

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification
No. 34/2016- Central Excise (N.T.)

New Delhi, dated the 26th July, 2016

G.S.R. (E). - In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules, namely:—

1. Short title, extent and commencement. — (1) These rules may be called the Articles of Jewellery (Collection of Duty) Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. — These rules shall apply to the articles of jewellery or parts of articles of jewellery or both, falling under Heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986).

3. Definitions. — In these rules, unless the context otherwise requires, —

(a) “Act” means the Central Excise Act, 1944 (1 of 1944);

(b) “assessment” includes self-assessment of duty made by the assessee;

(c) “assessee” means a manufacturer or principal manufacturer, as the case may be, of excisable goods;

(d) “Board” means the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 (54 of 1963);

(e) “duty” means the duty payable under section 3 of the Act;

(f) “articles” means articles of jewellery or parts of articles of jewellery or both falling under Heading 7113 of the Tariff Act, wherein the expression “articles of jewellery” shall have the meaning assigned to it as under chapter note 9 of chapter 71 of the Tariff Act;

(g) “job work” means processing or working upon of raw materials or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in

the manufacture or finishing of articles of jewellery or parts of articles of jewellery or both falling under heading 7113 of the First Schedule to the Central Excise Tariff Act;

(h) “job worker” means a person engaged in manufacture or processing on behalf of a principal manufacturer, from any inputs or goods supplied by the principal manufacturer, so as to complete a part or whole of the process resulting ultimately in manufacture of articles.

(i) “principal manufacturer” means every person (not being an export-oriented unit or a unit located in a Special Economic Zone or any person who gives his pre-owned gold or any precious metal, ornaments or jewellery for the purpose of being re-made or re-conditioned or gives precious stones for the purpose of being mounted) who gets articles, produced or manufactured on his behalf, on job-work basis and causes the sale of the articles for the first time.

(j) “silver studded articles” means articles of jewellery of silver studded with diamond, ruby, emerald or sapphire falling under Heading 7113 of the Tariff Act, wherein the expression “articles of jewellery” shall have the meaning assigned to it as under chapter note 9 of chapter 71 of the Tariff Act;

(k) “Tariff Act” means the Central Excise Tariff Act, 1985 (5 of 1986);

(l) “traded articles” means articles, on which appropriate duty (including nil duty) has already been paid at the time of their sale for the first time.

(m) words and expressions used herein but not defined in these rules and defined in the Act shall have the meaning respectively assigned to them in the Act.

4. Date for determination of duty. — (1) The rate of duty applicable to the articles, shall be the rate in force on the date when such articles are sold for the first time by the manufacturer or principal manufacturer, as the case may be, from his registered premises or centrally registered premises or branches of such centrally registered premises.

5. Assessment of duty. — The assessee shall himself assess the duty payable on any excisable articles.

6. Manner of payment. — (1) The duty on the articles sold for the first time by the manufacturer or principal manufacturer, as the case may be, from his registered premises or centrally registered premises or branches of such centrally registered premises, during a month, shall be paid by the 6th day of the following month, if the duty is paid electronically through internet banking or by the 5th day of the following month, in any other case :

Provided that in case of articles sold for the first time by the manufacturer or principal manufacturer, as the case may be, during the month of March, the duty shall be paid by the 31st day of March:

Provided further that where an assessee is eligible to avail of the exemption under a notification based on the value of goods sold for the first time in a financial year, the duty on articles sold for the first time during a quarter of the financial year shall be paid by the 6th day of the month following that quarter, if the duty is paid electronically through internet banking and in any other case, by the 5th day of the month following that quarter, except in case of articles sold for the first time during the last quarter, starting from the 1st day of January and ending on the 31st day of March, for which the duty shall be paid by the 31st day of March.

Explanation-1. - For the removal of doubts, it is hereby clarified that, an assessee, engaged in the manufacture or production of the articles shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees fifteen crore.

Explanation-2. - The manner of payment as specified in this proviso shall be available to the assessee for the whole of the financial year.

Explanation-3. - For the purposes of this rule,-

(a) the duty liability shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the specified date;

(b) if the assessee deposits the duty by cheque, the date of presentation of the cheque in the bank designated by the Central Board of Excise and Customs for this purpose shall be deemed to be the date on which the duty has been paid subject to realization of that cheque.

(2) Notwithstanding anything contained in sub-rule (1), the duty on the articles sold for the first time from his registered premises or centrally registered premises or branches of such centrally registered premises in the months of March, April, May and June of 2016, by an assessee shall be paid by the 31st of July, 2016.

Explanation. - For removal of doubts, it is hereby clarified that the duty liability shall be deemed to have been discharged only if the amount payable is credited to the account of the Central Government by the specified date.

(3) Every assessee shall electronically pay duty through internet banking :

Provided that for reasons to be conveyed in writing to the Assistant Commissioner or the Deputy Commissioner of Central Excise having jurisdiction, an assessee may make payment of duty by any mode other than internet banking.

(4) If the assessee fails to pay the amount of duty by due date, he shall be liable to pay the outstanding amount along with interest at the rate specified by the Central Government vide

notification under section 11AA of the Act on the outstanding amount, for the period starting with the first day after due date till the date of actual payment of the outstanding amount.

(5) If the assessee fails to pay the duty declared as payable by him in the return within a period of one month from the due date, then the assessee is liable to pay the penalty at the rate of one per cent. on such amount of the duty not paid, for each month or part thereof calculated from the due date, for the period during which such failure continues.

Explanation. - For the purposes of this sub-rule, 'month' means the period between two consecutive due dates for payment of duty specified under sub-rule (1) or the first proviso to sub-rule (1), as the case may be.

(6) The provisions of section 11 of the Act shall be applicable for recovery of the duty as assessed under rule 5 and mentioned in the return filed under the Central Excise Rules, 2002, the interest under sub-rule (4) and penalty under sub-rule (5) in the same manner as they are applicable for recovery of any duty or other sums payable to the Central Government.

Explanation. - For the purposes of this rule, the expressions 'duty' or 'duty of excise' shall also include the amount payable in terms of the CENVAT Credit Rules, 2004.

7. Daily stock account. - (1) Every assessee shall maintain separate records for receipt and sale of manufactured and traded articles, indicating the particulars regarding description of the manufactured articles, on a daily basis.

(2) All records and documents maintained by the assessee for manufactured articles, including records showing receipts of articles manufactured or received back from job worker's premises, quantity of manufactured articles sold for the first time from the registered premises or centrally registered premises or branches of such centrally registered premises for home consumption, quantity of manufactured articles sold for the first time from the registered premises or centrally registered premises or branches of such centrally registered premises for exports or any other records and documents, shall be preserved for a period of five years immediately after the financial year to which such records pertain.

(3) All records and documents maintained by the assessee for traded articles, including records showing value of their traded stocks at the time of purchase or any other records and documents, shall be preserved for a period of five years immediately after the financial year to which such records pertain.

(4) All records of manufactured and traded articles maintained by the assessee under this rule shall be maintained on weight and caratage basis.

(5) The assessee at his own option may preserve records under this rule in electronic form with every page of the record so preserved authenticated by means of a digital signature.

8. Articles to be removed on invoice. - (1) No excisable articles shall be sold for the first time by the assessee from his registered premises or the centrally registered premises or branches of such centrally registered premises, except under an invoice (hereinafter referred to as the “first sale invoice”).

(2) First sale invoice shall be duly signed by the assessee or his authorised agent and shall be serially numbered. Such an invoice shall also contain the registration number, name of the consignee, description of articles, classification and date of removal by sale.

(3) First sale invoice shall show value of manufactured and traded articles separately so as to arrive at the excise duty payable on the manufactured articles.

(4) The invoice shall be prepared in duplicate and in the following manner, namely:-

(i) the original copy being marked as ORIGINAL FOR BUYER;

(ii) the duplicate copy being marked as DUPLICATE FOR ASSESSEE;

(5) The rules relating to digitally signed invoice under the Central Excise Rules, 2002 shall mutatis mutandis apply in relation to the digitally signed invoice under these rules.

9. Job work in articles of jewellery or parts of articles of jewellery. - (1) A principal manufacturer who gets articles manufactured on his behalf, on job work basis shall obtain registration, maintain accounts, pay duty leviable on such articles and comply with all the relevant provisions of these rules, as if he is an assessee.

(2) The principal manufacturer may supply or cause to supply to a job worker any inputs or articles, so as to complete a part or whole of the process resulting in manufacture of articles under a challan, issue voucher or any other document which shall contain the following details, duly signed by the principal manufacturer or his authorised agent:

(a) name and registration number of the principal manufacturer;

(b) description and quantity of inputs or articles;

(c) name of the person carrying the input or articles along with his signature and proof of identity; and

(d) date of supply of inputs or articles.

(3) The principal manufacturer shall maintain records for the inputs or articles received back from the job worker against the inputs or articles supplied to them.

(4) The job worker shall not be required to get himself registered or shall not be required to maintain any record evidencing the processes undertaken for the sole purposes of undertaking job work under these rules.

Explanation. - For the removal of doubts, it is hereby clarified that if any articles are lost, destroyed, found short at any time before the sale for the first time of the articles, the principal manufacturer shall be liable to pay duty thereon as if such articles were sold for home consumption for the first time from the registered premises or centrally registered premises or branches of such centrally registered premises, at a value equal to cost of raw material plus job charges paid by the principal manufacturer in case he had got such articles manufactured on job work basis. In other cases, the value of such articles shall be the value of raw materials plus the making charges charged by the manufacturer for similar articles.

10. Removal of inputs or semi-finished articles or finished articles for certain purposes.-(1) A manufacturer or principal manufacturer, as the case may, may remove any inputs or semi-finished articles or finished articles for further processing, testing, repair, re-conditioning, hallmarking, display in exhibitions or for any other purpose including as samples, to some other premises, without payment of duty, if such removal does not involve sale, under a challan, issue voucher or any other document prepared by him for this purpose, duly signed by the manufacturer or principal manufacturer, as the case may be, or his authorised agent. Such challan or issue voucher or any other document shall contain the following details:-

- (a) name and registration number of the manufacturer or principal manufacturer, as the case may be;
- (b) description and quantity of articles;
- (c) name of the person carrying the articles along with his signature and proof of identity;
- and
- (d) date of removal.

(2) The manufacturer or the principal manufacturer shall account for the articles removed and returned in pursuance of sub-rule (1).

11. Receipt of duty paid articles for certain processes. - (1) Where any articles on which duty had been paid at the time of their sale for the first time by the assessee from his registered premises or the centrally registered premises or branches of such centrally registered premises, are brought back as such, the assessee shall state the particulars of such receipt in his records as if they are traded articles and account for them in the trading stock account, provided no refund of excise duty is claimed.

12. Optional scheme. - (1) Notwithstanding anything contained in sub-rule (1) of rule (7) or sub-rule (3) of rule (8), the manufacturer or principal manufacturer, as the case may be, dealing in both manufactured and traded articles, may also pay excise duty on his first sale value, by treating his first sales during a month solely as sale of manufactured articles, if the quantity of such sales during the month is less than or equal to the opening stock of manufactured articles at the start of such month, at his own option, by giving a written declaration to the excise authorities having jurisdiction by the 28th day of February of the previous financial year:

Provided that for the financial year 2016-17, such written declaration may be given to the Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, having jurisdiction, by the 31st day of July, 2016:

Provided further that for the period beginning from 1st March, 2016 to 31st March, 2016 such declaration may be given by the 31st day of July, 2016:

(2) An option given under sub-rule (1) shall be valid for whole of the financial year for which it is given by the manufacturer or the principal manufacturer, as case may be.

(3) For availing the optional scheme under sub-rule (1) a manufacturer or principal manufacturer, as the case may be, shall maintain,-

a) a record containing the stock details of manufactured articles and traded articles separately for silver studded articles; gold or platinum articles studded with diamonds; and other gold or platinum articles, on weight or caratage basis; and

b) a record of the value of such traded articles separately at their purchase prices.

(4) The opening stock, sales and closing stock of three types of articles, referred to in sub-rule (3), shall be calculated separately for assessing the excise duty payable during a month.

(5) The sales in excess of opening stock of manufactured articles, during a month shall be deemed to be sale out of the opening stock of traded articles on which no excise duty shall be payable.

(6) If the sales during a month are in excess of the sum total of the opening stock of the manufactured articles and opening stock of traded articles, then such excess sales shall first be deemed to be that of manufactured articles received during that month and the balance, if any, shall be deemed to be that of traded articles received during the month

(7) If the sales during a month are less than the opening stock of manufactured articles, then the balance stock of manufactured articles shall be carried forward and the opening stock of manufactured articles for the succeeding month shall be the sum total of such carried forward stock of manufactured articles and quantity of manufactured articles received from the job worker's premises or manufactured, during the month.

The following illustrates the above rules (all figures in kg):

Illustration 1. - A manufacturer or a principal manufacturer:

has an opening stock as on 1 st April	manufactured stock	traded stock
silver studded articles	60	20
gold or platinum articles studded with diamonds	30	20
other gold or platinum articles	20	20

sells during the month of April	total sales
silver studded articles	50
gold or platinum articles studded with diamonds	20
other gold or platinum articles	10

receives during the month of April	manufactured stock	traded stock
silver studded articles	60	10
gold or platinum articles studded with diamonds	30	30
other gold or platinum articles	20	40

As the sales during the month for the three types of articles are less than the opening stocks of such manufactured articles, the same shall be deemed to be that of manufactured articles only, as summarised below:

Quantity of articles deemed to be sold during the month of April	of manufactured articles	of traded articles
silver studded articles	50	0
gold or platinum articles studded with diamonds	20	0
other gold or platinum articles	10	0

Total excise duty payable by such manufacturer or principal manufacturer for the month of April shall be the sum total of the excise duty payable on 50 kg of silver studded articles, 20 kg of gold or platinum articles studded with diamonds and 10 kg of other gold or platinum articles.

After deducting the sales during the month of April, the closing stocks of manufactured and traded articles as on 30th April, which shall also be the opening stock as on 1st May, of three types of articles, with the manufacturer or principal manufacturer shall be as under:

Closing stock as on 30 th April / opening stock as on 1 st May	manufactured stock	traded stock
silver studded articles	70	30
gold or platinum articles studded with diamonds	40	50
other gold or platinum articles	30	60

Illustration 2. - A manufacturer or a principal manufacturer:

has an opening stock as on 1 st April	manufactured stock	traded stock
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silver studded articles	60	20
gold or platinum articles studded with diamonds	30	20
other gold or platinum articles	20	20

sales during the month of April	total sales	
silver studded articles	70	
gold or platinum articles studded with diamonds	40	
other gold or platinum articles	30	

receives during the month of April	manufactured stock	traded stock
silver studded articles	60	10
gold or platinum articles studded with diamonds	30	30
other gold or platinum articles	20	40

As the sales during the month for the three types of articles are more than the opening stocks of respective articles, the first sale equal to the opening stock of each type of articles shall be deemed to be that of manufactured articles of each type, as summarised below:

Quantity of articles deemed to be sold during the month of April	of manufactured articles	of traded articles
silver studded articles	60	10
gold or platinum articles studded with diamonds	30	10
other gold or platinum articles	20	10

Total excise duty payable by such manufacturer or principal manufacturer for the month of April shall be the sum total of the excise duty payable on 60 kg of silver studded articles, 30 kg of gold or platinum articles studded with diamonds and 20 kg of other gold or platinum articles.

After deducting the sales during the month of April, the closing stocks of manufactured and traded articles as on 30th April, which shall also be the opening stock as on 1st May, of three types of articles, with the manufacturer or principal manufacturer shall be as under:

Closing stock as on 30 th April / opening stock as on 1 st May	manufactured stock	traded stock
silver studded articles	60	20
gold or platinum articles studded with diamonds	30	40
other gold or platinum articles	20	50

Illustration 3. - A manufacturer or a principal manufacturer:

has an opening stock of as on 1 st April	manufactured stock	traded stock
silver studded articles	60	20

gold or platinum articles studded with diamonds	30	20
other gold or platinum articles	20	20

sells during the month of April	total sales	
silver studded articles	70	
gold or platinum articles studded with diamonds	60	
other gold or platinum articles	30	

receives during the month of April	manufactured stock	traded stock
silver studded articles	60	10
gold or platinum articles studded with diamonds	30	30
other gold or platinum articles	20	40

In this case, the sales during the month for the three types of articles are more than the opening stocks of respective manufactured articles. Further, the sales of in respect of 'gold or platinum articles studded with diamonds' are even higher than the sum total of opening stocks of manufactured articles and traded articles.

That being so, the first sales equal to the opening stock of 'silver studded articles' and 'other gold or platinum articles' shall be deemed to be that of manufactured 'silver studded articles' and 'other gold or platinum articles' respectively.

However, in respect of 'gold or platinum articles studded with diamonds', the sales of 60 kg shall be first counted against that of opening stock of manufactured articles [that is 30 kg], thereafter against the opening stock of traded articles [that is 20 kg] and the balance [that is 10 kg] shall be counted towards the manufactured articles received during the month, as summarised below:

Quantity of articles deemed to be sold during the month of April	of manufactured articles	of traded articles
silver studded articles	60	10
gold or platinum articles studded with diamonds	40	20
other gold or platinum articles	20	10

Total excise duty payable by such manufacturer or principal manufacturer for the month of April shall be the sum total of the excise duty payable on 60 kg of silver studded articles, 40 kg of gold or platinum articles studded with diamonds and 20 kg of other gold or platinum articles.

After deducting the sales during the month of April, the closing stocks of manufactured and traded articles as on 30th April, which shall also be the opening stock as on 1st May, of three types of articles, with the manufacturer or principal manufacturer shall be as under:

Closing stock as on 30 th April / opening stock as on 1 st May	manufactured stock	traded stock
silver studded articles	60	20
gold or platinum articles studded with diamonds	20	30
other gold or platinum articles	20	50

Explanation-1. - For the purposes of this option, exports by a manufacturer or a principal manufacturer, as the case may be, shall be counted towards the sale of manufactured articles during the month.

Explanation-2. - For the removal of doubts, it is hereby clarified that in case of stock transfer between two branches of a manufacturer or a principal manufacturer with centralised registration, as the case may be, which do not involve sale, there shall be no liability to pay excise duty at the stage of stock transfer, provided such stock transferred manufactured articles or traded articles are added in corresponding stocks of manufactured articles or traded articles of the recipient branch.

13. Stock of slow moving jewellery (“dead stock”). – (1) An assessee maintaining separate stocks of manufactured and traded articles and showing the value of such manufactured and traded articles separately in his first sale invoice shall treat his dead stock as that of manufactured articles or traded articles depending upon whether such dead stock is part of his stock of manufactured articles or traded articles, as the case may be.

(2) For an assessee, who opts to pay the excise duty as per the optional scheme under rule (12), if at the end of a particular return cycle, the cumulative sales for three types of articles, namely ‘silver studded articles; ‘gold or platinum articles studded with diamonds’ or ‘other gold or platinum articles’, as the case may be, on which duty has been paid or which have been exported till the end of that return cycle are more than or equal to the cumulative receipts of manufactured stock of such articles till the end of the return cycle, then the whole of the dead stock of such articles would be deemed to be that of traded articles, and new articles made out of such dead stock on its receipt back by the manufacturer or principal manufacturer, as the case may be, would form part of his traded stock of such articles.

(3) For an assessee who opts to pay the excise duty as per the optional scheme under rule (12), the cumulative sales of a particular type of articles on which duty has been paid or which have been exported till the end of a particular return cycle are less than the cumulative receipts till the end of that return cycle of such manufactured articles, then the dead stock of such articles at the end of such return cycle, equal to the difference between the cumulative receipts of manufactured stock and the cumulative sales till the end of such return cycle shall be deemed to be that of manufactured articles, and balance, if any, shall be considered as that of traded articles.

Illustration. – Thus, two alternative situations can be considered in treatment of the dead stock at the end of the quarter:

Situation 1 – Cumulative sales at the end of return cycle are more than the cumulative receipts of manufactured articles:

- i. Cumulative receipts of manufactured silver studded articles till the end of a quarter are 100 kg.
- ii. Cumulative sales of manufactured silver studded articles till the end of the quarter are 110 kg (out of which on 100 kg the manufacturer or principal manufacturer, as the case may be, has paid excise duty or which have been exported).
- iii. Then, whole of the dead stock silver studded articles at the end of such quarter shall be treated as that of traded stock and new articles made out of such dead stock on its receipt back would form part of traded stock.

Situation 2 – Cumulative sales at the end of return cycle are less than the cumulative receipts of manufactured articles:

- i. Cumulative receipts of manufactured silver studded articles till the end of a quarter are 100 kg.
- ii. Cumulative sales of manufactured silver studded articles till the end of the quarter are 90 kg (out of which on 90 kg the manufacturer or principal manufacturer, as the case may be, has paid excise duty or which have been exported).
- iii. Then, 10 kg [100 kg – 90 kg] of dead stock of silver studded articles at the end of such quarter shall be treated as that of manufactured stock and new articles made out of such dead stock on its receipt back would form part of manufactured stock. Any dead stock of silver studded articles at the end of such quarter in excess of 10 kg shall be deemed to be that of traded stock.

14. Provisions to apply mutatis mutandis. - Except as herein provided, all provisions of the Act and the Central Excise Rules, 2002, including those relating to registration, filing of returns, export without payment of duty and recovery of dues shall apply mutatis mutandis.

[F. No. 354/25/2016 –TRU (Pt.-I)]

(Anurag Sehgal)
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