

F.NO. 267/77/2000-CX-8

Government of India
Ministry of Finance
Department of Revenue

Subject: Realisation of the amount paid under the provisions of the erstwhile sub-rule (1) of rule 57 CC and its retention by the manufacturers - whether the provisions of section 11 D of Central Excise Act, 1944 would get attracted in such cases.

I am directed to say that erstwhile rule 57CC(1) of the Central Excise Rules, 1944 provides for payment of an amount equal to 8% of the total price (excluding sales tax etc. paid on such goods) of the exempted final product by the manufacturers who manufacture both dutiable and exempted final products without maintaining a separate account for inputs, on which credit has been availed. It has been reported that certain manufacturers are realising the amount so paid under said Rule 57CC from their buyers by showing it separately in the invoices. Doubts have been expressed as to whether the amount so realised by the manufacturers represents Central Excise duty and whether this amount has to be paid to the credit of Central Government under the provisions of section 11D of Central Excise Act, 1944.

2. The matter has been examined by the Board and it is clarified as under:

(a)	Rule 57CC does not envisage the amount would be separately realised from the buyer since it is to be calculated on the total price charged to the buyer.
(b)	When the 8% amount is shown separately on invoice as an amount (not as excise duty) Section 11D would not get attracted. In that case the amount of 8% would have to be calculated on the total price charged from the buyer.
(c)	In case the amount of 8% or for that matter any amount representing an excise duty is recovered from buyer Section 11D gets attracted. This is a matter of fact to be ascertained on the basis of documents.

3. Field formations and trade interests may be informed accordingly.

4. The receipt of this letter may please be acknowledged.

5. Hindi version will follow.