

Modalities of CEC Collection through Excise Formations

Subject: Levy of Clean Energy Cess.

01-CEC It may kindly be recalled that as part of the proposals contained in the Budget for 2010-11, Finance Minister had announced the imposition of Clean Energy Cess as a duty of excise on coal, lignite and peat. This cess is to come into force on a date to be notified by the Central Government after the enactment of the Finance Bill, 2010. In pursuance of the enactment of the Bill on 08.05.2010, it has been decided to notify 1st July, 2010 as the appointed date for coming into force of the provisions of Chapter VII (Section 83 and 84) of the Finance Act, 2010. Notification No. 1/2010-CEC (Clean Energy Cess) dated 22.06.2010 has been issued for this purpose.

2. The Tenth Schedule to the Finance Act, 2010 prescribes a statutory rate of cess of Rs.100 per tonne for all three categories, namely, coal, lignite and peat. An effective rate of Rs.50 per tonne has been prescribed through Notification No. 3/2010-CEC dated 22.06.2010. Notification No. 28/2010-CE and 29/2010-CE, both dated 22.06.2010 have also been issued to exempt such goods (i.e. to which the clean energy cess applies) from education cess and higher education cess respectively. As a result the aggregate rate of cess would be Rs.50 per tonne. This amount has to be paid in cash as suitable amendment in the CENVAT credit rules, 2004 is being made to exclude payment of this cess using credit.

3. The cess would apply to the gross quantity of raw coal, lignite or peat raised and dispatched from a coal mine. No deduction from this quantity is to be allowed for loss, if any, on account of washing of coal or its conversion into any other product/form prior to its dispatch from the mine. At the same time, cess would not be chargeable on washed coal or any other form *provided the appropriate cess has been paid at the raw stage*. In order to provide for this, all goods covered by the Tenth Schedule other than raw coal, raw lignite and peat are being exempted from the cess (Notification No. 4/2010-CEC dated 22.06.2010) on the condition that appropriate cess has been paid at the raw stage.

4. Since Clean Energy Cess is being levied as a duty of excise, it would also apply to imported coal by virtue of Section 3(1) of the Customs Tariff Act in the form of additional duty of customs. As imported coal would not satisfy the condition regarding payment of appropriate cess at the raw stage, *Clean Energy Cess would apply to all forms of imported coal including washed coal*.

5. In the State of Meghalaya, coal is mined under traditional and customary rights vested on the local tribes. The mines operated by these tribes are not subjected to the provisions of laws that regulate the operation of coal mines. As such, full exemption from Clean Energy Cess is being provided to coal produced in the State of Meghalaya under such rights (Notification No. 5/2010-CEC dated 22.06.2010 refers).

6. Section 83 of the Finance Act, 2010 provides that the Central Government may by notification in the official gazette declare that any of the provisions of Central Excise Act, 1944 relating to levy, exemption, refund etc. would be applicable in respect of Clean energy Cess. In pursuance of this power, Notification No. 2/2010-Clean Energy Cess dated 22.06.2010 has been issued to borrow the relevant machinery provisions of the Central Excise Act, 1944 for the collection and administration of the cess.

7. Section 84 of the Finance Act, 2010 empowers the Central Government to make rules for carrying out the provisions of Chapter VII. Accordingly, Clean Energy Cess Rules, 2010 have been notified under this provision to prescribe a procedure for the levy and collection of the cess (Notification No. 6/2010- Clean Energy Cess dated 22.06.2010). These rules envisage simple compliance regime for coal mines akin to the one already in place in respect of stowing Excise Duty collected by the office of the Coal Controller, Government of India. The salient features of these rules are as under:

(i) Every producer of coal, lignite and peat is required to be registered with the jurisdictional central excise authority. This would imply that every coal mine should obtain registration. In several cases, especially in the case of coal mines operated by public sector undertakings such as Coal India Limited and its subsidiaries, the accounting and billing of coal is done in a centralized manner. In order to ease the compliance burden on such producers, an option has been given to obtain centralised registration for the office from where accounting or billing is done. With the introduction of ACES, the registration of Central Excise assesses is being undertaken exclusively in the electronic mode. Besides, the registration number generated electronically is required for making electronic payments of duty. In order to harmonise the processes in respect of Clean Energy Cess with Central Excise it has been decided that the application form for registration of Central Excise assesses would itself be used for the registration of assesses liable to pay Clean Energy Cess with the modification that the word "factory" would be read as "mine" in this case.

(ii) Cess would be payable on quantity removed during a month on self assessment basis.

(iii) The due date for payment has been fixed as the 6th (for e- payment) / 5th (for payment in any other manner) of the month following the next month to which the removals relate i.e. payment for removals during the month of July, 2010 should be paid by the 5th/6th of September, 2010. However, on imports the cess would be payable w.e.f. 1st July, 2010.

(iv) Adjustment of excess payment, if any, is permissible by the next payment date.

(v) Monthly return indicating the total quantity removed along with cess payment has been prescribed. Since this return is not compatible with ACES software electronic filing would not be feasible at this stage. Returns may hence be accepted manually by the jurisdictional Range/Division of Central Excise.

(vi) General penalty of Rs 10,000 has been prescribed for any contravention.

(vii) Specified goods are to be removed under cover of proper documents. However, this need not be an invoice. It has been prescribed in rule that any document specifying the quantity removed and name of the consignee would suffice.

8. Although the levy of Clean Energy Cess comes into force on the 1st of July, 2010, the first payment from registered producers would be due only by the 5th of September, 2010. In the meanwhile, the office of Chief Controller of Accounts has already been requested to assign a minor head for the payment of this cess both on domestic and imported coal. Relevant communication conveying this to the field formations would be issued in due course.

9. The provisions of the relevant notifications and this letter may be brought to the notice of field formations under your charge and the trade. The notifications may kindly be studied with utmost care and difficulties in their implementation, if any, may be brought to the notice of the undersigned.

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