

## A few legislative amendments required in Central Excise

**By R M Gangreddiwar**

**BUDGET** 2008 is now only a couple of weeks away and I would like to bring certain points to the notice of the Finance Minister. And there are as follows :

### **++ Penal provisions for violation of Section 11D :**

Section 11D of the Central Excise Act, 1944 is a self-contained provision providing for the statutory liability of any amount of duty collected by the assessee in excess of the duty paid on any excisable goods, realized in any manner as representing duty of excise. Further Section 11DD provides for the interest liability on the duty amount payable under Section 11D. However, there is no penal provision for non-payment of the excess duty amount collected by the assessee. A penal provision ought to be also enacted to deter such “tax evaders”.

### **++ Remission under Rule 21 of CER' 2002 – prescription of time limit :**

Rule 21 of the Central Excise Rules, 2002 provides remission of duty on the goods lost or destroyed by natural causes or by unavoidable accident or claimed by the manufacturer as unfit for consumption or for marketing, at any time before removal. It is noticed that several manufacturers are approaching the department seeking such remission much after the actual incidence resulting in practical difficulties in verifying such claim. Consequently, such claims are rejected by the competent authorities and the matter drags on before the Tribunal and in remand proceedings. It is suggested that a “reasonable time limit” should be prescribed in the rule for filing such remission claims.

### **++ Section 6 of CEA '44 needs amendment :**

Section 6 of the Central Excise Act, 1944 provides for registration of the goods manufactured included in the First and Second Schedule to the Central Excise Tariff Act, 1985. Since goods specified in Third Schedule & which are subjected to notified activities are held to be “manufacture” in terms of Section 2(f)(iii) of the CEA'44, such “manufacturers” would also necessarily be required to take out registration. As such, Section 6 of the Central Excise Act, 1944 needs to be amended to make a reference to Third Schedule too.

### **‡ Rebate of duty for exports to countries other than Nepal and Bhutan — Procedure Notification No. 40/2001-C.E. (N.T.) as amended :**

Para (3)(ix) of Notification No. 19/2004-C.E. (N.T.), dated 1.3.2005 issued under Rule 18 of the Central Excise Rules, 2002 reads as under :

*Where the goods are not exported directly from the factory of manufacture or warehouse, 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 in sub-paragraph (vii).*

The word “~~by~~” before the word Superintendent appears to be incorrectly used in place of the word **to**”. To remove ambiguity, the same needs to be substituted accordingly.

**(The views expressed are strictly personal.)**