

¹THE CENTRAL EXCISE ACT, 1944**(Act No. 1 of 1944)***(24th February, 1944)***An Act to consolidate and amend the law relating to
Central Duties of Excise ²[***]**

WHEREAS it is expedient to consolidate and amend the law relating to central duties of excise on goods manufactured or produced in ³⁴[certain parts] of India] ⁵[***]

It is hereby enacted as follows:—

CHAPTER I

1. Short title, extent and commencement. (1) ⁶[This Act may be called the Central Excise Act, 1944.]

(2) It extends to the whole of India ⁷[***].

(3) It shall come into force on [such date]⁸ as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

¹The Statement of Objects and Reasons is given in Gazette of India 1943, Part V, Page 243; for Report of the Select Committee, see Gazette of India, 1944 part V, page 12.

This Act has application to—

- (1) All the partially excluded areas in the State of Orissa by Orissa Government Notification No. 1226-II-C-13/44 Com., dated the 21st March, 1944.
- (2) Darjeeling District with effect from 28th February, 1944. See Bengal Government Notification No. 342-R, dated the 22nd March, 1944.
- (3) Excluded areas in the State of Madras (with modifications). See Madras Government Notification No. 37, Fort St. George Gazette, Pt. I, p. 281, dated 11th April, 1944.
- (4) Partially excluded areas in the State of Madras with effect from 28th February, 1944. See Madras Government Notification No. 745-Public-Political, dated the 4th March, 1944.

This Act has been extended in its application to Goa, Daman and Diu by Regulation 12 of 1962, Section 3 and Schedule; to Dadra and Nagar Haveli by Regulation 6 of 1963, Section 2 and Schedule I; to Laccadive, Minicoy and Amindivi Islands by Regulation 8 of 1965, Section 3 and Schedule; to the State of Sikkim with effect from 1.2.1983 *vide* Notfn. No. 9/83-CE, dated 1.2.1983 (the Finance Act, 1982 also extended to the State of Sikkim under MHA Notfn. No. 57(E) dated 29.1.1983); and to the designated areas in the Continental Shelf and Exclusive Economic Zone of India by Notfn. No. 166/87-CE, dt. 11.6.1987.

²Words "and to salt" omitted by s. 69 of the Finance (No. 2) Act, 1996, w.e.f. 28.9.1996.

³Substituted by the Indian Independence (Adaptation of Central Acts & Ordinances) Order, 1948 for "British India".

⁴Substituted by the Adaptation of Laws Order, 1950, for "the Provinces".

⁵Words "and to salt" omitted by s. 70 of the Finance (No. 2) Act, 1996, w.e.f. 28.9.1996.

⁶Substituted by s. 71 of the Finance (No. 2) Act, 1996, w.e.f. 28.9.1996.

⁷The words "except the State of Jammu and Kashmir" were omitted by Act 41 of 1954, Section 2 and Schedule.

⁸28th February, 1944, *vide* F.D. (C.R.) Notification No. III-D.C. Exc. dated the 26th February, 1944, Gazette of India, Extraordinary, 1944, page 293. (Received the assent of the Governor General on the 24th February, 1944).

NOTIFICATION UNDER SECTION 1

NOTE 1. 6/05-CE(NT), dt. 24.2.2005:—

Central Government hereby appoints the 28th day of February, 2005 for the provisions of the Act.

In exercise of the powers conferred by sub-section (2) of section 1 of the Central Excise Tariff (Amendment) Act, 2004 (5 of 2005), the Central Government hereby appoints the 28th day of February, 2005, as the date on which the provisions of the said Act shall come into force.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,—

- ¹[(a) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), ²[Commissioner of Central Excise (Appeals)] or Appellate Tribunal;
- (aa) "Appellate Tribunal" means the Customs, Excise and ³Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);]
- ⁴[(aaa)] "broker" or "commission agent" means a person who in the ordinary course of business makes contracts for the sale or purchase of excisable goods for others;
- ⁵, ⁶[(b) "Central Excise Officer" means the Chief Commissioner of Central Excise, Commissioner of Central Excise, Commissioner of Central Excise (Appeals), Additional Commissioner of Central Excise, ⁷[Joint Commissioner of Central Excise], Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or any other officer of the Central Excise Department, or any person (including an officer of the State Government) invested by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) with any of the powers of a Central Excise Officer under this Act];
- (c) "curing" includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture;

¹Inserted by 5th Schedule to Finance (No. 2) Act, 1980 [effective from 11.10.1982 under GSR 597(E) dated 11.10.1982.

²Substituted by s. 70 of the Finance Act, 1995, w.e.f. 26.5.1995.

³Substituted by S.135 of the Finance Act, 2003 (14.5.2003).

⁴Clause (a) re-lettered as Clause (aaa) by Fifth Schedule to the Finance (No. 2) Act, 1980 [effective from 11.10.1982 under GSR 597(E) dated 11.10.1982].

⁵For notifications issued under this clause, see under rule 3 of the Central Excise (No. 2) Rules, 2001, in Part II of this book.

⁶Substituted by s. 71 of the Finance Act, 1995, w.e.f. 26.5.1995

⁷Inserted by s. 120(i) of the Finance Act, 1999, w.e.f. 11.5.1999.

- (d) "excisable goods" means goods specified in ¹[²[the First Schedule and the Second Schedule] to the Central Excise Tariff Act, 1985] as being subject to a duty of excise and includes salt;
- (e) "factory" means any premises, including the precincts thereof, wherein or in any part of which excisable goods other than salt are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;
- ³[(ee) "Fund" means the Consumer Welfare Fund established under section 12C;]
- ⁴[(f) "manufacture" includes any process,—
- (i) incidental or ancillary to the completion of a manufactured product; and
 - (ii) which is specified in relation to any goods in the Section or Chapter notes of ⁵[the First Schedule] to the Central Excise Tariff Act, 1985 as amounting to ⁶[manufacture; or],
 - ⁷((iii) Which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer,)
- and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;]
- ⁸[(ff) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;]
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "sale" and "purchase", with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;

¹Substituted by the Central Excise Tariff Act, 1985, s. 4, w.e.f. 28.2.1986, *vide* 10/86-CE, dt. 5.2.1986.

²Substituted by s. 119(b) of the Finance Act, 1999, w.e.f. 27.2.1999.

³Inserted by S. 2 of the Central Excises and Customs Laws (Amendment) Act, 1991, w.e.f. 20.9.1991, *vide* 30/91-CE(NT), dt. 19.9.1991.

⁴Substituted by the Central Excise Tariff Act, 1985, s. 4, w.e.f. 28.2.1986, *vide* 10/86-CE, dt. 5.2.1986.

⁵Substituted by s. 120(ii) of the Finance Act, 1999, w.e.f. 27.2.1999.

⁶Substituted by s. 132(i) of the Finance Act, 2002, w.e.f. 11.5.2002.

⁷Substituted by s. 105 of the Finance Act, 2003 (14.5.2003).

⁸ Inserted by the schedule of National Tax Tribunal Act 2005 (to be effective as and when notified)

1 [***]

2 [***]

- (k) "wholesale dealer" means a person who buys or sells excisable goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of excisable goods for others, stocks such goods belonging to others as an agent for the purpose of sale.

NOTIFICATION UNDER SECTION 2

Notifications issued under Section 2(b) are printed under Rule 3 of the Central Excise (No. 2) Rules, 2001 in Part II.

CASE LAW

—**Anti-corrosion/weather proof treatment on steel bars/rebars, with the help of Epoxy Powder**—The process, which is more or less similar to the process of galvanisations does not amount to manufacture, as the basic nature of the goods does not undergo any transformation, nor does it bring into existence a new, different commercial commodity—ratio of Apex Court's judgement in the case of *UOI v. Delhi Cloth & General Mills* [1973 April Cen-Cus 56 (SC) = ECR C 216 SC] and *UOI v. J.G. Glass Industries Ltd.* [1998 (78) ECR 761 (SC)]. Impugned order upheld. CEA: S. 2(f). [*CCE, Surat-II v. P.S.L. Corrosion Control Ltd.*] [2003(107)ECR310(T)]

—**Lead Alloy**—The process of adding duty paid Antimony metal and other additives to duty paid pure lead, is not a process of manufacture, as no new commodity emerges as a result of the process undertaken by the Appellants—ratio of Tribunal decision in the case of *Hindustan Cable Ltd. v. CCE* [1984 ECR 1548 (T)]. Hence, no duty is leviable on the lead alloy. CEA: S. 2(f). [*Exide Industries Ltd. v. CCE, Calcutta-II*] [2003(107)ECR375(T)]

—**Printed Bed sheets, bed covers, pillow cases**—Benefit denied on the ground that in the manufacturing process, the machines were operated 'with the aid of power'—One has to see whether the activity is so integrally connected to the production of ultimate goods that but for that process to it is not possible to manufacture the goods—If it is so integrally connected the process would be covered by the expression 'with the aid of power'—Activity of printing and colouring integrally connected to manufacture of impugned goods—Impugned order denying benefit upheld—Section 2(f) of CEA: 1944. [*Impression Prints v. CCE, Delhi-I*] [2005(126)ECR1(SC)]

—**Waste and scrap**—Arising out of breaking up of old and worn out machinery—Cannot be considered as good and that the waste and scrap arisen out of the process of manufacture in terms of Sec. 2(f) of Central Excise Act, 1944. [*CCE, Visakhapatnam v. Sree Vijayarama Gajaphthi Co-operative Sugars Ltd. Hyderabad*] [2004 (117) ECR 753 (T)]

¹ Clauses (i) and (j) omitted by s. 72 of the Finance (No. 2) Act, 1996, w.e.f. 28.9.1996.

² Clause (jj) was inserted by the Adaptation of Laws Order, 1950, and omitted by Act 25 of 1950, Section 11 and Schedule IV.

¹[2A. **References of certain expressions.** In this Act, save as otherwise expressly provided and unless the context otherwise requires, references to the expressions "duty", "duties", "duty of excise" and "duties of excise" shall be construed to include a reference to "Central Value Added Tax (CENVAT)".]

Finance Act, 1999, Section 119

119. Substitution of new authorities. In the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act),—

- ²(a) save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column 1 of the Table below shall be substituted by reference to the authority or authorities specified in the corresponding entry in column 2 of the said Table and such consequential changes as the rules of grammar may require shall also be made:

TABLE

1	2
1. Assistant Commissioner of Central Excise	Assistant Commissioner of Central Excise Or Deputy Commissioner of Central Excise
2. Deputy Commissioner of Central Excise	Joint Commissioner of Central Excise

- ³(b) for the words "the Schedule", wherever they occur [other than in sub-clause (ii) of clause (f) of section 2], the words "the First Schedule and the Second Schedule" shall be substituted;
- ⁴(c) references to the expressions "duty", "duties", "duty of excise" and "duties of excise" shall, save as otherwise expressly provided in this Act and unless the context otherwise requires, be construed to include a reference to the special duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).
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¹Inserted by Finance Act, 2000, s. 91, w.e.f. 12.5.2000.

²Clause (a) effective from 11.5.1999.

³Clause (b) effective from 27.2.1999.

⁴Clause (c) effective from 27.2.1999.