

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Subject: Availing of Modvat Credit as well as exemption under Small Scale Industries Exemption Notification-Regarding.

I am directed to state that it has been brought to the notice of the Board that a manufacture who had opted to avail exemption from payment of duty based on value of clearance as per the SSI Notification (present Notification No. 8/2001- C E, dated 1-3-2001) also availed credit of duty paid on inputs used in the manufacture of other branded finished goods which were dutiable. Further, the said manufacturer used inputs on which Cenvat credit was availed, in the manufacture of the exempted finished goods. Thereafter, the manufacturer reversed an amount of 8% of the price of the exempted goods cleared from the factory as per the provisions of Cenvat Credit Rules, 2001 (earlier Rule 57CC/57AD). A question arose whether the said manufacturer is correctly complying with the provisions of Rule 6 of the Cenvat Credit Rules or not.

2. The matter has been examined by the Board. If the manufacturer has opted for full duty exemption on the basis of exemption notification for SSI Sector, then, he is not eligible to avail credit of the duty paid on inputs used in manufacture of exempted finished goods. As such, the manufacture is not under Modvat/Cenvat scheme. Therefore, the question of applying Rule 57CC/Rule 57AD of Central Excise Rules, 1944 or Rule 6 of Cenvat Credit Rules, 2001 does not arise. Thus, the manufacturer has violated the condition of the duty exemption Notification on account of the utilisation of credit and the goods in question become liable to duty.

3. In the aforesaid circumstances, it is clarified that provisions of Rule 6 of Cenvat Credit Rules, 2001 are not meant for the manufacturer availing benefit of the full exemption under notification meant for SSI sector. However, if in the event, the manufacturer availing SSI duty exemption uses cenvatable inputs to manufacture exempted goods, the option rests with the manufacturer to reverse the credit on the inputs so used or pay duty on the finished goods which are otherwise exempted.