

Excise

Clause 73 seeks to amend section 2 of the Central Excise Act with a view to insert an Explanation in clause (d) which defines “excisable goods”. The proposed Explanation provides that for the purposes of this clause, “goods” includes any article, material or substance which is capable of being bought and sold for consideration and such goods shall be deemed to be marketable. It will remove the ambiguity occurred due to the judgments in certain cases regarding the marketability of goods and it will be applicable prospectively.

Clause 74 seeks to insert a new section 3A in the Central Excise Act. The proposed section empowers the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods. The proposed section provides that the Central Government shall notify the goods on which the duty of excise shall be levied and collected and it shall also make rules in respect of the manner for determination of the annual capacity of production of the factory, in which the notified goods are produced, the factor relevant to the production of notified goods and quantity thereof and the determination of the annual capacity of production of the factory in which such goods are produced and rate of duty of excise on the goods to be levied subject to the condition that where the factory producing notified goods is in operation only for a part of the year, or if it remains closed for a certain period, such determination shall be made on proportionate basis. Further, the proposed amendment provides that the provisions of this section shall not be applicable to goods produced or manufactured by a hundred per cent. Export-oriented undertaking and brought to any other place in India.

Clause 75 seeks to amend section 11B of the Central Excise Act to provide for the refund of interest paid on any duty of excise.

Clause 76 seeks to amend section 11D of the Central Excise Act so as to insert a new sub-section therein to enable the Central Government to collect any amount collected by any person representing as duty of excise in excess of the duty assessed or determined and paid on any excisable goods, and also to collect any amount

collected by any person as representing duty of excise on any excisable goods, which are wholly exempt or are chargeable to nil rate of duty. Accordingly, certain consequential amendments have been made in sub-sections (2) and (4) of the said section.

Clause 77 seeks to amend section 11DD of the Central Excise Act so as to provide for recovery of interest on amount collected in excess of the duty assessed or determined and paid from the person who collected such amount, and also provide for recovery of interest on the amount collected by any person as representing duty of excise on any excisable goods, which are wholly exempt or are chargeable to nil rate of duty.

Clause 78 seeks to amend sub-section (2) of section 35B of the Central Excise Act by inserting a proviso so as to provide that in case the Committee of Commissioners of Central Excise differs in its opinion on the order passed in an appeal by the Commissioner (Appeals), it shall refer the matter to the jurisdictional Chief Commissioner who shall consider the facts of the case and the points of difference and if he is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Central Excise Officer to appeal to the Appellate Tribunal against the order of the Commissioner (Appeals). The jurisdictional Chief Commissioner shall be the Chief Commissioner having jurisdiction over the adjudicating authority who has decided the case.

Clause 79 seeks to amend section 35E of the Central Excise Act with a view to,-

(i) insert a proviso to sub-section (1) so as to provide that in case the Committee of Chief Commissioners of Central Excise differs in its opinion about the legality or propriety of the order passed by the Commissioner of Central Excise as an adjudicating authority, it shall refer the matter to the Board which shall consider the facts of the case and the difference between them and if it is of the opinion that the order passed by the Commissioner is not legal or proper, direct the Commissioner or any other Commissioner to appeal to the Appellate Tribunal against the order.

(ii) Substitute sub-section (3) to provide that every order under sub-section (1) or sub-section (2) of section 35E of the Act shall be made within a period of three months from the date of communication of the decision or the order of the adjudicating authority. The proposed amendment is of consequential nature in view of amendment in sub-section (1) of section 35E of the said Act.

Clause 80 seeks to insert a new section 35FF in the Central Excise Act to provide for payment of interest in case of delayed refund of amount deposited by the appellant in pursuance of the order of the Commissioner (Appeals) or the Appellate Tribunal, when the decision is in favour of the appellant. It provides that in case the amount is not refunded within three months from the communication of the order of the appellate authority, unless the order of the appellate authority is stayed by a superior court or tribunal, interest at the rate specified in section 11BB shall be paid after the expiry of three months from the communication of the order of the appellate authority till the date of refund of the amount.

Clause 81 seeks to amend rule 12 of the Central Excise Rules, 1944 with retrospective effect so as to allow rebate of duty paid on excisable goods cleared from factory for export for which refund has been granted under certain notifications issued under section 5A of the Central Excise Act, 1944, for the period commencing on and from 8th July, 1999 and ending with the 30th June, 2001.

Clause 82 seeks to amend rule 18 of the Central Excise (No. 2) Rules, 2001 with retrospective effect so as to allow rebate of duty paid on excisable goods cleared from factory for export for which refund has been granted under certain notifications issued under section 5A of the Central Excise Act, 1944, for the period commencing on and from 1st July, 2001 and ending with the 28th February, 2002.

Clause 83 seeks to amend rule 18 of the Central Excise Rules, 2002 with retrospective effect so as to allow rebate of duty paid on excisable goods cleared from factory for export for which refund has been granted under certain notifications issued under section 5A of the Central Excise Act, 1944, for the period starting with 1st March, 2002 and ending with 7th December, 2006.

Excise tariff

Clause 84 seeks to amend the First Schedule to the Central Excise Tariff Act with a view to,-

- (i) enhance the rate of duty on certain items in Chapter 24 and Chapter 25;
- (ii) Amend NOTE 16 of Chapter 39 with a view to insert two more processes therein;
- (iii) Enhance the rate of duty on an item in Chapter 85.

