

Excise

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Amendment of section 2. **126.** In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 2, in clause (f),— 1 of 1944.

(i) in sub-clause (ii), for the word “manufacture,”, the words “manufacture; or” shall be substituted;

(ii) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) which is specified in relation to any goods by the Central Government, by notification in the Official Gazette, as amounting to manufacture,”. 40

Amendment of section 3. **127.** In section 3 of the Central Excise Act, in sub-section (1), in the proviso, in *Explanation 2*, for clause (i), the following clause shall be substituted, namely:—

‘(i) “free trade zone” means a zone which the Central Government may, by notification in the Official Gazette, specify in this behalf;’. 45

Amendment of section 5A. **128.** In section 5A of the Central Excise Act,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.”; 50

(ii) in sub-section (5), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted.

- 129.** In section 11AA of the Central Excise Act, in sub-section (1), for the words "eighteen per cent.", the words "ten per cent." shall be substituted. Amendment of section 11AA.
- 5 **130.** In section 11AB of the Central Excise Act, in sub-section (1), for the words "eighteen per cent.", the words "ten per cent." shall be substituted. Amendment of section 11AB.
- 131.** Sections 16 and 17 of the Central Excise Act shall be omitted. Omission of sections 16 and 17.
- 132.** In section 23D of the Central Excise Act, in sub-section (2), in the first proviso, the words "except in the case of a resident applicant" shall be omitted. Amendment of section 23D.
- 10 **133.** Chapter IV of the Central Excise Act shall be omitted. Omission of Chapter IV.
- 134.** In section 35C of the Central Excise Act,—
Amendment of section 35C.
- (i) in sub-section (2), for the words "four years", the words "six months" shall be substituted;
- (ii) after sub-section (2), the following sub-section shall be inserted, namely:—
- “(2A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed:
- 15 Provided that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 35B, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:
- Provided further that if such appeal is not disposed of within the period specified in the first
- 20 proviso, the stay order shall, on the expiry of that period, stand vacated.”.
- 135.** In section 35E of the Central Excise Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 35E.
- “(3) The Board or Commissioner of Central Excise, as the case may be, shall, where it is possible to do so, make order under sub-section (1) or sub-section (2), within a period of six months, but not beyond a period of one year, from the date of the decision or order of the adjudicating authority.”.
- 25 **136.** (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 509(E), dated the 8th July, 1999, issued under sub-section (1) of section 5A of the Central Excise Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Third Schedule, on and from the 8th July, 1999 to the 28th February, 2002 (both the dates inclusive) retrospectively, and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be and always to have been, for all purposes, as validly or effectively taken or done as if the notification as amended by this sub-section had been in force at all material times. Amendment of notification issued under section 5A of the Central Excise Act.
- 30 (2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively at all material times.
- 35 (3) Notwithstanding the cessation of the amendment under sub-section (1) on the 1st March, 2002, no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notification, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by sub-section (1) had been in force at all material times.
- 40 (4) Notwithstanding the cessation of the amendment under sub-section (1) on the 1st March, 2002, recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would have not been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the date on which the Finance Bill, 2002 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days, till the date of payment.
- 45 *Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notification referred to in sub-section (1) had not been amended retrospectively by that sub-section.
- 50 **137.** (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R.299(E), dated the 31st March, 2000, issued under rule 57AK of the Central Excise Rules, 1944, by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Fourth Schedule, on and from the date mentioned in column (3) of that Schedule against that notification retrospectively and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be, and always to have been, for all purposes, as validly or effectively taken or done as if the notification as amended by this sub-section had been in force at all material times. Amendment of notification issued under rule 57AK of the Central Excise Rules, 1944.
- 60 (2) Credit shall be allowed of all such declared duty, which have been disallowed but which would not have been so disallowed if the amendment made in the notification referred to in sub-section (1) had been in force at all material times.

(3) Refund shall be made of all such credit of the declared duty, which have been collected but which would have not been so collected if the amendment made in the notification referred to in sub-section (1) had been in force at all material times.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, 1944, an application for the claim of refund of the credit of the declared duty under sub-section (3) shall be made within six months from the date on which the Finance Bill, 2002 receives the assent of the President. 5

1 of 1944.

Central Excise Tariff

Amendment
of Act
5 of 1986.

138. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(i) the First Schedule shall be amended in the manner as specified in the Fifth Schedule;

(ii) the Second Schedule shall be amended in the manner as specified in the Sixth Schedule. 10

Amendment
of Act
58 of 1957.

139. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), the First Schedule shall be amended in the manner as specified in the Seventh Schedule.

Special
additional
excise duty.

140. (1) In the case of goods specified in the Eighth Schedule, being goods manufactured, there shall be levied and collected, for purposes of the Union, by surcharge, a duty of excise, to be called the Special Additional Excise Duty, at the rates specified in the said Schedule. 15

(2) The Special Additional Excise Duty chargeable on goods specified in the Eighth Schedule shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, 1944 or any other law for the time being in force. 1 of 1944.

(3) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the Special Additional Excise Duty leviable under this section in respect of the goods specified in the Eighth Schedule, as they apply in relation to the levy and collection of the duties of excise on such goods under that Act, or those rules, as the case may be. 20 1 of 1944.