

NOTIFICATION

No.8 /99-CENTRAL EXCISE

New Delhi, dated the 28th February , 1999
9 Phalgun, 1920(SAKA)

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) read with clause 119, clause 121 and clause 134 of the Finance Bill, 1999, which clauses have, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931(16 of 1931), the force of law, 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 aggregate of -

- (a) the duty of excise specified thereon in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986) ; and
- (b) the special duty of excise specified thereon in the Second Schedule to the said Central Excise Tariff Act,

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

SI No	Value of clearances	Rate of duty
(1)	(2)	(3)
1	First clearances upto an aggregate value not exceeding fifty lakh rupees made on or after the 1 st day of April in any financial year	Nil
2	Clearances upto an aggregate value not exceeding fifty lakh rupees immediately following the clearances specified against Sl. No. 1 above during the financial year	Five percent ad valorem
3.	All clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods.	Nil

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

- (i) a manufacturer who 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 under this notification and such option shall be effective from the date of exercise of the option. Such option shall not be withdrawn during the remaining part of the financial year except when an option is exercised with respect to notification No 9/99-CE dated 28th February, 1999.

ILLUSTRATION 1 On 1st April 1999, a manufacturer exercises his option to avail of the exemption contained in this notification. After effecting clearances of an aggregate value of rupees twenty lakhs, he wants to opt for the exemption contained in notification 9/99-CE dated 28th February, 1999. He is permitted to do so.

ILLUSTRATION II A manufacturer exercises his option to avail of the exemption contained in this notification on any date subsequent to 1st April, 1999. He has not effected any clearances prior to the exercise of the option. After availing of full exemption on clearances of an aggregate value of rupees fifty lakhs under this notification and concessional rate of duty at five percent ad valorem on clearances having an aggregate value of rupees twenty lakhs under this notification, he wants to opt for the exemption contained in notification 9/99-CE dated 28th February, 1999. He is permitted to do so.

ILLUSTRATION III A manufacturer exercises his option to avail of the exemption contained in this notification on any date subsequent to 1st April, 1999. He has effected clearances of an aggregate value of rupees twenty lakhs prior to the exercise of the option. He can avail of full exemption on clearances of an aggregate value of only rupees thirty lakhs under this notification. Thereafter he avails of the concessional rate of duty at five percent ad valorem on clearances having an aggregate value of rupees twenty lakhs under this notification. Thereafter he wants to opt for the exemption contained in notification 9/99-CE dated 28th February, 1999. He is permitted to do so.

(ii) a manufacturer also has the option to not avail the exemption contained in this notification and instead pay the normal rate of duty on the goods cleared by him. Such option shall be exercised before effecting his first clearances at the normal rate of duty. Such option shall not be withdrawn during the remaining part of the financial year.

ILLUSTRATION I: A manufacturer who has exercised his option to pay the normal duty on any goods during a financial year makes clearances having an aggregate value of rupees twenty lakhs. He thereafter wants to avail the exemption under this notification. He is permitted to do so. He is entitled under this notification to full exemption on additional clearances of an aggregate value of rupees thirty lakhs and further clearances of an aggregate value of rupees fifty lakhs at the concessional rate of five percent ad valorem.

ILLUSTRATION II: A manufacturer who has been paying the normal duty on any goods during a financial year opts to avail of this exemption after making clearances having an aggregate value of rupees seventy lakhs. He is permitted to do so. He is entitled under this notification to additional clearances of an aggregate value of rupees thirty lakhs at the concessional rate of five percent ad valorem .

- (iii) While exercising the option under condition (i) or (ii), the manufacturer shall inform in writing to the Assistant Commissioner of Central Excise with a copy to the Superintendent of Central Excise giving the following particulars, namely:-
 - (a) name and address of the manufacturer;
 - (b) location/ locations of factory/ factories;
 - (c) description of specified goods produced;
 - (d) date from which option under this notification has been exercised;
 - (e) aggregate value of clearances of specified goods (excluding the value of clearances referred to in paragraph 3 of this notification) till the date of exercising the option.
- (iv) The manufacturer shall not avail of the credit of duty under rule 57A or rule 57 B of the Central Excise Rules, 1944, paid on inputs used in the manufacture of the specified goods cleared for home consumption, the aggregate value of first clearances of which , as calculated in the manner specified in the said Table does not exceed rupees one hundred lakhs.
- (v) The manufacturer also does not utilise the credit of duty under rule 57Q of the said rules, paid on capital goods, for payment of duty, if any, on the aforesaid clearances, the aggregate value of first clearances of which does not exceed rupees one hundred lakhs, as calculated in the manner specified in the said Table.
- (vi) Where a manufacturer clears the specified goods from one or more factories, the exemption in his case shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said table and not separately for each factory.
- (vii) Where the specified goods are cleared by one or more manufacturers from a factory, the exemption shall apply to the aggregate value of clearances mentioned against each of the serial numbers in the said Table and not separately for each manufacturer.

(viii) 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, does not exceed 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 this exemption in terms of paragraph 4 below;

(c) clearances of the specified goods which are used as inputs for further manufacture of any specified goods within the factory of production of the specified goods.

(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 the specified goods bearing a brand name or trade name, whether registered or not, of another person, except in the following cases :-

(a) where such 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 a financial year as calculated in the manner specified in the said Table, may submit a declaration regarding such use instead of following the procedure laid down in Chapter X of the said rules;

- (b) where the specified 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.

5. This notification shall come into force on the 1st day of April,1999.

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 the 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), the value as determined in accordance with the provisions of that section; and
 - (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 aggregate of duty of excise specified in the First Schedule to the said Central Excise Tariff Act and the special duty of excise specified in the Second Schedule to the said Central Excise Tariff Act 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) “clearances for home consumption”, wherever referred to in this notification, shall include clearances for export to Bhutan and 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 which are chargeable to nil rate of duty or are exempt from the whole of the duty of excise leviable thereon ;
 - (ii) all goods falling under heading No 09.02;
 - (iii) all goods falling under heading No..21.06 and sub-heading Nos. 2101.10 and 2101.20;
 - (iv) 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);
 - (v) all goods falling under heading No. 25.04;
 - (vi) 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;
 - (vii) all goods falling under heading No. 36.05,;
 - (viii) all goods falling under heading Nos. 37.01, 37.02 and sub-heading No. 3703.10;
 - (ix) strips of plastics intended for weaving of fabrics or sacks, polyurethane foam and articles of polyurethane foam; falling under Chapter 39;

- (x) all goods falling under heading No. 40.05 (except rubber solution or vulcanising solution), and sub-heading No. 4006.10 and plates, sheets and strips falling under heading No. 40.08, for resoling or repairing or retreading rubber tyres;
- (xi) 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;
- (xii) all goods falling under Chapter 52 of the said Schedule other than goods falling under Heading No. 52.04 and cotton yarn not containing synthetic staple fibre, falling under heading No 52.05 or 52.06;
- (xiii) 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);
- (xiv) all goods falling under Chapter 54 of the said Schedule except goods falling under heading No. 54.01;
- (xv) 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 Nos. 55.09 or 55.10;
- (xvi) 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;
- (xvii) all goods falling under Chapter 57 of the said Schedule;
- (xviii) 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;
- (xix) 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;
- (xx) 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;
- (xxi) all goods falling under Chapter 61 of the said Schedule;
- (xxii) all goods falling under Chapter 62 of the said Schedule;
- (xxiii) blankets of wool falling under Chapter 63 of the said Schedule;
- (xxiv) 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);

- (xxv) all goods falling under heading Nos 74.03(excluding cast brass bars/rods of a length not exceeding 3 feet and brass billets weighing upto five kilograms, falling under sub-heading No 7403.21) and sub-heading Nos 7407.11, 7407.12, 7408.11, 7408.21, 74.09, and copper circles, whether or not trimmed;
- (xxvi) aluminium circles, whether or not trimmed, falling under Chapter 76;
- (xxvii) refrigerating and air conditioning appliances and machinery and parts and accessories thereof falling under Chapters 84,85 and 90

- (xxviii) all goods falling under heading Nos 85.21, 85.28;
- (xxix) 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 peddled, if any necessity arises for so doing);
- (xxx) all goods falling under heading Nos 91.01 or 91.02;
- (xxxi) all goods falling under sub-heading Nos 9605.10.