



Central Board of Indirect Taxes & Customs

Department of Revenue, Ministry of Finance, Government of India



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dated 23/2/1999**F.No. 267/135/96-CX.8**Government of India
Ministry of Finance
Department of Revenue, New Delhi

Subject : Guidelines to be followed in respect of Notification No. 7/99-CE(NT) dated 9/2/1999 on amendment to Rule 57G and 57T - Regarding -

I am directed to refer to Notification No. 7/99-CE(NT) dated 9/2/1999 issued to amend Modvat Rules. The aforesaid notification has been issued to insert sub-rule (11) in Rule 57G and sub-rule(13) in Rule 57T of the Central Excise Rules, 1944 so as to empower the Assistant commissioner of Central Excise having jurisdiction over the factory of the manufacturer to allow credit of duty paid on inputs/capital goods ignoring minor procedural lapses in falling the declaration or the invoice/document based on which credit is to be taken. However, the Assistant Commissioner should ensure that inputs/capital goods have suffered duty and are being used/are to be used in the process of manufacture. The Assistant Commissioner is also required to record the reasons in file for allowing Modvat credit in each case.

2. The Assistant Commissioner, before issuing Show Cause Notice for wrong availment of Modvat Credit by the assessee on any procedural grounds, shall conduct enquiries with regard to duty paid nature of the goods at the suppliers end, ensure that necessary information as mentioned in the Notification are available on the invoice and satisfies himself whether the goods have been used or are intended to be used as contemplated in the Modvat Rules. In case the assessee's invoice contains the details viz. description of the goods, assessable value, name and address of the factory or warehouse where the goods are to be received, and if the assessee has filed a declaration as contemplated in the Modvat Rules, the Assistant Commissioner having jurisdiction over the factory would allow the credit of duty so paid after making enquiries as above.

3. It should hereafter be ensured that Show Cause Notices are not issued for procedural lapses as mentioned in the Notification without making proper enquiries. Wherever the Assistant Commissioner, after making enquiry due, is satisfied that the Modvat credit taken by the assessee is incorrect, adjudication proceedings in the normal course should be initiated. Efforts, however, should be directed toward reduction of litigation.

4. All pending cases may be disposed off accordingly.

Sd/-
(S. K. Sinha)
Under Secretary to the Govt. of India

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