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Central Excise Act, 1944

Section 5A - Power to Grant Exemption from Duty of Excise

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1 [5A. Power to grant exemption from duty of excise

(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification, excisable goods of any specified description from the whole or any part of the duty of excise leviable thereon :

Provided that, unless specifically provided in such notification, no exemption therein shall apply to excisable goods which are produced or manufactured-

(i) in a 2 [free trade zone 3 [or a special economic zone]] and brought to any other place in India; or

(ii) by a hundred per cent export-oriented undertaking and 4 [brought to any other place in India.]

Explanation.--In this proviso, 2 ["free trade zone" 5 [,"special economic zone"]] and "hundred per cent export-oriented undertaking" shall have the same meanings as in Explanation 2 to sub-section (1) of section 3.

6 [(1A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods.]

7 [(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.]

8 [(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.]

(3) An exemption under sub-section (1) or sub-section (2) in respect of any excisable goods from any part of the duty of excise leviable thereon (the duty of excise leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any excisable goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of excise chargeable on such goods shall in no case exceed the statutory duty.

Explanation.--"Form or method", in relation to a rate of duty of excise means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

(4) Every notification issued under sub-rule (1), and every order made under sub-rule (2), of rule 8 of the Central Excise Rules, 1944, and in force immediately before the commencement of the Customs and Central Excises Laws (Amendment) Act, 1988 (29 of 1988) shall be deemed to have been issued or made under the provisions of this section and shall continue to have the same force and effect after

such commencement until it is amended, varied, rescinded or superseded under the provisions of this section.

9 [(5) Every notification issued under sub-section (1) 8 [or sub-section (2A)] shall,--

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).

(6) Notwithstanding anything contained in sub-section (5), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.]

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1. Inserted by Act 29 of 1988, section 9 (w.e.f. 19-5-1988).

2. Substituted by Act 14 of 2001, section 122, for "free trade zone" (w.e.f. 11-5-2001).

3. The words "or a special economic zone" shall stand omitted with effect from such date as may be appointed by the Central Government, vide Act 20 of 2002, section 134.

4. Substituted by Act 14 of 2001, section 122, for "allowed to be sold in India" (w.e.f. 11-5-2001).

5. The words ", special economic zone" shall stand omitted with effect from such date as may be appointed by the Central Government, vide Act 20 of 2002, section 134.

6. Inserted by the Finance Act, 2005, section 75.

7. Sub-section (2) substituted by Act 27 of 1999, section 123 (w.e.f. 11-5-1999) and again substituted by Act 32 of 2003, section 138 (w.e.f. 14-5-2003).

8. Inserted by Act 20 of 2002, section 134.

9. Inserted by Act 21 of 1998, section 106 (w.e.f. 1-8-1998).

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