

IMPORTANT CENTRAL EXCISE UPDATES FOR DEC. 08

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Some of the important updates for the month of December 2008, under Central Excise which are necessary for assesseees in general are provided hereunder. The updates consist of notes to explain the changes as well as the notification numbers to enable the assesseees to go to the relevant notification. Interested readers are advised to also make it a point to go through these notifications before they start following the changes. These notifications would be available on the website – www.cbec.gov.in of the Government of India, Department of Revenue, Central Board of Excise and Customs.

1. Credit on goods procured from a 100% EOU

Rule 3(7) of Cenvat Credit Rules 2004 has been amended with regard to the availability of credits in case of procurement of goods from a 100% EOU. Notification No.48/ 2008-Central Excise (N.T.) has been issued in this regard to amend the formula for the same. The new formula is as follows -

“X multiplied by [(1+BCD/200) multiplied by (CVD/100)]”.

Where as the earlier formula was:

X multiplied by [(1+BCD/400) multiplied by (CVD/100)]

The effect would now be to increase the credits available to the buyer. This is explained with an illustration below –

Illustration – If the assessable value for customs is Rs. 1000 and basic customs rate is 7.5% and excise duty rate is 10%, then as per the old formula, credit would have been - Rs.1000 X((1+7.5/400)X(10/100)) = Rs. 101.875. Now the credit would be Rs. 1000X((1+7.5/200)X(10/100)) = Rs. 103.75

2. Exemption for duty of excise

The Central Government has exempted under Sec 5A (1) the goods falling under Chapter heading 1701 91 00 namely Bura, makhana, mishri, hardas or battasa

(patashas) from whole of excise duty. Notification 57/2008 CE (T) dated 05.12.2008 has been issued for this purpose.

3. Across the board reduction in excise rates

The Government has announced an across the board reduction in excise duty rate (Cenvat) by 4% ad valorem for the remainder of the financial year on all products other than petroleum and those products where the current rate is less than 4%. Two notifications 58/2008 CE (T) dated 07.12.08 and 59/2008 CE (T) dated 07.12.08 have been issued in this regard.

4. Benefit of non applicability of Rule 6 of Cenvat Credit Rules 2004 extended to clearances to developer of SEZ

The restrictions as to availability of Cenvat Credits as per Rule 6 of Cenvat Credit Rules 2004 did not apply where the final products were cleared to a unit in SEZ. Now this benefit has also been extended to clearances to developer of the SEZ. Notification 50/2008 CE (NT) dated 3.12.08 amends Rule 6(6) of CCR 2004 in this regard.

5. Changes in the abatement rates for goods under MRP based levy

Due to changes in Central Excise Tariff rates Central Government has amended abatement available to various goods to which the provisions of sub-section (2) of said section 4A shall apply, and allows as abatement the percentage of retail sale price mentioned in the corresponding entry in column (4) of the said Table. Notification 49/2008 CE (NT) dated 24.12.2008 has been issued in this regard.

TABLE

S.No	Chapter, heading, sub-heading or tariff item	Description of goods	Abatement as a percentage of retail sale price
(1)	(2)	(3)	(4)

1.	17 or 21	Preparations of other sugars	35
2.	1702	Sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel	35
3.	1704	Gums, whether or not sugar coated (including chewing gum, bubblegum and the like)	35
4.	1704 90	All goods, other than white chocolate	30
5.	1704 90	White chocolate	35
6.	1805 00 00 or 1806 10 00	Cocoa powder, whether or not containing added sugar or other sweetening matter	30
7.	1806	Chocolates in any form, whether or not containing nuts, fruit kernels or fruits, including drinking chocolates	30
8.	1806	Other food preparations containing cocoa	30
9.	1901 20 00 or 1901 90	All goods, other than Dough for preparation of bakers' ware of heading No.1905	30
10.	1904	All goods, other than goods falling under tariff item 1904 20 00	30
11.	1904 20 00	All goods	30
12.	1905 31 00 or 1905 90 20	Biscuits	30
13.	1905 32 11 or 1905 32 90	Waffles and wafers, coated with chocolate or containing chocolate	30
14.	1905 32 90	All goods, other than wafer biscuits	35
15.	1905 32 19 or 1905 32 90	Wafer biscuits	30

16.	2101 11 or 2101 12 00	Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee	30
17.	2102	All goods	30
18	2106 90 11	Sharbat	25
19	2106 90 20	All goods, other than pan masala containing not more than 15% betel nut	40
20.	2106 90 20	Pan masala containing not more than 15% betel nut	20
21.	2403	Pan masala containing tobacco	50
22.	2106 90 30	All goods	30
23.	2106 10 00, 2106 90 50, 2106 90 70, 2106 90 80, 2106 90 91 or 2106 90 99	All goods	35
24.	2201 or 2202	Mineral waters	45
25.	2201 or 2202	Aerated waters	40
26.	2209	Vinegar and substitutes for vinegar obtained from acetic acid	35
27.	2403 99 10, 2403 99 20 or 2403 99 30	All goods	50
28.	2523 21 00 or 2523 29	White cement, whether or not artificially coloured and whether or not with rapid hardening properties	30

29.	2710	Lubricating oils and Lubricating preparations	35
30.	30	Medicaments, other than those which are exclusively used in Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic systems <i>Explanation.-</i> For the purposes of this entry, “retail sale price” means the retail price displayed by the manufacturer under the provisions of the Drugs (Prices Control) Order, 1995.	35
31.	3204 20	Synthetic organic products of a kind used as fluorescent brightening agents or as a luminophores	30
32.	3206	All goods other than pigments and inorganic products of a kind used as luminophores	30
33.	3208, 3209 or 3210	All goods	30
34.	3212 90 20	Dyes and other colouring matter put up in forms or small packing of a kind used for domestic or laboratory purposes	35
35.	3213	All goods	35
36.	3214	All goods	35
37.	3303, 3304, 3305 or 3307	All goods	35
38.	3306 10 20	Toothpaste	30
39.	3401 19 or 3401 20 00	Soap (other than paper, wadding, felt and non-wovens, impregnated, coated or covered with soap or detergent)	30
40.	3401 11, 3401 19 or 3402	Organic surface active products and preparations for use as soap in the form of bars, cakes, moulding pieces or shapes, other than goods falling under	30

		3402 90 20	
41.	3403	Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparation and mould release preparations based on lubricants)	30
42.	3405	All goods	30
43.	3506	Prepared glues and other prepared adhesives, not elsewhere specified or included	35
44.	3702	All goods other than for X-ray and unexposed cinematographic films	35
45.	3808	Insecticides, fungicides, herbicides, weedicides and pesticides	30
46.	3808	Disinfectants and similar products	35
47.	3808 93 40	Plant growth regulator	25
48.	3814 00 10	Thinners	35
49.	3819	All goods	35
50.	3820 00 00	Anti-freezing preparations and prepared de-icing fluids	35
51.	3824 90 24 or 3824 90 90	Stencil correctors and other correcting fluids, ink removers put up in packings for retail sale	35
52.	3919	Self adhesive tapes of plastics	35
53.	3923 or 3924	Insulated ware	40
54.	4816	Carbon paper, self-copy paper, duplicator stencils, of paper	35
55.	4818	Cleansing or facial tissues, handkerchiefs and towels, of paper pulp, paper, cellulose wadding or webs of cellulose fibres, other than goods falling	35

		under 4818 50 00	
56.	64	The following goods namely: - (i) Footwear of retail sale price exceeding Rs 250/- and not exceeding Rs 750/- per pair (ii) All other foot wear	35 40
57.	6506 10	Safety headgear	35
58.	6907	Vitrified tiles, whether polished or not	40
59.	6908	Glazed tiles	40
60.	7321	Cooking appliances and plate warmers, other than LPG gas stoves (with burners only, without other functions such as, grills or oven)	35
61.	7321	LPG gas stoves (with burners only, without other functions such as, grills or oven)	30
62.	7323 or 7615 19 10	Pressure Cookers	25
63.	7324	Sanitary ware of iron or steel	35
64.	7418 20 10	Sanitary ware of copper	35
65.	8212	Razors and razor blades (including razor blade blanks in strips)	35
66.	8305 20 00 or 8305 90 20	Staples in strips, paper clips, of base metal	35
67.	8414 51 or 8414 59	Electric fans	35
68.	8415	Window room air-conditioners and split air conditioners of capacity up to 3 tonnes	25
69.	8418	Refrigerators	35

70.	8421 21	Water filters and water purifiers, of a kind used for domestic purposes	30
71.	8422 11 00 or 8422 19 00	Dish washing machines	30
72.	8443	Facsimile machines	35
73.	8443 31 00 or 8443 32	Printer whether or not combined with the functions of copying or facsimile transmission	20
74.	8443 99 51	Ink cartridges, with print head assembly	20
75.	8450	Household or laundry-type washing machines, including machines which both wash and dry	35
76.	8469	Typewriters	30
77.	8470	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions, other than goods falling under sub-heading 8470 50 and 8470 90	35
78.	8471 30	All goods	20
79.	8471 60	All goods	20
80.	8472 90 10	Stapling machines	35
81.	8506	All goods, other than parts falling under tariff item 8506 90 00	35
82.	8508	All goods, other than parts falling under tariff item 8508 70 00	35
83.	8509	All goods, other than parts falling under tariff item 8509 90 00	35
84.	8510	All goods, other than parts falling under tariff item 8510 90 00	35

85.	8513	All goods, other than parts falling under tariff item 8513 90 00	30
86.	8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes.	35
87.	8517	Telephone sets including telephones with cordless handsets; video phones;	35
88.	8517 62 30	Modems (modulators – demodulators)	20
89.	8517 69 60	Set top boxes for gaining access to internet	20
90.	8519	All goods, other than MP3 Player or MPEG 4 Player	35
91.	8521	All goods, other than MP3 Player or MPEG 4 Player	35
92.	85	MP3 Player or MPEG 4 Player	30
93.	8523	Unrecorded audio cassettes; recorded or unrecorded video cassettes; recorded or unrecorded magnetic discs	35
94.	8527	Pagers	30
95.	8527	Radio sets including transistors sets, having the facility of receiving radio signals and converting the same into audio output with no other additional facility like sound recording or reproducing or clock in the same housing or attached to it	30
96.	8527	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock (other	35

		than goods covered at S.No.95)	
97.	8528	Television receivers (including video monitors and video projectors) whether or not incorporating radio broadcast receivers or sound or video recording or reproducing apparatus	30
98.	8528	Monitors of a kind solely or principally used in an automatically data processing machine	20
99.	8528 71 00	Set top boxes for television sets	20

100.	8536	All goods, other than goods falling under tariff item 8536 70 00	35
101.	8539	The following goods, other than lamps for automobiles, namely:- (i) Compact Fluorescent Lamp (CFL) falling under tariff item 8539 31 10 (ii) All other goods	35 35
102.	9006	Photographic (other than cinematographic) cameras	30
103.	9101 or 9102	All goods, other than braille watches	30
104.	9103 or 9105	Clocks	40
105.	9603 21 00	Toothbrush	25
106.	9612	All goods	30
107.	9617	Vacuum flasks	35
108.	Any heading	Parts, components and assemblies of automobiles	30

Important Case Laws***Aura Oil Industries Vs CCE Mumbai (2008-TIOL-2147-CESTAT-MUM)***

The Tribunal held that where soaps were sold in packs of three but the individual packs contained the MRP of the soap if sold individually and the same had not been scored off and no mention of the fact of the soaps having to be sold in packs of three were made on such individual packs and the soaps could easily be detached without damaging the packs and sold individually, the duty of excise was to be charged on the basis of the MRP of the individual packs and not the MRP of the combined pack.

Sterlite Industries (I) Ltd Vs CCE Tirunelveli (2009-TIOL-99-CESTAT-MAD)

Rebate of duty of excise paid on supplementary invoices on account of revision of price of goods exported cannot be denied.

M/s Nandan Petrochem Ltd Vs CCE Belapur (2008-TIOL-2124-CESTAT-MUM)

Cost of gifts (sun glasses, gift articles, silver coins) put inside lubricating oil containers had to be added to assessable value of lubricating oil as it was sales promotion and cost of such promotion had to be factored in while determining the price at which goods are sold.