

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

Notification No. 16/2014 - Central Excise (N.T.)

New Delhi, the 21st March, 2014

30, Phalguna, Saka, 1935

G.S.R. 140(E).- In pursuance of rule 12CCC of the Central Excise Rules, 2002, and rule 12AAA of the CENVAT Credit Rules, 2004 and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue, No. 05/2012-Central Excise (N.T.), dated the 12th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 140(E), dated the 12th March, 2012, except as respects things done or omitted to be done before such supersession, the Central Government hereby declares that where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter is prima facie found to be knowingly involved in any of the following :-

- (a) removal of goods without the cover of an invoice and without payment of duty;
- (b) removal of goods without declaring the correct value for payment of duty, where a portion of sale price, in excess of invoice price, is received by him or on his behalf but not accounted for in the books of account;
- (c) taking of CENVAT Credit without the receipt of goods specified in the document based on which the said credit has been taken;
- (d) taking of CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine;
- (e) issuing duty of excise invoice without delivery of goods specified in the said invoice;
- (f) claiming of refund or rebate based on the duty of excise paid invoice or other documents which a person has reason to believe as not genuine;
- (g) removal of inputs as such on which Cenvat credit has been taken, without paying an amount equal to credit availed on such inputs in terms of sub-rule (5) of rule 3 of the Cenvat Credit Rules, 2004,

the Chief Commissioner of Central Excise may order for withdrawal of facilities or impose the restrictions as specified in para 2 of this notification.

2. Facilities to be withdrawn and imposition of restrictions.- (1) Where a manufacturer is prima facie found to be knowingly involved in committing the offences specified in para 1, the Chief Commissioner of Central Excise may impose following restrictions on the facilities, namely:-

- (i) the monthly payment of duty of excise may be withdrawn and the assessee shall be required to pay duty of excise for each consignment at the time of removal of goods;
- (ii) payment of duty of excise by utilisation of CENVAT credit may be restricted and the assessee shall be required to pay duty of excise without utilising the CENVAT credit;
- (iii) the assessee may be required to maintain records of receipt, disposal, consumption and inventory of the principal inputs on which CENVAT credit has not been taken;
- (iv) the assessee may be required to intimate the Superintendent of Central Excise regarding receipt of principal inputs in the factory on which CENVAT credit has or has not been taken, within a period specified in the order and the said inputs shall be made available for verification upto the period specified in the order:

Provided that where a person is found to be knowingly involved in committing any one or more type of offences as specified in para 1 subsequently, every removal of goods from his factory may be ordered to be under an invoice which shall be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the said goods are removed from the factory or warehouse.

Explanation.- For the purposes of this paragraph, it is clarified that-

- (i) a person against whom the order under sub-para (2) of para 4 has been passed may continue to take CENVAT credit, however, he would not be able to utilize the credit for payment of duty during the period specified in the said order.

(ii) "principal inputs" means any input which is used in the manufacture of final products where the cost of such input constitutes not less than 10% of the total cost of raw materials for the manufacture of unit quantity of a given final product.

(iii) if the assessee commits any offence specified in para 1 for the first time, the period of imposition of restrictions may not be more than 6 months.

(iv) if the assessee commits any offence specified in para 1 subsequently, the period of imposition of restrictions shall not be more than 1 year.

(2) Where a first stage or second stage dealer is found to be knowingly involved in committing the type of offence specified at clauses (d) or (e) of para 1, the Chief Commissioner of Central Excise may order suspension of the registration granted under rule 9 of the Central Excise Rules, 2002 for a specified period.

(3) During the period of suspension, the said dealer shall not issue any Central Excise Invoice:

Provided that he may continue his business and issue sales invoices without showing duty of excise in the invoice and no CENVAT credit shall be admissible to the recipient of goods under such invoice.

(4) Where a merchant exporter is found to be knowingly involved in committing the type of offence specified in clause (f) of para 1, the Chief Commissioner of Central Excise may order withdrawal of the self sealing facility for export consignment and each export consignment shall be examined and sealed by the jurisdictional Central Excise Officer:

(5) If a manufacturer, first stage dealer or second stage dealer or an exporter does anything specified in clause (f) of para 1, the Chief Commissioner of Central Excise may order withdrawal of the other facility available to them.

3. Monetary limit.- The provisions of this notification shall be applicable only in a case where the duty of excise or CENVAT Credit alleged to be involved in anything specified in para 1 exceeds rupees ten lakhs.

4. Procedure.- (1) The Commissioner of Central Excise or Additional Director General of Central Excise Intelligence, as the case may be, after examination of records and other evidence, and after satisfying himself that the person has knowingly committed the offence as specified in para 1, may forward a proposal to the Chief Commissioner of Central Excise, to withdraw the facilities and impose restriction during or for such period, within 30 days of the detection of the case, as far as possible.

(2) The Chief Commissioner of Central Excise shall examine the said proposal and after satisfying himself that the records and evidence relied upon in the said proposal are sufficient to form a reasonable belief that the person has knowingly done or contravened anything specified in para 1, may issue an order specifying the type of facilities to be withdrawn or type of restrictions to be imposed, along with the period for which the said facilities will not be available or the period for which the restrictions shall be operative:

Provided that the Chief Commissioner of Central Excise, before issuing the order, shall give an opportunity of being heard to the person against whom the proceedings have been initiated and shall take into account any representation made by such person before he issues the order.

5. Proposals which are pending before the officer authorized by the Central Board of Excise and Customs or the Director General of Central Excise Intelligence in terms of notification no. 05/2012-Central Excise (N.T.), dated the 12th March, 2012, on the date of coming into force of this notification, shall be transferred to the Chief Commissioner of Central Excise, who shall decide the same in accordance with the procedure specified in paragraph 4 and the proposals pending before the Chief Commissioner of Central Excise shall also be decided accordingly.

F. No. 267/13/2013-CX.8

(Pankaj Jain)

Under Secretary to the Government of India