature of components or parts of any machinery or equipment or appliances, are cleared for use as original equipment in the manufacture of the said machinery or equipment or appliances by following the procedure laid down in Chapter X of the Central Excise Rules, 1944:

Provided that manufacturers, whose aggregate value of clearances for home consumption of such specified goods for use as original equipment does not exceed rupees fifty lakhs in the financial year 1998-99, as calculated in the manner specified in paragraph 1 above, may submit a declaration regarding such use instead of following the procedure laid down in Chapter X of the said rules ;

- (b) where the goods bear a brand name or trade name of-
 - (i) the Khadi and Village Industries Commission; or
 - (ii) a State Khadi and Village Industry Board; or
 - (iii) the National Small Industries Corporation; or
 - (iv) a State Small Industries Development Corporation; or
 - (v) a State Small Industries Corporation;

Explanation .- For the purposes of this notification, -

- (A) “brand name” or “trade name” shall mean a brand name or trade name, whether registered or not, that is to say a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person ;
- (B) where specified goods manufactured by a manufacturer bear a brand name or trade name, whether registered or not, of another manufacturer or trader, such specified goods shall not, merely by reason of that fact, be deemed to have been manufactured by such other manufacturer or trader ;
- (C) “value” means,-

- (i) in respect of specified goods which have been notified under section 4A of the Central Excise Act, 1944(1 of 1944), as determined in accordance with the provisions of that section
 - (ii) in respect of specified goods other than those referred to in sub-clause (i) the value as determined in accordance with the provisions of section 4 of the Central Excise Act, 1944 (1 of 1944), or the tariff value fixed under section 3 of the said Act ;
- (D) in the determination of the value of clearances of Chinaware or Porcelainware or both, where a manufacturer gets Chinaware or Porcelainware or both fired in a kiln belonging to or maintained by a Pottery Development Centre run by the Central Government or a State Government or by the Khadi and Village Industries Commission, the value of the Chinaware or Porcelainware or both, belonging to the said manufacturer and fired in such a kiln shall be taken into account ;
- (E) where the specified goods are manufactured in a factory belonging to or maintained by the Central Government or by a State Government, or by a State Industries Corporation, or by a State Small Industries Corporation or by the Khadi and Village Industries Commission, then the value of excisable goods cleared from such factory alone shall be taken into account ;
- (F) “normal rate of duty” means the duty of excise which is specified in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) read with any relevant notification (other than this notification or a notification in which exemption is based on the value or quantity of clearances) issued under sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944).
- (G) where the specified goods are chargeable to nil rate of duty or are already exempt from the whole of the duty of excise leviable thereon under any other notification, the clearances of specified goods used as inputs, shall not be deemed to be exempt under clause (c) of paragraph 3.
- (H) clearances for home consumption shall also include clearances for export to Bhutan or Nepal.

ANNEXURE

1. All goods specified in the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), other than the following , namely,-

- (i) all goods falling under heading No. 21.06 and sub-heading Nos. 2101.10 and 2101.20;
- (ii) all goods falling under Chapter 24 of the said Schedule (other than unbranded chewing tobacco and preparations containing chewing tobacco, falling under Heading No. 24.04 of the said Schedule);
- (iii) all goods falling under heading No. 25.04,;
- (iv) sandalwood oil, all goods falling under heading Nos. 33.04 and 33.05, and sub-heading Nos 3307.10, 3307.20, 3307.31, 3307.39, 3307.50, and 3307.90;
- (v) all goods falling under heading No. 36.05,;
- (vi) all goods falling under heading Nos. 37.01, 37.02, and sub-heading No. 3703.10;
- (vii) strips of plastics intended for weaving of fabrics or sacks, polyurethane foam and articles of polyurethane foam; falling under Chapter 39;
- (viii) all goods falling under heading No. 40.05 (except rubber solution or vulcanising solution), and subheading No. 4006.10 and plates, sheets and strips falling under heading No. 40.08, for resoling or repairing or retreading rubber tyres;
- (ix) all goods falling under Chapter 51 of the said Schedule other than those falling under sub-Heading Nos. 5105.30 and 5105.40 and Heading Nos. 51.06, 51.07, 51.08, 51.09, 51.10 and 51.11 (except woven fabrics of wool falling under heading Nos. 51.10 or 51.11) and under 51.12;
- (x) all goods falling under Chapter 52 of the said Schedule other than goods falling under Heading No. 52.04;
- (xi) all goods falling under Chapter 53 of the said Schedule except goods falling under Heading Nos. 53.01, 53.02, 53.04, 53.05, 53.08 (other than goods falling under sub-heading No. 5308.14), 53.11 (other than woven fabrics of ramie);
- (xii) all goods falling under Chapter 54 of the said Schedule except goods falling under Heading Nos. 54.01;
- (xiii) all goods falling under Chapter 55 of the said Schedule except goods falling under Heading Nos. 55.05, 55.08 and shoddy yarn manufactured from used or new rags falling under heading No. 55.09 or 55.10;
- (xiv) all goods falling under Chapter 56 of the said Schedule except goods falling under Heading Nos. 56.01, 56.02, 56.03, 56.04, 56.05 (other than of manmade filaments), 56.07 (other than of jute), 56.08 and 56.09;
- (xv) all goods falling under Chapter 57 of the said Schedule;
- (xvi) all goods falling under Chapter 58 of the said Schedule except goods falling under Heading Nos. 58.03, 58.06, 58.07, 58.08, uncut grey (unprocessed) woven weft pile fabrics of cotton manufactured from grey unprocessed cotton yarn falling under sub-heading No. 5801.21, fabrics of cotton or man-made fibres falling under sub-heading No. 5802.51, and unprocessed cotton terry towelling fabrics falling under sub-heading No. 5802.21;

- (xvii) all goods falling under Chapter 59 of the said Schedule except goods falling under Heading Nos. 59.01, 59.05, 59.06, 59.08, 59.09 59.10, 59.11 and textile fabrics coated or laminated with preparations of low-density polyethylene;
- (xviii) all goods falling under Chapter 60 of the said Schedule except goods falling under sub-heading No.6002.10 and fabrics of cotton man-made fibres not subjected to any process falling under heading Nos. 60.01 or 60.02;
- (xix) all goods falling under Chapter 61 of the said Schedule;
- (xx) all goods falling under Chapter 62 of the said Schedule;
- (xxi) Blankets of wool falling under Chapter 63 of the said Schedule;
- (xxii) all goods falling under heading Nos 72.06, 72.07, 72.18, 72.24, cold rolled stainless steel pattis/pattas falling under chapter 72; ingots and billets of non alloy steel falling under sub-heading Nos 7206.90 and 7207.90 and hot re-rolled products of non-alloy steel, falling under sub-heading Nos. 7211.11, 7211.19, 7211.30, 7211.52, 7211.59, 7211.60, 7211.92, 7211.99, 7213.90, 7214.90, 7215.90, 7216.10 and 7216.90, on which the duty of excise is paid under section 3A of the Central Excise Act, 1944(1 of 1944);
- (xxiii) all goods falling under heading Nos 74.03, 7407.11, 7407.12, 7408.11, 7408.21, 74.09, copper circles, whether or not trimmed;
- (xxiv) aluminium circles, whether or not trimmed, falling under Chapter 76;
- (xxv) all goods falling under heading Nos 85.21, 85.28;
- (xxvi) refrigerating and airconditioning appliances and machinery and parts and accessories thereof falling under. Chapters 84, 85 or 90
- (xxvii) all goods falling under heading Nos 87.01, 87.02, 87.03, 87.04, 87.05, 87.06 and 87.11 [other than powered cycles and powered cycle rickshaw (powered cycle or powered rickshaw means a mechanically propelled cycle or, as the case may be, mechanically propelled cycle rickshaw, which may also be paddled, if any necessity arises for so doing];
- (xxviii) all goods falling under heading Nos 91.01 or 91.02;
- (xxix) all goods falling under sub-heading Nos 9605.10.