

F.No. 267/22/2002-CX-8

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

7th August, 2002

Subject : Admissibility of MODVAT/CENVAT credit on inputs used in the manufacture of finished goods on which duty has been remitted.

I am directed to refer to the subject cited above and to say that a doubt has arisen whether Modvat/Cenvat credit is admissible on inputs used in the manufacture of goods on which duty has been remitted.

2. In this regard Board's attention has been drawn to a decision of CEGAT in the case of M/s. KIRLOSKAR ELECTRIC Co. Vs. CCE , Bangalore. In this case, CEGAT has held that the assessee is entitled to Modvat credit on the inputs used in the finished products which were destroyed due to circumstances beyond their control and on which duty remission has been granted by the Department. While delivering this judgement, CEGAT has relied upon its judgement in the case of INALSA Ltd. v/s. CCE , New Delhi. {1997(90)ELT 417} in which CEGAT has held that reversal of proportionate credit on inputs used in manufacture of finished goods cannot be demanded under erstwhile rule 57C of Central Excise Rules, 1944 as remission of duty cannot be equated to exemption from duty and hence, the modvat credit on such inputs is admissible.

3. Board has examined the matter in the context of the said CEGAT judgements and the instructions contained in para 2.4 of Chapter 18 of Central Excise Manual. It is clarified that Modvat/Cenvat credit of duty paid on the inputs contained in finished products on which duty remission has been granted shall be admissible and reversal thereof shall not be necessary. However, before granting remission of duty on any finished products destroyed or damaged in fire, accident etc., it should be ensured that the insurance amount claimed by the assessee does not include the duty element of the inputs used in the manufacture of said goods taken as credit. The instruction contained under para 2.4 of Chapter 18 of Central Excise Manual shall be modified to this extent.

4. Trade and field formation may be informed suitably.

5. Receipt of the same may be acknowledged.

6. Hindi version will follow.