

TN – 32/2007 – CE

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1, WILLIAMS ROAD, CANTONMENT, TRICHY-1.

TRADE NOTICE: 32/2007 – CE

DATED : 31.12.2007.

Sub: Communication of Ministry's Notification No. 38/2007 C.Ex.
dated 19.12.2007 in F.No. 81/17/2007-Cx.3 – Compounded Levy
Scheme for Pan Masala or Pan Masala containing tobacco - Regarding.

* * * * *

Copy of Ministry's Notification No.38 / 2007- C.Ex. dated 19.12.2007 in F.No. 81/17/2007-Cx.3 regarding Compounded Levy Scheme for Pan Masala or Pan Masala containing tobacco is communicated herewith.

2. The contents of the Trade Notice may be brought to the knowledge of all constituent members of Trade Associations / Chambers of Commerce

(Issued from file C.No.IV/16/3/2007 – C.Ex.Pol.)

Sd/-
(VASA SESHAGIRI RAO)
ADDITIONAL COMMISSIONER

To

As per mailing list II / III

Copy of the Notification No.38 / 2007- Central Excise dated 19.12.2007.

G.S.R. (E).- In exercise of the powers conferred by rule 15 of the Central Excise Rules, 2002, the Central Government hereby specifies the excisable goods, namely, pan masala falling under tariff item 2106 90 20 and pan masala containing tobacco, commonly known as gutkha, falling under tariff item 2403 99 90 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the specified goods), subjected to the process of filling and packing in pouches with the aid of pouch filling and packing machine (hereinafter referred to as the packing machine), in respect of which an assessee shall have an option to pay the duty of excise on the basis of number of packing machine installed for packing of specified goods in his premises and fixes the rate of duty per packing machine per month, based on retail sale price printed on such pouches as specified in the Table below :-

Table

Sl. No. (1)	Retail sale price (per pouch) (2)	Rate of duty Per packing machine per month (Rs. in Lakh) (3)	
		Pan masala (a)	Pan masala containing tobacco (b)
1.	Upto Rs. 1.50	10	12
2.	From Rs.1.51 to Rs. 2.00	12	16
3.	From Rs.2.01 to Rs. 3.00	20	26
4.	From Rs.3.01 to Rs. 4.00	23	31
5.	From Rs.4.01 to Rs. 5.00	29	38
6.	From Rs.5.01 to Rs. 6.00	34	45

TN – 32/2007 – CE

Explanation.- For the purposes of this notification, if there are multiple track or multiple line packing machine, each of such track or line shall be deemed to be an individual machine for the purposes of calculation of the duty liability:

Provided that no CENVAT credit of duty paid on any input, capital goods or input services used for manufacture of the specified goods shall be taken under the CENVAT Credit Rules, 2004 and the full amount of duty payable under this notification would be paid in cash only:

Provided further that the procedure and conditions mentioned hereinafter are followed.

1. Application to avail special procedure. - (i) The manufacturer shall make an application giving the details of the packing machine installed in his factory and other particulars in the form as specified in Appendix-I to this notification to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, and the said Assistant Commissioner or Deputy Commissioner may grant permission for the period in respect of which the application has been made:

Provided that if the said permission is not granted or rejected within next two working days of receipt of application, the permission shall be deemed to have been granted.

(ii) The manufacturer opting for the special procedure for the first time shall make the application so as to cover the period up to the end of the financial year in which the application has been made, thereafter, the option to avail the said procedure shall be exercised before the start of the financial year and such option, once exercised, shall not be withdrawn during the remaining part of the financial year.

2. Manner of calculation and discharge of duty liability on payment of certain sum. - (i) The manufacturer to whom permission has been granted under paragraph 1 shall pay a sum calculated at the rate specified in this notification, subject to the conditions herein laid down, and such payment shall be in full discharge of his liability for duty leviable on manufacture of specified goods from the said premises during the period for which the said sum has been paid :

Provided that if there is revision in the rate of duty under this notification, the sum payable shall be recalculated on the basis of the revised rate, from the date of revision and liability for duty leviable on the manufacture of specified goods from that date shall not be discharged unless the differential duty is paid and in case the amount of duty so recalculated is less than the sum paid, the balance shall be refunded to the manufacturer :

Provided further that when a manufacturer makes an application for the first time under paragraph 1 for availing of the procedure contained in this notification, the duty liability for the month in which the application is granted shall be calculated *pro-rata* on the basis of the total number of days in that month and the number of days remaining in the month from the date of payment of said sum.

(ii) The sum payable under sub-paragraph (i) shall be calculated by application of the appropriate rate to the number of packing machines installed (other than those which have been sealed by the central excise officer) by such manufacturer in his premises on the first day of the calendar month.

(iii) The sum payable under sub-paragraph (i) shall be paid before the commencement of each month and an intimation in the form specified in the Appendix II shall be filed to the Jurisdictional Superintendent of Central Excise before the commencement of the month.

(iv) All packing machines installed in a premise shall be used for manufacture of specified goods of same retail sale price only:

Provided that duty rate per machine applicable for higher retail sale price product shall be payable for all packing machines for full calendar month, in case any goods of higher retail sale price are found to have been manufactured in the said premises.

TN – 32/2007 – CE

(v) In case of non working of any packing machine for any reason whatsoever, the duty for full calendar month shall be payable.

(vi) The sum payable under this notification shall be calculated based upon the maximum number of packing machines installed on any day during the calendar month, irrespective of addition or removal of machines during the month and differential amount, if any, shall be payable before the end of the month.

3. Default in sum payable.- In case a manufacturer who has been granted permission under paragraph 1 does not pay the sum payable as referred to in sub- paragraph (iii) of paragraph 2, and continues to operate any packing machine, he shall be liable to pay the said sum for the remaining months of the financial year based on number of packing machines declared in the month for which duty was last paid by him or number of packing machines found installed in his premises during the said period, whichever is higher and during the period of default, the specified goods manufactured by the said manufacturer shall be liable for confiscation and consequences and penalties as provided in the Central Excise Rules, 2002 shall follow.

4. Addition or removal of packing machine.- In case a manufacturer wants to add or remove a packing machine from his premises, the same shall be permitted under the physical supervision of a Central Excise officer, authorised for the purpose:

Provided that in case of removal of the said packing machine out of the factory premises, the same shall be sealed by the Central Excise officer:

Provided further that in case it is not feasible to remove the packing machine which is not in working condition, out of the factory premises, it shall be sealed by a Central Excise officer in the manner that these cannot be operated:

Provided also that duty for the full calendar month shall be payable in respect of packing machines removed from the factory premises or sealed during the month.

5. Exports.- Except in accordance with such terms and conditions as the Central Government may by notification specify in this behalf, no rebate of excise duty shall be granted under rule 18 of the Central Excise Rules, 2002, in respect of specified goods manufactured in the premises for which special procedure under this notification has been availed and exported out of India.

6. Provision regarding factories ceasing to work.- Notwithstanding anything contained in this notification, where a manufacturer who had availed the procedure contained in this notification ceases to work in respect of all the machines installed in the factory and who has filed an intimation for this purpose, the duty payable by him for the month shall be calculated pro rata on the basis of the total number of days in the said month and total number of days before filing the said intimation and the amount already paid for the month in accordance with the notification shall be adjusted towards the duty so calculated and on such adjustment, if there is any excess payment, it shall be refunded to the manufacturer and deficiency, if any, shall be recovered from him.

Explanation. –For the purposes of this paragraph, a manufacturer, who ceases to operate his factory for one or two shifts only, shall not be deemed to have ceased to work.

7. Confiscation and penalty.- If any manufacturer contravenes any provision of this notification in respect of specified goods, then all such goods shall be liable to confiscation, and the manufacturer shall be liable to penalty under rule 25 of the Central Excise Rules, 2002.

8. Except as herein provided, all provisions of the Central Excise Act, 1944 and the Central Excise Rules, 2002, including those relating to recovery of dues and interest payable shall apply mutatis-mutandis.

[F.No. 81/17/2007-Cx.3]

(Dilip Goyal)
Under Secretary to the Government of India

TN – 32/2007 – CE**Appendix-I**

Application for permission to avail of the special procedure relating to pan masala and pan masala containing tobacco (Gutkha).

(under Rule 15 of the Central Excise Rules, 2002)

Name of the manufacturer :

Address of the manufacturing premise:

ECC No :

Address of other premises manufacturing the same products:

I/We manufacturer of pan masala or pan masala containing tobacco, residing at.....taluka/tehsil district..... hereby apply to avail of the special procedure in respect of the manufacture and removal of such goods at my/our above mentioned premise during the period beginning with..... and ending with20.., under the provisions of Notification No -----CE dated issued under rule 15 of the Central Excise Rules, 2002.

I/We further declare that pouch packing machine of following particulars shall be used or are used by me in the above mentioned premise and I undertake to pay the total duty payable by me in terms of the provisions laid down in the said Notification.

S No	Make and model of machine	No. of packing machines	Description of goods to be manufactured	Retail sale price of the pouches to be manufactured

I/We further undertake that any addition or removal of the packing machine would be done under the physical supervision of the Central Excise Officer as per the procedure provided in the notification.

2. I/We hereby agree to abide by the provisions and conditions of the said notifications throughout the said period.

Place:

Date :

Name, residential address and signature of manufacturers or his/their authorised agent.

