

Multiplicity of excise duty rates hurting cement industry

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CEMENT

industry, like steel industry is backbone of infrastructure. Creation of world class infrastructure is a five year plan priority. Economic growth of 9%, to a great extent, will depend on removal of infrastructure bottlenecks. Current per capita consumption of cement in India is only 85 kgs as against world standard of 256 kgs. Still, prices of cements are spiralling up adding huge additional cost to the infrastructure projects. A part of problem can be attributed on the complex duty structure.

Complex duty structure:

Presently, Cement Industry attracts multiple rates of excise duty, depending on maximum retail price (MRP) and nature of packing (Packaged/bulk), which further varies according to the producer (mini steel plant/ other plants) and quantum of clearance. One look at the Notification No. 4/2006-CE dated 1 March 2006 will reveal complexity and multiplicity of the duty structure. It is difficult to comprehend the notification in first reading. Multiplicity of rate structure is exhibited below :

Â	In Rupees 600	Unit T	Â
Statutory Duty	Â	Â	Â
Effective Duty*:	Â	Â	Â
Manufactured in a Mini Cement Plant	Â	Â	Â
MRP Not exceeding Rs 3800/Tonne	220	T	up to 99,000 Mts
MRP Exceeding Rs 3800/Tonne	370	T	
Bulk	250	T	
MRP Not exceeding Rs 3800/Tonne	350	T	Â
MRP Rs 3800-5000/Tonne	12%		
MRP Exceeding Rs 5000/Tonne	600	T	Â
Bulk	400	T	Â
Other Plants			
MRP Not exceeding Rs 3800/Tonne	350	T	Â
MRP Rs 3800-5000/Tonne	12%		
MRP Exceeding Rs 5000/Tonne	600	T	Â
Bulk	400	T	Â

*Vide Notification No 4/2006 dated 1.3.2006 as amended by 4/2007 dated 1.3.2007 and 23/2007 dated 3.5.2007

Multiplicity and complexity of duty structure, which is peculiar to the cement industry, is against the policy of simplification and rationalization of indirect tax structure which is being vigorously pursued by the Government. Multiplicity of the tax rate is difficult to administer and leads to duty evasion.

MRP based duty and Abatement on valuation:

Presently, packaged cement of MRP of Rs 3800 to 5000 per tonne, produced by mini plant beyond 99000 tonne or produced by plants other than mini plants attracts excise duty @ 12% ad valorem on MRP without any abatement.

Generally, abatement on MRP is provided by the Government on goods which are liable to ad valorem rate of duty with reference to MRP. Such abatement is provided to take care of local taxes, freight, commission on sale and other incidental expenses which normally does not form part of assessable value under section 4 of the Central Excise Act. Notification 2/2005-CE(NT) dated 7.1.2005 provides abatement ranging from 30 to 50% for various goods. The NCAER Draft Report 2005 has suggested 55% Abatement for Grey Cement due to the high freight intensity and Trade Margins on Cement. However, no such abatement has been provided for cement. Absence of abatement has resulted in a Tax on Trade Margins and a Tax on Tax.

Further, absence of abatement on MRP while levying excise duty ad valorem with reference to MRP has resulted in very high incidence of actual duty. The general rate of excise duty is 16% ad valorem on value of clearance under section 4 of the Central Excise Act. Considering that abatement is 35% or 50%, effective ad valorem duty works out to 18% to 24% as indicated below:

MRP/Tonne	Rate of Duty	Duty in Rs/Tonne	Abatement	Assessable Value	Effective rate of duty
Rs 3800	12%	456	35%	2470	18%
Â	12%	456	50%	1900	24%
Rs 5000	12%	600	35%	3250	18%
Â	12%	600	50%	2500	24%

Cement industry is backbone to the growth of infrastructure. Therefore there is a need to reduce the incidence of excise duty on cement.

Mini Cement Plant:

Mini cement plant” has been defined as

- (i) a factory using vertical shaft kiln, with installed capacity not exceeding 300 tonnes per day or 99,000 tonnes per annum and the total clearances of cement produced by the factory, in a financial year, shall not exceed 1,09,500 tonnes; or
- (ii) a factory using rotary kiln, with installed capacity not exceeding 900 tonnes per day or 2,97,000 tonnes per annum and the total clearances of cement produced by the factory, in a financial year, shall not exceed 3,00,000 tonnes.

A mini cement plant with an installed capacity of 300 tonnes or 900 tonnes will produce 1,09,500 tonnes or 3,28,500 tonnes of cement in 365 days using vertical shaft kiln and rotary kiln respectively. Annual installed capacity has been worked out on the basis of 330 working days instead of 365 days. Hence, this has become a bone of contention between the cement producers and the department.

Further, a factory using rotary kiln has been put into a dis-advantage. If the plant is working for 365 days producing 3,28,500 tonnes, it cannot clear 28,500 tonnes of cement produced in the same year, as annual clearance is capped at 3,00,000 tonnes to avail the benefit of the notification.

Suggestion:

Government may provide a uniform rate of 8% ad valorem on value, as determined under section 4 of the Central Excise Act, for mini plants upto 99000 Tonnes and 12% on all other clearances subject to a cap of Rs 600 per tones. This will result in simplification and rationalization of tax structure.

Alternatively, if different duty slabs are absolutely necessary for different types of consumers and producers, the Government should provide abatement on all products where ad valorem rate of duty is linked to Maximum Retail Price (MRP). This will eliminate Tax on Trade Margins and a Tax on Tax and also reduce the effective rate of duty which, at present works out to more than 16%.

Rationalization of duty structure will reduce the prices of cements and give an impetus to the infrastructure projects.