

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

GENERAL CIRCULAR NO: 01/2007 - CE

DATED : 02.03.2007.

Sub: C.Ex. – Communication of Ministry's Circular No. 845/03/2006-CX
dated 01.02.2007 (F.No. 267/01/2006-CX-8) – Regarding.

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Copies of Ministry's Circular No. 845/03/2006-CX dated 01.02.2007 (F.No. 267/01/2006-CX-8), is communicated herewith for information guidance and necessary action.

(Issued from file C.No.IV/16/4/2007 – C.Ex.Pol.)

Sd/-
(M.G. THAMIZHVALAVAN)
JOINT COMMISSIONER (TECH)

To
As per mailing list III

Copy of Board's Circular No. 845/03/2006-CX dated 01.02.2007 (F.No. 267/01/2006-CX-8)

Subject: Simultaneous availment of Notification No. 30/2004-CE & 29/2004-CE both dated 9.7.2004 by the manufacturers of goods falling under Chapter 50 to 63 of the CETA, 1985-regarding

Representations were received from trade and industry, as well as field formations seeking clarification on the above referred subject. Notification No. 29/2004-CE dated 9.7.2004 permits clearance of goods at concessional rates availing CENVAT Credit wherein a manufacturer can take CENVAT Credit on inputs. Notification No. 30/2004-CE dated 9.7.2004 permits a manufacturer to clear the goods at 'Nil' rate of duty without availing CENVAT Credit on inputs. Further, Board's circular No. 795/28/2004-CX, dated 28.07.2004, issued by TRU had clarified that the benefit of these two notifications can be availed simultaneously provided the manufacturer maintains separate Books of Account for goods in respect of which benefit of notification No. 29/2004-CE dated 9.7.2004 is availed and similarly, for goods in respect of which benefit of notification No. 30/2004-CE dated 9.7.2004 is availed. However, it was brought to the notice of the Board that in such cases, certain manufacturers did not maintain separate accounts and availed credit on all the inputs. Subsequently, they reversed the credit availed on such inputs utilized for goods cleared under exemption notification No. 30/2004 as per the provisions of Rule 6(3) of the CENVAT Credit Rules, 2004.

2. The issue has been examined. It is seen that proviso to notification No. 30/2004-CE dated 9.7.2004 states that 'nothing contained in this Notification shall apply to the goods in respect of which the credit of duty on inputs has been taken under the provisions of the CENVAT Credit Rules, 2004'. Therefore, it is clarified that non-availment of credit on inputs is a precondition for availing exemption under this notification and if manufacturers avail input tax credit, they would be ineligible for exemption under this notification. Reversal of credit on a later date would not suffice to make them eligible for this exemption.

3. However, it is seen that textile manufacturers/ processors have to use common inputs, which are used in a continuous manner, and it may not be practically possible to segregate and store inputs like dyes and chemicals separately or maintain separate accounts . In such cases, in order to facilitate simultaneous availment of the two notifications, such manufacturers may be advised not to take credit initially and instead take only proportionate input credit on inputs used in the manufacture of finished goods cleared by him on payment of duty. Such proportionate credit should be taken at the end of the month only. At the time of audit of records, or at any other time if the department requires, the assessee should support such credit availment with the relevant records maintained by them showing input quantity used for the goods manufactured and cleared on payment of duty. In case any subsequent verification reveals that such proportionate credit taken is incorrect, the penal provisions as prescribed under the law will be taken against such assessees.