

F. No. 268/24/2006-CX.8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi

Circular No. 869/07/2008-CX

Dated 16th May, 2008

Subject : Procedure relating to sanction and post-audit of refund/rebate claims-reg.

Attention is invited to the Board's Circular No. 809/06/2005-CX dated 01.03.2005 on the above subject, and the subsequent modification carried out in the procedure relating to pre-audit of refund claims (involving amount more than Rs. 5 lakh) vide Circular No. 857/15/2007-CX dated 02.11.2007. References have been received from the field formations to modify the procedure relating to post-audit on the lines of said circular dated 02.11.2007. In order to ensure parity and uniformity in the procedure of pre-audit and post audit of refund/rebate claims, the following instructions are issued in supersession of Circular No. 809/06/2005-CX dated 01.03.2005.

2.1 All refund/rebate sanction orders must necessarily be issued as an Order-in-Original. A separate series with suffix 'R' for numbering of Orders-in-Original issued for sanction of refund/rebate claims may be used. However, in terms of risk to revenue, a monetary limit of Rs. 50,000/- has been fixed below which O-in-O may not be issued, if the rebate is sanctioned in full. This shall enable the department to focus on the cases where amount sanctioned is higher than Rs. 50,000/-.

2.2 All refund/rebate claims involving an amount of Rs. 5 lakh or above should be subjected to pre-audit at the level of Deputy/Assistant Commissioner (Audit) in the Commissionerate Headquarter Office. In such cases, a suitable Order-in-Original shall be passed by Deputy/Assistant Commissioner of Central Excise. The Orders-in Original passed in this regard shall be subjected to review proceedings by Commissioner as per the provisions of section 35E of the Central Excise Act, 1944.

2.3 For refund/rebate claims above Rs. 50,000/- but less than Rs. 5 lakh, Orders-in-Original should be issued by Deputy/Assistant Commissioner. These O-I-Os should be subjected to compulsory post-audit at the level of Deputy/Assistant Commissioner (Audit). The Orders-in-Original shall also be subjected to review as per the provisions of section 35E of the Act.

2.4 In cases of refund/rebate claims involving an amount upto Rs. 50,000/-, no Order-in-Original need be passed, if the claim is sanctioned in full. However, in case the sanctioned amount is less than the claimed amount, O-in-O should invariably be issued. These sanction orders may be post-audited on the basis of the random selection by Deputy/Assistant Commissioner (Audit) in such a way that at least 25 percent of the claims are post-audited. As Orders-in-Originals are not being passed in such smaller cases (except when not sanctioned in full), it may not be necessary to subject these sanction orders to review under Section 35E.

2.5 All refund/rebate claim papers should be sent by the Divisional Deputy/Assistant Commissioner to the Commissionerate Headquarters [Deputy/Assistant Commissioner (Audit)] for post-audit within a week of payment thereof, irrespective of the amount involved. The jurisdictional Commissioners of Central Excise may evolve a suitable mechanism to ensure that all documents in respect of the refund/rebate claim (including claims below Rs. 50,000/- where no O-in-O is issued) are received in Commissionerate Headquarters for pre-audit and post-audit as per para 2.2 and 2.3 above.

2.6 For the purpose of post-audit/pre-audit of refund/rebate claims, a cell comprising of Deputy/Assistant Commissioner (Audit), one Superintendent and Inspectors as required, may be constituted. The cell should complete the post-audit before the expiry of two months from the date of issue of the O-in-O. This cell shall also be responsible for maintaining the record of the Orders-in-Original issued by various rebate/refund sanctioning authorities. The cell would also monitor and point out any missing Orders-in-Original by tracking the serial number and other relevant details.

3. The field formations as well as trade and industry may be suitably informed.

Sd/-

(RAHUL NANGARE)

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