

Central Duties of Exercise (Retrospective Exemption) Act, 1986

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Act 45 of 1986

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1472.

Object and Reasons.- The Central Excise Tariff Act, 1985 (5 of 1986). which was passed by Parliament in the Winter Session of 1985, came into force on the 28th February, 1986. This Act provided for a new tariff nomenclature as also rates of duties of excise. Simultaneously, two companion Acts, namely, the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1985 and the Additional Duties of Excise (Textiles and Textile Articles) Amendment Act, 1985 effecting consequential changes in the levy of additional duties of excise were given effect to from the same date.² In the Statement of Objects and Reasons relating to the said Bills as well as at the time of consideration of these Bills in both Houses of Parliament, it was stated that, as regards rates of duties, the Bills sought to preserve, by and large, the then existing duty structure. It was further mentioned that where the statutory rates of duties were fixed at a level higher than the effective rates. an attempt would be made to continue the effective rates through exemption notifications issued under the Central Excise Rules, 1944 and that any unintended change in the rates of duty would be duly corrected.³ In keeping with the above objects, a number of exemption notifications were issued after the new Tariff Act became operative, so as to preserve, by and large, effective rates of duties of excise as they existed prior to the commencement of the said Act. However, some of these exemption notifications could be issued only after the 1st day of March, 1986, when the impact of the duty changes came to be known to the Government either from the trade and industry or from the field officers. These notifications also include the notifications issued for the purpose of correcting the unintended levy on certain excisable goods on account of changes made by the notifications issued along with the Finance Bilt. 1986.⁴ As the notifications issued after the 1st day of March, 1986, under sub-rule (1) of Rule 8 of the Central Excise Rules, 1944 cannot be applied retrospectively, it has become necessary to introduce this Bill so as to give retrospective effect from the 1st day of March, 1986 to any such notification, issued by the Central Government on

or after the 3rd day of March, 1986 but before the 8th day of August, 1986, for the purpose of (a) maintaining the effective rates of duties of excise at the level obtaining prior to the 28th day of February, 1986 notwithstanding the changes in the rates of duties of excise made by the Central Excise Tariff Act, 1985, the Additional Duties of Excise (Textiles and Textile Articles) Amendment Act, 1985 or the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1985; or (b) maintaining the effective rates of duties of excise at the level obtaining prior to the 1st day of March, 1986, notwithstanding the changes in the rates of duties of excise made by the Finance Bill, 1986. The Bill seeks to achieve the above objects. - Gazette of India. 12-8-1986, Pt. II. Section 2. Ext., p. 5 (No. 35). [8th September, 1986.] An Act to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise. BE it enacted by Parliament in the Thirty-Seventh Year of the Republic of India as follows:-

1. Short title.-

This Act may be called the Central Duties of Excise (Retrospective Exemption) Act, 1986.

2. Retrospective effect for certain notifications.-

(1) Every notification issued by the Government of India in the Ministry of Finance (Department of Revenue) on or after the 3rd day of March, 1986, but before the 8th day of August, 1986, in exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, for the purpose of, - (a) maintaining the effective rates of duties of excise in respect of certain goods at the level obtaining prior to the 28th day of February, 1986 (5 of 1986) notwithstanding the changes in the rate of duties of excise made by the Central Excise Tariff Act, 1985 (6 of 1986), the Additional Duties of Excise (Textiles and Textile Articles) Amendment Act, 1985 or the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1985; (7 of 1986) or (b) maintaining the effective rates of duties of excise in respect of certain goods at the level obtaining prior to the 1st day of March, 1986 notwithstanding the changes in the rates of duties of excise made by the Finance Bill, 1986, shall, in so far as such notification relates to such goods, be deemed to have, and to have always had, effect on and from the 1st day of March, 1986. (2) The duties of excise which have been collected, but which would not have been so collected if the said notification had been in force at all material times, shall be refunded: Provided that no such refund shall be allowed where credit of the duties of excise has been taken under rule 56A or, as the case may be, rule 57A of the Central Excise Rules, 1944, or where the goods, on which the duties of excise have been paid, have been exported under a claim for rebate of such duties. (3) The duties of excise which have become payable, but which would not have been so payable if the said notification had been in force at all material times, shall not be required to be paid. (4) Any person claiming refund of any duty of excise under sub-section (2) may make an application for refund of such duty to the Assistant Collector of Central Excise before the expiry of six months from the commencement of this Act.