

Notification

New Delhi, the 27<sup>th</sup> February, 2010

No. 16/2010-Central Excise

G.S.R. (E).- In exercise of the powers conferred by sub-section (3) of section 3A of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby specifies on, -

(i) unmanufactured tobacco, bearing a brand name, falling under tariff heading 2401 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); and

(ii) chewing tobacco falling under tariff item 2403 99 10 of the said Tariff Act, (hereinafter referred to as specified goods) manufactured with the aid of packing machine and packed in pouches having retail sale prices as specified in column (2) of Table-1 below, the rates of duty specified in the corresponding entry in column (3) or column (4) or column (5) or column (6) of the said Table, as the case may be :

Table-1

S. No.	Retail sale price (per pouch)	Rate of duty per packing machine per month (Rs. in lakh)			
		Unmanufactured Tobacco		Chewing tobacco	
		Pouches not containing lime tube	Pouches containing lime tube	Pouches not containing lime tube	Pouches containing lime tube
(1)	(2)	(3)	(4)	(5)	(6)
1.	Upto Rs. 1.50	8.50	8.00	12.00	11.50
2.	From Rs. 1.51 to Rs. 2.00	10.25	9.75	14.25	13.50
3.	From Rs. 2.01 to Rs. 3.00	15.25	14.50	21.50	20.25
4.	From Rs. 3.01 to Rs. 4.00	19.00	17.75	26.75	25.00
5.	From Rs. 4.01 to Rs. 5.00	23.75	22.25	33.50	31.25
6.	From Rs. 5.01 to Rs. 6.00	28.50	26.75	40.00	37.50
7.	Above Rs.6.00	28.59 + 4.51 * (P-6), where P represents retail sale price of the pouch	26.71 + 4.26 * (P-6), where P represents retail sale price of the pouch	40 + 6.33 * (P-6), where P represents retail sale price of the pouch	37.46 + 5.98 * (P-6), where P represents retail sale price of the pouch

*Illustration.* - The rate of duty per packing machine per month for a chewing tobacco pouch not containing lime tube and having retail sale price of Rs.8.00 (i.e. 'P') shall be = Rs. 40 + 6.33\*(8-6) lakhs = Rs. 52.66 lakhs

*Explanation 1.* - For the purposes of this notification, "packing machine" includes all types of Form, Fill and Seal (FFS) machines and Profile Pouch Making Machine, by whatever names called, whether vertical or horizontal, with or without collar, single-track or multi-track, and any other type of packing machine used for packing of pouches of notified goods.

*Explanation 2.* - For the purposes of this notification, if there are multiple track or multiple line packing machines, each such track or line shall be deemed to be one individual packing machine for the purposes of calculation of the duty liability.

*Explanation 3.* - For the purposes of this notification, "retail sale price" means the maximum price at which the specified goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for the sale :

Provided that where on the package, more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price :

Provided further that if the goods are cleared in wholesale packages containing a number of standard packages with retail sale price declared on them, then, such declared retail sale price shall be taken into consideration for determining the rate of duty under respective serial numbers referred to in Table-1.

*Explanation 4.* - For the purposes of this notification, 'brand name' means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and a person using such name or mark with or without any indication of the identity of that person.

2. The number of packing machines for the purpose of computation of the rate of excise duty specified in the opening paragraph shall be determined in terms of Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010.

3. The duty levied and collected on such specified goods shall be the aggregate of the duty leviable under the Central Excise Act, 1944 (1 of 1944), the additional duty of excise leviable under section 85 of the Finance Act, 2005 (18 of 2005), the National Calamity Contingent Duty

leviable under section 136 of the Finance Act, 2001 (14 of 2001) which is levied only in case of chewing tobacco, Education Cess leviable under section 91 of the Finance Act, 2004 (23 of 2004) and Secondary and Higher Education Cess leviable under section 136 of the Finance Act, 2007 (22 of 2007) and shall be apportioned in the ratios specified in the Table-2 below.

Table-2

<b>S. No.</b>	<b>Duty</b>	<b>Duty ratio for unmanufactured tobacco</b>	<b>Duty ratio for chewing tobacco</b>
(1)	(2)	(3)	(4)
1	The duty leviable under the Central Excise Act, 1944	0.8956	0.7665
2	The additional duty of excise leviable under section 85 of the Finance Act, 2005	0.0753	0.0767
3	National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001	Not applicable	0.1277
4	Education Cess leviable under section 91 of the Finance Act, 2004	0.0194	0.0194
5	Secondary and Higher Education Cess leviable under section 136 of the Finance Act, 2007	0.0097	0.0097

4. This notification shall come into force on the 8<sup>th</sup> March, 2010.

[F. No.334/1/2010-TRU]

(Prashant Kumar)

Under Secretary to the Government of India