

F.No.116/13/2020-CX.3
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

New Delhi, dated the 19th Nov.,2020

To

Pr. Chief Commissioner/Chief Commissioner, CGST & CX (All).
Pr. Director General/ Director General (All).

Madam/Sir,

Subject: Clarification on holding of Pre-Show Cause Notice Consultation-reg.

References have been received from the field formations seeking clarification on "who will hold pre show cause notice consultation with the assessee concerned in cases where the show cause notices are to be issued by the Audit Commissionerates" in terms of para 3.0 of the instructions issued under F.No.1080/11/DLA/CC Conference/2016 dated 13.10.2016 and para 5.0 of Master Circular No.1053/02/2017-CX dated 10.03.2017.

2. In this regard, the undersigned is directed to say that Master Circular dated 10.03.2017 had mentioned the principle of pre-show cause notice consultation enunciated vide Instruction F.No.1080/09/DLA/Misc/15 dated 21.12.2015. The details of the procedure where the show cause notice issuing authority and adjudicating authority are different, was not mentioned therein. However, the same had already been clarified vide Instruction no.1080/11/DLA/CC Conference/2016 dated 13.10.2016.

3. It may further be noted that vide Circular F.No.1049/37/2016-CX dated 29.09.2016, the Board had revised the monetary limit for adjudication of demands of duty/tax or recovery of CENVAT Credit by different adjudicating authorities. As per these changed monetary limits, cases involving duty/tax or recovery of CENVAT Credit of above Rupees fifty lakh but not exceeding Rupees two crores are to be adjudicated by the Additional Commissioner/Joint Commissioner and cases involving duty/tax or recovery of CENVAT Credit above Rupees two crores are to be adjudicated by the Commissioner.

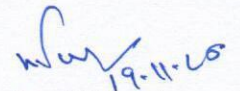
4. Due to the above change in monetary limits of adjudication and to lend clarity on this issue, it is hereby clarified that **"Pre show cause notice consultation with assessee, prior to issuance of SCN in case of demands of duty is above Rupees 50 Lakhs (except for preventive/offence related SCN's), is mandatory and shall be done by the Show Cause Notice issuing authority"**.

5. In view of the above, the instructions F.No.1080/11/DLA/CC Conference/2016/ 1208 dated 08.07.2016 stand rescinded. Further, this clarification shall have an overriding effect on all Circulars/Instructions issued on the subject, to the extent that they are in conflict.

6. Trade, industry and field formations may be suitably informed.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board.

8. Hindi version will follow.


(Mazid Khan)

Under Secretary to Govt. of India