

The Central Excise Rules, 2002

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Rule 1: Short title, extent and commencement:

These rules may be called the Central Excise Rules, 2002.

1. They extend to the whole of India.
2. They shall come into force on the 1st day of March, 2002

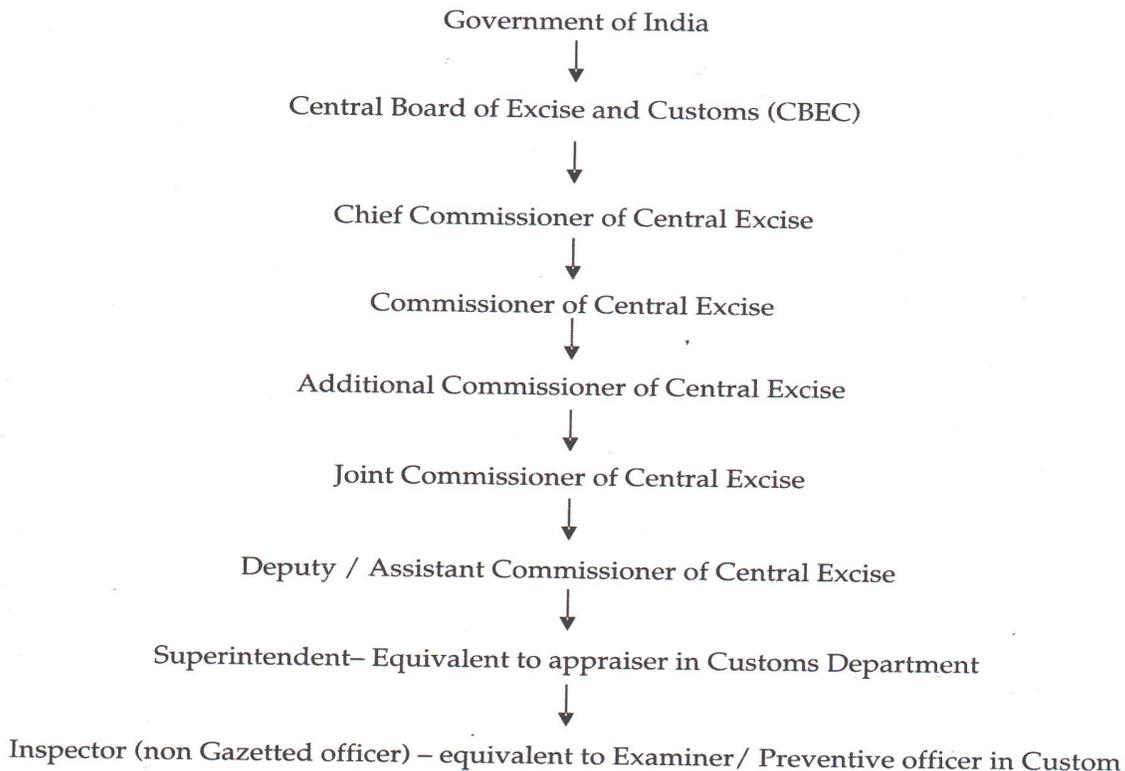
Rule 2: Definitions: - In these rules, unless the context otherwise requires, -

- (b) "**Assessment**" includes self-assessment of duty made by the assessee and provisional assessment under rule 7;
- (c) "**Assessee**" means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorized agent of such person;
- (ea) "**Large taxpayer**" means a person who;
 - (i) has one or more registered premises under the Central Excise Act, 1944 (1 of 1944); or
 - (ii) has one or more registered premises under Chapter V of the Finance Act, 1994 (32 of 1994); and is an assessee under the Income Tax Act, 1961 (43 of 1961), who holds a Permanent Account Number issued under section 139A of the said Act, and satisfies the conditions and observes the procedures as notified by the Central Government in this regard.

Rule 3: Appointment and jurisdiction of Central Excise Officers

1. The board may, by notification, appoint such person as it thinks fit to be Central Excise Officer to exercise all or any of the powers conferred by or under the Act and these rules.
2. The Board may, by notification, specify the jurisdiction of a Chief Commissioner of Central Excise, Commissioner of Central Excise or Commissioner of Central Excise (Appeals) for the purposes of the Act and the rules made thereunder.
3. Any Central Excise Officer may exercise the powers and discharge the duties conferred or imposed by or under the Act or these rules on any other Central Excise Officer who is subordinate to him.

Organisation Hierarchy of Excise /Custom Department



Rule 4: Duty payable on removal

1. Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse, shall pay the duty leviable on such goods in the manner provided in rule 8 or under any other law, and no excisable goods, on which any duty is payable, shall be removed without payment of duty from any place, where they are produced or manufactured, or from a warehouse, unless otherwise provided:
2. Notwithstanding anything contained in sub-rule (1), Commissioner may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of the manufacturer where the goods are made, permit a manufacturer to store his goods in any other place outside such premises, without payment of duty subject to such conditions as he may specify.

Persons liable to pay Excise Duty & time limit for payment of duty

1. Persons liable –

| Good Dealt is – | Person Liable |
|-----------------------|---|
| Khandasari Molasses | Person who procures the molasses in any manner for any purpose. |
| Other Excisable Goods | Person who (a) Manufactures (b) Produces or (c) Stores such Goods. |

2. Time of payment = Time of Removal:

- a. **Generally:** Duty should be paid on removal of Excisable Goods from Factory or Warehouse.
- b. **Captively Consumed Goods:** Deemed to be removed just before its utilization.

3. Manner of payment: The duty shall be paid as per provisions of Rule 8 (i.e. through CENVAT Credit or through Personal Ledger Account) before the specified date.

4. Removal Without Payment:

| Aspect | Situation | Condition |
|--|---|---|
| Approval of CCE u/r 4(4) | <ol style="list-style-type: none"> a) Shortage of Storage Space at premises of the Manufacturer. b) Considering the Nature of the Goods. | <ol style="list-style-type: none"> a) Approval: CCE approval should be obtained for removal without payment of duty. b) Other Condition: CCCE may prescribe such other conditions he may deem fit, for removal without payment of duty. |
| Removal for Job Worker | Inputs are recovered as such or after processing, to a job worker for further processing, testing, repair etc. | Jurisdictional Chief Commissioner may impose such condition as he deems it. |
| Removal to Other premises of the manufacturer | <ol style="list-style-type: none"> a) Semi-Finished Goods are removed to other premises of manufacturer for carrying out certain manufacturing operations. b) They may be either be brought back to the original factory premise or removed from the other premise. | This can be done only on special order of the Commissioner of Central Excise subject to condition laid down by him |
| Removal of Finished product for Product levy | Finished Product removed for carrying out tests. | Jurisdictional Chief Commissioner has permitted by special order. |

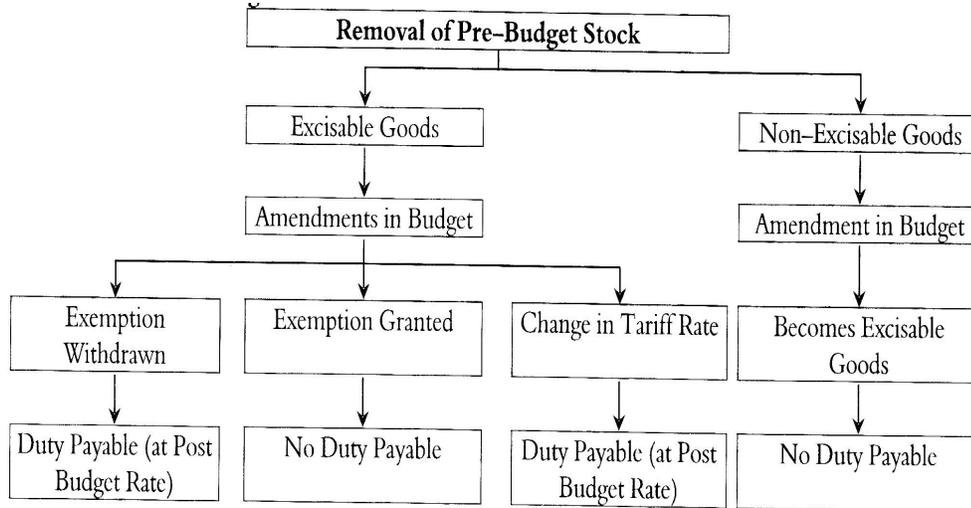
Rule 5: Determination of rate of duty and tariff valuation

1. Date for Determination of rate of duty and tariff is as follows:-

| Goods | Rate of duty and Tariff prevailing on - |
|---|--|
| Excisable goods other than khandsari molasses | Date of removal of goods from Factory or Warehouse |
| Khandsari molasses | Date of receipt of molasses in the Factory of the procurer of the molasses |

Note: In case of Excisable goods used within the Factory i.e. Captive Consumption, date of removal shall be the date on which the goods are issued for use [**Explanation to Rule 5**]

2. **Treatment of Pre- Budget Stock:**



Note: - Ruling in Vazir Sultan Tobacco Co. Case [1996] (SC)

- (a) Duty attracted at the time of manufacture has to be discharged at the time of removal
- (b) A duty not leviable at the time of manufacture is not leviable at the time of removal

| | |
|---|--|
| Budgetary changes in Tariff Rates will have immediate effect pending parliamentary approval, provided the increase is said to have been made in public interest. However, the downward revision will have effect from the date on which the Finance Bill becomes Finance Act | Provisional Collection of Taxes Act, 1931 |
| Goods find a place in tariff and the rate of duty is 'Nil' at the time of manufacture. Part of the goods were cleared immediately with Nil duty. The balance in stock was cleared when the date of duty is 205. As the goods were excisable goods, duty is payable @ 20% the rate prevalent on the date of removal. Zero is also a number. At the time of manufacture Excise Duty is attracted at zero rate | Pieco Electronics. 1996 - SC |
| If the goods are manufactured and stored in the Store room, and if subsequently duty rate is enhanced or value is enhanced by increase of price, duty will be payable at the rate and value prevalent on the date of removal | Wallace Flower Mills Ltd 44 ELT 598 |

Rule 6: Assessment of duty

Major ingredients of Assessment.

- 1. **Assessment [Rule 2(b)]:** Assessment includes self-Assessment of Duty made by the assessee and provisional assessment u/r 7.
- 2. **Time of Assessment:** Before each removal of Excisable Goods, duty has to be assessed.

3. Steps in Assessment: The involves the following –

| Step | Aspect | Description |
|------|--------------------------------------|---|
| 1 | Classification | Classification involves identification of appropriate classification code which is applicable to the Excisable Goods under the Schedules to the CETA, 1985. |
| 2. | Determination of Rate of Duty | After classifying, determine the appropriate rate of duty. |
| 3. | Valuation | Where rate of duty is dependent on the Value of the Goods, value has to be determined as per - <ul style="list-style-type: none"> • Value u/s 4 of the Central Excise Act, 1944 • Value based on retail sale price u/s 4A (if applicable) • Tariff Value u/s 3 (if applicable) |
| 4. | Quantity | Where duty is on value, the Total Value is determined by multiplying Unit Value with the Total Quantity. The unit quantity of goods is also required in cases where duty is charged at Specific Rate. |

Procedure of Self Assessment u/r 6 of the CE Rule, 2002.

1. Nature of Assessment:

| Goods | Assessment before removal by |
|---------------------------------------|---|
| Excisable goods other than Cigarettes | The Manufacturer- Self Assessment |
| Cigarettes | The Superintendent or Inspector of Central Excise |

Procedure of Self-Assessment: Under Rule 6, the assessee is required to -

- a. Determine the duty liability at the time of removal of excisable goods and discharge the same.
- b. Check the Return for the month / quarter for production and removal of goods and other relevant particulars indicating the CENVAT credit.
- c. Submit the Return to the Range officer having jurisdiction over his Factory within the prescribed time limit.

Rule7: Provisional assessment

1. Circumstances: Assessee is unable to determine the –

- a. Value of Excisable Goods, or
- b. Rate of duty applicable.

2. Procedure to be followed:

a. Request in Writing: Assessee may request the ACCE / DCCE in writing giving reasons for payment of duty on provisional basis indicating -

- Specific grounds and information for want of which Final Assessment cannot be made.
- Period for which Provisional Assessment is required.
- Rate of duty and/or value proposed to be applied by the assessee for Provisional Assessment.
- Undertakes to appear before the ACCE / DCCE within 7 days or date fixed by him furnishing all relevant information necessary for the finalisation of Provisional Assessment.

b. Order: ACCE / DCCE may by order allow payment of duty on provisional basis stating -

- Grounds on which the Provisional assessment has been ordered.
- Rates / Value at which the duty has to be provisionally assessed.
- Amount of differential duty i.e. Estimated Final Duty **Less** Provisional Duty.
- Amount of Security or Surety.

c. Finalization of Assessment: Final Assessment order may be passed by the ACCE / DCCE after the relevant information required for finalizing the assessment is available.

d. Time limit for passing the order:

- **General:** Final order should be passed within 6 months from the date of Provisional Assessment is available
- **Extension of period:**
 - **By CCE:** By another 6 months.
 - **By CCCE:** Any Period.

3. Effect of Final Assessment:

| Case | Final Duty > Provisional Duty | Final Duty < Provisional Duty |
|---------------------------|---|--|
| Effect | Further Demand raised on Assessee. | Refund due credited to Consumer Welfare Fund. |
| Interest | 13% p.a. | 6% p.a. |
| Period of Interest | From 1 st day of subsequent month to date of payment | From 1 st day of Subsequent month to date of Refund |

4. Credit to Consumer Welfare Fund u/s 12C: The amount of refund shall be credited to the Fund. It shall be paid to the applicant, if the Applicant had not passed on the incidence of the duty to any other person.

Rule 8: Manner of payment of duty

1. Due date for payment of duty:

| Category of assessee | Month | Due Date |
|---------------------------------|-----------------------------|---|
| Assesses other than SSIs | a. All months except March. | <ul style="list-style-type: none"> • E-payment – 6th of following month. • Other case – 5th of the following month |
| | b. For the month of March. | By 31 st of March |
| Assesses availing SSI exemption | a. All months except March | <ul style="list-style-type: none"> • E-payment – 16th of the following month • Other case – 15th of the following month |
| | b. For the month of March. | By 31 st of March |

2. Manner of payment of Duty:

- a. Payment of Excise Duty including the amount payable under the CENVAT Credit Rules, 2004 can be made through the Challan GAR-7.
- b. The duty can also be discharged by debiting –
 - i Account current (Personal Ledger Account), and
 - ii CENVAT credit Account maintained by the assessee.

3. Mandatory E-payment: An assessee who has paid duty of Rs.50 lakhs or more through PLA in the preceding financial year should deposit the duty electronically through Internet Banking.

4. Date of Payment:

| Mode | Date Considered |
|-------------------|--|
| General | Actual date of credit to Central Government |
| Payment by cheque | Date of presentation, provided cheque is realized in the nominal Course. |

5. Credit to Buyer: Even though duty has not been actually paid at the time of removal and it is deemed to have been paid and the buyer is allowed CENVAT credit **[Rule 8 (2)]**.

6. Duty incidence deemed to be passed on: Every person who has paid the duty is deemed to have passed on the full incidence of such duty to the Buyer **[Section 12B]**.

Penal Consequences for non-payment of duty within the due date

1. Interest [Rule 8(3)]:

- a. **Rate of Interest:** Interest will be payable at 13% p.a. for the period of delay.
- b. **Period of delay:** It is the difference between the actual date of payment and the due date.

2. Forfeiture of Monthly Payment [Rule 8(3A)]:

- a. Situation:** Assessee has not paid the duty liability within 30 days from the due date.
- b. Duty payable on every removal:** The Assessee should pay duty for every removal.
- c. Benefit Lost:**
 - Utilization of Cenvat Credit
 - Making payment of Monthly basis.
- d. Period of Restriction:** From the end of 30 days from the due date of payment, till the actual date of payment of duty and interest.
- e. Availment of credit:** During the period of restriction, Assessee can avail credit in respect of duty paid on inputs which can be utilized later.

Rule 9: Registration

1. Every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods, shall get registered: .
Provided that a registration obtained under rule 174 of the Central Excise Rules, 1944 or rule 9 of the Central Excise (No. 2) Rules, 2001 shall be deemed to be as valid as the registration made under this sub-rule for the purpose of these rules.
2. The Board may by notification and subject to such conditions or limitations as may be specified in such notification, specify person or class of persons who may not require such registration.

Registration under the central excise & persons liable to get registered under the Act

Person Liable: Registration is compulsory under the Central Excise Act for the following persons –

1. **Manufacturer** of Excisable Goods.
2. **Wholesale Dealer** trading in Excisable Goods.
3. **Warehouse Keeper** storing non-duty paid Excisable Goods.
4. **Exporter Manufacturer** for the purpose of complying Rebate / Bond Procedure.
5. **100% Export Oriented Undertaking (EOU)** transacting with Domestic Tariff Area (DTA)
6. **Other users** of Excisable Goods.

Rule 10: Daily Stock Account

Every assessee has to maintain records of stock on daily basis known as the 'Daily Stock Account'. It was earlier known as RG-1 Register. The daily stock account should contain the following particulars -

(a) Description of the goods produced or manufactured; **(b)** Opening balance. **(c)** Quantity produced or manufactured. **(d)** Inventory of goods. **(e)** Quantity removed. **(f)** Assessable value. **(g)** Amount of duty payable. **(h)** Particulars regarding amount of duty actually paid.

The daily stock account is to be kept in the factory and should be preserved for a period of 5 years immediately after the financial year to which it pertains.

There is no requirement of authentication of daily stock account by the jurisdictional Central Excise Officer. However, the assessee shall duly authenticate the first and last page of such account/records.

Rule 11: Invoicing system

1. Requirements of an invoice:

a. Serial Numbering:

- Invoice should be serially numbered and commences from 1st April every year.
- Handwritten serial numbers shall not be accepted
- In case of computer generated invoice, the computer software should –
 - i** Automatically generate the invoice, and
 - ii** Same number should not be generated more than once.
- In case the invoice book is authenticated, each foil should contain serial number before being brought into use.

- b. Intimation:** Serial Numbers of the invoice book should be intimated to the jurisdictional Superintendent of Central Excise through Post / E-Mail / Fax / Hand delivery or any other similar means.
- c. Authentication [Rule 11(5)]:** The invoice book should be authenticated before it is brought into use by –

| Assessee being | Authorized by - |
|------------------|---|
| Partnership Firm | Working Partner or any Authorised person |
| Company | Managing Director or the Company Secretary or any Authorised person |
| Any other person | Owner or any Authorised person |

2. Contents of an Invoice [Rule 11(2)]: It shall contain –

| | |
|--|--|
| (a) Central Excise Registration Number | (b) Address of the concerned Central Excise Division |
| (c) Consignee's Name (not the Buyer) | (d) Description and Classification of Goods |
| (e) Time and Date of removal | (f) Mode of Transport & Vehicle Registration Number |
| (g) Rate of Duty | (h) Quantity of Goods |
| (i) Duty Payable on the goods | (j) Value of Goods. |

3. Invoice Books [Rule 11(4)]:

- a. General:** Only one invoice book should be used at a time.
- b. Maintenance of more than 1 Book:**

| Purpose | Course of action |
|--|--------------------------------------|
| Separate books for removal for home consumption and removal for export | Intimate to Jurisdiction DCCE / ACCE |
| Other Cases | Prior Approval of DCCE/ACCE |

- c. Different Serial Numbers:** When more than one invoice book is maintained, different numerical serial numbers should be used for different sets.

4. Significance of Invoice: Excisable Goods can be removed from Factory only under an Excise Invoice duly authenticated.

Rule 12 - Filling of Return

12 (1) : Monthly Return is to be filed by the assessee to the Superintendent of Central Excise by 10th of next month in Form ER-1 containing details of production, removal, etc.

12 (1): Proviso: Quarterly Return is to be filed in **Form ER3** within 20 days after the close of the quarter, to which the return relates by the SSIs availing exemption based on annual value of clearances.

12(2): Assessee who paid in the previous financial year ED of Rs.100 lakhs and more thro' PLA shall file on **30th November**, the Annual Financial Statement for the **previous financial year in Form ER-4**.

12 (3): Based on the return the proper officer shall check the correctness of duty.

12 (4): The assessee shall make available all documents and records to the proper Officer for verification.

Rule 12AA: Job work in Jewellery

- Branded jewellery is subject to excise duty at the rate of 2% w.e.f. 1.3.2005.
- Rule 12AA provides that any person who is not an EOU or an SEZ Unit, who gets the articles of jewellery manufactured on job work basis should register, maintain accounts and pay duty as if he is the assessee. However, it is open to the job worker at his option to agree to register, comply with the Rules and pay duty in which case the person engaging the job worker is not required to register and pay duty.
- Where the person engaging the job worker desires clearance of the excisable goods for home consumption or export from the premises of the job worker is required to pay duty and prepare the invoice as per Rules except for mentioning the date and time of removal.

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4. The original and the duplicate copy of the invoice so prepared shall be sent by him to the job worker from whose premises the excisable goods after job work are intended to be cleared.
5. The job worker shall fill the particulars of date and time of removal and shall intimate the other person so that necessary information can be completed in the third copy of the invoice maintained by the said person.

Rule 12BB: Procedure and facilities for Large Taxpayer Unit

1. Removal of Goods by LTU:

| | | |
|------------------------|---------------------------------|--|
| Goods | Excisable goods | Inputs/ Capital Goods removed as such |
| Rule applicable | Rule 12BB of CER, 2002 | Rule 12A of Cenvat Credit Rules. |
| Situation | Removal without payment of duty | Removal of inputs/ capital goods, on which credit has been without reversal of credit. |

2. Conditions:

a. Removal to: Goods can be re moved from one premise of the LTU to his another premise.

b. Removal from recipient premise:

- **Manufacture:** Goods are manufactured / produced using the above goods (Inputs, Imports) etc.,
- **Removal:** Such manufactured goods are removed for
 - i Home consumption, by payment of appropriate duties.
 - ii Exported out of India under a Bond or Letter of undertaking.
- **Time Limit:** Manufacturer and removal should be done within 6 months from the date of receipt of the Recipient premise.

3. Transfer Challan:

a. Challans should be serially numbered.

b. Contents:

- Registration Number, Name and Address of the LTP.
- Description, Classification, Time and Date of Removal.
- Mode of transport and Vehicle Registration Number,
- Quantity of the Goods, and
- Registration Number and Name of the Consignee.

4. Other conditions: As prescribed by CCE of the LTU -

| Particulars | Intermediate | Inputs | Capital Goods |
|-------------------------------|--|--|--|
| Situation | <ul style="list-style-type: none"> • Used in manufacture of exempted or non excisable goods • Excisable goods manufactured is not removed within 6 months. | <ul style="list-style-type: none"> • Excisable finished goods not removed within 6 months. • Inputs cleared as such. | <ul style="list-style-type: none"> • Used exclusively in manufacturer of exempted goods. • Capital goods cleared as such |
| Duty liability | Amount of duty payable on such import plus interest. | Duty equivalent to Cenvat Credit taken with interest. | Duty equivalent to Cenvat Credit with interest. |
| Payable by | Recipient premises | Recipient premises | Recipient premises. |
| Governing Section/Rule | 11 AB of CEA. | Rule 14 of Cenvat Credit Rules. | Rule 14 of Cenvat Credit Rules. |

Note: Duty payable in respect of intermediate products is based on the provisions prevailing on the date of removal from the sender's premise.

5. Non-applicability: The facility to remove goods without payment of duty does not apply to –

- a. 100 % EOU
- b. Unit located in EHTP / STP

6. Other Points:

- a. Duty **paid eligible for Cenvat Credit:** Duty paid by the recipient premise due to non-fulfillment of condition, can be availed as Cenvat Credit.
- b. **No reversal of credit at Sender's premise:** Non-fulfillment of conditions does not result in reversal of credit taken by the sender premise.

Transfer of CENVAT Credit by the LTU among its different premises:

A Large Tax Payer may transfer, CENVAT Credit available with one of its registered Manufacturing Premises or Premises Providing Taxable service to his other such registered premises by -

1. **Entry in Records:** Making an entry for such transfer in the record maintained under Rule 9 of CENVAT Credit Rules, 2004.
2. **Issue of Transfer Challan;** Issuing a transfer challan containing -
 - Registration Number
 - Name and address of the registered premises transferring the credit
 - Name and address of the registered premises receiving the credit
 - Particulars of entry (credit transferred)
3. **Credit for Recipient:** Such recipient can take CENVAT Credit based on the transfer challan referred above.

Rule 12C: Procedure for maintenance of records and payment of duty by the independent weaver of unprocessed fabrics

1. **Independent Weaver:** Weaver
 - a. Purchases the yarn himself
 - b. Works on them, and
 - c. Sells the grey fabrics manufactured by him.
2. **Goods covered:** Unprocessed fabrics under Chapter 50 - 55, 58 or 60 of Schedule I to Central Excise Tariff Act.
3. **Authorised Person:** The independent weaver of may authorize another person to comply with provisions of Central Excise Duties except that of Registration.
4. **Responsibility:** Responsibility to comply with Central Excise Rules, 2002 lies with the independent weaver. In case of short payment or non-payment of duty on such unprocessed fabrics, consequences and penalties shall apply both to the said independent weaver and his Authorised agent.
5. **Penalty:** Penal consequences due to non-payment or short payment will apply to both the weaver and authorized person.

Rule 15: Special procedure for payment of duty

1. The Central Government may, by notification, specify the goods in respect of which an assessee shall have the option to pay the duty of excise on the basis of such factors as may be relevant to production of such goods and at such rate as may be specified in the said notification, subject to such limitations and conditions, including those relating to interest or penalty as may be specified in such notification.
2. The Central government may also specify by notification the manner of making an application for availing of the special procedure for payment of duty, the abatement, if any that may be allowed on account of closure of a factory during any period, and any other matter incidental there to.

Rule 16: Treatment for removal of Goods, received back for reworking thereat

1. **Applicability:** Any goods on which duty has been paid at the time of removal are brought to any factory for being re-made, refined, re-conditioned or for any other reason.
2. **Eligibility for Credit [Rule 16 (1)]:** Duty paid on such goods can be claimed as CENVAT Credit if the assessee has recorded the particulars of the receipt in his book such credit can be utilised as per CENVAT Credit Rules.

3. Payment of duty [Rule 16 (2)]: If the goods before being removed are subject to –

| Activity on Such Product - | Duty to be paid |
|---------------------------------|---|
| Does not amount to manufacture | Amount of CENVAT Credit utilised on its receipt. |
| Process amounts to manufacturer | Duty at the rate applicable on the date of removal on the value determine u/s 3(2), 4 or 4A of CEA. |

4. Credit to Buyer: The duty paid as above shall be allowed as CENVAT credit to the Buyer.

5. Commissioner's Instructions: In case of difficulty in applying Rule 12, assessee may follow the conditions specified by CC in this regard. **Example:** Goods received are very old without any duty paid documents for claiming credit.

QUESTION:

On 15-03-2007 XYZ Co. Ltd who are manufacturers of industrial needles, cleared a consignment on payment of appropriate excise duty from its factory in Jaipur. The said consignment cleared from the factory to PQR Ltd was returned on 20-03-2007 to the same factory as they were found to be defective. Upon receipt of defective needles as inputs in their factory at Jaipur, XYZ Co. Ltd took credit of the duty already paid at the time clearance of goods on 15-03-2007.

On 25-03-2007 XYZ Co. Ltd were able to rectify the defects and dispatch the goods by utilizing credit available in the CENVAT account of an amount equal to the CENVAT Credit taken at the time, when the defective goods were received in the factory on 20-03-2007.

When the goods were returned back on 25-03-2007 to PQR Ltd. under cover of invoice showing payment of duty by XYZ Co. Ltd, the excise authorities raised 2 objections –

- a. That since no manufacturing activity was involved in rectification of defective needles the amount paid by XYZ Co. Ltd at the time of clearance of rectified needles, which was the same amount taken as input credit, cannot be considered as excise duty levied under the Central Excise Tariff Act, 1985.
- b. XYZ Co. Ltd should have made actual payment of duty in cash and was not entitled to pay excise duty by adjustment from CENVAT credit A/c on 25-3-2007.

Discuss whether the stand taken by Central Excise Authorities is correct in law.

1. **Availability of Credit:** The amount paid under Rule 16(2), Shall be allowed as CENVAT credit to the buyer as if it was a duty paid by the manufacturer who removes the goods.
2. **Utilization of Credit:** CENVAT credit may be utilized for payment of amount under Rule 16(2) of Central Excise Rules, 2002. [Rule 3(4) of CENVAT Credit Rules, 2004]

3. Analysis and Conclusion:

a. Contention against the claim of credit:

- XYZ Co. Ltd is entitled to credit on the defective needles returned to the Factory under Rule 16 of the Central Excise Rules, 2002.
- Since the needles before being removed are not subject to manufacture, XYZ Co. Ltd has paid the amount of CENVAT utilized, through CENVAT Credit A/C.
- PQR is entitled to claim credit of the amount paid by the XYZ Co. Ltd as per Rule 16.
- Hence, the claim made by the Excise authorities does not hold Good.

b. Contention against manner of payment:

- As per Rule 3(4) of the CEVAT Credit Rules, 2004, payment can be made utilizing CENVAT credit.
- Hence, the claim made by the Department is not tenable.

Rule 16A: Removal of Goods for Job Work.

1. Purpose: Any inputs received in a factory may be removed as such or after being partially processed to a job worker for the following purposes –

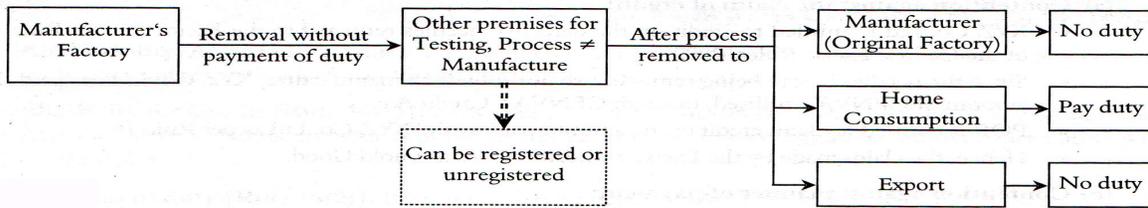
- a. Further Processing,
- b. Testing,
- e. Any other purpose.
- c. Repair,
- d. Re-Conditioning or

- The Removal shall be made subject to the fulfillment of conditions specified by the Jurisdictional Commissioner of Central Excise.

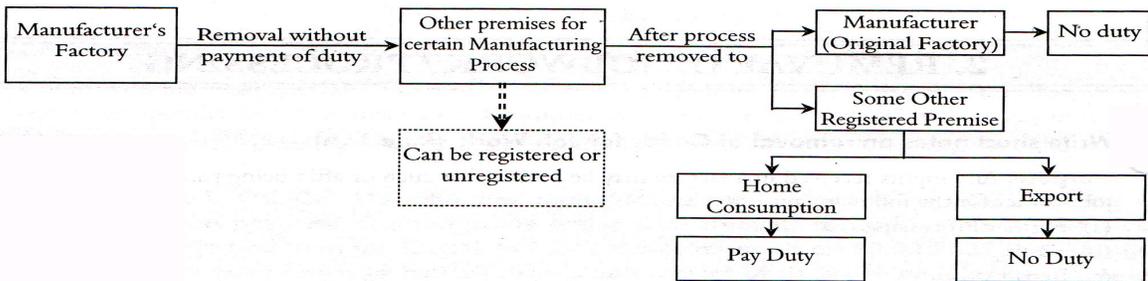
Rule 16B & Rule 16C : Procedure to be followed for removal of goods.

| Particulars | Removal under Rule 16B | Removal under Rule 16C |
|-----------------|--|---|
| Goods Covered | Excisable Semi-Finished Goods. | Excisable Finished Goods. |
| Purpose | Further manufacturing purposes | Testing or other process, not amounting to manufacture. |
| Payment of Duty | <ol style="list-style-type: none"> At the time of removal from Factory to the place of further process – No At the time of removal from the place of further process to Factory – No At the time of removal from the place of further process to some other registered premise – No Removal from the other registered premises for – <ul style="list-style-type: none"> Export – No Home Consumption – Yes | <ol style="list-style-type: none"> Removal from Factory to the place/premise of testing – No Removal from place of testing to – <ul style="list-style-type: none"> Factory of Manufacture – No Export – No Home Consumption – Yes |

Removal of Finished Product for testing under Rule 16C



Removal of Semi-Finished Goods under Rule 16B



Rule 17: Removal of goods by a 100% EOU to a Domestic Tariff Area

- Where any goods are removed from a 100% EOU to a domestic tariff area, the removal should be under the cover of an invoice and on payment of duty as applicable before removal of goods by debiting PLA or through cenvat credit as the case may be.
- The EOU is required to maintain appropriate accounts relating to production, description of goods, quantity removed and duty paid.
- The EOU is required to file a monthly return in Form ER-2 in respect of excisable goods manufacture in the unit as well as receipt of inputs and capital goods.

Rule 18: Rebate of duty:

Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.

Rule 19: Export without payment of duty.

1. An excisable goods may be exported without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, as may be approved by the Commissioner.
2. Any material may be removed without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, for use in the manufacture or processing of goods which are exported, as may be approved by the Commissioner.
3. The export under sub-rule (1) or sub-rule (2) shall be subject to such conditions, safeguards and procedure as may be specified by notification by the Board.

Rule 20: Warehousing.

1. **Rule 20** of Central Excise Rules, 2002 empowers the Central Government to issue notifications for permitting removal from factory to warehouse or warehouse to another warehouse without payment of duty.
2. The consignor has to prepare an application in the prescribed form in four sets.
3. Three copies of the application and the duplicate copy of the invoice should be sent along with the goods to the warehouse of destination.
4. Fourth copy shall be sent to the jurisdictional Superintendent.
5. On arrival, the consignee shall verify and send the original to the Superintendent in charge of his warehouse, duplicate to the consignor and retain the third copy.
6. The Superintendent of the consignee shall counter sign the application and send it to the Superintendent of the consignor.
7. When the duplicate of the warehousing certificate is not received within 90 days of removal, or such extended period, the consignor has to pay duty.

Rule 21: Remission of Duty

1. The assessee has to show to the satisfaction of the Commissioner that the goods have been lost or destroyed due to natural causes or unavoidable circumstances or are unfit for consumption or for marketing at any stage before removal.
2. Where the amount does not exceed Rs. 10,000/-, remission can be done by the Superintendent, where the amount exceeds Rs. 10,000/- but does not exceeds Rs. 1,00,000/-, remission can be done by the Assistant Commissioner or Deputy Commissioner. Where the amounts exceeds Rs. 1,00,000/- but does not exceed Rs. 5,00,000/- remission can be done by the Joint Commissioner or Additional Commissioner.
3. The assessee has to produce evidence of loss to the Department, and the authorities can impose conditions such as destruction under supervision.
4. The Madras High Court in the case of Golden Hill Estates (1997) 90 ELT 301 has held that theft cannot be equated to loss due to natural causes, and therefore remission is not available.
5. The issue as to whether theft or dacoity can be considered as an unavoidable loss has been referred to a Larger Bench in the case of Gupta Metal Sheets Pvt. Ltd. (2007) 219 ELT 694.

Rule 22: Procedures relating to submission of records.

1. **Submission to Range Officer [Rule 22(2)]:** Every Assessee, First Stage and Second Stage dealer should submit a list of the following to the Range Officer –
 - a. Records prepared and maintained for accounting of transaction in regard to -
 - Receipt, purchase manufacture, storage, sales or delivery of the goods including inputs and capital goods, and
 - Payment for inputs services and their receipt or procurement.
 - b. Financial Records and statements including Trial Balance.

- 2. Verification [Rule 22(3)]:** The Assessee should make available to the Range Officer or other Authorized Officer for the purposes of scrutiny, the following-
- a. Records maintained under Rule 22(2),
 - b. Cost Audit Report u/s 233B of the Companies Act, 1956, and
 - c. Tax Audit Report u/s 44AB of the Income Tax Act, 1961.

Rule 23: Power to stop and search.

Any Central Excise Officer, may search any conveyance carrying excisable goods in respect of which he has reason to believe that the goods are being carried with the intention of evading duty.

Rule 24: Power to detain or seize goods.

If a Central Excise Officer, has reason to believe that any goods, which are liable to excise duty but no duty has been paid thereon or the said goods were removed with the intention of evading the duty payable thereon, the Central Excise Officer may detain or seize such goods.

Rule 25: Confiscation and penalty.

(1) Subject to the provisions of section 11 AC of the Act, if any producer, manufacturer, registered person of a warehouse or a registered dealer, -

- a. removes any excisable goods in contravention of any of the provisions of these rules or the notifications issued under these rules; or
- b. does not account for any excisable goods produced or manufactured or stored by him; or
- c. engages in the manufacture, production or storage of any excisable goods without having applied for the registration certificate required under section 6 of the Act; or
- d. contravenes any of the provisions of these rules or the notifications issued under these rules with intent to evade payment of duty,

then, all such goods shall be liable to confiscation and the producer or manufacturer or registered person of the warehouse or a registered dealer, as the case may be, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to in clause (a) or clause (b) or clause (c) or clause (d) has been committed, or rupees two thousand, whichever is greater.

(2) An order under sub-rule (1) shall be issued by the Central Excise Officer, following the principles of natural justice.

Rule 26: Penalty for certain offences. -

1. 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 the Act or these rules, shall be liable to a penalty not exceeding the duty on such goods or rupees two thousand, whichever is greater.
2. Any person, who issues -
 - i. an excise duty invoice without delivery of the goods specified therein or abets in making such invoice; or
 - ii. any other document or abets in making such document, on the basis of which the user of said invoice or document is likely to take or has taken any ineligible benefit under the Act or the rules made there under like claiming of CENVAT credit under the CENVAT Credit Rules, 2004 or refund,

Rule 27 General penalty

A breach of these rules shall, where no other penalty is provided herein or in the Act, be punishable with a penalty which may extend to five thousand rupees and with confiscation of the goods in respect of which the offence is committed.

Rule 28: Confiscated property to vest in Central Government.

1. When any goods are confiscated under these rules, such thing shall thereupon vest in the Central Government.
2. The Central Excise Officer adjudging confiscation shall take and hold possession of the things confiscated, and every Officer of Police, on the requisition of such central Excise Officer, shall assist him in taking and holding such possession.

Rule 29: Disposal of confiscated goods.

Confiscated goods in respect of which the option of paying a fine in lieu of confiscation on has not been exercised, shall be sold, destroyed or otherwise disposed of in such manner as the commissioner may direct.

Rule 30: Storage charges in respect of goods confiscated and redeemed

If the owner of the goods, the confiscation of which has been adjudged, exercises his option to pay fine in lieu of confiscation, he may be required to pay such storage charges as may be determined by the adjudicating officer.

Rule 31: Power to issue supplementary instructions

The Board or the Chief Commissioner or the Commissioner may issue written instructions providing for any incidental or supplemental matters, consistent with the provisions the Act and these rules.

FAST TRACK NOTES

RULE 4: (HIGHLIGHTS)

1. No removal shall be made without payment of duty (i.e., Each removal shall be after paying duty) Manufacturer /Warehouse Keeper - shall pay duty as per Rule 8 (Monthly Basis)
2. Manufacturer (**Khandsari Sugar Factory**) -----Molasses----- **Procurer** (Deemed Manufacturer) Shall pay duty (at time of receipt thereof in his factory)
 Explanation Intermediate Goods ----- Issued for use in next process -----
 Deemed to be removed from Factory immediately before such Utilization
3. Factory ↓ $\frac{\text{without duty payment}}{\text{CCE permission necessary}}$ Store-House (==Warehouse) -----Duty payment
 -- exceptional circumstances -- Due regard to [NATURE OF GOODS+SHORTAGE OF STORAGE SPACE]

RULE 5: RELEVANT DATE (DATE OF WHICH ROD & AV SHALL BE TAKEN) (HIGHLIGHTS)

1. **Any EG (other than Khandsari Molasses)** -----Date of removal from the Factory/Warehouse
 ↓
 IG (= Captively Consumed Goods) - Date of Removal = Date of Issuance to Next Process)
2. **Khandsari Molasses** ---- Date of receipt by Procurer

RULE 6: ASSESSING AUTHORITY (HIGHLIGHTS)

EG (other than Cigarettes) --- Assessee [System= Self-Assessment System == **SELF-REMOVAL PROCEDURE**]
Cigarettes: ----- SCE/INSPECTOR [System= **PHYSICAL CONTROL SYSTEM**]

Rule 7:

1. Assessee unable ---to determine --- AV or -- Applicable RoD -Then, He may request AC/DC for Provisional Assessment (PA)
 Request accepted -- PA Order shall be passed
2. PA allowed --- subject to Execution of Bond by the Assessee
Bond (PD Bond) = [Expected Duty on Final Assessment (FA) - Provisionally Assessed Duty]
(Prescribed Form: B-2)

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Some features:

1. DSA need not be maintained by units availing CLS
2. Payment on monthly/quarterly /half yearly, basis as notified in scheme.
3. Payment for related period shall be made in advance.
4. No CCR can be taken by the assessee.
5. **Goods sold under CLS:** Govt. can fix amount of ED which shall be deemed to be paid on such goods. Buyer can take that credit in terms of Rule 13 of CRR (Deemed Credit Scheme) – at present no such notification by CG.

RULE 17: REMOVAL BY 100% EOU (IN DOMESTIC TARIFF AREA (DTA) (HIGHLIGHTS)

Remember. Proviso to Sec 3(1) of CEA: 100% EOU---Sale to DTA

ED payable = Aggregate of Customs Duties

1. ED liability on clearances in DTA ---Duty is payable at the time of removal itself (& not on Monthly Basis)

Duty can be paid ---By debiting PLA or By utilizing Cenvat Credit

2. Proper A/c's shall also be maintained [AC-1]
3. **Prescribed Return: E.R.-2** --shall be filed to SCE (**Monthly Basis --- Within 10 Days**)

RULE 9: (HIGHLIGHTS)

1. **Person requiring Registration:** Manufacturer + Trader + Pvt. Store-room Keeper + Warehouse Keeper + User
2. CBEC may exempt any person from registration requirement (by issuing Notification for that)

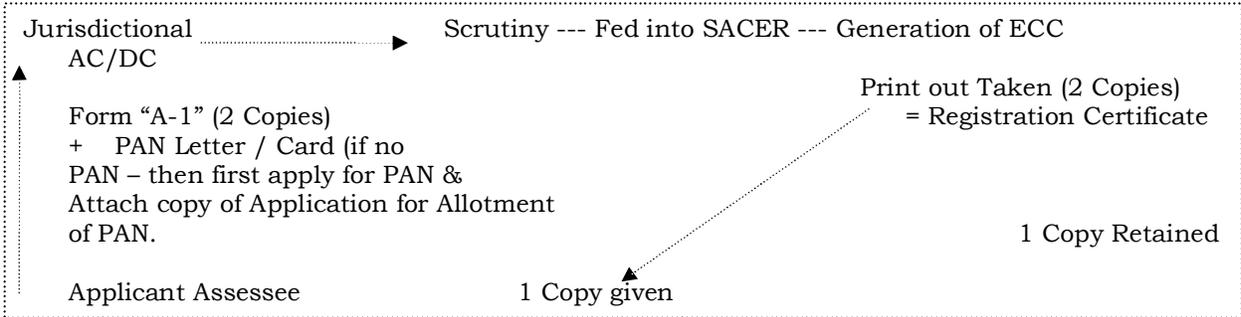
N/N 36/2001:

| Exemption from Reg. to | Subject to Following Conditions |
|---|---|
| ➤ Manufacturer of - 100% Exempted goods or Nil Duty goods | ⇒ Prescribed Declaration is filed **If 100% Exemption is Under 8/2003 + AVC (Home Consumption) is upto 90 lacs in immediately PY --then, Even Declaration needn't be filed |
| ➤ Person getting goods manufactured on Job-Work (R/M Supplier) | ⇒ J/Worker not availing 214/86 (i.e., paying ED himself) |
| ➤ Manufacturer doing manufacturing process in Customs Warehouse (permissible in terms of Sec 65 of Customs Act, 1962) | EG so manufactures & all other goods - either destroyed or exported + Prescribed Declaration is filed + DBK/ REBATE of duty paid on Inputs not claimed |
| ➤ Trader of Excisable Goods | He shall not be a FIRST STAGE DEALER or SECOND STAGE DEALER |
| ➤ User of Excisable Goods | He shall not be a Manufacturer-User who is availing End-use based Exemption Notification. |

100% EOU ---Deemed to be registered (Needn't register themselves separately)

However, **if it has linkage with the DTA** (i.e., it sells to DTA Unit or purchases from DTA unit) -- then, these shall not be treated as deemed registered unit & shall **require separate registration under Excise.**

3. PROCEDURE FOR EXCISE REGISTRATION



- SACER : System for Allocation of Central Excise Registration;
- ECC = Excise Control Code Alpha-Numeric Code (15-Digit Number)
PAN (10-Digits + XM // XD // EU (as the case may be) + 001 (2-Digits- No. of Factories)
- Separate Factories - Separate Registration
- RC shall be granted within 7 days - if not so granted, on expiry of 7 days it is deemed to be granted.
- Once RC granted - Permanent Status --- UNLESS v
 - i. Surrendered by Applicant (Closure of Factory)
 - ii. Cancelled/Revoked by Dept. (on Breach of Act./Rules or Conviction of offence of giving bribe)
 Death of Applicant - may also lead to cessation of RC

RULE 10: (HIGHLIGHTS)

1. Maintain DSA (Daily Stock A/c) ---- Record of OPENING/STOCK + QTY MANUFACTURED -- QTY REMOVED = C/STOCK
2. 1st & Last Page of DSA -- Shall be Authenticated by Manufacturer or His Agent
3. Preserve DSA for 5 Years (after the Year to which it pertain ----

RULE 11: (HIGHLIGHTS)

1. No removal of EG from Factory/Warehouse --- without Invoice
-- **In case of Cigarettes** - Invoice shall be signed by assessee & Counter-signed by the SCE/Inspector.
-- **In case of all other EGs** --- Invoice needs only signature of Assessee (no counter-sign required)
2. Invoice --- shall be Serially Numbered
Shall Contain: Registration No. + Consignee's Name + **Description of goods** + Classification Code + ToR & DoR + RoD + **Qty & Value** + Duty thereon + Mode of transport + Vehicle registration no.
3. Prepare in TRIPLICATE --- 1st Copy for Buyer + 2nd Copy for Transporter + 3rd Copy for Assessee (Assessee can prepare Additional Copies - but those shall be marked as "NOT FOR CENVAT")
4. Only one copy of INVOICE BOOK shall be used at any point of time
Exception: When AC/DC allowed use of additional copies (e.g., in cases of Export)
5. Owner // Working Partner// M.D.// CS // Other Authorised Person : Shall authenticate Each Foil of Invoice Book
6. Before bringing into use any Invoice Book --- Intimate Serial Nos. of Invoice Book to the SCE
7. All above provisions --- shall equally be applicable to Invoice prepared by FSD // SSD
 - **Additional Requirement in case of FSD/SSD invoice: FSD/SSD selling imported goods (in relation to which importer invoice is stating that he will be claiming refund of Special CVD and thus not recovering that as a part of price of goods) - shall state the same in his invoice**

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RULE 12: (HIGHLIGHTS)

1. DUE DATES OF FILING RETURN

| | Periodicity | Mths (April to March) | Form of Excise Return |
|---------------------|---|--------------------------------------|------------------------------|
| Non-SSI Unit | MONTHLY basis (12 Returns per Year) | Within 10 days from the end of month | “E.R.-1” |
| SSI Unit | QUARTERLY basis (4 Returns per Year) | Within 20 days from the end of month | “E.R.-3” |

➤ **Accompanying Documents:**

- i.) 2 Copies of PLA;
- ii) Relevant TR-6 Challans;

Manufacturer of Pan Masala (whether containing tobacco or not): Shall also submit a Statement of purchase & Sale invoices (Year 2007)

2. Annual Financial Information (AFI) Statement by CASH SUPER RICH ASSESSEE (PLA Duty of Rs 100 lacs or more)

Every assessee - shall submit to SCE --- “AFI Statement in Form: E.R.4” (Yearly Statement Due Date: 30th Nov]

CG may exempt any assessee from filing this statement. Indian Ordnance Factories exempt in all cases.

3. Scrutiny of Excise Return: Proper Officer may scrutinize the correctness of duty assessed by the assessee.

4. To enable proper officer in proper scrutiny of excise returns, assessee shall make available to him all the related documents and records as may be required by him for verification.

RULE 13, 14 : NOT RELEVANT AT PRESENT

RULE 15 : COMPOUNDED LEVY SCHEME (CLS) : DISCUSSED EARLIER ALONG WITH RULE 8

RULE 16 : (HIGHLIGHTS)

1. Re -entry: Removal of goods from Factory ---- Duty paid at time of removal

Such duty-paid goods may be brought back into **Any Factory** [Purpose: **Remade // Re-fined, Re-conditioned // Any other purpose**]

Condition: Maintain records of goods so returned;

Upon such return, Assessee shall be entitled to take Cenvat Credit of duty already paid thereon

2. Re-removal: Subsequent clearance of returned goods from the Factory:

i. If the process to which they have been subjected does not amount to MANUFACTURE: Pay AN AMOUNT= Cenvat taken on their return

- **Payment of this amount shall be made at time of transaction itself** (Rule 8 monthly payment facility is only for payment of duty and those amounts which are payable under CCR, 2004)
- However, for **payment of this amount** CCR can be utilized [Rule 3(4) CCR permits this]
- The credit of **amount so paid can betaken by the buyer of goods** [Explanation to Rule 16(2)]

ii. Any other case (i.e., if the process to which they have been subjected amounts to manufacture, or no processing done on goods) :- Pay **DUTY** thereon @ROD & AV as applicable on their removal.

3. Difficulty in following jurisdictional CCE

RULE 17: PAYMENT BY 100% EOU: DISCUSSED EARLIER ALONG WITH RULE 8

RULE 18: (HIGHLIGHTS)

1. Export of EG - under claim of Rebate of duty (First Pay Duty & then Claim Refund on Export)

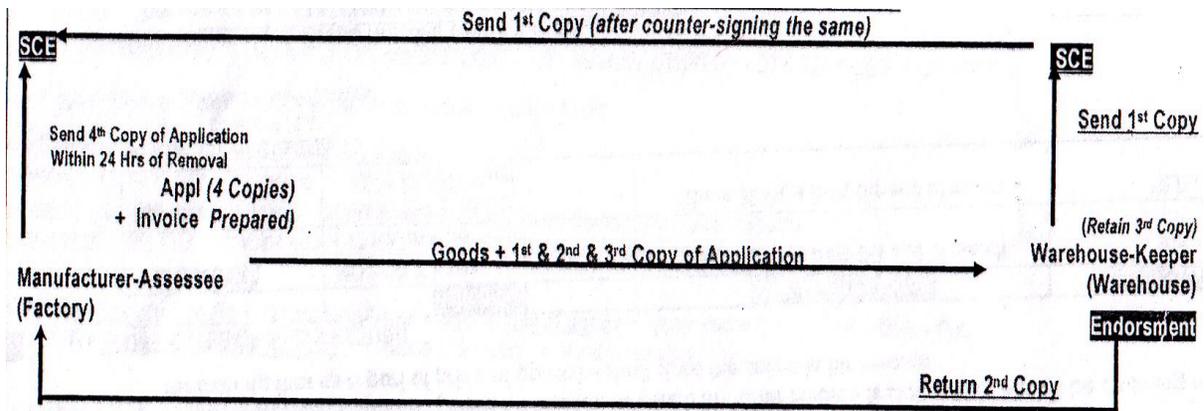
- **Rebate of FP:** Follow N/N 19/2004 (Procedure for export to any country other than Nepal Bhutan)
- **Rebate of Inputs:** Follow N/N 21/2004 (Declaration with AC/DC + Permission for Procurement + Rebate Claim after export)

RULE 19: (HIGHLIGHTS)

1. Export of EG -- under BOND // LuT
 - **Export of FP under Bond//LUT:** Follow N/N 42/2001 (Procedure for export to any country other than Nepal/ Bhutan)
2. Export of EG --- under BOND // LuT
 - **Procurement of Inputs without duty payment:** Follow N/N 43/2001 (Follow “End-Use based Exemption” Rules)

RULE 20: (HIGHLIGHTS)

1. CG ----- may notify goods - then,
 - FACTORY ----- No Duty Payment ----- WAREHOUSE
 - WAREHOUSE ----- No Duty Payment ----- ANOTHER WAREHOUSE
2. **PROCEDURE FOR WAREHOUSING**



3. Goods received in Warehouse --- Consignee (i.e., *W/H Keeper*) shall be responsible for duty payment on such goods
4. Goods not received in Warehouse ----- Consignor (i.e., *Manufacturer Assessee*) shall be responsible for duty payment on such goods.

RULE 21: REMISSION OF DUTY (ON FILING REMISSION APPLICATION): (HIGHLIGHTS)

Admissible Grounds:

- i) Loss/Destruction of EG ---due to Natural Reasons or Unavoidable Accident
- ii) EG --- claimed to be-- Unfit for Marketing or Unfit for Human Consumption.