

Department of Revenue
Central Board of Excise & Customs
New Delhi

New Delhi, the 25th November, 2013

To

All Chief Commissioners of Central Excise & Customs,

All Chief Commissioners of Central Excise,

All Directors General,

Sir/Madam,

Subject - Amendment of rule 8, 9 and 10 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 - reg .

I am directed to invite your attention to amendments in rule 8, 9 and 10 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. Under transaction value regime each transaction or removal is required to be assessed independently, as would be clear from the language of section 4 of the Central Excise Act, 1944. Section 4(1) of the Central Excise Act, 1944 reads as -

Section 4 - Valuation of excisable goods for purposes of charging of duty of excise - (1) Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, **on each removal of the goods**, such value shall -

.....

2) Rules 8, 9 and 10 of the Central Excise Valuation Rules, 2000 dealing with determination of assessable value in case of captive consumption and sale to related person have been amended vide notification no. 14/2013 - Central Excise (N.T.) dated 22.11.2013 to clearly state that these rules apply irrespective of whether the whole or a part of the clearances of manufactured goods are covered by the circumstances given in these rules. Each clearance is required to be assessed according to section 4(1)(a) or the relevant rule dealing with the circumstances of clearance of the goods, as the case may be.

3) For example, if an assessee clears his goods in such a way that first removal of goods is to an independent buyers, some goods are captively consumed, second removal is to such a related person who is covered under rule 9 and third removal is to a person who is covered under rule 10, then the first removal should be assessed under section 4(1)(a), captively consumed goods should be assessed under rule 8, second removal should be assessed under rule 9 and third removal should be assessed under rule 10 of these rules. It may be noted that Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 are not required to be followed sequentially. Each of these rules provide for arriving at the assessable value of goods under different contingencies as noted by Hon'ble Supreme Court at paragraph 70 in case of Commissioner of Central Excise, Mumbai vs M/s FIAT India Pvt Ltd [2012 (283) ELT 161 or 2012-TIOL-58-SC-CX].

4) Serial no. 5, 12 and 14 of the Circular no. 643/34/2002-CX dated 1-7-2002 are deleted in view of the amendments in the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, as these amendments address the issues on which these clarifications were issued. The amended rules and accordingly this circular shall apply with effect from 1st December, 2013.

Yours Faithfully,

(Pankaj Jain),

Under Secretary (CX-1)