

1 of 1944.

75. In section 5A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 5A.

5 "(1A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods."

76. In section 23A of the Central Excise Act,— Amendment of section 23A.

(a) for clause (c), the following clause shall be substituted, namely:—

10 '(c) "applicant" means—

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

15 (c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

20 and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 23C;'

(b) in clause (e), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

77. In section 32PA of the Central Excise Act,— Amendment of section 32PA.

25 (a) in sub-section (6), for the word, figures and letter "section 32F", the words, figures, letters and brackets "section 32F and sub-section (1) of section 32L" shall be substituted;

(b) after sub-section (7), the following sub-section shall be inserted, namely:—

30 "(8) The Settlement Commission may, if it is of opinion that any person who made an application under sub-section (5) has not co-operated with the proceedings before it, send the case back to the Appellate Tribunal and the provisions containing in section 35B, section 35C and section 35D shall, so far as may be, apply accordingly."

78. In section 35A of the Central Excise Act, in sub-section (5), for the words "Commissioner of Central Excise", the words "Chief Commissioner of Central Excise" shall be substituted. Amendment of section 35A.

79. In section 35B of the Central Excise Act,— Amendment of section 35B.

35 (a) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 may, by notification in the Official Gazette, constitute a Committee consisting of two Chief Commissioners of Central Excise for the purposes of this Act.";

54 of 1963.

(b) in sub-section (2),—

40 (i) for the words "The Commissioner of Central Excise may, if he is", the words "The Committee of Chief Commissioners of Central Excise may, if it is" shall be substituted;

(ii) for the words "on his behalf", the words "on its behalf" shall be substituted.

80. In section 35E of the Central Excise Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Central Excise" shall respectively be substituted. Amendment of section 35E.

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| Substitution of new Schedule for Third Schedule. | <p>81. For the Third Schedule to the Central Excise Act, the Schedule specified in the Third Schedule shall be substituted.</p> | |
| Amendment of Central Excise Rules, 1944. | <p>82. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act,—</p> <p>(a) rule 57CC as inserted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, <i>vide</i> notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 324(E), dated the 23rd July, 1996;</p> <p>(b) rule 57CC as substituted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, <i>vide</i> notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 122(E), dated the 1st March, 1997; and</p> <p>(c) rule 57D as substituted by the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette, <i>vide</i> notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 203(E), dated the 1st March, 2000, as substituted as rule 57AD by rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India, <i>vide</i> notification of Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 298(E), dated the 31st March, 2000,</p> <p>shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (3) of the Fourth Schedule on and from the corresponding date specified in column (4) of that Schedule against each of the rules specified in column (2) of that Schedule.</p> <p>(2) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of August, 1996 and ending with the 30th day of June, 2001 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—</p> <p>(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;</p> <p>(b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.</p> <p>(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.</p> <p><i>Explanation.</i>—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 this section had not come into force.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> |
| Amendment of rule 6 of the CENVAT Credit Rules, 2001. | <p>83. (1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 6 thereof as published in the Official Gazette <i>vide</i> notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 445(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Fifth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.</p> <p>(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1)</p> | <p>45</p> <p>50</p> |

had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

5 (a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for the non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;

10 (b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

15 *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 this section had not come into force.

20 **84.** (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 277(E), dated the 1st March, 1988, 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 Sixth Schedule, for the period commencing on and from the 21st day of February, 2000 to the 28th day of February, 2003 (both days 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 and 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 said 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) No recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, for which demand notices have been issued under section 11A or, recovery proceeding have been initiated under section 11 of the Central Excise Act, as if the amendment made by sub-section (1), had been in force at all material times.

(4) Refund shall be made of all such duties which have been collected but which would not have been so collected if the amendment made by sub-section (1) had been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

40 (5) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the duty of excise under sub-section (4) shall be made within one month from the day on which the Finance Bill, 2005 receives assent of the President.

85. (1) In the case of goods specified in the Seventh Schedule, being goods produced or manufactured in India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rates specified in the said Schedule.

Additional duty of excise (pan masala and certain tobacco products).

45 (2) The additional duty of excise referred to in sub-section (1) shall be in addition to any other duty of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

50 (3) The provisions of the Central Excise Act 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 additional duty of excise leviable under this section in respect of goods specified in the Seventh Schedule as they apply in relation to the levy and collection of the duty of excise on such goods under the Central Excise Act or, as the case may be, the rules made thereunder.

Excise tariff

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| Amendment of First Schedule and Second Schedule. | 86. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),— (a) the First Schedule shall be amended in the manner specified in the Eighth Schedule; (b) the Second Schedule shall be amended in the manner specified in the Ninth Schedule. | 5 of 1986. |
| Amendment of Chapter 15 of First Schedule. | 87. (1) In the First Schedule to the Central Excise Tariff Act, in Chapter 15, after NOTE 4, the following NOTE shall be inserted and shall be deemed to have been inserted for the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive), namely:— "5. In relation to refined edible vegetable oils falling under Heading Nos. or headings 15.02 and 15.03, the process of refining, that is to say, any one or more of the processes, namely, treatment of crude oil with an alkali, bleaching and deodorisation, shall amount to 'manufacture'". (2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive) (hereafter in this section referred to as the said period) under the Central Excise Tariff Act, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority— (a) all duties of excise levied, assessed or collected during the said period on any excisable goods under the Central Excise Act, shall be deemed to be and shall be deemed always to have been, as validly levied, assessed or collected as if the amendment made by sub-section (1) had been in force at all material times; (b) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority for the refund of, and no enforcement shall be made by any court, tribunal or other authority of any decree or order directing the refund of, any such duty of excise which have been collected and which would have been validly collected if the amendment made by sub-section (1) had been in force at all material times. (3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the Chapter referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said Chapter, retrospectively, at all material times. <i>Explanation.</i> —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 this section had not come into force. | 5 10 15 20 25 30 |