

## GENERAL EXEMPTION NO. 9

**Exemption to specified goods manufactured and cleared by Units located in North Eastern States equal to duty of excise and additional duty of excise paid in cash.**

**Notfn. 33/99-CE., dt. 8.7.1999 as amended by Notfn. Nos. 45/99,1/00,3/00, 1/01, 6/01,35/01, 11/02, 61/02, 65/03, 21/07, 18/08, 32/08, 50/08, 6/16]**

**[NOTE : For non-applicability of this Notfn. to cigarettes and pan masal containing tobacco masala with retrospective effect please see section 146 (i) of the Finance Act, 2003].**

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 (Textile 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,**

(a) **specified in the Schedule appended to this notification** other than pan masala falling under Chapter 21 of the First Schedule of the Central Excise Tariff Act, 1985 (5 of 1986); goods falling under Chapter 24 of the said First Schedule and plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests Notification No. S.O.705 (E) dated the 2<sup>nd</sup> of September, 1999 and S.O. 698(E) dated the 17<sup>th</sup> of June, 2003 and goods falling under Chapter 27 of the said First Schedule and which are produced by petroleum oil or gas refineries, and **cleared from a unit located in the State of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh**, as the case may be, or

(b) from so much of the duty of excise leviable thereon under any of the said Acts **as is equivalent to the duty payable on value addition undertaken in the manufacture of the said goods by the said unit.**

2A The duty payable on value addition shall be equivalent to the amount calculated as a percentage of the total duty payable on the said excisable goods of the description specified in column (3) of the Table below (hereinafter referred to as the said Table) and falling within the Chapter of the said First Schedule as are given in the corresponding entry in column (2) of the said Table when manufactured starting from inputs specified in the corresponding entry in column (5) of the said Table in the same factory, at the rates specified in the corresponding entry in column (4) of the said Table:

TABLE

S.No.	Chapter of the first Schedule	Description of goods	Rate	Description of inputs for manufacture of goods in column (3)
(1)	(2)	(3)	(4)	(5)
1.	29	All goods	29	Any goods
2.	30	All goods	56	Any goods
3.	33	All goods	56	Any goods
4.	34	All goods	38	Any goods
5.	38	All goods	34	Any goods
6.	39	All goods	26	Any goods

(1)	(2)	(3)	(4)	(5)
7.	40	Tyres, tubes and flaps	41	Any goods
8.	72 or 73	All goods	39	Any goods, other than iron ore
9.	74	All goods	15	Any goods
10.	76	All goods	36	Any goods
11.	85	Electric motors and generators, electric generating sets and parts thereof	31	Any goods
12	25	Cement	75	Lime stone and gypsum
12A	25	Cement clinker	75	Lime stone
13.	17 or 35	Modified starch or glucose	75	Maize, maize starch or tapioca starch
14.	18	Cocoa butter or powder	75	Cocoa beans
15.	72 or 73	Iron and steel products	75	Iron ore
15A	29 or 38	Fatty acids or Glycerine	75	Crude palm kernel, coconut, mustard or rapeseed oil
15B	72	Ferro alloys, namely, ferro chrome, ferro manganese or silico manganese	75	Chrome ore or manganese ore
16.	Any chapter	Goods other than those mentioned above in S.Nos.1 to 15	36	Any goods

Provided that where the duty payable on value addition exceeds the duty paid by the manufacturer on the said excisable goods, other than the amount paid by utilization of CENVAT credit during the month, the duty payable on value addition, shall be deemed to be equal to the duty so paid other than by CENVAT credit.

2B 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 subject to the condition that the manufacturer first utilizes 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.

2C 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 total duty paid and that paid by utilization of CENVAT credit, on each category of goods specified in the said Table and cleared under this notification, to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, by the 7th of the next month in which the duty has been paid;

(b) 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 refund the duty payable on value

addition, computed in the manner as specified in paragraph 2A to the manufacturer by the 15th of the month following the one in which the statement as at clause (a) above has been submitted.

2D Notwithstanding anything contained in sub-paragraph 2C above,-

(a) the manufacturer at his own option, may take credit of the amount calculated in the manner specified in paragraph 2A in his account current, maintained in terms of the Excise Manual of Supplementary Instructions issued by the Central Board of Excise and Customs. Such amount credited in the account current may be utilized by the manufacturer for payment of duty, in the manner specified under rule 8 of the Central Excise Rules, 2004, in subsequent months, and such payment shall be deemed to be payment in cash;

(b) the credit of the refund amount may be taken by the manufacturer in his account current, by the 7th 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;

(d) the manufacturer shall submit a statement of the total duty payable as well as the duty paid by utilization of CENVAT credit or otherwise and the credit taken as per clause (a), on each category of goods manufactured and cleared under the notification and specified in the said Table, to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, by the 15th of the month in which the credit has been so taken;

(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 to the manufacturer by the 15th day of the next month to the month in which the statement under clause (d) has been submitted. 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 intimation, reverse the said excess credit from the 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 clauses (a) to (e), he shall forfeit the option, to take credit of the amount calculated in the manner specified in sub-paragraph 2A in his account current on his own, as provided for in clauses (a) to (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 therein, 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 shall 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 paragraph, 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, 2004.

2.1 (1) Notwithstanding anything contained in paragraph 2A, the manufacturer shall have the option not to avail the rates specified in the said Table and apply to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, having jurisdiction over the manufacturing unit of the manufacturer for fixation of a special rate representing the actual value addition in respect of any goods manufactured and cleared under this notification, if the manufacturer finds that the actual value addition in the production or manufacture of the said goods is at least 115 per cent of the rate specified in the said Table and for the said purpose, the manufacturer may make an application in writing to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, not later than the 30th day of September in a financial year for determination of such special rate, stating all relevant facts including the proportion in which the material or components are used in the production or manufacture of goods:

Provided that the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, may, if he is satisfied that the manufacturer was prevented by sufficient cause from making the application within the aforesaid time, allow such manufacturer to make the application within a further period of thirty days:

Provided further that the manufacturer supports his claim for a special rate with a certificate from his statutory Auditor containing a calculation of value addition in the case of goods for which a claim is made, based on the audited balance sheet of the unit for the preceding financial year:

Provided also that a manufacturer that commences commercial production on or after the 1st day of April, 2008 may file an application in writing to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, for the fixation of a special rate not later than the 30th day of September of the financial year subsequent to the year in which it commences production.

(1A) Nothing contained in sub-paragraph (1) shall apply to a unit manufacturing goods falling under Serial Nos. 12, 13, 14 or 15 of the Table.

Provided that the Commissioner of Central Excise or the Commissioner of Customs and Central Excise may, if he is satisfied that the manufacturer was prevented by sufficient cause from making the application within the aforesaid time, allow such manufacturer to make the application within a further period of thirty days:

Provided further that the manufacturer supports his claim for a special rate with a certificate from his statutory auditor containing an estimate of value addition in the case of goods for which a claim is made, based on the audited balance sheet of the unit, for the preceding financial year;

(2) On receipt of the application referred to in sub-paragraph (1), the Commissioner of Central Excise or Commissioner of Customs and Central Excise, as the case may be, after making or causing to be made such inquiry as he deems fit, shall fix the special rate within a period of three months of such application;

(3) Where the manufacturer desires that he may be granted refund provisionally till the time the special rate is fixed, he may, while making the application, apply to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, in writing for grant of provisional refund at the rate specified in column (4) of the said Table for the goods of description specified in column (3) of the said Table and falling in Chapter of the First Schedule of the Central Excise Tariff Act, 1985 (5 of 1986) as in corresponding entry in column (2) of the said Table, and on finalization of the special rate, necessary adjustments

be made in the subsequent refunds admissible to the manufacturer in the month following the fixation of such special rate.

(4) Where the Central Government considers it necessary so to do, it may-

(a) revoke the special rate or amount of refund as determined under sub-paragraph (2) by the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, or

(b) direct the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, to withdraw the rate so fixed.

*Explanation:* For the purpose of this paragraph, the actual value addition in respect of said goods shall be calculated on the basis of the financial records of the preceding financial year, taking into account the following:

- (i) Sale value of the said goods excluding excise duty, Value Added Tax and other indirect taxes, if any, paid on the goods;
- (ii) Less: Cost of raw materials and packing material consumed in the said goods;
- (iii) Less: Cost of fuel consumed if eligible for input credit under CENVAT Credit Rules, 2004;
- (iv) Plus: Value of said goods available as inventory in the unit but not cleared, at the end of the financial year;
- (v) Less: Value of said goods available as inventory in the unit but not cleared, at the end of the financial year preceding that under consideration.

Special rate would be the ratio of actual value addition in the production or manufacture of the said goods to the sale value of the said goods excluding excise duty, Value Added Tax and other indirect taxes, if any, paid on the goods.

(5) The manufacturer shall be entitled to refund at the special rate fixed under sub-paragraph (2) in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the 1st day of April of the year in which the application referred to at sub-paragraph (1) was filed with the Commissioner of Central Excise or Commissioner of Central Excise and Customs, as the case may be:

Provided that in cases where the application referred to in sub-paragraph (1) had already been filed prior to the 10th day of June, 2008, the manufacturer shall be entitled to refund at the special rate fixed under sub-paragraph (2) in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the 1st day of April, 2008.

(5A) A manufacturer who commences commercial production on or after the 1st day of April, 2008, shall be entitled to refund at the special rate fixed under sub-paragraph (2) against his first application in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the date of commencement of such commercial production and the difference between the refund payable at such special rate and the actual refund paid to him from the date of commencement of commercial production till the date of fixation of special rate, during the period shall be refunded to him.

(6) Where a special rate is fixed under sub-paragraph (2), the refund payable in a month shall be equivalent to the amount calculated as a percentage of the total duty payable on such excisable goods, at the rate so fixed:

Provided that the refund shall not exceed the amount of duty paid on such goods, other than by

utilization of CENVAT credit.

2.2 (1) In case the total amount of refund paid or payable to a manufacturer in respect of goods cleared from a unit during a financial year is less than the total duty paid by him on the said goods, other than the amount paid by utilization of CENVAT credit, for the year, the differential amount, if any, shall be refunded to him subject to the condition that the total refund made to him during the year, including the aforesaid differential amount, does not exceed the total duty payable on value addition whether at the rate specified in the Table or at the special rate fixed under paragraph 2.1.

(2) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall refund the differential amount, if any, to the manufacturer not later than the 15th day of May in the subsequent financial year.

3. The exemption contained in this notification shall apply only to the following kind of units namely:-

(a) New industrial units which have commenced their commercial product on or after the 24th day of December, 1997, but not later than the 31st day of March 2007.

(b) Industrial units existing before the 24th day of December, 1997 but which have undertaken substantial expansion by way of increase in installed capacity by not less than twenty five per cent on or after the 24th day of December, 1997, but not later than the 31st day of March 2007.

4. The exemption contained in this notification shall apply to any of the said units for a period not exceeding ten years from the date of publication of this notification or from the date of commencement of commercial production whichever is later.

5. The exemption contained in this notification shall not apply to such goods which have been subjected to only one or more of the following processes, namely, preservation during storage, cleaning operations, packing or repacking of such goods in a unit container or labeling or re-labelling of containers, sorting, declaration or alteration of retail sale price and have not been subjected to any other process or processes amounting to manufacture in the States of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh or Sikkim.

6. The exemption contained in this notification shall not apply to an existing industrial unit as on 1st of March, 2016, which undertakes substantial expansion of existing capacity or installs fresh plant, machinery or capital goods for production of gold or silver from gold dore, silver dore or any other raw material, by using such expanded capacity or such fresh plant, machinery or capital goods, and commences commercial production from such expanded capacity or such fresh plant, machinery or capital goods, on or after 1st March, 2016.

#### SCHEDULE

1. Fruit and Vegetable processing:
  - (i) Canned or Bottled products
  - (ii) Aseptic Packaged Products
  - (iii) Frozen products
  - (iv) Dehydrated products
  - (v) Oleoresins
2. Meat and Poultry Products:

- (i) Meat products (buffalo, sheep, goat and pork)
- (ii) Poultry Production
- (iii) Egg Power Plant
- 3. Cereal Based Products:
  - (i) Maize Milling including starch and its derivatives
  - (ii) Bread, Biscuits or Breakfast Cereals
- 4. Consumer Industry:
  - (i) Snacks
  - (ii) Non-Alcoholic beverages
  - (iii) Confectionery including chocolate
  - (iv) Pasta Products
  - (v) Processed spices
  - (vi) Processed Pulses
  - (vii) Tapioca Products
- 5. Milk and Milk-based Products:
  - (i) Milk Powder
  - (ii) Cheese
  - (iii) Butter/Ghee
  - (iv) Infant food
  - (v) Weaning Food
  - (vi) Malted milk food
- 6. Food Packaging
- 7. Paper products
- 8. Jute and Mesta Products
- 9. Cattle or Poultry or Fishery Feed Production
- 10. Edible Oil processing or Vanaspati
- 11. Processing of Essential Oils and Fragrances
- 12. Processing and Raising of Plantation crops or Tea or Rubber or Coffee or Coconut
- 13. Gas based Intermediate Products
  - (i) Gas exploration and Production
  - (ii) Gas Distribution and Bottling
  - (iii) Power Generation
  - (iv) Plastics
  - (v) Yarn Raw Material
  - (vi) Fertilizers
  - (vii) Methanol
  - (viii) Formaldehyde and FR Resin Melamine and MF Resin
  - (ix) Methylamine or Hexamethylene Tetramine or Ammonium Bi-Carbonate
  - (x) Nitric Acid and Ammonium Nitrate
  - (xi) Carbon Black
  - (xii) Polymer Chips
- 14. Agro Forestry
- 15. Horticulture
- 16. Mineral based

**GENERAL EXEMPTION NO. 10**

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Explanation. - For the removal of doubts, it is hereby declared that for the purposes of this notification, "Mineral" does not include crude petroleum oils and the expression "Mineral based" shall be construed accordingly.

17. Floriculture
18. Agro based.

**Reference :** For effective rates of National Calamity Contingent duty on Pan masala produced in North Eastern States - please see Notfn. No. 27/01-CE dt. 11.5.2001 below Chapter 21.

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**GENERAL EXEMPTION NO. 10**

(Rescinded by Notification No. 9/17, dt. 30.6.2017.)

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**GENERAL EXEMPTION NO. 11**

Omitted

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**GENERAL EXEMPTION NO. 12**

Omitted

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**GENERAL EXEMPTION NO. 13**

(Rescinded by Notification No. 21/17)

**Exemption to specified goods cleared from a unit located in the States of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh or Sikkim:**  
[Notfn. No. 20/07-CE., dt. 25.4.2007 as amended by 20/08, 38/08, 56/08, 5/16]

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), 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 those mentioned in the Annexure and cleared from a unit located in the States of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh or Sikkim, as the case may be, from so much of the duty of excise leviable thereon under the said Act as is equivalent to the amount of duty paid by the manufacturer of goods other than the to the duty payable on value addition undertaken in the manufacture of the said goods by the said unit.

2A The duty payable on value addition shall be equivalent to the amount calculated as a percentage of the total duty payable on the said excisable goods of the description specified in column (3) of the Table below (hereinafter referred to as the said Table) and falling within the Chapter of the said First Schedule as are given in the corresponding entry in column (2) of the said Table when manufactured starting from inputs specified in the corresponding entry in column (5) of the said Table in the same factory, at the rates specified

in the corresponding entry in column (4) of the said Table:

**TABLE**

S.No.	Chapter of the First Schedule	Description of goods	Rate	Description of inputs for manufacture of goods in column (3)
(1)	(2)	(3)	(4)	(5)
1.	29	All goods	29	Any goods
2.	30	All goods	56	Any goods
3.	33	All goods	56	Any goods
4.	34	All goods	38	Any goods
5.	38	All goods	34	Any goods
6.	39	All goods	26	Any goods
7.	40	Tyres, tubes and flaps	41	Any goods
8.	72 or 73	All goods	39	Any goods, other than iron ore
9.	74	All goods	15	Any goods
10.	76	All goods	36	Any goods
11.	85	Electric motors and generators, electric generating sets and parts thereof	31	Any goods
12.	25	Cement or cement clinker	75	Limestone and gypsum
12A	25	Cement clinker	75	Lime stone
13.	17 or 35	Modified starch or glucose	75	Maize, maize starch or tapioca starch
14.	18	Cocoa butter or powder	75	Cocoa beans
15.	72 or 73	Iron and steel products	75	Iron ore
15A	29 or 38	Fatty acids or Glycerine	75	Crude palm kernel, coconut, mustard or rapeseed oil
15B	72	Ferro alloys, namely, ferro chrome, ferro manganese or silico manganese	75	Chrome ore or manganese ore
16.	Any chapter	Goods other than those mentioned above in S.Nos.1 to 15	36	Any goods

Provided that where the duty payable on value addition exceeds the duty paid by the manufacturer on the said excisable goods, other than the amount paid by utilization of CENVAT credit during the month, the duty

## **GENERAL EXEMPTION NO. 11, 12 & 13 932**

payable on value addition, shall be deemed to be equal to the duty so paid other than by CENVAT credit.

2B 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 subject to the condition that the manufacturer first utilizes 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.

2C 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 total duty paid and that paid by utilization of CENVAT credit, on each category of goods specified in the said Table and cleared under this notification, to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, by the 7th of the next month in which the duty has been paid;

(b) 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 refund the duty payable on value addition, computed in the manner as specified in paragraph 2A to the manufacturer by the 15th of the month following the one in which the statement as at clause (a) above has been submitted.

2D Notwithstanding anything contained in sub-paragraph 2C above,-

(a) the manufacturer at his own option, may take credit of the amount calculated in the manner specified in paragraph 2A in his account current, maintained in terms of the Excise Manual of Supplementary Instructions issued by the Central Board of Excise and Customs. Such amount credited in the account current may be utilized by the manufacturer for payment of duty, in the manner specified under rule 8 of the Central Excise Rules, 2004, in subsequent months, and such payment shall be deemed to be payment in cash;

(b) the credit of the refund amount may be taken by the manufacturer in his account current, by the 7th 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;

(d) the manufacturer shall submit a statement of the total duty payable as well as the duty paid by utilization of CENVAT credit or otherwise and the credit taken as per clause (a), on each category of goods manufactured and cleared under the notification and specified in the said Table, to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, by the 15th of the month in which the credit has been so taken;

(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 to the manufacturer by the 15th day of the next month to the month in which the statement under clause (d) has been submitted. 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 intimation, reverse the said excess credit from the 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 clauses (a) to (e), he shall forfeit the option, to take credit of the amount calculated in the manner specified in sub-paragraph 2A in his account current on his own, as provided for in clauses (a) to (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 therein, 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 shall 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 paragraph, 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, 2004.

3. (1) Notwithstanding anything contained in paragraph 2A, the manufacturer shall have the option not to avail the rates specified in the said Table and apply to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, having jurisdiction over the manufacturing unit of the manufacturer for fixation of a special rate representing the actual value addition in respect of any goods manufactured and cleared under this notification, if the manufacturer finds that the actual value addition in the production or manufacture of the said goods is at least 115 per cent of the rate specified in the said Table and for the said purpose, the manufacturer may make an application in writing to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, not later than the 30th day of September in a financial year for determination of such special rate, stating all relevant facts including the proportion in which the material or components are used in the production or manufacture of goods:

Provided that the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, may, if he is satisfied that the manufacturer was prevented by sufficient cause from making the application within the aforesaid time, allow such manufacturer to make the application within a further period of thirty days:

Provided further that the manufacturer supports his claim for a special rate with a certificate from his statutory Auditor containing a calculation of value addition in the case of goods for which a claim is made, based on the audited balance sheet of the unit for the preceding financial year:

Provided also that a manufacturer that commences commercial production on or after the 1st day of April, 2008 may file an application in writing to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, for the fixation of a special rate not later than the 30th day of September of the financial year subsequent to the year in which it commences production.

(1A) Nothing contained in sub-paragraph (1) shall apply to a unit manufacturing goods falling under Serial Nos. 12, 13, 14 or 15 of the Table.

(2) On receipt of the application referred to in sub-paragraph (1), the Commissioner of Central Excise or Commissioner of Customs and Central Excise, as the case may be, after making or causing to be made such inquiry as he deems fit, shall fix the special rate within a period of three months of such application;

(3) Where the manufacturer desires that he may be granted refund provisionally till the time the special rate is fixed, he may, while making the application, apply to the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, in writing for grant of provisional refund at the rate specified in column (4) of the said Table for the goods of description specified in column (3) of the said Table and falling in Chapter of the First Schedule of the Central Excise Tariff Act, 1985 (5 of 1986) as in corresponding entry in column (2) of the said Table, and on finalization of the special rate, necessary adjustments be made in the subsequent refunds admissible to the manufacturer in the month following the fixation of such special rate.

(4) Where the Central Government considers it necessary so to do, it may-

(a) revoke the special rate or amount of refund as determined under sub-paragraph (2) by the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, or

(b) direct the Commissioner of Central Excise or the Commissioner of Customs and Central Excise, as the case may be, to withdraw the rate so fixed.

*Explanation:* For the purpose of this paragraph, the actual value addition in respect of said goods shall be calculated on the basis of the financial records of the preceding financial year, taking into account the following:

- (i) Sale value of the said goods excluding excise duty, Value Added Tax and other indirect taxes, if any, paid on the goods;
- (ii) Less: Cost of raw materials and packing material consumed in the said goods;
- (iii) Less: Cost of fuel consumed if eligible for input credit under CENVAT Credit Rules, 2004;
- (iv) Plus: Value of said goods available as inventory in the unit but not cleared, at the end of the financial year;
- (v) Less: Value of said goods available as inventory in the unit but not cleared, at the end of the financial year preceding that under consideration.

Special rate would be the ratio of actual value addition in the production or manufacture of the said goods to the sale value of the said goods excluding excise duty, Value Added Tax and other indirect taxes, if any, paid on the goods.

(5) The manufacturer shall be entitled to refund at the special rate fixed under sub-paragraph (2) in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the 1st day of April of the year in which the application referred to at sub-paragraph (1) was filed with the Commissioner of Central Excise or Commissioner of Central Excise and Customs, as the case may be:

Provided that in cases where the application referred to in sub-paragraph (1) had already been filed prior to the 10th day of June, 2008, the manufacturer shall be entitled to refund at the special rate fixed under sub-paragraph (2) in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the 1st day of April, 2008.

(5A) A manufacturer who commences commercial production on or after the 1st day of April, 2008, shall be entitled to refund at the special rate fixed under sub-paragraph (2) against his first application in respect of all clearances of excisable goods manufactured and cleared under this notification with effect from the date of commencement of such commercial production and the difference between the refund payable at such special rate and the actual refund paid to him from the date of commencement of commercial production till the date of fixation of special rate, during the period shall be refunded to him.

(6) Where a special rate is fixed under sub-paragraph (2), the refund payable in a month shall be equivalent to the amount calculated as a percentage of the total duty payable on such excisable goods, at the rate so fixed:

Provided that the refund shall not exceed the amount of duty paid on such goods, other than by utilization of CENVAT credit.

4. (1) In case the total amount of refund paid or payable to a manufacturer in respect of goods cleared from a unit during a financial year is less than the total duty paid by him on the said goods, other than the amount paid by utilization of CENVAT credit, for the year, the differential amount, if any, shall be refunded to him subject to the condition that the total refund made to him during the year, including the aforesaid differential amount, does not exceed the total duty payable on value addition whether at the rate specified in the Table or at the special rate fixed under paragraph 3.

(2) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall refund the differential amount, if any, to the manufacturer not later than the 15th day of May in the subsequent financial year.

3. 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 utilisation of CENVAT credit under the CENVAT Credit Rules, 2004, to the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, by the 7th of the next month in which the duty has been paid other than the amount of duty paid by utilization of CENVAT credit under the CENVAT Credit Rules, 2004;
- (b) 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 refund the amount of duty paid other than the amount of duty paid by utilisation of CENVAT credit under the CENVAT Credit Rules, 2004, during the month under consideration to the manufacturer by the 15<sup>th</sup> 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 the verification, Assistant Commissioner of Central Excise or the Deputy Commissioner of Central excise, as the case may be, shall refund the amount on provisional basis by the 15th 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.

4. Notwithstanding anything contained in paragraph 3,-

- (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, 2004, 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 manufacturer for payment of duty, in the manner specified under rule 8 of the Central Excise Rules, 2004, 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, 2004, may be taken by the manufacturer in his account current, by the 7<sup>th</sup> 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 2007-08, a manufacturer can exercise his option on or before the 31<sup>st</sup> day of May, 2007.

- (d) the manufacturer shall submit a statement of the duty paid, other than by way of utilization of CENVAT credit under the CENVAT Credit Rules, 2004, 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 the 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 paid during the month under consideration, other than by way of utilisation of CENVAT credit under the CENVAT Credit Rules, 2004, 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, 2004.

5. The exemption contained in this notification shall apply only to the following kind of units, namely:-
  - (a) New Industrial units which commence commercial production on or after the 1<sup>st</sup> day of April, 2007 but not later than 31<sup>st</sup> day of March, 2017;
  - (b) Industrial units existing before the 1<sup>st</sup> day of April, 2007 but which have undertaken substantial expansion by way of increase by not less than 25% in the value of fixed capital investment in plant and machinery for the purposes of expansion of capacity/modernization and diversification and have commenced commercial production from such expanded capacity on or after the 1<sup>st</sup> day of April, 2007 but not later than 31<sup>st</sup> day of March, 2017.
6. The exemption contained in this notification shall apply to any of the said units for a period not exceeding ten years from the date of publication of this notification or from the date of commercial production whichever is later.
7. The exemption contained in this notification shall not apply to such goods which have been subjected to only one or more of the following processes, namely, preservation during storage, cleaning operations, packing or repacking of such goods in a unit container or labeling or re-labelling of containers, sorting, declaration or alteration of retail sale price and have not been subjected to any other process or processes amounting to manufacture in the States of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh or Sikkim.
8. The exemption contained in this notification shall not apply to:
  - (a) a new industrial unit engaged in production of refined gold or silver from gold dore, silver dore or any other raw material, which commences commercial production on or after 1st of March, 2016;
  - (b) an existing industrial unit as on 1st of March, 2016, which undertakes substantial expansion of existing capacity or installs fresh plant, machinery or capital goods for production of gold or silver from gold dore, silver dore or any other raw material, by using such expanded capacity or such fresh plant, machinery or capital goods, and commences commercial production from such expanded capacity or such fresh plant, machinery or capital goods, on or after 1st March, 2016.

**Annexure**

- (i) Goods falling under Chapter 24 of the First Schedule of the Central Excise Tariff Act, 1985;
- (ii) Pan masala falling under Chapter 21 of the First Schedule of the Central Excise Tariff Act, 1985;
- (iii) Plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests Notification No. S.O.705 (E), dated the 2<sup>nd</sup> of September, 1999 and S.O. 698(E) dated the 17<sup>th</sup> of June, 2003;
- (iv) Goods falling under Chapter 27 of the First Schedule of the Central Excise Tariff Act, 1985 and which are produced by petroleum oil or gas refineries.