

Circular No.
928 /18 /2010-CX

F.No.209/04/2009-CX6
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi, dated the 28th June,
2010.

To,
All Director Generals,
All Chief Commissioners of Central Excise (including LTU),
All Commissioners of Central Excise (including LTU).

Sir/ Madam,

Subject: Amendment to Notification no. 42/2001-CE (NT) dated 26.06.2001-reg.

It has been brought to the notice of the Board that some of the manufacturers of exempted goods are exporting such goods under bond. Subsequently, they claim refund of accumulated input credit under Rule 5 of the CENVAT Credit Rules, 2004. The department had objected to this procedure on the ground that if the goods are exempted from payment of excise duty, in that case the goods cannot be exported under bond for the reason that bond is executed only when goods are liable for payment of excise duty and if there is no excise duty, there is no question of exporting under bond. However, it has been observed that in some cases, the judicial pronouncements on the issue have been against the department.

2. The matter has been examined. The policy of the govt. is not to tax the exports. There are different methodologies and procedures for refund in different situations. If the goods are exempted, then the department has prescribed a detailed procedure for refund of input taxes through Notification No. 21/2004-CE (NT) dated 06.09.2004, wherein a detailed procedure requiring verification of details like manufacturing process, input-output ratio, wastages etc., by the departmental officer is prescribed. The reason for the same is that in case of exempted goods, the department does not exercise control. It appears that the exporters are exporting the exempted goods under bond to avoid detailed verification and scrutiny by the department for claiming of refund of input taxes. Accordingly, it was felt necessary to correct the anomaly.

3. In view of above, an amendment to the conditions for exporting under bond under the Notification No. 42/2001-CE (NT) dated 26.06.01, has been notified through Notification No. 24/2010-CE (NT) dated 26.05.10, wherein, goods which are exempted from payment of duty or chargeable to nil rate of duty, have been disallowed to be exported under bond. Since, 100% EOU's are also required to export the goods under bond, in terms of Customs and Excise notifications, the exports from 100% EOU's have been specifically excluded from the purview of this amendment.

4. Trade & Industry as well as field formations may be suitably informed.

5. Receipt of this circular may kindly be acknowledged.

6. Hindi version will follow.

Yours faithfully,

(Amish Kumar Gupta)
OSD (CX-8)