

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

TRADE NOTICE: 2/2007 - CE

DATED : 31.1.2007.

Sub: Communication of Ministry's Notification Nos.

26/2006-CEX (N.T.) dated 28.12.2006[F.No.267/24/2006-CX.8];

30/2006-CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6);

31/2006-CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6);

32/2006 - CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6);

1/2007 - CEX(N.T.) dated 19.1.2007 [F.No.224/40/2006-CX.6]– Regarding.

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Copy of Ministry's Notification Nos. 26/2006-CEX (N.T.)dated 28.12.2006[F.No.267/24/2006-CX.8]; 30/2006-CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6); 31/2006-CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6); 32/2006 - CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6); 1/2007 - CEX(N.T.) dated 19.1.2007 [F.No.224/40/2006-CX.6] 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/16/2/2007 – C.Ex.Pol.)

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

To

As per mailing list II / III

Copy of the Notification No. 26/2006-CEX (N.T.)dated 28.12.2006[F.No.267/24/2006-CX.8]

G.S.R. (E).— In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely:-

- (1) These rules may be called the Central Excise (Third Amendment) Rules, 2006.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 2002, for rule 16C, the following rule, shall be substituted, namely:-

“16C.- Special procedure for removal of excisable goods for carrying out certain processes.-

The Commissioner of Central Excise may, by special order and subject to such conditions as may be specified by him, permit a manufacturer to remove excisable goods manufactured in his factory, without payment of duty, for carrying out tests or any other process not amounting to manufacture, to any other premises, whether or not registered, and after carrying out such tests or any such other process may allow,-

- (a) bringing back such goods to the said factory without payment of duty, for subsequent clearance for home consumption or export, as the case may be, or
- (b) removal of such goods from the said other premises, for home consumption on payment of duty leviable thereon or without payment of duty for export, as the case may be:

Provided that this rule shall not apply to the goods known as “prototypes” which are sent out for trial or development test.”

Note: *The principal rules were published in the Gazette of India vide notification No. 4/2002-Central Excise (N.T.), dated the 1st March, 2002, [GSR 143 (E), dated the 1st March, 2002], and were last amended vide notification No.18/2006-Central Excise (N.T.), dated the 30th September, 2006, vide [GSR 607(E), dated the 30th September, 2006].*

Copy of Notification No. 30/2006-CEX (N.T.) dated 30.12.2006 (F.No.224/40/2006-CX.6)

G.S.R.__(E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely:-

1.(1) These rules may be called the Central Excise (Fourth Amendment) Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Excise Rules, 2002, after rule 12C, the following rule, shall be inserted, namely :-

"12CC. Power to impose restrictions in certain types of cases.- Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of evasion of duty, nature and type of offences or such other factors as may be relevant, is of the opinion that in order to prevent evasion of, and default in payment of, excise duty, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including suspension of registration in case of a dealer, types of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board".

Note.- *The principal rules were published in the Gazette of India vide notification number 04/2002-CE(NT), dated the 1st March, 2002 [G.S.R. 143(E), dated the 1st March 2002], and were last amended vide notification number 26/2006-CE (NT), dated 28th December, 2006 vide [G.S.R. 771(E), dated the 28th December, 2006].*

Copy of Notification No. 31/2006-CEX (N.T.) dated 30.12.2006 (F.No.224/40/2006-CX.6)

G.S.R.__(E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules,2004,namely:-

1. (1) These rules may be called the CENVAT Credit (SeventhAmendment) Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the CENVAT Credit Rules, 2004, after rule 12A, the following rule, shall be inserted,namely:-

"12AA. Power to impose restrictions in certain types of cases.- Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board".

Note.- The principal rules were published vide notification No. 23/2004-Central Excise (N.T.), dated the 10th September, 2004, G.S.R.600 (E), dated the 10th September, 2004 and was last amended vide notification No.19/2006-Central Excise (N.T.), dated the 30th September, 2006, vide [G.S.R. 608(E), dated the 30th September, 2006].

Copy of Notification No. 32/2006 - CEX (N.T.)dated 30.12.2006 (F.No.224/40/2006-CX.6)

G.S.R. (E).- In pursuance of rule 12CC of the Central Excise Rules, 2002, and rule 12AA of the CENVAT Credit Rules, 2004, the Central Government, hereby declares that where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter is prima facie found to be knowingly involved in any of the following,-

(a) removal of goods without the cover of an invoice and without payment of duty;

(b) removal of goods without declaring the correct value for payment of duty, where a portion of sale price, in excess of invoice price, is received by him or on his behalf but not accounted for in the books of account;

(c) taking of CENVAT Credit without the receipt of goods specified in the document based on which the said credit has been taken;

(d) taking of CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine;

(e) issue of excise duty invoice without delivery of goods specified in the said invoice;

(f) claiming of refund or rebate based on the excise duty paid invoice or other documents which a person has reason to believe as not genuine, an officer authorized by the Board may order for withdrawal of facilities or impose certain restrictions as specified in para 2 of this Notification.

2. Facilities to be withdrawn and imposition of restrictions:

(1) Where a manufacturer is prima facie found to be knowingly involved in committing the offences as specified in para 1, the following restrictions may be imposed on the facilities, namely:-
(i) the facility of monthly payment of duties may be withdrawn and the assessee shall be required to pay excise duty for each consignment at the time of removal of goods;

(ii) payment of duty by utilisation of CENVAT credit may be restricted and the assessee shall be required to pay excise duty without utilising the CENVAT credit:

Provided that where a person is found to be knowingly involved in committing any one or more type of offences as specified in para 1 for the second time or subsequently, every removal of goods from his factory may be ordered to be under an invoice which shall be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the said goods are removed from the factory or warehouse.

Explanation I.- It is clarified that a person against whom the order under sub-para (3) of para 4 has been passed may continue to take CENVAT credit; however, he would not be able to utilize the credit for payment of duty during the period specified in the said order.

Explanation II.- For second time or subsequent offence, the restriction specified in clauses (i) and (ii) may also be imposed.

(2) Where a first stage or second stage dealer is found to be knowingly involved in committing the type of offence specified at clauses (d) or (e) of para 1, the registration granted under rule 9 of the Central Excise Rules 2002 may be suspended for a specified period.

Explanation.- During the period of suspension, the said dealer shall not issue any Central Excise Invoice. However, he may continue his business and issue sales invoices without showing excise duty in the invoice and no CENVAT credit shall be admissible to the recipient of goods under such invoice.

(3) Where a merchant exporter is found to be knowingly involved in committing the type of offence specified at clause (f) of para 1, the self sealing facility for export consignment may be withdrawn whereby each export consignment shall be examined and sealed by the jurisdictional Central Excise Officer:

Provided that any other facility available to a manufacturer, first stage or second stage dealer or an exporter provided by a circular or an order issued by the Board may also be ordered to be withdrawn for a specified period.

3. Monetary Limit.- The provisions of this notification shall be applicable only in a case where the duty or CENVAT Credit alleged to be involved in the offences specified in para 1 is more than Rs.10lakhs.

4. Procedure.- (1)The Commissioner of Central Excise or Additional Director General of Central Excise Intelligence, as the case may be, after examination of records and other evidence, and after satisfying himself that the person has knowingly committed the offence as specified in para 1, may forward a proposal to the Chief Commissioner or Director General of Central Excise Intelligence, as the case may be, specifying the facilities to be withdrawn and restriction to be imposed and the period of such withdrawal or restrictions, within 30 days of the detection of the case, as far as possible.

(2) The Chief Commissioner of Central Excise or Director General of Central Excise Intelligence, as the case may be, shall examine the said proposal and after satisfying himself that the records and evidence relied upon in the said proposal are sufficient to form a reasonable belief that a person has knowingly committed the offences specified in para 1, may forward the proposal along with his recommendations to the Board. However, the Chief Commissioner of Central Excise or Director General of Central Excise Intelligence, before forwarding his recommendations, shall give an opportunity of being heard to the person against whom the proceedings have been initiated and shall take into account any representation made by such person before he forwards his recommendations to the Board.

(3) An officer authorized by the Board shall examine the recommendations received from the Chief Commissioner of Central Excise or Director General of Central Excise Intelligence and issue an order specifying the type of facilities to be withdrawn or type of restrictions imposed, along with the period for which said facilities will not be available or the period for which the restrictions shall be operative.

Copy of Notification No. 1/2007 - CEX(N.T.) dated 19.1.2007[F.No.224/40/2006-CX.6]
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G.S.R. (E).- In pursuance of rule 12CC of the Central Excise Rules, 2002, and rule 12AA of the CENVAT Credit Rules, 2004, made under the Central Excise Act, 1944 (1 of 1944), the Central Board of Excise and Customs authorizes Member (Central Excise), Central Board of Excise and Customs to issue orders in terms of notification No.32/2006-CE(NT), dated 30th December, 2006.