

8th December, 2000.

F.No.83/2/2000-CX.3

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Sub: Excise Duty on Kerosene distributed through P.D.S.

A doubt has been raised on the applicability of exemption notification 5/98-CE dt.2.6.98 to kerosene oil distributed through the Public Distribution System.

2. Notification No.5/98-CE dt.2.6.98, at serial No.27, prescribes a rate of duty of 10% for kerosene. Kerosene has been defined as "kerosene, that is to say, any hydrocarbon oil (excluding mineral colza oil and white spirit) which has a smoking point of 18 mm or more (determined in the apparatus known as smoke point lamp in the manner included in the Bureau of India Standards Specification ISI: 1448(p-31) 1968 as in force for the time being)". The exemption is conditional on the above-mentioned technical specification as well as that the kerosene oil, "is ordinarily used as an illuminant in oil burning lamps".

3. The technical specification were found to be as per the requirement of the notification by the field formations, but doubt was raised whether the kerosene oil distributed through the PDS could be considered as satisfying the condition "ordinarily used as an illuminant in oil burning lamps", as there is no mechanism to ensure actual use of kerosene cleared for Public Distribution System.

4. The matter was discussed in the Tariff Conference held at Mumbai on 29th and 30th August 2000. The Conference noted that the words "ordinarily used" do not lend themselves to the interpretation that they should be exclusively used for that particular purpose. The words "ordinarily used" presupposes a variety of uses. When any goods are said to be used ordinarily for a particular purpose, it automatically implies that the goods have other uses, and the most common is the use, which is specified. Thus, if the consumer also uses the kerosene oil, which is used for illumination of oil lamps, for any other purpose, the exemption will continue to be applicable. The various zones, it was noted by Conference, are already extending the exemption to kerosene which is distributed through Public Distribution System and which is capable of use as an illuminant and other purposes and it was felt that this practice was in order.

5. The Board has accepted the views expressed in the Conference and the practice followed in extending exemption to kerosene supplied through P.D.S. so long as kerosene supplied satisfies the prescribed technical specification. The exemption notification 5/98-CE dt.2.6.98 will be applicable to kerosene oil which is generally for use as an illuminant distributed through the Public Distribution System even if the consumers also use the said kerosene oil after clearance for any other purpose.

6. The above clarification may be brought to the notice of the lower field formations and trade interests may also be suitably advised.

7. All pending disputes/assessments on the issue may be settled in the light of the above guidelines. Receipt of this circular may be please acknowledged.

8. Hindi version will follow.

(MALLIKA MAHAJAN)

Officer on Special duty, CX.3