

F.NO.154/13/2001 - CX 4

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

Sub: Exemption to parts of air conditioning machines- reg

I am directed to say that the Board had issued a **Circular No.231/65/96-CX dt.12.7.96** clarifying that **assemblies or sub-assemblies** of parts of air conditioning machines are different from " **parts** " and therefore the exemption available to 'parts' would not apply to 'assemblies/sub-assemblies'. This clarification was given in the context of a manufacturer clearing the cooling units and the condensing units of split air-conditioners, separately, as parts, and claiming duty exemption (later Sl. No. 197 of Notfn. No.6/2002-CE dt 1.3.2002).

2. A number of references have since been received from the field formations as well as the trade about problems being faced in implementing the said Circular since a number of 'parts' of air conditioners are themselves nothing but 'assemblies' of smaller parts. Further, the CEGAT has held in the case of **Seagull Fabricators Pvt. Ltd. Vs. CCE, Mumbai-III, reported in 2001(127)ELT 186(Tribunal)** that under Central Excise law an 'assembly' or 'sub-assembly' is also a 'part'. This decision of the CEGAT has not been appealed against by the Govt.

3. There may, however, be cases where an assembly of parts may be of such a nature that it could be classified as a complete item depending upon its essential characteristics, by virtue of the deeming provisions of Rule 2(a) of the Rules of Interpretation of Central Excise Tariff. Whether an assembly would be classified as a part or deemed to be the complete item, would depend on the facts of each case. However, to prevent any divergence in practice in the field it is proposed to prescribe the minimum number of parts/assembly of an air-conditioning machine/kit which could be deemed (on assembly) to have the essential character of an air-conditioning machine as per Rule 2(a) of the Interpretative Rules.

4. The CEGAT has had an occasion to examine the matter in the case of **Universal Commercial Corporation Vs. CC, Delhi reported in 1994 (069)ELT 150 (TRIB)**, as to what would constitute the essential parts of an air-conditioning machine. It has, inter-alia, held that the components which are **required for completion of one refrigeration cycle**, would be considered as essential. Assessee's appeal against this order was dismissed by the Apex Court on 17.1.94 [1994(70) ELT (A100)] and hence this decision has attained finality. Keeping this decision in mind, as also the case reported in **1989 (24)ECR 219 CEGAT(SB-B.1)**], the essential elements of an air-conditioning machine would be the following :

- (i) Evaporator(cooling) coil
- (ii) Condensor coil,
- (iii) motor ,
- (iv) fan **or** blower for circulating the air,
- (v) compressor, and
- (vi) capillary line (expansion valve)

5. Thus, if an assembly or a kit (even in CKD or SKD form) does not have all the above components it will not be considered to have the essential characteristics of an air-conditioning machine and will be classified as 'parts'.

6. It also then stands to reason that both the units of a split air conditioner are nothing but 'parts' of an AC. (It may, however, be noted that with the issue of notification No.50/2002-CE dated 25th September, 2002, amending Sl. No.197 of notfn No. 6/2002-CE dt 1.3.2002, duty on both the units of a split air conditioner would henceforth be 16% + 16% =32% adv.)

7. In view of the above it is hereby clarified

(i) that a sub-assembly or an assembly, which does not have the essential characteristics of the complete machine, will be classified as a 'part' of an air conditioning machine and will be eligible for concessional rate of duty under the exemption notification (**now Notfn.No.6/2002-CE dt.1.3.2002 - Sl.No.197**). With effect from 25.9.2002 concessional rate will not be available to the cooling and condensing units of split air conditioners though individually each unit will continue to be classified as a part.

(ii) that the assembly or sub-assembly which has the **essential characteristics of the complete machine** will be classified (even in CKD/SKD form) as the whole machine itself provided it contains all the parts specified in para 4 above.

8. Board's Circular dt.12.7.1996 stands modified accordingly

9. Suitable Trade notices may be issued for the information of the Trade.

10. Hindi version will follow

11. Receipt of these instructions may be acknowledged.