

**GENERAL EXEMPTION NO. 22**

**Exemption to all the goods (except as per Annexure I) manufactured by units located in Kutch district of Gujarat equal to duty of excise and additional duty of excise paid in cash. [Notfn. No. 39/01-CE., dt. 31.7.2001 as amended by Notfn. Nos. 42/01, 45/02, 60/02, 05/03, 16/03, 65/03,9/04 and 55/04 dt. 9.11.2004].**

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978), the Central Government being satisfied that it is necessary in the public interest so to do, hereby **exempts the goods specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) other than goods specified in the Annexure appended to this notification and cleared from a unit located in Kutch district of Gujarat from so much of the duty of excise or the additional duty of excise, as the case may be, leviable thereon under any of the said Acts as is equivalent to the amount of duty paid by the manufacturer of goods other than the amount of duty paid by utilization of CENVAT credit under the CENVAT Credit Rules, 2001:**

Provided that in the case of a unit having an original **value of investment in plant and machinery** installed in the factory **below rupees twenty crore** on the date of commencement of commercial production in that unit, the **exemption** contained herein **shall apply only for the first clearances upto an aggregate value no exceeding twice the value of such investment from the date of commencement of commercial production, in each year.**

1A. In cases where all the goods produced by a manufacturer are eligible for exemption under this notification, the exemption contained in this notification shall be available subject to the condition that, the manufacturer first utilises whole of the CENVAT credit available to him on the last day of the month under consideration for payment of duty on goods cleared during such month and pays only the balance amount in cash.

2. The exemption contained in this notification shall be given effect to in the following manner, namely:—

- (a) The manufacturer shall submit a statement of the duty paid other than the amount of duty paid by utilization of CENVAT credit under the CENVAT Credit Rules, 2001, to the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, by the 7th day of the next month in which the duty has been so paid.
- (b) The Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, after such verification, as he may deem necessary, shall refund the amount of duty paid other than the amount of duty paid by utilization of CENVAT credit during the month under consideration to the manufacturer by the 15th day of the next month.

Provided that in cases, where the exemption contained in this notification is not applicable to some of the goods produced by a manufacturer, such refund shall not exceed the amount of duty paid less the amount of the CENVAT Credit availed of, in respect of the duty paid on the inputs used in or

in relation to the manufacture of goods cleared under this notification.

- (c) If there is likely to be any delay in such verification, the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, shall refund the amount on provisional basis by the 15th day of the next month to the month under consideration, and thereafter may adjust the amount of refund by such amount as may be necessary in the subsequent refunds admissible to the manufacturer.

2A. Notwithstanding anything contained in paragraph 2, -

(a) the manufacturer **at his own option, may take credit of the amount of duty** paid during the month under consideration, other than by way of utilisation of CENVAT credit under the CENVAT Credit Rules, 2002, in his account current, maintained in terms of Part V of the Excise Manual of Supplementary Instruction issued by the Central Board of Excise and Customs. Such amount credited in the account current may be utilised by the manufacture for payment of duty, in the manner specified under rule 8 of the Central Excise Rules, 2002, in subsequent months, and such payment should be deemed to be payment in cash;

Provided that where the exemption contained in this notification is not applicable to some of the goods produced by a manufacturer, the amount of such credit shall not exceed the amount of duty paid less the amount of the CENVAT Credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under this notification.;

(b) the credit of duty paid during the month under consideration, other than by way of utilisation of CENVAT credit under the CENVAT Credit Rules, 2002, may be taken by the manufacturer in his account current, **by the seventh day of the month** following the month under consideration;

(c) a manufacturer who intends to avail the option under clause (a), shall exercise his option in writing for availing such option before effecting the first clearance in any financial year and such option shall be effective from the date of exercise of the option and shall not be withdrawn during the remaining part of the financial year;

Provided that , for the financial year 2003-04, a manufacturer can exercise his option on or before 30<sup>th</sup> day of September 2003.

(d) the manufacturer shall submit a statement of the duty paid, other than by way of utilisation of CENVAT credit under the CENVAT Credit Rules, 2002, along with the refund amount which he has taken credit and the calculation particulars of such credit taken, to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, by the 7<sup>th</sup> day of the next month to the month under consideration;

(e) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, after such verification, as may

be deemed necessary, shall determine the amount correctly refundable to the manufacturer and intimate the same to the manufacturer by 15<sup>th</sup> day of the next month to the month under consideration. In case the credit taken by the manufacturer is in excess of the amount determined, the manufacturer shall, within five days from the receipt of the said intimation, reverse the said excess credit from the said account current maintained by him. In case, the credit taken by the manufacturer is less than the amount of refund determined, the manufacturer shall be eligible to take credit of the balance amount;

(f) in case the manufacturer fails to comply with the provisions of clause (a) to (e), he shall forfeit the option, to take credit of the amount of duty during the month under consideration, other than by way of utilisation of CENVAT credit under the CENVAT Credit Rules, 2002, in his account current on his own, as provided for in clauses (a) and (c);

(g) the amount of the credit availed irregularly or availed of in excess of the amount determined correctly refundable under clause (e) and not reversed by the manufacturer within the period specified in that clause, shall be recoverable as if it is a recovery of duty of excise erroneously refunded. In case such irregular or excess credit is utilised for payment of excise duty on clearances of excisable goods, the said goods should be considered to have been cleared without payment of duty to the extent of utilisation of such irregular or excess credit.

*Explanation.*-For the purposes of this notification, duty paid, by utilisation of the amount credited in the account current, shall be taken as payment of duty by way other than utilisation of CENVAT credit under the CENVAT Credit Rules, 2002.”

3. The exemption contained in this notification shall be subject to the following conditions, namely:-
- (i) It shall apply only to **new industrial units**, that is to say, units which are set up on or after the date of publication of this notification in the Official Gazette but not later than the 31st day of December, 2005;
  - (ii) In order to avail of this exemption, the manufacturer shall produce a certificate from a Committee consisting of the Chief Commissioner of Central Excise, Ahmedabad and the Principal Secretary to the Government of Gujarat, Department of Industry, to the jurisdictional Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, that the unit in respect of which exemption is claimed is a new unit and has been set up during the time period specified in condition (i) above.
  - (iii) Before effecting clearances under this notification, the manufacturer shall also furnish a declaration regarding the original value of investment in plant and machinery installed in the factory as on the date of commencement of commercial production, to the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be.
  - (iv) The manufacturer shall also produce a certificate from the said Committee

confirming the original value of investment and such a certificate shall be produced within a period of one month from the date of commencement of commercial production, or such extended period as the said Assistant Commissioner or Deputy Commissioner may allow.

- (v) In case on the basis of such certification, or otherwise, the original value of investment in plant and machinery,
  - (a) is found to be less than rupees twenty crore but was declared to be rupees twenty crore or more, the manufacturer shall be liable to pay back the entire amount of duty exemption availed under the notification alongwith interest at the rate of twenty four per cent per annum as if no exemption were available; or
  - (b) is found to be less than the declared value and was declared to be below rupees twenty crore, the manufacturer shall be liable to pay duty on the goods cleared, if any, in excess of twice the actual value of original investment in each of the years during which exemption has been claimed under this notification alongwith interest at the rate of twenty four per cent per annum, as if no exemption were available to those clearances under this notification.
- (vi) The exemption shall apply for a period not exceeding five years from the date of commencement of commercial production by the unit.

**4. Nothing contained in this notification shall apply to a manufacturer or a factory availing of exemption under any of the following notifications, namely:—**

- (a) Notification No. 8/2003-CE dated the 1st March, 2003;
- (b) Notification No. 9/2003-CE dated the 1st March, 2003;

*Explanation I :* For the purpose of this notification,-

- (i) a change in the name or in the nature of ownership or a change in location of an existing unit would not entitle anyone for treatment as a “new” industrial unit.
- (ii) the expression “set up on or after the date of publication of this notification in the Official Gazette but not later than the 31st day of December, 2005” shall mean that,-
  - (a) any civil construction work on its factory premises and any installation of plant and machinery therein commences only on or after the date of publication of this notification in the Official Gazette; and
  - (b) the said civil construction work on its factory premises and installation of plant and machinery therein is completed, and the unit starts commercial production, not later than the 31st day of December, 2005.
- (iii) the expression “aggregate value of clearances” shall mean the total value of clearances

of excisable goods, whatsoever, from the unit in each year but shall not include goods cleared for use in the manufacture of other excisable goods in the same unit.

*Explanation II :* For the removal of doubt, it is hereby clarified that “original value of investment in plant and machinery installed in the factory”, shall be the original value as determined in accordance with the Accounting Standards issued by the Institute of Chartered Accountants of India on Accounting for Fixed Assets.

**Annexure**

1. Goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
2. The following goods, falling under the said First Schedule to the Central Excise Tariff Act, 1985, namely:—
  - (a) Candles;
  - (b) Footwear of a retail sale price not exceeding Rs. 125 per pair;
  - (c) Tableware and kitchenware of glass;
  - (d) Imitation jewellery;
  - (e) Monochrome television receivers;
  - (f) Vacuum and gas-filled bulbs of retail sale price not exceeding Rs. 20 per bulb;
  - (g) Sunglasses for correcting vision;
  - (h) Watches and clocks of retail sale price not exceeding Rs. 500 per piece;
  - (i) Rubberised coir mattresses;
  - (j) Toothbrushes;
  - (k) Kerosene, that is to say, any hydrocarbon oil (excluding mineral colza oil and white spirit) which has a smoke content of 18mm or more [determined in the apparatus known as smoke point lamp in the manner included in the Bureau of Indian Standards Specification ISI : 1448 (P.31) – 1968 as in force for the time being] and is ordinarily used as an illuminant in oil burning lamps;
  - (l) Liquefied petroleum gases and other gaseous hydrocarbons other than natural gas, ethylene, propylene, butylenes and butadiene;
  - (m) Compressed Natural Gas (CNG);
  - (n) Cotton sewing thread, not containing synthetic staple fibres;
  - (o) Cotton yarn, not containing synthetic staple fibres;
  - (p) Diesel engines upto 10 HP; and
  - (q) Goods specified in the Table annexed to notification no. 11/2001-Central Excise dated the 1st of March, 2001.
3. Goods specified in the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).