

Circular No. 1068/1/2019-CX

F.No: 116/15/2017-CX-3
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Excise & Customs

New Delhi, dated 10th January, 2019

To

The Principal Chief Commissioner / Chief Commissioner of CGST & Central Excise (Chandigarh, Meerut, Kolkata and Shillong zone) DG, GSTI.

Subject: Review of progress of implementation of Scheme of Budgetary Support to eligible industrial units located in States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North East including Sikkim – clarification reg.

Madam/Sir,

A meeting was convened at Central Board of Indirect Taxes and Customs (CBIC) on 23.05.2018 to review progress of implementation of Scheme of budgetary support. In the meeting various technical and operational issues forwarded by Department of Industrial Policy and Promotion (DIPP), Trade associations and field formations were also discussed and recommendations forwarded to Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry for consideration. The issues requiring amendment of the scheme are proposed to be addressed by DIPP by way of issuance of notification amending the scheme. The issues which are operational and clarificatory in nature are addressed by way of issuance of this circular.

Eligibility of units which were under threshold exemption or manufacturing exempted goods but are required to pay GST under the GST regime: Under the erstwhile regime, the benefit was made available to such units if excise duty was imposed at a later date.

2. The scheme seeks to provide benefit to the eligible units for the residual period which were availing exemption under erstwhile exemption notifications issued under Central Excise regime. As such the benefit would not be available to such units.

Procurement of inputs for supply as a part of Kit A cosmetics manufacturer has sought clarification as to whether its hair colour kit, would be considered as manufacture. The kit consist of colourant tube manufactured in their own factory at Baddi and other items manufactured by third parties situated in area based exempt locations and are procured to be part of the kit. This finished hair colour kit is cleared by their factory.

3. As long as, the sourced goods from third party are in the nature of inputs for the kit in respect of which some of the goods are being manufactured by themselves, the kit would be considered to be a product which is being supplied. The benefit for the kit would be available so long as the sourced products are in the nature of inputs/accessories and are supplied in form of kit in general trade parlance for such goods.

Multiple business premises under the same GSTN and determination of amount of refund: Trade has represented that where the entities are having multiple operations in the state on account of there being single return for all the transactions, the credit of one gets off-set against the other and the budgetary support is not being allowed over and above the cash paid by them.

4. Under the scheme, a provision of certificate by the Chartered accountant has already been provided for. In addition, an assessee also has an option to register its operations other than eligible unit as a separate business vertical having a unique GSTIN. The definition of business vertical is proposed to be omitted in terms of CGST (amendment) Act, 2018 from the date to be notified in this regard. Therefore after operationalization of the said act the eligible unit may maintain its existing GSTIN and for other operations separate GSTIN may be obtained. Such a benefit should be available from 1st day of commencement of a quarter as per the scheme of budgetary support.

Cases where the finding of sanctioning authority differs from inspection team: There is no provision in the scheme as to whose views will prevail in case the sanctioning authority differs with the findings of the inspection team.

5. The mandate of the inspection team and the sanctioning authority are different. The inspection team has to decide the eligibility of the unit whereas the sanctioning authority verifies and quantifies the refund claim. In cases where refunds have been sanctioned prior to inspection by DIPP team, such claims are provisional. Where any of these units are found to be not eligible on the basis of inspection

report, the refund amount is liable to be recovered in the manner provided in the scheme.

An issue regarding difficulty in verification of the refund claim was raised by Chief Commissioner (Shillong). As per the procedure in place, an assessed files monthly returns under the GST whereas the refund application is for the quarter.

6. Accordingly, it was decided that in the table annexed to the refund application month wise details may be attached. This would enable speedier and more accurate verification of the refund claims.

Time limit for disposal of the claims filed by the eligible units was discussed as at present no time limit is provided in the scheme itself.

7. It was decided that the claims should be disposed off within 2 weeks since the applicant has already incurred liability and paid the tax and in no case, it should be later than 30 days. Jurisdictional Chief Commissioner is to monitor the same and ensure expeditious disposal.

Insistence on ink signed copy by PAO, of sanction order, creates delay in the sanction of refund. It was suggested that there should not be any requirement of ink signed copy of the sanction order to the PAO by the DC/AC especially in areas where Commission rates are located in far flung areas.

8. It was clarified that in the manual mode there is a requirement for the same. However, in the automated mode after roll out of the third phase of the automation, there will not be any requirement of ink signing of the sanction order.

Provision for appeal: There is no provision for appeal for the unit in case the unit is aggrieved with the findings of sanctioning authority / Inspection team.

9. The support under the scheme is in the nature of grant and not refund of duty under taxation law. As such there is no requirement for any appellate forum as the decision of the sanctioning authority is final.

Verification in respect of multi-location assessee: The budgetary support is to be sanctioned to the eligible unit by DC\AC having jurisdiction over the 'Principal Place of Business'. In some cases location of the eligible unit and principal place of unit is different. It needs to be clarified as to which of the two officers will verify the claims.

10. The system being followed under the GST regime will be applicable mutatis mutandis and the Central Tax officer having jurisdiction over the 'Principal Place of Business' shall sanction the refund claim. Such officer is the jurisdictional officer in respect of eligible unit located at any other place in the State as is the position as per GST law. While conducting verification of multi locational assessee covered under the same registration number, the jurisdictional AC/DC may take inputs from other jurisdictions, wherever necessary.

It was pointed out that there is no access to Electronic Credit Ledger and Electronic cash ledger for verification of the claim by the field officers. This leads to difficulty in verifications.

11. Field officers presently have access to Electronic Credit Ledger and Electronic cash ledger.

There is no clarity w.r.t requirement of pre-audit or post –audit for the budgetary support amount sanctioned.

12.1. As such payments will be liable to be audited by the C&AG office accordingly there is no requirement for audit by departmental officers. It is reiterated that these payments are not tax refunds but budgetary support.

12.2. The clarifications are expected to bring clarity and uniformity in implementation of the scheme by the filed formations. Difficulty experienced, if any, in implementation may be brought to the notice of the Board. Hindi version of this circular will follow.

Yours faithfully,



Mazid Khan
(OSD-CX)