



CENTRAL EXCISE LEVY ON HOTEL INDUSTRY

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Central Excise duty is a levy on the act of manufacture of excisable goods and such duty would be payable at the time of removal of such excisable goods manufactured. It would be relevant to note that the levy would attract even if goods are not sold but removed for various reasons like free samples, gifts, own consumption etc. In this article, an effort has been made to throw some light on excise duty impact on the hotel industry.

Many star hotels including resorts, restaurants and eating outlets have been preparing / cooking ('manufacture' in excise law terms) and serving food items such as pastries, breads, cakes, cookies, chocolates, muffins, croissant, bread rolls, brown bread, toast read, danish rolls etc. Such food items would either be sold to customers or served free of cost as complimentary free breakfast etc. Many a times, the excise duty impact on such food items is overlooked and later on when noticed by the revenue department, assessee would end up paying duties with interest and penalty.

Most of the goods discussed above are excisable goods covered under first schedule to the Central Excise Tariff Act 1985 and liable for Central excise duty subject to exemptions if any which are discussed in subsequent paras. It is important for all the assessee to understand the excise applicability on all the food items prepared.

Exemption on food items

The central government has exempted many of the food items considering the public interest at large through notification no.12/2012-CE dated 01.03.2012. As per sl.no.12 of the notification, all food preparations including food preparations containing meat, which are prepared or served in a hotel, restaurant or retail outlet whether or not such food is consumed in such hotel, restaurant or retail outlet products falling under chapter heading 16 to 19 except 1905 are exempted.

Similarly, sl.no.13 of the notification exempts all food preparations including food preparations containing fruits and vegetables which are prepared or served in a hotel, restaurant or retail outlet whether or not such food is consumed in such hotel, restaurant or retail outlet which are falling under chapter heading 20.

Few of the food items covered in chapter 1905 are pastries, cakes, sweet biscuits, ice creams etc. which would be liable for excise duty. The rates of duty with few items which are liable for excise duty are as follows:

Sl. No.	Description of the Product	Tariff Heading	Rate of Duty
1	Cakes and Pastries	1905 90 10	6
2	Chocolates	1806 9010	12.5*
3	White Chocolates	1704 90	12.5*
4	Cookies	1905 31 00	12.5*

* In respect of these goods which are subject to excise duty after abatement on MRP price, an abatement of 30% could be claimed.

SSI Exemption

In addition to this, the SSI exemption under Notification No.8/2003 - CE dated 01.03.2003 would also be eligible for the assessee. As per this, on first clearances of excisable goods in a financial year not exceeding Rs.150 lakh would be exempted. However, exemption is subject to certain conditions as stated below:

- ✓ The value of clearances of manufactured goods (whether dutiable or exempted) in the previous financial year should not exceed Rs.4 crore. Therefore, if the total value of exempted goods such as food prepared and served in hotel along with other goods such as cookies, chocolates etc exceeds Rs.4 crore, the basic exemption of Rs.150 lakh would not be eligible. On every rupee, the excise duty shall be paid.
- ✓ The goods should not bear the brand name of others.
- ✓ The value would be computed for **all goods manufactured by same manufacturer** from one or more factories; similarly it would be computed for **one factory** by one or more manufacturer. If there are hotels at different locations of the same entity, then such value needed to be added up.

Note: If the total manufactured products cross Rs. 400 lakhs in previous year, then the Rs. 150 lakhs exemption is not available.

Cenvat Credit

If liable to duty then the capital goods used partially for the manufacture of goods would be eligible for the credit. The credit for inputs would be restricted only to the quantity used for manufacture of dutiable goods. Similarly the input services credit would be available proportionately.

Conclusion: It is advisable for all hotels / outlets / restaurants with high turnover to ascertain the excise duty impact on food items prepared and served whether free of charge or otherwise. As the saying goes 'precaution is better than cure', an early preparation would always help the assessee to avoid unnecessary demands in form of penalty and interest.