

## **Chapter 7**

### **EXPORT WITHOUT PAYMENT OF DUTY**

#### **Part-I General**

##### **1. Introduction**

1.1 The conditions and procedure relating to export without payment of duty (i.e. duty under the Central Excise Act, 1944, the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978); and special excise duty collected under a Finance Act) are contained in Notification Nos. 42/2001-Central Excise (N.T.) to 45/2001-Central Excise (N.T.), all dated 26<sup>th</sup> June, 2001 issued under rule 19 of the Central Excise (No.2) Rules, 2001 (hereinafter referred to as the said Rules). The new rule 19 corresponds to rule 13 of the Central Excise Rules, 1944.

1.2 Some important changes have been introduced under the present procedure, which are mentioned below and explained in detail subsequently: -

1. The concept of furnishing of a 'Letter of Undertaking' by a manufacturer-exporter has been introduced. The clearances for export by a manufacturer-exporter will be effected similar to clearances for home consumption after he furnishes Letter of Undertaking.
2. The merchant-exporters are required to file 'bond' in specified format. A manufacturer-exporter may also file bond and follow the 'bond-procedure' specified in the notification.
3. Under bond procedure, the concept of 'self-debit' by the exporter has been introduced. The exporter need not go to the 'bond-accepting authority for a 'debit-certificate' before each removal.
4. The procedure of 'acceptance of proof of export' has been simplified. The concept of 'Self-credit' based on the copy of A.R.E.1 duly certified by Customs authorities at the place of export is being introduced.
5. In each Commissionerate of Central Excise, there will be an officer designated as 'Deputy/Assistant Commissioner of Central Excise (Exports)' whose functions will be similar to the Maritime Commissioners.
6. Number of copies of 'application for Removal (A.R.E.1)' has been reduced compared to AR-4. This will be further reduced after completion of computer networking in the Department enabling 'on-line verification' of exports.

##### **2. Categories of exports**

2.1 There are two categories of export without payment of duty

- (i) Export of finished goods without payment of duty under bond or undertaking.
- (ii) Export of manufactured/processed goods after procuring raw material without payment of duty under bond.

**Part-II**  
**Export to all countries except Nepal and Bhutan**

**1. Introduction**

1.1 Procedures and conditions for export to all countries except Nepal and Bhutan are specified in notification No. 42/2001-CE(N.T.) dated 26.6.2001. The details are mentioned in this part.

**1. Conditions**

2.1 An exporter shall furnish bond in Form B-1 and obtain certificate in Form CT-1. A manufacturer-exporter may furnish annual Letter of Undertaking (no CT-1 is required in this case). The export shall be subject to the following conditions"

- (i) The goods shall be exported within six months from the date on which these were cleared for export from the factory of the production or the manufacture or warehouse or other approved premises within such extended period as the Deputy/Assistant Commissioner of Central Excise or Maritime Commissioner may in any particular case allow;
- (ii) When the export is from a place other than registered factory or warehouse, the excisable goods are in original packed condition and identifiable as to their origin;
- (iii) The exports of mineral oil products falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as stores for consumption on board of an aircraft on foreign run shall be subject to conditions and limitations, to be applied mutatis mutandis, as notified in the Notification No.40/2001-Central Excise (N.T.) dated 26<sup>th</sup> June, 2001 issued under rule 18 of the said Rules.

**3. Forms to be used**

3.1 ARE.1 is the export document for export clearance (**Annexure-14**), which shall be prepared in quintuplicate (5 copies). This is similar to the erstwhile AR.4. This document shall bear running serial number beginning from the first day of the financial year. During this year, for the sake of continuity, the serial number, as started from 1.4.2001, may continue. The stationary for AR.4 Form may be used with modified name "ARE.1" during this financial year. On A.R.E.1, certain declarations are required to be given by the exporter. These should be signed by the exporter or his authorised agent. The different copies of ARE.1 forms should be of different colours indicated below:

Original	White
Duplicate	Buff
Triplicate	Pink
Quadruplicate	Green
Quintuplicate	Blue

3.2 It will be sufficient if the copies of ARE.1 contain a color band on the top or right hand corner in accordance with above color scheme.

3.2 An invoice shall also be prepared in terms of rule 11 of the said Rules. It should be prominently mentioned on top "FOR EXPORT WITHOUT PAYMENT OF DUTY".

3.3 The Letter of Undertaking is to be furnished in the Form UT-1 specified in **Annexure-15** to Notification No. 42/2001-Central Excise (N.T.), supra. Any manufacturer, who is an assessee for the purposes of the Central Excise (No.2) Rules, 2001, shall furnish a Letter of Undertaking only to the Deputy/Assistant Commissioner of Central Excise having jurisdiction over his factory from which he intends to export. The Letter of Undertaking should not be furnished to the Maritime Commissioner or any other officer authorised by the Board. A 'Letter of Undertaking' shall be valid for twelve calendar months provided the exporter complies with the conditions of the Letter of Undertaking, especially the procedure for 'acceptance of proof of export' under this instruction. In case of persistent defaults or non-compliance causing threat to revenue, the manufacturer-exporter may be asked to furnish bond with security/surety. For the sake of clarification, it is mentioned that this Letter of Undertaking should not be taken for each consignment of export.

3.4 The obligation of the manufacturer flows from statutory requirement of exporting the goods within six months or such extended period as the Deputy/Assistant Commissioner of Central Excise may allow. Failing this, the exporter is required to deposit the requisite sum (duty and interest) *suo moto*, considering that the manufacturer has to do 'self-assessment'. Any non-payment within 15 days of expiry of the stipulated time period, shall be treated as arrears of revenue and the Department will proceed to recover the same as 'sum due to Government'. *Suo moto* payment within 15 days of expiry of the stipulated time period will not be treated as 'default'.

3.5 On repeated failure of the manufacturer-exporter to comply with the conditions of the Letter of Undertaking or the procedure for 'acceptance of proof of export' under this instruction, the Deputy/Assistant Commissioner of Central Excise may direct him in writing that the letter of undertaking is not valid and he should furnish B-1 Bond with sufficient security/surety.

3.6 The Letter of Undertaking shall not be discharged unless the goods are duly exported, to the satisfaction of the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise within the time allowed for such export or are otherwise accounted for to the satisfaction of such officer, or until the full duty due upon any deficiency of goods, not accounted so, and interest, if any, has been paid.

3.7 Though any exporter (Manufacturer-exporter or merchant-exporter) can furnish bond, the merchant-exporters are necessarily required to furnish bond in the B-1 Form specified in **Annexure-16** of notification no. 42/2001-Central Excise (N.T.), supra with such security or surety as may be specified by the concerned bond accepting authority. The bond shall be in a sum equal at least to the duty chargeable on the goods for the due arrival of export goods at the place of export and their export therefrom under Customs or as the case may be postal supervision. The officer who will accept the bond, will also be responsible for discharging that bond upon furnishing proof of export by the exporter.

3.8 The bond shall not be discharged unless the goods are duly exported, to the satisfaction of the Deputy/Assistant Commissioner of Central Excise or Maritime Commissioner or such other officer as may be authorised by the Board on this behalf

within the time allowed for such export or are otherwise accounted for to the satisfaction of such officer, or until the full duty due upon any deficiency of goods, not accounted so, and interest, if any, has been paid

3.9 Certificate 'CT-1", as specified in [Annexure-17](#) have to be obtained by merchant-exporters for procuring goods from a factory or warehouse. Such certificates need not be obtained for each consignment but will be given in lot of 25.

#### **4. Bond Accepting Authority**

4.1 Bond may be accepted by any of the following officers: -

- (i) The Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory or warehouse or any other premises approved by the Commissioner for storing non-duty paid goods;
- (ii) Maritime Commissioners at Mumbai, Chennai, Kolkata, Paradeep, Kandla, Tuticorin, Visakhapatnam and Cochin.
- (iii) The Deputy/Assistant Commissioner of Central Excise(Export) as officers authorised by the Board for this purpose.

4.2 Exporters are required to clearly indicate on the ARE.1 the complete postal address of the authority before whom the bond is executed and to whom the documents are to be submitted/ transmitted for admission of proof of export.

#### **5. Security or surety with bond**

5.1 Wherever bond is taken, sufficient security or surety is also required as the per the notifications issued under rule 19 of the said Rules. In 1996, Board had taken a decision that in respect of exporters having good track record may be allowed to furnish bond with nil security or surety. The Board in Circular No.284/118/96 dated 31.12.1996 issued an instruction. Now, since the manufacturer-exporters, who are also assessee of the Central Excise Department, have an option to furnish 'Letter of Undertaking" (without any security or surety), the question of furnishing of 'security or surety' is mainly relate to merchant-exporters who are not assessee of the Central Excise Department. In this scenario, the Board has decided that security (Bank Guarantee or Cash Guarantee or Cash Security) or surety need not be insisted upon from Super Star Trading Houses, Star Trading Houses, Trading Houses and Export Houses provided that –

- (i) the exporter has not come to adverse notice of the Central Excise or Customs Department in last three years from the date under consideration;
- (ii) all the formalities required under Central Excise Act and rules made thereunder are regularly complied with by the exporter, especially regarding timely submission of proof of export and deposit of duty with interest in time where proof of export is not received within stipulated time frame;
- (iii) A self-attested copy of the proof of Status (Super Star Trading Houses, Star Trading Houses, Trading Houses and Export Houses) from concerned authority (Ministry of Commerce and Industry – Directorate General of Foreign Trade) is submitted.

5.2 Other exporters shall be required to furnish surety equal to full bond amount or security equal to twenty five percent. (25%) of the bond amount, along with the bond.

5.3 The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.

5.4 Where export is effected by merchant-exporter, the bond has to be necessarily furnished. It is open for the manufacturer to furnish bond on behalf of the merchant-exporter. It is clarified that in such cases, the manufacturer will not take a stand that since he is responsible for the duty liability, the export should be allowed on the basis of the 'Letter of Undertaking', which he has already furnished to the Department. In such circumstances, the application in Form ARE.1 will be in the name of the manufacturer who executes the Bond. All other procedures for admission of the proof of export would be the same as in the case of manufacturer-exporters.

5.5 It should be noted that once a manufacturer furnished bond for exports by merchant exporters, it would be his responsibility to account for the export goods.

5.6 It may be noticed that only General bond (B-1) has been specified. Even where bond is required for only one consignment, the Form will remain the same. The exporter may get the bond redeemed immediately after he completes the exports and obtains the proof of export.

5.7 In case of B-1 general bond a running bond account in proforma of **Annexure-18** shall be maintained by the exporter because he is responsible for debit the bond before preparation of 'certificate' for obtaining goods for export. He shall also take self-credit in the manner specified in this instruction.

5.8 For the sake of clarity it is informed that the concept of 'Block Transfer' has lost its relevance in the context of self-debit and self-credit of bond and the new system of acceptance of proof of export [to be explained in subsequent paragraphs] by the exporter.

5.9 It is further mentioned that where the merchant exporter executes bond, it shall be necessary that both the merchant-exporter and the manufacturer sign the ARE.1.

## **6. Procedure for clearance from the factory or warehouse**

6.1 A Manufacturer-exporter who has furnished a Letter of Undertaking will prepare the export documents (A.R.E.1 and invoice under rule 11) for clearance from his factory of production.

6.2 A Merchant-exporter who has furnished a bond shall be provided sufficient number of certificates (CT-1), duly signed/certified, in multiples of 25 copies, normally covering a period of one to three months, depending upon the track record of compliance by the exporter. The 'bond accepting authority' shall be responsible for verifying and accepting the proof of export and in case of any defaults by the exporter, to recover the sum and enforcing the bond. The certificate should be provided according to the volume of exports projected by the exporter (which should also reflect in the amount of bond). The compliance of the exporter in submitting the requisite documents towards 'proof of export' shall be another criterion.

6.2.1 The second part of CT-1 is very important. The exporter shall determine the description of goods for procurement from a particular factory or warehouse or an approved place of storage, quantum, value of procurement (provisional figures) and duty involved therein (provisional figures – but based on correct rate of duty and contracted transaction value). This 'duty' element will be debited provisionally. The exporter shall ensure that at the time of debit, sufficient credit is available at that point of time to cover the said debit. The provisional debit shall be converted into final debit within a period of seven days from the date of removal of goods on A.R.E.1, based on the 'duty payable' in goods cleared for export reflected in the said A.R.E.1 and invoice.

6.2.2 The manufacturer shall record the clearance in his Daily Stock Account indicating, inter alia, the invoice number/date, A.R.E.1 number/date and duty payable but foregone under rule 19.

6.3 The exporter has two optional procedures regarding the manner in which he may clear the export consignments from the factory or warehouse or any other approved premises, namely: -

1. Examination and sealing of goods at the place of despatch by a Central Excise Officer
2. Under self-sealing and self-certification

## **7. Sealing of goods and examination at place of despatch**

7.1 The exporter is required to prepare five copies of application in the Form ARE-1. The Form is specified in Annexure-I to notification No. 42/2001-Central Excise (N.T.) dated 26.6.2001. The goods shall be assessed to duty in the same manner as the goods for home consumption, though duty is not required to be paid considering clearance is meant for export without payment of duty. The classification and rate of duty should be in terms of Central Excise Tariff Act, 1985 read with any exemption notification and/or the said Rules. The value shall be the "transaction value" and should conform to section 4 or section 4A, as the case may be, of the Central Excise Act, 1944. It is clarified that this value may be less than, equal to or more than the F.O.B. value indicated by the exporter on the Shipping Bill.

7.2 The duty payable shall be determined on the ARE.1 and invoice and recorded in the Daily Stock Account as "duty foregone on account of export under rule 19".

7.3 The exporter may request the Superintendent or Inspector of Central Excise having jurisdiction over the factory of production or manufacture, warehouse or approved premises for examination and sealing at the place of despatch 24 hours in advance, or such shorter period as may be mutually agreed upon, about the intended time of removal so that arrangements can be made for necessary examination and sealing.

7.4 In case of exports under Duty Exemption Entitlement Certificate Scheme (DEEC), Duty Exemption Pass Book Scheme (DEPB) and claim for Drawback, the Superintendent of Central Excise shall also examine and seal the consignment and sign the documents in token of having done so. In exceptional cases, where the exporter has unblemished track record of compliance (Central Excise) and where there is non-availability of Superintendent of Central Excise due to leave, vacant post or other reasonable causes, the jurisdictional Deputy/Assistant Commissioner of Central Excise may permit

examination and sealing by Inspector. All other types of export may be examined and sealed by the Inspector of Central Excise.

7.5 The Superintendent or Inspector of Central Excise, as the case may be, will verify the identity of goods mentioned in the application and also verify whether the duty self-assessed is appropriate and that the particulars of the duty payable has been recorded in the Daily Stock Account. If he finds that the declaration in ARE.1 and the invoices are correct from the point of view of identity of goods and its assessment to duty, he shall seal each package or the container ensuring that the goods cannot be tampered with after the examination. Normally, individual packages should be sealed by using wire and lead seals and an all-sides-closed container by using numbered One time Lock/Bottle seals or in such other manner as may be specified by the Commissioner of Central Excise by a special or general written order. Thereafter, the said officer shall endorse and sign each copy of the application in token of having such examination done and put his stamp with his name and designation below his signature;

#### **8. Distribution of ARE.1 in the case of export from the factory or warehouse**

Original (First Copy)	The said Superintendent or Inspector of Central Excise shall return to the exporter immediately after endorsements and signature
Duplicate (Second Copy)	The said Superintendent or Inspector of Central Excise shall return to the exporter immediately after endorsements and signature.
Triplicate (Third Copy)	Sent to the bond sanctioning authority, either by post or by handing over to the exporter in a tamper proof sealed cover after posting the particulars in official records.
Quadruplicate (Fourth Copy)	Retain for official records
Quintuplicate (Fifth Copy)	Optional copy - The said Superintendent or Inspector of Central Excise shall return to the exporter immediately after endorsements and signature.

#### **9. Distribution of ARE.1 in the case of export from other than factory or warehouse**

9.1 Where goods are not exported directly from the factory of manufacture or warehouse, the distribution of A.R.E.1 will be same as above except that the triplicate copy of application shall be sent by the Superintendent having jurisdiction over the factory of manufacture or warehouse who shall, after verification forward the triplicate copy in the manner specified above.

#### **10. Despatch of goods by self-sealing and self-certification**

10.1 Self-sealing and self-certification is a procedure by which the exporter who is a manufacturer or owner of a warehouse, may remove the goods for export from his factory or warehouse without examination by a Central Excise Officer. This procedure will also be permitted in the cases where a merchant-exporter procures the goods directly from a factory or warehouse. In both cases, the manufacturer of the export goods or owner of the warehouse shall take the responsibility of sealing and certification. For this purpose the owner, the working partner, the Managing Director or the Company

Secretary, of the manufacturing unit of the goods or the owner of warehouse or a person (who should be permanent employee of the said manufacturer or owner of the warehouse holding reasonably high position) duly authorised by such owner, working partner or the Board of Directors of such Company, as the case may be, shall certify on all the copies of the application (A.R.E. 1) that the goods have been sealed in his presence. The exporter shall distribute of the copies of A.R.E. 1 in the following manner:

Original (First copy) and Duplicate (Second copy)	Send to the place of export along with the goods
Triplicate (Third copy) and Quadruplicate (Fourth copy)	Superintendent or Inspector of Central Excise having jurisdiction over the factory or warehouse within twenty four hours of removal of the goods
Quintuplicate (Fifth copy)	Optional copy - Send to the place of export along with the goods

10.2 The said Superintendent and Inspector of Central Excise shall verify the particulars of assessment, the correctness of the amount of duty paid or duty payable, its entry in the Daily Stock Account maintained under rule 10 of the Central Excise (No.2) Rules, 2001 (the manufacturer or warehouse owner will be required to present proof in this regard), corresponding invoice issued under rule 11. If he is satisfied with the particulars, he will endorse the relevant A.R.E. 1 and append their signatures at specified places in token of having done the verification. In case of any discrepancy, he will take up the matter with the assessee for rectification and also inform the jurisdictional Assistant/Deputy Commissioner. Once verification is complete and the A.R.E. 1 is in order, he shall distribute the documents (A.R.E. 1) in the following manner:

Triplicate (Third copy)	Send to the bond accepting authority, either by post or by handing over to the exporter in a tamper proof sealed cover after posting the particulars in official records. Where manufacturer has given LUT, triplicate shall be retained and will be forwarded to the Deputy/Assistant Commissioner of the Division along with Statement, after matching them with original copies of A.R.E.1s.
Quadruplicate (Fourth copy)	Retain for Range records (The notification does not specify this distribution of this copy)

## 11. Export by parcel post

11.1 In case of export by parcel post after the goods intended for export has been sealed, the exporter shall affix to the duplicate application sufficient postage stamps to cover postal charges and shall present the documents, together with the package or packages to which it refers, to the postmaster at the Office of booking.



## **12. Examination of goods at the place of export**

12.1 The place of export may be a port, airport, Inland Container Depot, Customs Freight Station or Land Customs Station.

12.2 The exporter shall present together with original, duplicate and quintuplicate (optional) copies of the application (A.R.E. 1) to the Commissioner of Customs or other duly appointed officer – normally goods are presented in the designated export shed.

12.3 The goods are examined by the Customs for the purposes of Central Excise to establish the identity and quantity, i.e. the goods brought in the Customs area for export on an A.R.E. 1 are the same which were cleared from the factory. The Customs authorities also examine the goods for Customs purposes such as verifying for certain export incentives such as drawback, DEEC, DEPB or for determining exportability of the goods.

12.4 For Central Excise purposes, the Officers of Customs at the place of export shall examine the consignments with the particulars as cited in the application (A.R.E. 1) and if he finds that the same are correct and the goods are exportable in accordance with the laws for the time being in force (for example, they are not prohibited or restricted from being exported), shall allow export thereof. Thereafter, he will certify on the copies of the A.R.E. 1 that the goods have been duly exported citing the shipping bill number and date and other particulars of export and distribute in the following manner:

- (i) The officer of customs shall return the original and quintuplicate (optional copy for exporter) copies of application to the exporter and forward the duplicate copy of application either by post or by handing over to the exporter in a tamper proof sealed cover to the officer specified in the application, from whom exporter wants to claim rebate.
- (ii) Quintuplicate A.R.E. 1 is the Export Promotion Copy and the exporter shall use this copy for the purposes of claiming any other export incentive.

## **13. Procedure relating proof of export and to re-credit against such proof**

13.1 The procedure relating to acceptance of proof of export or the 'validation' of actual export has been simplified. The original and duplicate copies of A.R.E. 1 are presented to the Customs authorities at the place of export [with option for exporter to also present quintuplicate copy]. The Customs authority certify the actual export on these documents and distributes the copies as specified.

13.2 The exporter shall submit a Statement, at least once in a month, in Form specified in **Annexure-19** along with the Original copies of A.R.E. 1 with due certification of export (Pass for Shipment Order) by Customs authorities at the place of export to the Divisional office (through Range) or in the office of the bond-accepting authority. Other supporting documents shall also be furnished, namely, Self-attested photocopy of Bill of Lading and Self-attested photocopy of Shipping Bill (Export Promotion Copy). The Range office or the Office of the bond-accepting authority immediately on receipt shall acknowledge the Statement.

13.3 The exporter is permitted to take credit in his running bond account on the basis of copy of the Statement referred to above, duly acknowledged the Range office or the office of the bond-accepting authority

13.4 It shall be the responsibility of the Range Office and Division Office or the other bond-accepting authority to verify the correctness of Statement and A.R.E.1 furnished by the exporter within the shortest possible time. The Statement and A.R.E.1 will be tallied by the Range Officers with the triplicate copies of A.R.E.1 already with them and the A.R.E.1 or its summary received directly from the place of export (hard copies or electronic summary or e-mail) within 15 days of the receipt. The Divisional Officer shall accept the proof of export or initiate necessary action in case of any discrepancy.

13.5 In case of other bond-accepting authority, their office will do this work. The bond-accepting authority shall accept the proof of export or initiate necessary action in case of any discrepancy. He will also intimate about the acceptance of proof of export or any other action to the Deputy/Assistant Commissioner of Central Excise from whose jurisdiction goods were cleared for export.

13.6 In case of non-export within the six month from the date of clearance for export (or such extended period, if any, as may be permitted by the Deputy/Assistant Commissioner of Central Excise or the bond-accepting authority) or discrepancy, the exporter shall himself deposit the excise duties along with interest on his own immediately on completion of the statutory time period or within ten days of the Memorandum given to him by the Range/Division office or the Office of the bond-accepting authority. Otherwise necessary action can be initiated to recover the excise duties along with interest and fine/penalty. Failing this, the amount shall be recovered from the manufacturer-exporter along with interest in terms of the Letter of Undertaking furnished by the manufacturer. In case where the exporter has furnished bond, the said bond shall be enforced and proceedings to recover duty and interest shall be initiated against the exporter.

13.7 In case of any loss of document, the Divisional Officer or the bond accepting authority may get the matter verified from the Customs authorities at the place of export or may call for collateral evidences such as remittance certificate, Mate's receipt etc. to satisfy himself that the goods have actually been exported.

#### **14. Functioning of Deputy/Assistant Commissioner of Central Excise (Export)**

14.1 Under the normal export procedure, the merchant-exporters including those manufacturer-exporters (Project-exporters who have to export bought out goods) have to procure the excisable goods for export under bond manufactured in different parts of the country. For this purpose, they have to have to furnish either several bonds with the Deputy/Assistant Commissioner of Central Excise of the supplier's area and submit proof of exports for discharge of such bonds or furnish a bond with the Maritime Commissioner who are located only at seven ports, namely, Considering that there have been tremendous export potentials from the inland areas located at considerable distance from a sea port and that there have been considerable growth of exports from Inland Container Depots and the Air Cargo Units located in such inland areas, the Board had appointed an officer in each Commissionerate except those Commissionerates in which the Maritime Commissioner is posted as Deputy/Assistant Commissioner of Central Excise (Export) for the purpose of facilitating export under bond by Circular No. 500/66/99-CX dated 15<sup>th</sup> December, 1999, under authority of rule 19 of the said Rules read with notification No.42/2001-Central Excise (N.T) dated 26.6.2001.

14.2 Any merchant exporter/manufacturer-cum-merchant exporter can file the required bond with the Deputy/Assistant Commissioner of Central Excise(Export) under whose jurisdiction his Head Office/factory is located (within the jurisdiction of the Commissionerates). In such case the exporter can procure the goods from a factory located anywhere in India.

14.3 For clarification it is mentioned that the Deputy/Assistant Commissioner of Central Excise (Export) will not deal with the exports where the manufacturer-exporters are permitted to export by furnishing an Annual Undertaking (UT-1) in lieu of bond.

### **Part-III**

#### **SIMPLIFIED EXPORT PROCEDURE FOR EXEMPTED UNITS**

##### **1. Introduction**

1.1 Units, which are fully exempted from payment of duty by a notification granting exemption based on value of clearances for home consumption, may be exempted from filing ARE.1 and Bond till they remain within the full exemption limit. The following simplified export procedure shall be followed in this regard by such units: -

##### **2. Filing of declaration**

2.1 Manufacturers exempted for payment of duty will not be required to take Central Excise Registration. They shall however, file a declaration in terms of Para 2 of Notification No. 36/2001-CE (NT) dated 26.6.2001, and obtain declarant code number [notwithstanding they are exempted from declaration, but for this procedure].

##### **3. Documentation**

3.1 The clearance document will be, as follows:

- i) Such manufacturers are permitted to use invoices or other similar documents bearing printed Serial Numbers beginning from 1<sup>st</sup> day of a financial year for the purpose of clearances for home consumption as well as for exports. (The printing of Serial Numbers can be done by use of franking machine). The invoices meant for use during a month shall be pre-authenticated by the owner or partner or Director/Managing Director of a Company or other authorised person.
- ii) The declarant's Code Number should be mentioned on all clearance document.
- iii) Such clearance document should contain particulars of the description of goods, name and address of the buyer, destination, value, [progressive total of total value of excisable goods cleared for home consumption since beginning of the financial year], vehicle number, date and time of the removal of the goods.
- iv) The clearance document will be signed by the manufacturer or his authorised agent at the time of clearance.
- v) In case of export through merchant exporters, the manufacturer will also mention on the top "EXPORT THROUGH MERCHANT EXPORTERS" and will mention the Export-Import Code No. of such merchant exporters.

- vi) In case of direct export by the manufacturer-exporters, he will mention on the top "FOR EXPORT" and his own Export - Import Code No., if any.

### **3.2 Records**

3.2.1 Such units shall maintain a simple record of quantity and value of production and clearance. Entries in production record should either be allowed to be made at the close of the day or before the commencement of the production on the following day. Entries need not be made on days when there is no production or clearance of goods.

### **3.3 Statement**

3.3.1 Such units shall file a prescribed quarterly statement to the Jurisdictional Range Superintendent containing various particulars. (Annexure-20)

## **4. Proof of Export**

4.1 Following documents shall be accepted as proof of export :

4.1.1 In the case of direct export by the Manufacture- exporter

- (i) Duly attested photocopy of shipping bill (Export Promotion Copy) bearing the particulars and date of clearance document under which the goods are cleared from the factory of production, having endorsement on its reverse by the Customs of the particulars of mate's receipt no. (wherever applicable), name of the ship/ flight no., of the aircraft, vehicle no. - by which the goods were exported out, date of export, and EGM Number/ Airway Bill Number (wherever applicable);
- (ii) Duly Custom's attested copy of Bill of lading; and
- (iii) Foreign Exchange Remittance Certificates.

4.1.2 In the case of export through Merchant-exporter the document prescribed by Sales Tax Department will be accepted as the proof of export. Sales made by manufacturer of the goods' to the merchant exporter which ultimately are exported are exempt from Central Sales Tax. The Sales Tax Department issues booklet to the merchant exporters containing serially numbered H-Forms/ST-XXII form or equivalent Sales Tax form. After the goods have been exported by the merchant exporters, the latter issues these forms to the manufacturers of the goods. The merchant exporters in turn have to account all these serially numbered forms to the sales Tax Department by furnishing a proof that the goods have been exported out. These proofs are in the form of presentation of the Shipping Bill duly completed by the customs, bill of landing, foreign exchange remittance certificates etc. The liability of the manufacturers to the Central Sales Tax gets discharged only when they submit these forms to the Sales Tax Department. It is, therefore, seen that indirectly exports get accounted for through the issue of H-form or ST-XXII Form. Thus, photocopy of H-form or ST-XXII Form or any other equivalent Sales Tax form duly attested and stamped by the manufacturer or his authorised agent will be accepted for purpose of proof of export.

### **4.2 Submission of proof of export and processing thereof**

4.2.1 The proof of export should be submitted to the Range Officer within a period of 6 months from the date of clearance of goods from the factory of production.

4.2.2 If Range Superintendent finds that the clearances for home consumption, and the clearances for export where proof of exports have not been furnished within 6 months, when taken together, are likely to exceed the exemption limit (which is presently Rs. 100 lakhs for home consumption), he should issue show cause notices for safeguarding revenue. These show cause notices, however, should be kept pending for another three months by which time proof of exports are expected to be received.

4.2.3 The Range Superintendent will maintain manufacturer wise record on the basis of the quarterly return and the proof of exports submitted by the manufacturer from time to time in order to ascertain that the clearances for exports and the proofs of exports are duly accounted for and in case of failure on the part of exporter to submit proof of export, necessary action can be initiated promptly on the lines already mentioned in the above para.

4.3 In case clearances of such manufacturers for home consumption plus clearance for export where proof of export were not furnished within 6 months, exceed the exemption limit, they should take Central Excise Registration and follow the regular A.R.E.1 procedure.

4.4 This procedure will also be applicable to exports of ready-made garments.

## **Part-IV**

### **EXPORT TO NEPAL AND BHUTAN WITHOUT PAYMENT OF DUTY**

#### **1. Introduction**

1.1 The conditions and procedure for export to Nepal and the Board in Notification No. 45/2001-Central Excise (N.T.) dated 26.6.2001(hereinafter referred to as the 'said notification') has specified Bhutan without payment of duty (under bond).

#### **2. Places from where goods can be exported**

2.1 Under the said notification, export can be made from any of the following places: -

- (i) the factory of production or manufacture
- (ii) warehouse, or
- (iii) any other premises as may be approved by the Commissioner of Central Excise.

#### **3. Forms to be used**

3.1 The export shall be required to file a general bond in the Form specified in the said notification (**Annexure-16**) with such security or surety as may be specified by the concerned bond accepting authority. The bond shall be in a sum equal at least to the duty chargeable on the goods for the due arrival of export goods at the place of export (Land Customs Station) and their export therefrom under Customs supervision. The officer

who will accept the bond, will also be responsible for discharging that bond upon furnishing proof of export by the exporter.

3.2 The bond shall not be discharged unless the goods are duly exported, to the satisfaction of the Deputy/Assistant Commissioner of Central Excise or Maritime Commissioner or such other officer as may be authorised by the Board on this behalf within the time allowed for such export or are otherwise accounted for to the satisfaction of such officer, or until the full duty due upon any deficiency of goods, not accounted so, and interest, if any, has been paid

3.3 Invoice in the Form specified in the said notification (**Annexure-21**) shall be used for export clearances. Six copies of invoice shall be prepared. This document shall bear running serial number beginning from the first day of the financial year. During this year, for the sake of continuity, the serial number, as started from 1.4.2001, may continue. The stationery for invoice under erstwhile notification no. 50/94-Central Excise (N.T.) dated 22.9.1994 may be used for the time being” during this financial year. On the invoice, certain declarations are required to be given by the exporter. They should be signed by the exporter or his authorised agent.

3.4 Certificate shall be required in the Form specified in the said notification (**Annexure-22**) from the Reserve Bank of India or any other bank authorised to deal in foreign exchange by the Reserve Bank of India, for the receipt of full payment in freely convertible currency. Certificate may also be required where remittance is received in Indian Rupee.

#### **4. Categories of exports and the conditions and safeguards thereto**

##### **4.1 Export under bond to Nepal or Bhutan where payment is in freely convertible currency**

4.1.1 Export under bond to Nepal or Bhutan where payment is in freely convertible currency, shall be subject to following conditions, namely: -

- (i) The importer in Nepal or Bhutan, as the case may be, shall open an irrevocable letter of credit in favour of the exporter in India, before the export takes place. However, this is not necessary in the following cases of export:

- (a) All excisable goods other than consumer goods and
- (b) Motor vehicle,

if they are exported without payment of duty as –

- (i) supplies to projects financed by any United Nations agency, the International Bank for Reconstruction and Development, International Development Association, the Asian Development Bank or any other multilateral agency of like nature; and
- (ii) to all diplomatic missions in Nepal or Bhutan provided the Indian Embassy or the Ministry of External Affairs certifies that the import is for the personnel of the diplomatic community;

- (ii) The exporter shall furnish a bond in Form specified in Annexure-I of the above-mentioned notification before the Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory, warehouse, or the approved premises or such other officer as authorised by the Board on this behalf, from where the goods are removed for export to Nepal, as the case may be, or Bhutan;
- (iii) After the exports are effected the exporter shall furnish a certificate of remittances from the Reserve Bank of India or an authorised bank in India, showing that full payment for the goods has been duly received in freely convertible currency, as defined in the said notification. On receipt of such a certificate and on the satisfaction that the goods have been exported in terms of the bond, the bond accepting authority shall discharge the exporter of his liabilities under the bond.

#### **4.2 Export to Nepal in bond against payment in Indian rupee**

4.2.1 As an exception to the above category of export, capital goods, as defined in the said notification may be exported under bond directly from the factory of manufacture to Nepal against any global tender invited by His Majesty's Government of Nepal without payment of duty, for which payment is received in Indian currency. Such exports shall be subject to the following further conditions, namely: -

- (i) the exporter shall furnish a bond in specified Form before the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise or such other officer as authorised by the Board on this behalf; and
- (ii) the exporter shall furnish a certificate of remittances in specified Form from a bank in India showing that full payment for the goods has been duly received in Indian currency by the said bank;

4.2.2 On receipt of the certificate of remittances and on the satisfaction that the goods have been exported in terms of bond, the bond accepting authority shall discharge the exporter of his liabilities under the bond.

#### **4.3 Export in bond of petroleum oil and lubricant products to Nepal**

4.3.1 The export in bond without payment of duty of excise of petroleum oil and lubricant products to Nepal is permitted through the agency of Nepal Oil Corporation from calibrated stocks of M/s Indian Oil Corporation registered as a warehouse in accordance with the provisions rule 20 the said Rules, and situated at places notified for the purpose or purchased without payment of duty from tanks of other Oil Companies or Undertakings. For this facility, the Indian Oil Corporation shall be required to furnish a bond in the specified Form to the Deputy/Assistant Commissioner of Central Excise having jurisdiction over the installation from which the petroleum oil and lubricant products are to be exported.

**4.4 Export in bond for supplies to Government of India Aided Projects in Nepal and the Embassy Cooperative Store and Embassy Petrol Pump located in Nepal for the bonafide use of officers and staff of the Embassy in Nepal**

4.4.1 Export in bond for supplies to Government of India Aided Projects in Nepal and the Embassy Cooperative Store and Embassy Petrol Pump located in Nepal for the *bonafide* use of officers and staff of the Embassy in Nepal shall be subject to the following conditions, namely: -

- (i) the exporter shall furnish a bond in specified Form to the Deputy/Assistant Commissioner of Central Excise; and
- (ii) the First Secretary (Economic), Embassy of India, Nepal, certifies the signature and stamp or seal of the person authorised to place the order for supply of excisable goods to the specified Government of India Aided Projects in Nepal;

**4.5 Export without payment of duty to Kurichu Hydro Electric Project and Tala Hydro Electric Project in Bhutan**

4.5.1 Export of all excisable goods without payment of duty to Kurichu Hydro Electric Project and Tala Hydro Electric Project in Bhutan shall be subject to the following conditions, namely: -

- (i) The exporter shall furnish a bond in Form in specified Form before the Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory or warehouse from which the goods have to be cleared;
- (ii) The goods are supplied against one or more specified contract which have been registered with the Directorate General of Inspection, Customs and Central Excise in the following manner:
  - (a) Every Project Authority specified in the notification (notification no. 45/2001-CE(N.T.), supra, desirous of obtaining supplies under benefits of this notification shall apply in writing to the Director General, Directorate General of Inspection (Customs and Central Excise) [hereinafter referred to as DGICCE], 5<sup>th</sup> Floor, Drum Shape Building, I.P. Estate, New Delhi for registration of the contract through Ministry of External Affairs as soon as the contract has been concluded with the suppliers;
  - (b) The application shall be accompanied by the original deed of contract and list of items duly approved by the Ministry of External Affairs;
  - (c) The Project Authority shall also furnish such other documents or other particulars as may be required by the DGICCE in connection with the project.
  - (d) DGICCE, on being satisfied, shall register the contract by entering the particulars in a Register maintained separately for each project and shall assign a number in token of registration and communicate the same to the Project Authority and shall also return to the project authority all original documents which are no longer required. This number shall be indicated on all the invoices and other related documents.



- (e) A copy of the contract so registered along with the approved list of items shall be forwarded to the Commissioner of Central Excise having jurisdiction over the factory/warehouse to which the contract pertains for extending benefits under this notification and consequent benefits under the Central Excise CENVAT Credit Rules, 2001 to the supplier.

#### **4.5.2 Amendment of Contract**

- (a) If any contract referred to hereinabove is amended, whether before or after registration, the Project Authority shall make an application for registration of amendments to the said contract to the DGICCE.
- (b) The application shall be accompanied by the original deed of contract relating to the amendment and a list of items pertaining to amendment, if any, duly approved by the Ministry of External Affairs.
- (c) On being satisfied that the application is in order the DGICCE shall make note of the amendments in the relevant entries.
- (d) The DGICCE shall forward copy of the amended contract and the amended list of items, if any, to the concerned Commissioner of Central Excise.

#### **4.5.3 Finalisation of Contract**

- (a) Each Project Authority shall submit a statement of supplies received on quarterly basis along with relevant invoices and other documents to the DGICCE within one month from the last date of the quarter.
- (b) The Commissioner of Central Excise to whom a registered contract has been forwarded shall forward a statement, after all the items covered under the contract have been exported, to the DGICCE.
- (c) The DGICCE shall, on receipt of the statement, reconcile both and, if satisfied, finalise the contract and close the entry in the register."

4.5.4 There should be a release order from the officer authorised by the General Manager of the concerned project authority covering the goods;

4.5.5 The exporter shall furnish a bond in the specified Form to the Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory or warehouse or the approved premises or from where the goods are removed for export to the specified project.

## 5. Export Procedure

### 5.1 Procedure at the place of despatch

5.1.1 Six copies of invoice shall be presented to the Superintendent or Inspector of Central Excise having jurisdiction over the factory, warehouse or any other approved premises along with the export goods;

5.1.2 In case of export for supplies to Government of India Aided Projects in Nepal and the Embassy Cooperative Store and Embassy Petrol Pump located in Nepal for the **bonafide** use of officers and staff of the Embassy in Nepal, the order from Project Implementation Authority shall also be presented;

5.1.3 the Superintendent or Inspector of Central Excise having jurisdiction over the factory, warehouse or any other approved premises shall verify the identity of goods with reference to description mentioned in the invoice and the particulars of the duty payable but for export, and if found in order, he shall seal the consignment, tank or container with Central Excise seal or in such other the manner as may be specified by the Commissioner of Central Excise and endorse each copy of the export invoice in token of having such verification and examination done by him;

5.1.4 The said Superintendent or Inspector will allow export and distribute invoices in the following manner:

Original (First copy)	Hand over to the exporter
Duplicate, triplicate and quadruplicate (second, third and fourth copies)	Hand over to the exporter or his agent in a sealed cover for delivery to the Customs officer in-charge of the Land Customs Station through which the goods are intended to be exported.
Quintuplicate copy (Fifth copy)	Forwarded to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise who has accepted the bond
Sixtuplicate (Sixth copy)	Retain for official record

5.1.5 The exporter or his agent shall then be free to remove the goods for export to Nepal through the Land Customs Station indicated on the respective invoices;

5.1.6 Where the goods are exported by land, the export shall take place through any of the following land customs stations, namely, Sukhiapokhri, Panitanki, Jogbani, Jayanagar, Bairgania, Bhimnagar, Bitamore (Sursand), Raxaul, Sonauli, Barhni, Nepalganj Road, Shohratgar (Khunwa), Jarwa, Katarniaghat, Gauriphanta, Banbasa, Jhulaghat, Dharchula, Naxalbari, Galgolia, Kunaui, Sonabarsa, Tikonja, or such other check-post as may be specified by the Board;

## 6. Procedure at the Land Customs Station

6.1 The exporter or his agent shall present the goods to the officer of customs in-charge of the land customs station along with the original copy of the invoice and the

sealed cover containing duplicate, triplicate and quadruplicate copies and obtain acknowledgement;

6.2 Where the contents of all the copies of invoices tally and the packages, goods or container are satisfactorily identified with their seals in tact, the officer of customs in-charge of the land customs station shall make necessary entries in the register maintained at the land customs station and allow the goods to cross into the territory of Nepal or Bhutan and certify accordingly on each of the four copies of the invoice and indicate the running serial number in red ink prominently visible and encircled. In case the seals are not found intact, the officer of customs in charge of the land customs station may re-seal the containers with his own seal after satisfying himself as to the identity of the containers and the goods from the particulars shown on the invoice by opening and examining the goods, if necessary;

**6.3 Distribution of invoices by Customs Officer:**

Original (First copy)	Hand over to the exporter or his agent alongwith the goods for presentation to the Customs Officer of Nepal or Bhutan.
Duplicate and triplicate (Second and third copy)	Send to the Nepalese or Bhutanese Customs Officer in-charge of the check post through which the goods are to be imported into Nepal or Bhutan, as the case may be

**6.4 Presentation of goods to Nepalese or Bhutanese Customs Officers:** the goods are then to be produced before the Nepalese or Bhutanese Customs Officer, as the case may be, at the corresponding border check-post alongwith the original copies of the invoice. The Nepalese or Bhutanese Customs Officer shall deal with the original and triplicate copies of the invoice as directed by His Majesty's Government of Nepal or His Majesty's Government of Bhutan and return the duplicate copy, after endorsing his certificate of receipt of goods in Nepal or Bhutan, as the case may be, directly to the officer of customs-in-charge of the land customs station in India;

**6.5 Further distribution of invoices:** The officer of customs in-charge of the land customs station shall forward the duplicate copy to the Central Excise Officer in charge of the factory or warehouse from which the goods were removed for export without payment of duty. For this purpose, the said officer in charge of the land customs station should keep a note of the return of duplicate copies from the Customs Officer of Nepal or Bhutan and remind the exporter for such copies as have not been received, failing which the exporter may be liable to pay full duty on such consignments;

6.6 The officer of customs officers, at the land customs station shall also maintain a **separate** record of all such in-bond exports of the goods without payment of duty and shall assign running serial number on the invoice at the time of export as indicated earlier;

**7. Procedure for discharge of bond or the duty liability**

7.1 Essential ingredients for discharge of bond have already been mentioned under each category of exports.

7.2 The general procedure would be - the exporter shall submit the quadruplicate copy duly endorsed by the officer of customs in-charge of land customs station to the Central Excise officer who has accepted the bond alongwith bank, certificate evidencing receipt of payment in freely convertible currency (in Indian Rupee in particular category), within six months from the date of removal of the goods. It may be noticed that earlier, the above mentioned period has been extended from 'three' months to 'six' months, as compared to erstwhile notification.

7.3 The Central Excise officer will tally the particulars with quintuplicate copy of the invoice received from the Central Excise officer who has allowed clearance from the factory or warehouse or any other approved premises and make suitable entries in Bond Account of the exporter, giving provisional credit or discharging the bond provisionally.

7.4 On receipt of the duplicate copy of invoice, duly endorsed by customs officer of Nepal or Bhutan from the customs officer in charge of land customs station, certifying export of the goods and after tallying the particulars with those in quadruplicate copy of the invoice make suitable entries in Bond Account and the obligation under the said bond will then be discharged.

7.5 In case of failure to export within six months from the date of removal from the factory or warehouse or any other approved premises, or shortages noticed, the exporter shall discharge the duty liability on the goods not so exported or shortage noticed along with twenty four per cent. interest thereon from the date of removal for export without payment of duty till the date of payment of duty in terms of the bond.

## **Part-V**

### **Miscellaneous Export Provisions**

#### **1. Cancellation of Export documents**

1.1 If the excisable goods cleared under A.R.E.1 are not exported for any reason and the exporter intends to divert the goods for home consumption, he may request in writing the authority who accepted the bond or letter of undertaking to allow cancellation of application, and diversion of goods for consumption in India. He will be permitted to do so if he pays the duty as specified in the application along with interest at the rate of twenty four percent per annum on such duty from the date of removal for export from the factory or warehouse till the date of payment of duty. The permission shall be granted within 3 working days. Since duty assessment on A.R.E 1 has to be done in normal course, there will not be any need for re-assessment by the Department or the assessee unless there are reasons to believe that the assessment was not correct. After the duty is discharged, the exporter may take credit in his running bond (where bond is furnished) on the basis of letter of permission, invoice and TR-6 Challans on which duty is paid. He shall record these facts in the Daily Stock Account

1.2 If the exporter, after clearing the goods for export without payment of duty, intends to change the destination or buyer or port/place of export, he may do so provided he informs the bond/LUT accepting authority in writing about the changes and makes necessary changes in all the copies of A.R.E.1 and the invoices. If he intends to

cancel the original export documents and issue fresh ones, the same may be done under permission and authentication by bond/LUT accepting authority who will ensure that the serial no. and date of the initial documents are endorsed on the fresh documents. In such cases, if bond was furnished for single consignment, fresh bond may not be asked.

## **2. Re-entry of the goods, cleared for export under bond but not actually exported, in the factory of manufacture.**

2.1 The excisable goods cleared for export under bond or undertaking but not actually exported for any genuine reasons may be returned to the same factory provided –

- (i) such goods are returned to the factory within six months along with original documents (invoice and A.R.E.1);
- (ii) the assessee shall give intimation of the re-entry of each consignment in Form D-3 within twenty-four hours of such re-entry;
- (iii) such goods are to be stored for separately at least for 48 hours from the time intimation is furnished to Range Office or shorter period if verification is done by the Superintendent of Central Excise in the manner mentioned subsequently ; and
- (iv) the assessee shall record details of such goods in the daily stock account and taken in the stock in the factory;

2.2 The Superintendent of Central Excise will verify himself or through Inspector in charge of the factory, about the identity of such goods with reference to invoice, A.R.E.1 and the daily stock account in respect of 5% of intimations, within another 24 hours of receipt of intimation.

## **3. Re-import of exported goods for repairs etc. and subsequent re-export**

3.1 It has been provided in the Notification 42/2001-Central Excise (N.T.), supra, that the exported excisable goods which are re-imported for carrying out repairs, re-conditioning, refining, re-making or subject to any similar process may be returned to the factory of manufacture for carrying out the said processes and subsequent re-export. It may be noted that 're-import and re-export' shall be governed by the provisions of the Customs Act, 1962.

3.2 So far Central Excise is concerned, the manufacturer shall maintain separate account for return of such goods in a daily stock account and make suitable entry on the said account after goods are processed, repaired, re-conditioned, refined or re-made. When such goods are exported, the usual export procedure shall be followed.

3.3 Any waste or refuse arising as a result of the said processes shall be removed from the factory on payment of appropriate duty or destroyed after informing the proper officer in writing at least 7 days in advance and after observing such conditions and procedure as may be specified by the Commissioner of Central Excise and thereupon the duty payable on such waste or refuse may be remitted by the said Commissioner of Central Excise.

#### **4. Entry of goods in another factory of the same manufacturer for consolidation and loading of consignment for export:**

4.1 Goods removed without payment of duty for export on A.R.E.1 from one factory (hereinafter referred to as 'the first factory') of a manufacturer are allowed to enter in another factory of the said manufacturer (hereinafter referred to as the 'subsequent factory') ONLY for the purpose of consolidation and loading of goods manufactured in subsequent factory and export therefrom subject to following conditions: -

- (i) The exporter shall be required to get his goods examined and sealed at each factory [the places of despatch] by a Central Excise Officer.
- (ii) The export goods shall be brought under cover on invoice and A.R.E.1 in the subsequent factory in original packing and duly sealed by Central Excise Officers. In case goods are stuffed in a container, Central Excise Officer shall duly seal the container in the first factory and the sealing of each package shall not be insisted upon. The Central Excise Officer having jurisdiction over the subsequent factory shall supervise the opening of the seal of container, loading of goods (duly sealed if these goods are to be loaded in open truck/vehicle) belonging to the subsequent factory in vehicle or container and sealing of the container.
- (iii) The exporter or the manufacturer shall pay the supervision charges.

#### **5. Samples of export goods**

5.1 The Central Excise Officer examining the consignment would draw representative samples wherever necessary in triplicate. He would hand over two sets of samples, duly sealed, to the exporter or his authorized agent, for delivering to the Customs Officer at the point of export. He would retain the third set for his records. The instructions and procedure for drawl of samples specified by the Board should be followed.

### **Part-VI**

#### **Manufacture of export goods in bond**

##### **1. Introduction**

1.1 The Board has, by Notification No. 43/2001-Central Excise (N.T.) dated 26.6.2001 [hereinafter referred to as the 'said notification'] notified the conditions, safeguards and procedures for procurement of the excisable without payment of duty for the purpose of use in the manufacture or processing of export goods and their exportation out of India, to any country except Nepal and Bhutan.

1.2 It may be noted that in rule 19 of the said Rules and in said notification, expression 'export goods' has been used. This refers to excisable goods (dutyable or exempted) as well as non-excisable goods. Thus, the benefit of input stage rebate can be claimed on export of all finished goods whether excisable or not.

1.3 It may be also noted that materials, as defined in the said rule 19 may be used for manufacture or processing. In other words, any processing not amounting to

manufacture (such as packing, blending etc.) will also be eligible for the benefit under said notification.

1.4 Removal without payment of duty of equipment and machinery in the nature of capital goods used in relation to manufacture or process of finished goods shall not be allowed.

## **2. Conditions and procedures**

2.1 The conditions and procedure for manufacture of export goods in bond shall be, as follows:

- (i) The manufacturer or the processor intending to avail benefit of this notification shall register himself under rule 9 of the said Rules; and
- (ii) The procedure specified in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 shall be followed, mutatis mutandis. It is clarified that there is no need for any separate exemption notification for applying this rule.
- (iii) The manufacturer or processor shall file a declaration with the Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory of manufacture under the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001, and also declare ratio of input and output and rate of duty payable on excisable goods to be procured without payment of duty. Where there are more than one export product, separate statement of the input-output ratios may be furnished for each export product. The consumption should be net of recycled materials. Where recoverable wastage are generated but not recycled but sold on account of its unsuitability, the same should be clearly reflected in the declaration. The declarant should also enclose, in case of a new product or in case where the manufacturer is not regularly manufacturing the export goods and clearing for home consumption or export, a write up of manufacturing process.

## **2.2 Verification of Input-output ratio and grant of permission**

2.2.1 The Deputy/Assistant Commissioner of Central Excise shall verify the correctness of the ratio of input and output mentioned in the declaration filed before commencement of export of such goods, if necessary, by calling for samples of finished goods or by inspecting such goods in the factory of manufacture or process. If, after such verification, the Deputy/Assistant Commissioner of Central Excise is also satisfied that there is no likelihood of evasion of duty, he may grant permission to the applicant for manufacture or processing and export of finished goods and countersign the application in the manner specified in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001;

2.2.2 It is clarified that for the sake of convenience and transparency, input output norms notified under the Export Import Policy may be accepted by the Department unless there are specific reasons for variation. However, in case, the input output norms notified under the Export Import Policy does not include all the materials used in export goods, the claim under this scheme should not be denied merely on that ground.

2.3 If for any reason the Deputy/Assistant Commissioner of Central Excise is not satisfied with reference to the correctness of the consumption norms claimed by the applicant, especially where the product is being manufactured for the first time in his jurisdiction, he may permit the manufacturing operations and the verification of the consumption norms should be completed while the process of manufacture is on. The verification should be completed before allowing the export of the goods as the manufacturer working under this Scheme is expected to declare the raw materials costumed in ARE-2.

2.4 The permission granted by the Deputy/Assistant Commissioner of Central Excise can be withdrawn at any time if any glaring misuse resulting into loss of revenue comes to his notice.

2.5 Any change in the consumption ratio [input-output ratio] should be promptly intimated by the manufacturer to the deputy/Assistant Commissioner of Central Excise and the jurisdictional Range Superintendent giving reference of the permission granted. If necessary, the Deputy/Assistant Commissioner of Central Excise may order fresh verification.

### **3. Procurement of material**

3.1 The procedure of procurement of material required for the manufacture shall be governed by the provisions of the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001.

### **4. Removal of materials or partially processed material for processing**

4.1 The Deputy/Assistant Commissioner of Central Excise may permit a manufacturer to remove the materials as such or after the said materials have been partially processed during the course of manufacture or processing of finished goods to a place outside the factory -

- (a) for the purposes of test, repairs, refining, reconditioning or carrying out any other operation necessary for the manufacture of the finished goods and return the same to his factory without payment of duty for further use in the manufacture of finished goods or remove the same without payment of duty in bond for export, provided that the waste, if any, arising in the course of such operation is also returned to the said factory of the manufacture or process; or
- (b) for the purpose of manufacture of intermediate products necessary for the manufacture or processing of finished goods and return the said intermediate products to his factory for further use in the manufacture or process of finished goods without payment of duty or remove the same, without payment of duty for export, provided that the waste, if any, arising in the course of such operation is also returned to the factory of manufacturer or processor;
- (c) Any waste arising from the processing of materials may be removed on payment of duty as if such waste is manufactured or processed in the factory of the manufacturer or processor;



## 5. Procedure for export

5.1 The goods shall be exported on the application in Form A.R.E. 2 specified in the **Annexure-23** and the procedures specified in the Notification No. 42/2001-Central Excise dated 26<sup>th</sup> June, 2001 shall be followed. It is mentioned that in such cases, fresh A.R.E.1 is not required because export will be effected on A.R.E.2 itself. But the procedure specified in the aforementioned notifications relating to removals, distribution of documents at the place of despatch and place of export, acceptance of proof of export etc. shall be followed *mutatis mutandis*.

5.2 The Deputy/Assistant Commissioner of Central Excise should point out deficiency, if any within 15 days of filing of A.R.E.1 duly certified by Customs indicating actual export. Queries/ deficiencies shall be pointed out at one go and piecemeal queries should be avoided.

5.3 Only a manufacture or processor of finished goods who exports the goods can claim benefit of input stage rebate. This facility shall not be extended where export are through merchant exporters.

5.4 The benefit of input stage rebate cannot be claimed in any of the following situations:

- (i) where the finished goods are exported under Claim for Duty Drawback
- (ii) where the finished goods are exported in discharge of export obligations under a Value Advance Licence or a Quantity Based Advance Licence issued before 31.03.95.
- (iii) where facility of input stage credit is availed under CENVAT Credit Rules, 2001

## 6. Accounts & Returns

6.1 The manufacturer shall maintain register of duty free materials brought to the factory for manufacture of finished goods for export and the account for finished goods manufactured and exported. Any officer duly empowered by the Deputy/Assistant Commissioner of Central Excise in this behalf shall have access at all reasonable times to any premises indicated in the application. The applicant shall also permit the officer of Central Excise access to any records relating to the production, storage and export of goods.

6.2 The colour coding of A.R.E.2 will be as follows:-

Original	White
Duplicate	Buff
Triplicate	Pink
Quadruplicate	Green
Quintuplicate	Blue

## **7. Checks by Customs Officers**

7.1 Samples will be invariably drawn by the Customs Officers for testing at the place of export in case the export goods are of sensitive nature considering that they are made from materials bearing high Central Excise Duty.

7.2 Customs officer responsible for making endorsement in A.R.E.2 shall carefully check that exports are not covered under any of the following:

- The Duty Drawback Scheme
- A Value Based Advance Licence issued prior to 31.03.95
- A Quantity Based Advance Licence issued prior to 31.03.95

8. The Deputy/Assistant Commissioner sanctioning rebate shall ensure that the relevant transport copies (duplicate copies) of Duty paying document have been suitably defaced before payment is made.