

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

GENERAL CIRCULAR NO: 06/2007 - CE

DATED : 16.11.2007.

Sub: C.Ex. – Communication of Board's Circular No. 858/16/2007 CX dated
8.11.2007 in F.No. 267/01/2006 CX-8 - Regarding.

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Copy of Board's Circular No. 858/16/2007 CX dated 8.11.2007 in F.No. 267/01/2006-CX-8 regarding Clarification regarding Circular No. 845/03/2007-CX dated 01.02.2007 is communicated herewith for information, guidance and necessary action.

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

Sd/-
(VASA SESHAGIRI RAO)
ADDITIONAL COMMISSIONER

To
As per mailing list III

Copy of the Board's Circular No. 858/16/2007 CX dated 8.11.2007 in F.No. 267/01/2006 CX-8

Subject: Clarification regarding Circular No. 845/03/2007-CX dated 01.02.2007.

Sir,

I am directed to invite your attention to Board's circular No. 845/03/2007-CX dated 01.02.2007. In para-2 of the said circular, it was clarified that non-availment of credit on inputs is a precondition for availing exemption under notification No.30/2004-CE dated 09.07.2004, and if manufacturers avail input tax credit, they would be ineligible for exemption under this notification. Reversal of credit at a later date would not make them eligible for this exemption. The Hon'ble Supreme Court in the case of CCE, Mumbai-I Vs. M/s. Bombay Dyeing Ltd, [2007-TIOL-141-SC-CX] has discussed this issue. References have been received to re-examine the said circular in light of the decision the Supreme Court.

2. The matter has been examined. In para-8 of the above- referred Supreme Court decision, it has been held that even when credit is taken, if the entry is reversed before utilization, it would amount to not taking credit. Accordingly, it has been ruled that in such cases, the benefit of the notification cannot be denied. This judgment is given in the context of erstwhile notification No.14/2002-CE, which is similar to notification No. 30/2004-CE dated 9.7.2004. Both the notifications deal with textile articles falling under chapters 50 to 63 of the Central Excise Tariff. Further, all goods falling under Chapters 50 to 63 of the Tariff are covered under rule 6(3)(a) of the CENVAT Credit Rules, 2004, which stipulates that if CENVAT Credit is taken on inputs used in the manufacture of exempted goods falling under these Chapters, then the manufacturer shall reverse the credit so taken.

3. In view of the above, it is clarified that para- 2 of the said circular stands amended to the extent that in case, credit taken on inputs used in the manufacture of the said goods cleared under notification No.14/2002-CE or notification No. 30/2004-CE, has been **reversed before utilization**, it would amount to credit not having been taken.

4. The field formations may be suitably informed.

5. Hindi version will follow.

Yours faithfully,

(Rahul Nangare)
Under Secretary to the Government of India