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Central Excise Act, 1944

Chapter 7 - Supplemental Provisions

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*(1) The Central Government may make rules to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may,--

[1][(i) provide for determining under section 4 the nearest ascertainable equivalent of the normal price;

(ia) having regard to the normal practice of the wholesale trade, define or specify the kinds of trade discount to be excluded from the value under section 4 including the circumstances in which and the conditions subject to which such discount is to be so excluded;]

[2] [(ib)] provide for the assessment and collection of duties of excise, the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid;

[3] [(ibb) provide for charging or payment of interest on the differential amount of duty which becomes payable or refundable upon finalisation of all or any class of provisional assessments.]

[4] [(ic) provide for the remission of duty of excise leviable on any excisable goods, which due to any natural cause are found to be deficient in quantity, the limit of limits or percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same excisable goods or for different areas or for different seasons;]

[5][(id) provide for the amount to be paid [26][compounding and the manner of compounding] under sub-section (2) of section 9A;]

(ii) prohibit absolutely, or with such exceptions, or subject to such conditions as the Central Government thinks fit, the production or manufacture, or any process of the production or manufacture, of excisable goods, or of any component parts or ingredients or containers thereof, except on land or premises approved for the purpose;

(iii) prohibit absolutely, or with such exceptions, or subject to such conditions, as the Central Government thinks fit, [6][***] the transit of excisable goods from any part of [7] [India] to any other part thereof;

(iv) regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a [8] [registered] person, or a bonded warehouse, or to a market;

(v) regulate the production or manufacture, or any process of the production or manufacture, the possession, storage and sale of salt, and so far as such regulation is essential for the proper levy and collection of the duties imposed by this Act, or of any other excisable goods, or of any component parts or ingredients or containers thereof;

(vi) provide for the employment of officers of the Government to supervise the carrying out of any rules made under this Act;

(vii) require a manufacturer or the licensee of a warehouse to provide accommodation within the precincts of his factory or warehouse for officers employed to supervise the carrying out of regulations made under this Act and prescribe the scale of such accommodation;

(viii) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses;

(ix) provide for the distinguishing of goods which have been [9] [manufactured after registration], of materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Act;

(x) impose on persons engaged in the production or manufacture, storage or sale (whether on their own account or as brokers or commission agents) of salt, and, so far as such imposition is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, the duty of furnishing information, keeping records and

making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;

(xi) require that excisable goods shall not be sold or offered or kept for sale in [7] [India] except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed;

(xii) provide for the issue of [10] [registration certificates] and transport permits and the fees, if any, to be charged therefor:

Provided that the fees for the licensing of the manufacture and refining of salt and saltpetre shall not exceed, in the case of each such licence, the following amounts, namely :--

Rs.

Licence to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining	50
Licence to manufacture saltpeter	2
Licence to manufacture sulphate of soda (Kharinun) by solar heat in evaporating pans	10
Licence to manufacture sulphate of soda (Kharinun) by artificial heat	2
Licence to manufacture other saline substances	2;

(xiii) provide for the detention of goods, plant, machinery or material for the purpose of exacting the duty, the procedure in connection with the confiscation, otherwise than under section 10 or section 28, of goods in respect of which breaches of the Act or rules have been committed, and the disposal of goods so detained or confiscated;

[27][(xiiia) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit;]

(xiv) authorise and regulate the inspection of factories and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale or transport of salt, and so far as such inspection or search is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods;

(xv) authorise and regulate the composition of offences against, or liabilities incurred under this Act or the rules made thereunder;

(xvi) provide for the grant of a rebate of the duty paid on goods which are exported out of India or shipped for consumption on a voyage to any port outside India [11] [including interest thereon];

[12] [***]

[13] [(xvia) provide for the credit of duty paid or deemed to have been paid on the goods used in, or in relation to the manufacture of excisable goods;]

[5] [(xviaa) provide for credit of service tax leviable under Chapter V of the Finance Act, 1994(32 of 1994), paid or payable on taxable services used in, or in relation to, the manufacture of excisable goods;]

[14] [(xvib) provide for the giving of credit of sums of money with respect to raw materials used in the manufacture of excisable goods;]

[6] [(xvic) provide for charging and payment of interest, as the case may be, on credit of duty paid or deemed to have been paid on the goods used in, or in relation to, the manufacture of excisable goods where such credit is varied subsequently;]

(xvii) exempt any goods from the whole or any part of the duty imposed by this Act;

[15] [(xviia) provide incentives for increased production or manufacture of any goods by way of remission of, or any concession with respect to, duty payable under this Act;]

(xviii) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Central Government, or of any factory in which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

(xix) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area;

(xx) authorise the [16] [Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)] or [17] [Commissioners of Central Excise] appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government under this section;

[18] [(xxi) provide for the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or of any rule made thereunder;]

[19] [(xxii) provide for the charging of fees for the examination of excisable goods intended for export out of India and for rendering any other service by a Central Excise Officer under this Act or the rules made thereunder;]

[20] [(xxiii) specify the [11] [form and manner] in which application for refund shall be made under section 11B;

(xxiv) provide for the manner in which money is to be credited to the Fund;

(xxv) provide for the manner in which the Fund shall be utilised for the welfare of the consumers;

(xxvi) specify the form in which the account and records relating to the Fund shall be maintained;]

[21] [(xxvii) specify the persons who shall get themselves registered under section 6 and the manner of their registration.]

[22] [(xxviii) provide for the lapsing of credit of duty lying unutilised with the manufacturer of specified excisable goods on an appointed date and also for not allowing such credit to be utilised for payment of any kind of duty on any excisable goods on and from such date.]

[11] [(2A) The power to make rules conferred by clause (xvi) of sub-section (2) shall include the power to give retrospective effect to rebate of duties on inputs used in the export goods from a date not earlier than the changes in the rates of duty on such inputs.]

(3) In making rules under this section, the Central Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding [23] [five thousand rupees].

[11] [(4) Notwithstanding anything contained in sub-section (3), and without prejudice to the provisions of section 9, in making rules under this section, the Central Government may provide that if any manufacturer, producer or licensee of a warehouse--

(a) removes any excisable goods in contravention of the provisions of any such rule, or

(b) does not account for all such goods manufactured, produced or stored by him, or

(c) engages in the manufacture, production or storage of such goods without having applied for the [24] [registration as] required under section 6, or

[23] [(d) contravenes the provisions of any such rule with intent to evade payment of duty,

then, all such goods shall be liable to confiscation and the manufacturer, producer or licensee shall be liable to a penalty not exceeding the duty leviable on such goods or [25][two thousand rupees], whichever is greater.]

[18] [(5) Notwithstanding anything contained in sub-section (3), the Central Government may make rules to provide for the imposition upon any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder, a penalty not exceeding the duty leviable on such goods or [25][two thousand rupees], whichever is greater].]

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* For the period commencing on and from the 1st day of March, 1983 and ending with the 28th day of February, 1987, sub-section (1) of section 37 shall stand substituted and shall be deemed to have effect as if for the said sub-section, the following sub-section had been so substituted, namely:--

"(1) The Central Government may make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.".

1. Inserted by Act 22 of 1973, section 131 (w.e.f. 1-9-1973).

2. Clause (i) re-numbered as clause (ib) by Act 22 of 1973, section 3 (w.e.f. 1-9-1973).

3. Inserted by Act 27 of 1999, section 131 (w.e.f. 11-5-1999).

4. Inserted by Act 25 of 1978, section 25 (w.e.f. 1-7-1978).

5. Inserted by Act 23 of 2004, section 85 (w.e.f. 10-9-2004).

6. Certain words omitted by Act 41 of 1954, section 2 and Schedule (w.e.f. 8-10-1954).

7. Substituted by Act 25 of 1950, section 11 and Schedule IV, for "the States".

8. Substituted by Act 18 of 1992, section 113, for "licensed" (w.e.f. 4-5-1992).

9. Substituted by Act 18 of 1992, section 113, for "manufactured under licence" (w.e.f. 4-5-1992).

10. Substituted by Act 18 of 1992, section 113, for "licences" (w.e.f. 4-5-1992).

11. Inserted by Act 22 of 1995, section 78 (w.e.f. 26-5-1999).

12. Proviso omitted by Act 49 of 1957, section 2 (w.e.f. 20-12-1957).

13. Inserted by Act 23 of 1986, section 51 (w.e.f. 13-5-1987).

14. Inserted by Act 11 of 1987, section 94 (w.e.f. 12-5-1987).

15. Inserted by Act 14 of 1982, section 48 (w.e.f. 11-5-1982).

16. Substituted by Act 54 of 1963, section 5, for "Central Board of Revenue" (w.e.f. 1-1-1964).

17. Substituted by Act 22 of 1995, section 70, for "Collectors of Central Excise" (w.e.f. 26-5-1995).

18. Inserted by Act 36 of 1973, section 24 (w.e.f. 1-9-1973).

19. Inserted by Act 79 of 1985, section 6 (w.e.f. 27-12-1985).

20. Inserted by Act 40 of 1991, section 8 (w.e.f. 20-9-1991).

21. Inserted by Act 18 of 1992, section 113 (w.e.f. 4-5-1992).

22. Inserted by Act 27 of 1999, section 131 (w.e.f. 16-3-1995).

23. Substituted by Act 10 of 2000, section 108, for certain words (w.e.f. 12-5-2000).

24. Substituted by Act 18 of 1992, section 113, for "licence" (w.e.f. 4-5-1992).

25. Substituted for the words "ten thousand rupees" by Finance Act, 2007.

26. Substituted by the Finance (No. 2) Act, 2009 for the word :- "for compounding"

27. Inserted by the Finance Act, 2010.

Section 37A - Delegation of powers

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[1][37A. Delegation of powers

The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification,-

(a) any power exercisable by the Board under this Act may be exercisable also by[2][a[3][Chief Commissioner of Central Excise or a[4][Commissioner of Central Excise]] empowered in this behalf by the Central Government;

(b) any power exercisable by a[2][Commissioner of Central Excise] under this Act may be exercisable also by a[2][Joint Commissioner of Central Excise] or an[5][Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] empowered in this behalf by the Central Government;

(c) any power exercisable by a[6][Joint Commissioner of Central Excise] under this Act may be exercisable also by an[5][Assistant Commissioner of Central Excise] empowered in this behalf by the Central Government; and

(d) any power exercisable by an[4][Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] under this Act may be exercisable also by a gazetted Officer of Central Excise empowered in this behalf by the Board.]

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1. Inserted by Act 25 of 1978, section 26 (w.e.f. 1-7-1978).

2. Substituted by Act 29 of 1988, section 14, for "a Collector of Central Excise" (w.e.f. 16-8-1988).

3. Substituted by Act 22 of 1995, section 70, for "Principal Collector of Central Excise" (w.e.f. 26-5-1995).

4. Substituted by Act 22 of 1995, section 70, for "Collector of Central Excise" (w.e.f. 26-5-1995).

5. Substituted by Act 22 of 1995, section 70, for "Assistant Collector of Central Excise" (w.e.f. 26-5-1995) and again Substituted by Act 27 of 1999, section 119, for "Assistant Commissioner of Central Excise" (w.e.f. 11-5-1999).

6. Substituted by Act 22 of 1995, section 70, for "Deputy Collector of Central Excise" (w.e.f. 26-5-1995) and again Substituted by Act 27 of 1999, section 119, for "Deputy Commissioner of Central Excise" (w.e.f. 11-5-1999).

Section 37B - Instructions to Central Excise Officers

[1][37B. Instructions to Central Excise Officers

The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods, issue such orders, instructions and directions to the Central Excise Officers' as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board :

Provided that no such orders, instructions or directions shall be issued --

(a) so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the[2][Commissioner of Central Excise (Appeals)] in the exercise of his appellate functions.

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1. Inserted by Act 79 of 1985, section 7 (w.e.f. 27-12-1985).

2. Substituted by Act 22 of 1995, section 70, for "Collector of Central Excise (Appeals)" (w.e.f. 26-5-1995).

Section 37C - Service of decisions, orders, summons, etc.

(1) Any decision or order passed or any summons or notices issuedunder this Act or the rules made thereunder, shall be served,--

(a) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgement due, to the person for whom it is intended or his authorised agent, if any;

(b) if the decision, order, summons or notice cannot be served in the manner provided in clause (a), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended;

(c) if the decision, order, summons or notice cannot be served in the manner provided in clauses (a) and (b), by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision or order passed or any summons or notice issued under this Act or the rules made thereunder, shall be deemed to have been served on the date on which the decision, order, summons or notice is tendered or delivered by post or a copy thereof is affixed in the manner provided in sub-section (1).]

Section 37D - Rounding off of duty, etc.

[1][37D. Rounding off of duty, etc.

The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.]

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1. Inserted by Act 12 of 1990, section 65 (w.e.f. 31-5-1990).

Section 37 E - Publication of information respecting persons in certain cases

[1][37E. Publication of information respecting persons in certain cases

(1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under this Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Commissioner (Appeals) under section 35 or the Appellate Tribunal under section 35B, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.--In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it.]

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1. Inserted by the Taxation Laws (Amendment) Act, 2006.

Section 38 - Publication of rules and notifications and laying of rules before Parliament

[1]**[38. Publication of rules and notifications and laying of rules before Parliament**

(1) All rules made and notifications issued under this Act shall be published in the Official Gazette.

[2][(2) Every rule made under this Act, every notification issued under[3][section 3A, section 4A,] sub-section (1) of section 5A and section 11C and every order made under sub-section (2) of section 5A, other than an order relating to goods of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or order, or both Houses agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.]]

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1. Substituted by Act 22 of 1973, section 4, for section 38 (w.e.f. 1-9-1973).

2. Substituted by Act 29 of 1988, section 15, (w.e.f. 16-8-1988) and again Substituted by Act 22 of 1995, section 79, (w.e.f. 26-5-1995).

3.Inserted by Act 26 of 1997, section 84, (w.e.f. 14-5-1997).

Section 38A - Effect of amendments, etc., of rules, notifications or orders

[1] **[38A. Effect of amendments, etc., of rules, notifications or orders**

Where any rule, notification or order made or issued under this Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not--

(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or

(b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.]

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1. Inserted by Act 14 of 2001, section 131 (w.r.e.f. 28-2-1944).

Section 39 - Repealed

[Rep. by the Repealing and Amending Act, 1947 (2 of 1948), section 2 and Schedule].

Section 40 - Protection of action taken under the Act

[1]**[40. Protection of action taken under the Act**

(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or a State Government for anything which is done, or intended to be done, in good faith, in pursuance of this Act or any rule made thereunder.

(2) No proceeding, other than a suit, shall be commenced against the Central Government or any officer of the Central Government or a State Government for anything done or purported to have been done in pursuance of this Act or any rule made thereunder, without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof or after the expiration of three months from the accrual of such cause.

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1. Substituted by Act 22 of 1973, section 5 (w.e.f. 1-9-1973).