

# **Circular No.818/15/2005-CX**

## **15th July, 2005**

**F.No.224/1/2005-CX-6**

**Government of India**

**Ministry of Finance & Company Affairs**

**Department of Revenue**

**Central Board of Excise & Customs**

**Subject: Manner of scrutiny of ER-1 and ER-3 returns by the Proper Officer – regarding.**

In exercise of powers conferred under sub-rule (3) of rule 12 of the Central Excise Rules, 2002, the Board hereby lays down the manner of scrutiny of by the proper officer of the correctness of the duty assessed by the assessee :

1. All the returns received by the Superintendent of Central Excise under sub-rule (1) of Rule 12 shall be scrutinized by him to check the correctness of duty assessed. The inspectors posted in the Range will assist him in carrying out the scrutiny.
2. The scrutiny would be carried out in two stages viz. the 'scrutiny of return' and 'scrutiny of assessment'. Both the stages should be completed within three months of the date of receipt of the return.
3. In the preliminary stage (to be called the 'scrutiny of return') all returns shall be scrutinized as per the checklist in Annexure-1 of this Circular. This would involve checking whether the information contained in the return is complete, prima facie, valid and internally consistent. For example, whether the 8-digit CETSH exists and if so whether the rate of duty is correctly mentioned. It would also involve checking the arithmetical accuracy of information contained in the return e.g. duty payment or the break-

up of duty paid in cash and through CENVAT credit. The preliminary scrutiny shall also include checking whether the assessment is consistent with the existing orders on a particular commodity or in respect of the concerned assessee. It would also be verified whether there is any provisional assessment order in respect of the assessee.

4. After the checklist at Annexure-1 has been executed it should be completed and duly signed by the Superintendent. Wherever any discrepancies/deficiencies are noticed it shall be the responsibility of the Range Superintendent to take appropriate action including safeguarding the revenue.

5. Apart from the above checks the preliminary scrutiny shall also involve checking and comparison of trends of payment of duty, production, clearances (for home consumption on payment of duty and under exemption and for exports), value, and CENVAT utilization to identify returns for detailed scrutiny.

6. The parameters on the basis of which returns would be selected for detailed scrutiny in the second stage are listed out in Annexure-2 of this Circular. Such selection has to be carefully made so that really sensitive units are selected. For a given period i.e. month or quarter, the said selection may normally not exceed 5% of the total returns received. Returns that show a trend with a negative impact on revenue received. Returns that show a trend with a negative impact on revenue for the maximum number 5 of parameters should be selected on priority e.g. a return that shows an abnormal trend in respect of all eight parameters at S.No.3 to 10 of the checklist at Annexure-2 should be selected on priority over one that shows an abnormal trend only in respect of seven parameters. The results of the scrutiny should be recorded in the checklist proforma at Annexure-2 and duly signed by the Range Superintendent. A calculation sheet should also be annexed. The purpose of the detailed scrutiny is to ascertain the correct reason for abnormal trends exhibited by the parameters.

7. In suitable cases, the proper officer may be required to call for documents/records for verification in terms of sub-rule (4) of Rule 12. In rare cases, he may even be required to pay an assurance visit to the assessee's premises for which provisions exist in Rule 22 of Central Excise Rules, 2002. However, visits should be made very sparingly and with due observance of instructions already in force.

8. A register of scrutiny of assessment (in the form at Annexure-3 of this Circular) should be maintained in the Range Office. The entries about the month or quarter to which the return pertains and the date of its receipt should be made immediately on the receipt of the return and the relevant columns for scrutiny should be filled up promptly after each stage of scrutiny. The concerned Deputy/Assistant Commissioner should ensure that the said register is regularly maintained and the scrutiny is carried out without delay.

9. A monthly report shall be submitted by each Range Superintendent to the jurisdictional Assistant/Deputy Commissioner of the division about the number of returns received and scrutinized in the proforma at Annexure-4 of this Circular. The report should be submitted so as to reach the Assistant/Deputy Commissioner latest by the 15<sup>th</sup> of the month.

10. Every six months, the Deputy/Assistant Commissioner in charge of the division will scrutinize the returns of units paying annual PLA revenue of Rs.1 crore to 5 crores. Wherever necessary he shall requisition the connected documents including invoices and the records and scrutinize the correctness of assessment. A report of the number of returns scrutinized along with his comments shall be sent to the Commissioner latest by 15<sup>th</sup> of the month following the month of such scrutiny.

11. Similarly, every six months, the Additional/Joint Commissioner in charge of the Division will scrutinize the returns of units paying annual PLA revenue of more than Rs.5 crores. Wherever necessary he shall requisition the connected documents including invoices and the records and scrutinize the correctness of assessment. A report of the number of returns scrutinized along with his comments shall be sent to the Commissioner latest by 15<sup>th</sup> of the month following the month of such scrutiny.

12. In case where the scrutiny does not reveal satisfactory reasons for the abnormal trends notices in respect of a return, a reference may be made to the internal Audit Branch of the Commissionerate giving details of the abnormal trends and the findings of the scrutiny. Also in cases where the returns of the same assessee repeatedly show abnormal trends a reference may be made to the internal Audit Branch giving the details of abnormal trends.

Yours faithfully,

(Ashok Kumar)

Under Secretary to the Government of India

Check list for preliminary scrutiny of ER1/ER3 returns for the period \_\_\_\_\_.

1. Registration No.

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2. Name of the assessee

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3. Whether the registration number and the name of the assessee match according to the records available in the Range? Yes/No.

4. Whether all the relevant columns in the return have been dully filled up? Yes/No

5. Whether all the CETSH Nos. mentioned in the return are, prima-facie, valid i.e. they exist in the First Schedule? Yes/No

6. Whether the rate(s) of duty are, prima-facie, correct with reference to the 8 digit classification(s) and description of goods provided in the return? Yes/No

7. In case any of the products appearing in the return attracted different rates of duty within the same month, whether such details have been separately mentioned? Yes/No

8. Whether the notification no.(s) and date(s) as well as their S.Nos. shown in the return are, prima-facie, correct with reference to the 8 digit classification(s) and

description(s) of goods shown in the return?  
Yes/No

9. Whether there are any conditions prescribed in any of the exemption notifications claimed by the assess? If so, are they prima-facie satisfied?  
Yes/No
10. Whether the duties/amounts due and payable have been correctly calculated with reference to the rate(s) of duty and assessable value(s) shown in the return?  
Yes/No
11. In case the rate of duty is specific whether the amount of duty payable is correctly calculated with reference to the quantity of goods cleared and the applicable rate as shown in the return?  
Yes/No
12. Whether the debits made from credit account and current account add up to the 'total duty paid' as shown in the return?  
Yes/No
13. Whether copies of challans through which duty has been paid have been submitted with the return?  
Yes/No
14. Whether the Opening Balance of CENVAT credit indicated in the return tallies with the Closing Balance indicated in the return for the previous month/quarter? Yes/No
15. Whether the (Opening Balance + Total Credit availed) – (Credit Utilised for payment of duty on goods + Credit utilised when inputs or capital goods are removed as such + Credit utilised for payment of duty on services) = Closing Balance of CENVAT Credit?  
  
Yes/No
16. Whether the total duty payable is more than the total duty paid? If yes, take necessary action.  
Yes/No
17. Whether the duty payment was made on the due date? Yes/No
18. If not, whether interest has been paid for the period of delay? Yes/No

19. In case the payment was made beyond the period of 30 days whether action under sub-rule (3A) of Rule 12 has been taken.  
Yes/No
20. Provisional Assessment
- (i) Is there any matter under provisional assessment?  
Yes/No
- (ii) If yes, is the provisional assessment covered by bond and security/surety?  
Yes/No
- (iii) Whether entry has been made in the Provisional Assessment Management Software and if so, whether the unique identifier number has been generated? Yes/No
- (iv) If Bank Guarantee is given for the bond, whether it is valid? Yes/No
- (v) Is the provision assessment pending beyond 6 months? Yes/No
- (vi) If yes, whether the matter has been brought to the notice of the Commissioner?  
Yes/No
21. Adjudication orders passed with respect to the assessee
- (i) Is there any order pertaining to valuation passed by the adjudicating authority in respect of any product?  
Yes/No
- (ii) If yes, whether the order is followed?  
Yes/No
- (iii) If no, the reason for not following the order?  
Yes/No
- (iv) Is there any order pertaining to classification or applicability of effective rate passed by the adjudicating authority having effect on the rate of duty applicable to any product manufactured by the assessee?  
Yes/No
- (v) If yes, whether the assessment is in accordance with the said order?  
Yes/No
- (vi) If no, the reason for deviation

22. Audit Objections:

(i) Is there any objection (IAD or CERA) relating to valuation or classification or rate of duty having recurring implications?

Yes/No

(ii) If yes, whether protective demands have been issued as per the existing instructions?

Yes/No

23. Date of data entry of the return in the computer system \_\_\_\_\_

24. Whether appropriate action has been taken in respect of discrepancies/deficiencies notices in respect of Sr.Nos. 3 to 22 above.  
Yes/No

Name of the Superintendent

Signature

Check list for selection of ER1/ER3 returns for detailed scrutiny

1. Registration No.

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2. Name of the assessee

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3.	Calculate the change in duty paid through PLA over the last return in percentage terms. Is there a decrease of more than 15%?	Yes/No
4.	Calculate the increase in the value of exempted clearances (other than export) over the last return in percentage terms. Is this increase more than 15%?	Yes/No
5.	Calculate the change in unit assessable value for each CETSH over the last return. Is there a decrease of more than 15%?	Yes/No
6.	Calculate the increase in value of clearances to EOUs over the last return. Is this increase more than 15%?	Yes/No
7.	Calculate the increase in value of clearances of partially exempted goods as a proportion of total value of clearances over the last return. Is this increase more than 15%?	Yes/No
8.	Calculate the increase in the ratio of CENVAT utilization to total duty payment over the last return. Is this increase more than 15%?	Yes/No
9.	Calculate the change in Quantity of goods produced in each CETSH over the last return. Is there a decrease of more than 15%?	Yes/No



10.	Calculate the change in Quantity of goods cleared for Home Consumption for each CETSH over the last return. Is there a decrease of more than 15%?	Yes/No
11.	Total number of parameters for which the response is 'Yes'.	

Name of the Superintendent

Signature

Register of scrutiny and assessment of returns

Financial Year \_\_\_\_\_

Range \_\_\_\_\_  
Commissionerate \_\_\_\_\_

Division \_\_\_\_\_

II. Authority : Trade Notice \_\_\_\_\_ based on Board's Circular No. \_\_\_\_\_

Name and Signature of Range Superintendent \_\_\_\_\_

III. INDEX

Sr.No.	Name of the assessee	Page number(s)
(1)	(2)	(3)

IV Page No. \_\_\_\_\_

Name and address of the assessee \_\_\_\_\_

\_\_\_\_\_

Registration No. \_\_\_\_\_ CETSH \_\_\_\_\_

Commodity Description \_\_\_\_\_

V

Month/Quarter	Date of receipt of the return	Provisional or Final Assessment	Amount of duty payable as per the return	Amount of duty debited		Date of Scrutiny	Result of scrutiny	Whether selected for second stage scrutiny
				Cash	CENVAT			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Remarks	Signatures of Scrutinising Officer		
	Range Officer	Division DC/AC	Addl./Joint Commissioner
(10)	11(a)	11(b)	11(c)

Annexure 4

Monthly report on scrutiny of ER1/ER3 returns

Name of the Range \_\_\_\_\_

Report for the month of \_\_\_\_\_/YY

Due date : dd/mm/yy \_\_\_\_\_ Date of Submission :  
dd/mm/yy \_\_\_\_\_

I. Preliminary Scrutiny

Opening Balance of returns pending for preliminary scrutiny	No. of ER1/ER3 returns received during the month	Total No. of returns required to be scrutinized [(1) + (2)]	No. of returns for which preliminary scrutiny completed during the month	No. of returns selected for detailed scrutiny	Closing Balance of returns pending for preliminary scrutiny [(4) - (3)]
(1)	(2)	(3)	(4)	(5)	(6)

II. Age wise pendency of preliminary scrutiny

Closing Balance of returns pending for preliminary scrutiny	Pending for		
	Less than 1 month	1 month to 3 months	More than 3 months
(1)	(2)	(3)	(4)

III. Detailed Scrutiny

Opening Balance of	No. of fresh ER1/ER3	Total No. of returns	No. of returns for	Closing Balance of	No. of returns

returns pending for detailed scrutiny	returns selected during the month	required to be scrutinized [(1) + (2)]	which detailed scrutiny completed during the month	returns pending for detailed scrutiny [(4) - (3)]	pending for more than 3 months
(1)	(2)	(3)	(4)	(5)	(6)

Name of the Superintendent

Signature