

F.No. 209/08/98-CX.6

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject: Central Excise - Special facility of self-certification and self - sealing to large manufacturer- exporters - Instructions regarding.

I am directed to draw your attention to Notification No. 38/ 98-CE (NT) dated the 2nd September, 1998, whereby in Rule 187A of the Central Excise Rules, 1944, a proviso has been inserted so as to extend special facility to the large manufacturer exporters in respect of examination, certification and sealing of export goods at the place of despatch.

2. Under the newly inserted proviso to Rule 187A, two categories of manufacturer-exporters have been defined for eligibility of this facility, namely:-

(i) The manufacturer-exporters who have paid Central Excise duty exceeding Rs. 10 crores in the preceding financial year in cash or by debit in current account.

(ii) The manufacture-exporters who have been accorded the status of Super Star Trading House, Star Trading House, Trading House or Export 3 House under the provisions of the Export-Import Policy announced by the Government from time to time under section 5 of the Foreign Trade (Development and Regulation) Act, 1992.

3. Any manufacturer- exporter who opts the facility under this proviso will have to fulfil the two conditions specified thereunder - one relating to intimation the Department and the other for specifying the category of persons who will certify that goods were sealed in his presence.

In this regard, the Board has decided to issued the following instructions/ guidelines:-

4. Intimation before Sealing of Packages/ Containers

In terms of the first condition the exporter shall give an intimation (mentioning description of the export goods, tentative quantity, value and duty involved and specific date and time of sealing/ stuffing and clearance) to the Superintendent of the Central Excise Range with a copy to Assistant Commissioner of Central Excise having jurisdiction over the factory of manufacturer/ production, at least 24 hours in advance from the time scheduled for sealing of the packages or stuffing and sealing of a container. In case where there are frequent clearances for export and the exporter can furnish detailed export-plan in advance (mentioning description of the export goods, tentative quantity, value and duty involved and specific date and time of sealing/ stuffing and clearance) the Assistant Commissioner may permit a shorter period for furnishing of intimation. Where such export-plan contains specific details, the same be accepted as due intimation.

5. Duty of Central Excise Officers at the Place of Despatch

5.1 The Superintendent will randomly select the consignment for examination of goods and depute the sector officer for the purpose. Normally, not more than 10% of the total consignments

of a manufacturer-exporter in a month should be examined in such manner. The Assistant Commissioners will periodically check that the aforesaid frequency is maintained.

5.2 In case any major discrepancies relating to the description, quantity and/or value of export goods are noticed during examination, this frequency can be raised by the Assistant Commissioner after recording the reasons in writing, apart from other necessary action as per law. The Commissioner should also be informed about such cases. Normal frequency may be restored once the exporter undertakes to abide by the procedures and to give correct declarations.

5.3 As far as possible, in case of containerised cargo, it should be ensured that the consignment should be examined prior to stuffing in the container. In such cases, the Central Excise officer will supervise the stuffing and the sealing. The exporter will endorse the requisite certificate in the manner specified at Para 6.3 of this Circular.

5.4 Where the consignment is selected for examination, the officers will carry out the percentage examinations and / or weightment of packages to ascertain correctness of the particulars mentioned in the AR4, i.e., 5% of the packages in the consignment, subject to a minimum of one package should be examined. In case of any discrepancy noticed during such examination, this percentage can be raised and recorded.

6. Obligations of a Manufacturer-Exporter

6.1 The exporter will submit 'specimen seals' to the Assistant Commissioner as well as the Range Officer. The seals/ sealing pliers must be kept in the safe custody of senior official of the exporter, preferably those who will be certifying on the application in terms of the second condition of the proviso to Rule 187A.

6.2 In case of sealing of containers. It will be obligatory of the part of exporters to use tamper-proof 'One Time Locks/ Seals' containing the lock/ seal number. This lock/ seal number shall be mentioned by the Senior official of the exporter on the AR4 at the time of certifying the time of certifying the sealing.

6.3 The certificate will be given by making the following endorsement:

"Certified that the description and value of the goods covered by this invoice/ AR4 have been checked by me and that goods have been packed and sealed with lead seal/ OTL having seal no, under my supervision"

Date:-

Signature and Stamp
(Name & Designation of the signing person).

6.4 The Assistant Commissioner may order for surprise checks to verify whether a manufacturer-exporter is complying with the aforesaid procedure.

7. Duty of Customs Officers at the Place of Export

Subject to the aforesaid procedure, at the port or Inland Container Depot/ Customs Freight Station or Air Port or Land Customs a procedure relating to examination will be followed *mutatis mutandis* as laid down in **Para 202A of the Basic Excise Manual (1989)**. The relevant portion is reproduced hereinafter:

"The consignment exported under this procedure are normally to be allowed shipment on verification of the Central Excise seals only. But with a view to avoid any fraudulent practices, apart from the consignments with tampered or broken seals, other consignments also shall be subjected indicated below:

- (i) Percentage examination shall be conducted on every day.
- (ii) The surprise check should alternate between all the manufacturers so that no manufacturer, whatever his status and reputation, escapes examination at the port altogether, over a given period. If a manufacturer exports say 10 consignments between 1st and 30th of the months, at least one of them should be subjected to surprise check.
- (iii) The orders for surprise examination should be passed by officers, of the rank of Assistant Collectors (now called Assistant Commissioner)/ Superintendents/ Principal Appraisers (Appraisers) so that it should not be possible for the exporters to anticipate that their

The percentage of surprise examination shall be as follows:-

- (a) Four per cent of the packages in aggregate presented for examination on any one date shall be examined.
- (b) A minimum number of 20 per cent, of the consignments shall be subjected to surprise check.
- (c) The consignments belonging to at least 25 per cent of the exporters shall be examined.

The foregoing three requirements are to be satisfied simultaneously and therefore, it for purposes of satisfying (b) it is necessary to raise the percentage prescribed in (a) the same shall be done".

8. It is clarified that the aforesaid procedure for examination at the port of export relate to the requirements under the Central Excise rules.

Sd/-
(P.K. Sinha)
Under Secretary (CX.6)
