

6th September, 2004

**Notification No.46/2004-Central Excise**

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and sub-section (3) of section 3 of Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby directs that each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table hereto annexed shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table.

**Table**

| S. No.   | Notification No. and Date                                      | Amendment  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
|--|--|--|-------------------------------------|-------|--------------------------------------|------|-------------------------------------|------|--|------|-------------------------------------|------|--------------------------------------|------|-------------------------------------|------|--|---------|----------------------------------|------|
| (1)  | (2)  | (3)  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| 1.   | 22/2003-Central Excise, dated the 31 <sup>st</sup> March, 2003 | <p>In the said notification,-</p> <p>(a) for the words " Export and Import Policy" or "Export and Import policy", as the case may be, wherever they occur, the words "Foreign Trade Policy" shall be substituted;</p> <p>(b) in paragraph 6, for the second proviso, the following proviso shall be substituted, namely:-</p> <p>"Provided further that where such articles (including rejects, waste, scrap and remnants) are either non excisable or such articles (including rejects, waste, scrap and remnants), if imported, are leviable to nil rate of duty of customs specified under First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and nil additional duty leviable under section 3 of the said Customs Tariff Act, read with exemption notification in this regard , if any, no exemption in respect of inputs utilized for the purpose of processing, manufacture, production or packaging of such articles (including rejects, waste, scrap and remnants) shall be available under this notification.";</p> <p>(c) in paragraph 8,-</p> <p>(i) for clause (i), the following clause shall be substituted, namely:-</p> <p>"(i) such clearance or debonding of capital goods may be allowed on payment of an amount equal to the excise duty leviable on such goods on the depreciated value thereof and at the rate in force on the date of debonding or clearance, as the case may be. The depreciation shall be allowed in straight line method as specified below, namely:-</p> <p>(a) for computer and computer peripherals:</p> <table><tr><td>for every quarter in the first year</td><td>@ 10%</td></tr><tr><td>for every quarter in the second year</td><td>@ 8%</td></tr><tr><td>for every quarter in the third year</td><td>@ 5%</td></tr><tr><td>for every quarter in the fourth and fifth year</td><td>@ 1%</td></tr></table> <p>(b) for capital goods other than computer and computer peripherals:</p> <table><tr><td>for every quarter in the first year</td><td>@ 4%</td></tr><tr><td>for every quarter in the second year</td><td>@ 3%</td></tr><tr><td>for every quarter in the third year</td><td>@ 3%</td></tr><tr><td>for every quarter in the fourth and fifth year</td><td>@ 2.5 %</td></tr><tr><td>and thereafter for every quarter</td><td>@ 2%</td></tr></table> <p><i>Explanation.-</i> (1) For the purpose of computing rate of depreciation for any part of a quarter, a full such quarter shall be taken into account;</p> <p>(2) there shall be no upper limit for such depreciation and depreciation upto 100% could be allowed;</p> | for every quarter in the first year | @ 10% | for every quarter in the second year | @ 8% | for every quarter in the third year | @ 5% | for every quarter in the fourth and fifth year | @ 1% | for every quarter in the first year | @ 4% | for every quarter in the second year | @ 3% | for every quarter in the third year | @ 3% | for every quarter in the fourth and fifth year | @ 2.5 % | and thereafter for every quarter | @ 2% |
| for every quarter in the first year            | @ 10%  |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the second year           | @ 8%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the third year            | @ 5%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the fourth and fifth year | @ 1%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the first year            | @ 4%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the second year           | @ 3%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the third year            | @ 3%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| for every quarter in the fourth and fifth year | @ 2.5 %  |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |
| and thereafter for every quarter               | @ 2%   |  |                                     |       |                                      |      |                                     |      |  |      |                                     |      |                                      |      |                                     |      |  |         |                                  |      |

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| (1)    | (2)                       | (3)  |
|        |                           | <p>(3) the depreciation shall be allowed for the period from the date of commencement of commercial production of the user industry or where such goods have been received after such commencement, from the date on which such goods have come into use for commercial production to the date of clearance or debonding, as the case may be." ;</p> <p>(ii) the <i>Explanation</i> occurring after clause (iii) shall be omitted;</p> <p>(d). for paragraph 10, the following paragraph shall be substituted, namely:-</p> <p>" 10. Notwithstanding anything contained in this notification, the exemption contained herein shall also apply to computer and computer peripheral including printer, plotter, scanner, monitor, key-board and storage units (hereafter in this paragraph referred to as the said goods) procured indigenously when donated, by an user industry two years after the procurement and use by the user industry, to -</p> <p>(i) a school run by the Central Government or Government of a State or a Union territory or a local body; or</p> <p>(ii) an educational institution run on non commercial basis by any organization; or</p> <p>(iii) a registered charitable hospital; or</p> <p>(iv) a public library; or</p> <p>(v) a public funded research and development establishment; or</p> <p>(vi) a community information centre run by, the Central Government or, Government of a State or a Union territory or local body; or</p> <p>(vii) an adult education centre run by the Central Government or Government of a State or a Union territory or a local body ; or</p> <p>(viii) an organization of the Central Government or a Government of a State or a Union territory, subject to the conditions that the donee undertakes to observe the procedure prescribed by the said officer having jurisdiction over the donor unit for transport of the said goods from the donor unit to the premises of the donee and such goods shall not be used by the donee for any commercial purposes, and shall not be sold, disposed of, gifted, loaned, exchanged or parted with without the permission of the said officer having jurisdiction over the donor unit, within a period of five years from the date of receipt of the said goods and during the said period of five year and the jurisdictional Deputy Commissioner or Assistant Commissioner of Customs, as the case may be, may inspect the school, educational institution, charitable hospital, public library, establishment or community information centre, as the case may be, specified in clauses (i) to (viii) on random basis to ensure that the goods are actually there and have not been diverted or put to unauthorized use:</p> <p>Provided that where the donee is a school, educational institution, charitable hospital, public library, establishment or community information centre, as the case may be, specified in clauses (i) to (viii) (hereafter in this proviso referred to as the said organization), but not run by the Central Government, Government of a State, or a Union territory, or a local body, the donor unit shall furnish a certificate issued by the relevant Department of the Central Government or the concerned State Government or the Government of the Union territory, as the case may be, certifying that the said organization is recognized by the Central Government or the State Government or the Government of the Union territory and is run on a non commercial basis.";</p> <p>(e) after paragraph 10, the following paragraphs shall be inserted, namely:-</p> <p>"10A. Notwithstanding anything contained in this notification, the exemption contained herein shall apply to spares and consumables up to 1.5 (one point five) per cent. of Free on Board (FOB) value of manufactured articles exported out of India by the unit which manufactured such articles during the preceding year for the purpose of supply of such spares and consumables with such exported articles for after- sale- service .</p> |

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| (1)    | (2)  | (3)   |
|        |  | <p>10B. Notwithstanding anything contained in this notification, if the said officer is satisfied that the unit, engaged in manufacture of textiles and textile articles, has left over textile fabric or textile material, he shall allow such unit to clear such left over textile fabric or textile material into Domestic Tariff Area on payment of duty on assessable value, as if the goods have been manufactured in the unit:</p> <p>Provided that such clearance shall be allowed only where the said officer certifies that the textile fabric or textile material proposed to be cleared are left over, and such clearance do not exceed two per cent. of assessable value of the consignment or two percent. of the quantity of the consignment to which this left over textile fabric or textile material relates, whichever is lower.";</p> <p>(f) in <i>Explanation</i> occurring after paragraph 13,-</p> <p>(a) for clause (iii), the following clause shall be substituted, namely:-</p> <p>'(iii) "Foreign Trade Policy" means the Foreign Trade Policy, 1<sup>st</sup> September, 2004-31<sup>st</sup> March, 2009 published by the Government of India in the Ministry of Commerce and Industry <i>vide</i> notification No. 1/2004-09, dated the 31<sup>st</sup> August, 2004, as amended from time to time;';</p> <p>(b) for clause (vi), the following clause shall be substituted, namely:-</p> <p>' (vi) "Handbook of Procedures, Volume I" means Handbook of Procedures, Volume I, 1<sup>st</sup> September, 2004-31<sup>st</sup> March, 2009 published by the Government of India in the Ministry of Commerce and Industry <i>vide</i> Public Notice No. 1 /2004-09, dated the 31<sup>st</sup> August, 2004 as amended from time to time;';</p> <p>(g) in ANNEXURE-I, against Sr. No. 3, under the heading 'Description of Goods', for the words " storage systems, special racks for storage, modular furniture, computer furniture" , the words "storage systems and parts thereof, special racks for storage and parts thereof, modular furniture and parts thereof, computer furniture and parts thereof, " shall be substituted.</p> |
|        | 23/2003-Central Excise, dated the 31 <sup>st</sup> March, 2003 | <p>In the said notification,-</p> <p>(a) for the words " Export and Import Policy", wherever they occur, the words " Foreign Trade Policy" shall be substituted;</p> <p>(b) in the Table occurring below opening paragraph, against Sr. No. 2, under column (4), the second proviso shall be omitted;</p> <p>(c) in the <b>ANNEXURE</b> thereto, under heading "Condition", -</p> <p>(i) against Sr. No. 2, in condition, -</p> <p>(A) in clause (i), for the brackets and letters "(a), (b), (d) and (h)", the brackets and letters " (a), (d), (e) and (g)" shall be substituted;</p> <p>(B) in clause (ii), in sub-clause (b), for the brackets and letters " (a), (b), (d) and (h)", the brackets and letters "(a), (d), (e) and (g)" shall be substituted;</p> <p>(C ) in clause (iii), for the brackets and letters " (a), (b), (d) and (h)", the brackets and letters " (a), (d), (e) and (g)" shall be substituted;</p> <p>(D) in clause (iv), for the words, brackets and letter " sub- paragraph (a)", the words, brackets and letter " sub- paragraph (d)" shall be substituted;</p> <p>(ii) against Sr. No. 3, in condition, -</p> <p>(A) in clause (ii), for the brackets and letters " (a), (b), (d) and (h)", the brackets and letters " (a), (d), (e) and (g)" shall be substituted;</p> <p>(B) in clause (iii), for the words " such finished goods", the words "such goods" shall be substituted;</p> <p>(iii) against Sr. No. 4, in condition, for clause (ii), the following clause shall be substituted, namely:-</p> <p>"(ii) such goods are cleared in the Domestic Tariff Area in accordance with sub-paragraphs (a), (d), (e) and (g) of paragraph 6.8 of the Foreign Trade Policy; and";</p>  |

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| (1)    | (2)                       | (3)   |
|        |                           | <p>(iv) against Sr. No. 5, for the condition, the following condition shall be substituted; namely:-</p> <p>" If,-</p> <p>(i) the goods are produced or manufactured wholly from the raw materials produced or manufactured in India; and</p> <p>(ii) the goods are cleared in the Domestic Tariff Area in accordance with sub-paragraphs (a), (d), (e) and (g) of paragraph 6.8 of the Foreign Trade Policy.";</p> <p>(d) the <i>Explanation</i> occurring after paragraph 3 shall be numbered as <i>Explanation I</i> and in <i>Explanation I</i> as so numbered,-</p> <p>(i) for clause (ii), the following clause shall be substituted, namely:-</p> <p>'(ii). "Foreign Trade Policy" means the Foreign Trade Policy, 1<sup>st</sup> September, 2004-31<sup>st</sup> March, 2009 published by the Government of India in the Ministry of Commerce and Industry vide notification No.1/2004-09, dated the 31<sup>st</sup>August, 2004, as amended from time to time;';</p> <p>(ii)for clause (v), the following clause shall be substituted, namely:-</p> <p>' (v) "Handbook of Procedures, Volume I" means Handbook of Procedures, Volume I, 1<sup>st</sup> September,2004 - 31<sup>st</sup>March, 2009 published by the Government of India in the Ministry of Commerce and Industry vide Public Notice No. 1 /2004-09, dated the 31<sup>st</sup> August, 2004 as amended from time to time;';</p> <p>(e) after <i>Explanation I</i> as so numbered and occurring after paragraph 3, the following <i>Explanation</i> shall be inserted, namely:-</p> <p>" <i>Explanation II</i>.- For the purposes of this notification, goods received from any export oriented undertaking or software technology park unit or electronic hardware technology park unit, as the case may be, shall be treated as imported goods."</p> |

## F.NO. 305/70/2004 -FTT(Pt. II

V.KEZO  
Under Secretary to the Government of India

**Note:**

1. Notification No. 22/2003-Central Excise, dated the 31<sup>st</sup> March, 2003 was published in the Gazette of India vide G.S.R 265 (E), dated the 31<sup>st</sup> March, 2003 and was last amended by notification No.14/2004-Central Excise, dated the 26<sup>th</sup> February, 2004 [ G.S.R. 144(E), dated the 26<sup>th</sup> February, 2004].
2. Notification No. 23/2003-Central Excise dated the 31<sup>st</sup> March, 2003 was published vide G.S.R 266 (E),dated the 31<sup>st</sup> March, 2003.