

Excise

1 of 1944.

127. In section 2 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act),— Amendment of section 2.
 (a) in clause (aa), for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted;

5 (b) in clause (f), for sub-clause (iii), the following sub-clause shall be substituted, namely:—
 "(iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer,".

10 **128.** In section 4 of the Central Excise Act,— Amendment of section 4.
 (a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.";

(b) in sub-section (3),—

(i) in clause (c),—

20 (A) in sub-clause (ii), for the words "payment of duty," the words "payment of duty;" shall be substituted;

(B) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,";

25 (ii) after clause (c), the following clause shall be inserted, namely:—

'(cc) "time of removal", in respect of the excisable goods removed from the place of removal referred to in sub-clause (iii) of clause (c), shall be deemed to be the time at which such goods are cleared from the factory;'

30 **129.** In section 4A of the Central Excise Act, for sub-section (4), the following shall be substituted, Amendment of section 4A.
 namely:—

'(4) Where any goods specified under sub-section (1) are excisable goods and the manufacturer—

(a) removes such goods from the place of manufacture, without declaring the retail sale price of such goods on the packages or declares a retail sale price which is not the retail sale price as required to be declared under the provisions of the Act, rules or other law as referred to in sub-section (1); or

(b) tampers with, obliterates or alters the retail sale price declared on the package of such goods after their removal from the place of manufacture,

40 then, such goods shall be liable to confiscation and the Central Government shall ascertain in the prescribed manner the retail sale price of such goods and the retail sale price so ascertained shall be deemed to be the retail sale price for the purposes of this section.

45 *Explanation 1.*—For the purposes of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

Provided that in case the provisions of the Act, rules or other law as referred to in sub-section (1) require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly.

Explanation 2.—For the purposes of this section,—

50 (a) where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price;

(b) where the retail sale price, declared on the package of any excisable goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(c) where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.'

Amendment of section 5A.	130. In section 5A of the Central Excise Act, for sub-section (2), the following sub-section shall be substituted, namely:—	5
	"(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty of excise, under circumstances of an exceptional nature to be stated in such order, any excisable goods on which duty of excise is leviable."	
Amendment of section 11A.	131. In section 11A of the Central Excise Act,—	10
	(a) in sub-section (1), the second and third provisos shall be omitted;	
	(b) in sub-section (2B), after the words "pay the amount of duty", the words "on the basis of his own ascertainment of such duty or on the basis of duty ascertained by a Central Excise Officer" shall be inserted.	
Insertion of new section 11DD.	132. After section 11D of the Central Excise Act, the following section shall be inserted, namely:—	15
Interest on the amounts collected in excess of the duty.	<p>"11DD. (1) Where an amount has been collected in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods, the person who is liable to pay such amount as determined under sub-section (3) of section 11D, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent., and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Act, but for the provisions contained in sub-section (3) of section 11D, till the date of payment of such amount:</p> <p>Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B, and such amount payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole amount, including the amount already paid.</p> <p>(2) The provisions of sub-section (1) shall not apply to cases where the amount had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.</p> <p><i>Explanation 1.</i>—Where the amount determined under sub-section (3) of section 11D is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (1) shall be on such reduced amount.</p> <p><i>Explanation 2.</i>—Where the amount determined under sub-section (3) of section 11D is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (1) shall be on such increased amount."</p>	20
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Substitution of new section for section 13.	133. For section 13 of the Central Excise Act, the following section shall be substituted, namely:—	
Power to arrest.	<p>"13. Any Central Excise Officer not below the rank of Inspector of Central Excise may, with the prior approval of the Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder."</p>	40
Amendment of section 23A.	134. In section 23A of the Central Excise Act,—	
	(a) for clause (c), the following clause shall be substituted, namely:—	
	'(c) "applicant" means—	45
	(i) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or	
	(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or	
	(iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,	50
	who proposes to undertake any business activity in India and makes application for advance ruling;';	
	(b) for clause (f), the following clause shall be substituted, namely:—	

- 43 of 1961. (f) "non-resident", "Indian company" and "foreign company" shall have the meanings respectively assigned to them in clauses (30), (26) and (23A) of section 2 of the Income-tax Act, 1961.!
- 5 of 1986. **135.** In section 23C of the Central Excise Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—
- 5 (d) notifications issued, in respect of duties of excise under this Act, the Central Excise Tariff Act, 1985 and any duty chargeable under any other law for the time being in force in the same manner as duty of excise leviable under this Act;
- (e) admissibility of credit of excise duty paid or deemed to have been paid on the goods used in or in relation to the manufacture of the excisable goods."
- 10 **136.** For section 35G of the Central Excise Act, the following section shall be substituted, namely:—
- "35G. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.
- (2) The Commissioner of Central Excise or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—
- (a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Central Excise or the other party;
- (b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;
- (c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
- (3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.
- (4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:
- Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.
- (5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.
- (6) The High Court may determine any issue which—
- (a) has not been determined by the Appellate Tribunal; or
- (b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).
- (7) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.
- (8) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
- (9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section."
- 5 of 1908. **137.** In section 35H of the Central Excise Act, in sub-section (1), for the words, figures and letters "on or after the 1st day of July, 1999", the words, figures and letters "before the 1st day of July, 2003" shall be substituted.
- 50 **138.** In section 35K of the Central Excise Act,—
- (a) after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of July, 2003, namely:—

Amendment of section 23C.

Substitution of new section for section 35G.

Appeal to High Court.

Amendment of section 35H.

Amendment of section 35K.

"(1A) Where the High Court delivers a judgment in an appeal filed before it under section 35G, effect shall be given to the order passed on the appeal by the concerned Central Excise Officer on the basis of a certified copy of the judgment.";

(b) in sub-section (2), for the words "reference to the High Court or the Supreme Court", the words "reference to the High Court or an appeal to the High Court or the Supreme Court, as the case may be" shall be substituted. 5

Amendment of section 35L.

139. In section 35L of the Central Excise Act, for clause (a), the following clause shall be substituted, namely:—

"(a) any judgment of the High Court delivered—

(i) in an appeal made under section 35G; or

(ii) on a reference made under section 35G by the Appellate Tribunal before the 1st day of July, 2003; 10

(iii) on a reference made under section 35H,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or".

Insertion of new Schedule in the Central Excise Act.

140. After the Second Schedule to the Central Excise Act, the Schedule specified in the Fifth Schedule shall be inserted. 15

Amendment of rule 57R of the Central Excise Rules, 1944.

141. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 57R,—

(a) sub-rule (5) as substituted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, vide notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No.G.S.R. 324(E), dated the 23rd July, 1996; and 20

(b) sub-rule (8) as inserted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, vide notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No.G.S.R. 122(E), dated the 1st March, 1997,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (3) of the Sixth Schedule on and from the corresponding date specified in column (4) of that Schedule against each of said sub-rules specified in column (2) of that Schedule till the date on which those sub-rules were superseded and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said sub-rules as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the said sub-rules, as amended by this sub-section, had been in force at all material times. 25 30

(2) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times. 35

(3) Credit shall be allowed of all such specified duty, which have been disallowed but which would not have been disallowed if the amendment made by sub-section (1) had been in force at all material times.

(4) Refund shall be made of all such credit of specified duty, which have been collected but which would have not been collected if the amendment made by sub-section (1) had been in force at all material times. 40

(5) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the credit of the specified duty paid on capital goods under sub-section (3) shall be made within six months from the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation.—For the purposes of this section, the expression "specified duty" shall have the meaning assigned to it in rule 57Q of the Central Excise Rules, 1944 referred to in sub-section (1). 45

Amendment of rules 57F and 57AB of the Central Excise Rules, 1944.

142. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act,—

(a) in rule 57F, sub-rule (12), as substituted by clause (a) of rule 8 of the Central Excise (Amendment) Rules, 1997, published in the Official Gazette vide notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 122(E), dated the 1st March, 1997; and 50

(b) in rule 57AB, in sub-rule (1), clause (b), as substituted by rule 5 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette vide notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 203(E), dated the 1st March, 2000, 55

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (3) of the Sixth Schedule, on and from the corresponding date specified in column (4) of that Schedule against each of the said sub-rules specified in column (2) of that Schedule till the date on which those sub-rules, were superseded. 60

(2) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 8th day of July, 1999 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the credit of specified duty or the CENVAT credit, as the case may be, to be taken or utilised which would have been allowed to be taken or utilised but for the amendments made by sub-section (1), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendments made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority— 65

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the credit of specified duty or the CENVAT credit, as the case may be, and no enforcement shall be made by any court of any decree or order allowing the credit of specified duty or the CENVAT credit, as the case may be, not allowed to be taken or utilised as if the amendments made by sub-section (1) had been in force at all material times;

(b) recovery shall be made of all the credit of specified duty or the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendments made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.—For the purposes of this section, the expressions “specified duty” and “CENVAT credit” have the meanings respectively assigned to them in rules 57A and 57AB of the Central Excise Rules, 1944 referred to in sub-section (1).

143. (1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, sub-rule (3) of rule 3 thereof as published in the Official Gazette *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 445(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Seventh Schedule, on and from the corresponding date specified in column (3) of that Schedule till the date on which the said CENVAT Credit Rules were superseded.

Amendment of rule 3 of the CENVAT Credit Rules, 2001.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised, but for the amendment made by sub-section (1), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section (1) had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.—For the purposes of this section, the expression “CENVAT credit” shall have the meaning assigned to it in the CENVAT Credit Rules, 2001 referred to in sub-section (1).

144. (1) In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 3, in sub-rule (3), the second proviso, as inserted by the CENVAT Credit (Amendment) Rules, 2002, published in the Official Gazette *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 835(E), dated the 23rd December, 2002 shall be deemed to have and to have always had effect on and from the 1st day of March, 2002.

Amendment of rule 3 of the CENVAT Credit Rules, 2002.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 2002 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised but for the amendment made by sub-section (1), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section (1) had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.—For the purposes of this section, the expression “CENVAT credit” has the meaning assigned to it in the CENVAT Credit Rules, 2002 referred to in sub-section (1).

Amendment of notifications issued under section 5A of the Central Excise Act for certain period.

145. (1) The notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) Nos.G.S.R. 508(E), dated the 8th July, 1999 and G.S.R.509(E), dated the 8th July, 1999, issued under sub-section (1) of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Eighth Schedule, on and from the 8th day of July, 1999 to the 22nd day of December, 2002 (both days inclusive) retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

58 of 1957.
40 of 1978.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, retrospectively at all material times.

58 of 1957.
40 of 1978.

(3) Notwithstanding the cessation of the amendment under sub-section (1) on the 22nd day of December, 2002, no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by sub-section (1) had been in force at all material times.

(4) Notwithstanding the cessation of the amendment under sub-section (1) on the 22nd day of December, 2002, recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would not have been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days, till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section (1) had not been amended retrospectively by that sub-section.

Amendment of notifications issued under section 5A of the Central Excise Act.

146. (1) The notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) Nos. G.S.R.508(E), dated the 8th July, 1999 and G.S.R.509(E), dated the 8th July, 1999, issued under sub-section (1) of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Ninth Schedule, on and from the corresponding date specified in column (4) of that Schedule retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

58 of 1957.
40 of 1978.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, retrospectively at all material times.

58 of 1957.
40 of 1978.

(3) No suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made by sub-section (1) had been in force at all material times.

(4) Recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would have not been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section (1) had not been amended retrospectively by that sub-section.

Central Excise Tariff

147. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) the First Schedule shall be amended in the manner as specified in the Tenth Schedule;

(b) the Second Schedule shall be amended in the manner as specified in the Eleventh Schedule.

Amendment of First and Second Schedules to Act 5 of 1986.

148. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, in the Second Schedule, in paragraph 4, in sub-paragraph (i), for the proviso, the following proviso shall be substituted, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, namely:—

Amendment of Second Schedule to Act 58 of 1957.

"Provided that, if during each of the financial years commencing on and after the 1st day of April, 2003, there is levied and collected in any State a tax on the sale or purchase of the goods described in column (3) of the First Schedule at a rate exceeding four per cent., of the value of such goods determined in accordance with section 4 of the Central Excise Act, 1944, no sums shall be payable to that State, under this paragraph in respect of that financial year, unless the Central Government, by special order, otherwise directs."

1 of 1944.

149. (1) In the case of goods specified in the Fourth Schedule, being goods manufactured in India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rate specified in the said Schedule.

Additional duty of excise (tea and tea waste).

(2) The additional duty of excise referred to in sub-section (1), shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of the goods specified in the Fourth Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.