

**F. No. 267/22/05-CX-8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi**

Circular No. 862/20/2007-CX

Dated 27th December, 2007

Amendments to the Central Excise (Compounding of Offences) Rules, 2005

The undersigned is directed to refer to Notification No. 42/2007-C.E.(N.T) dated 27.12.2007, wherein amendments have been carried out in the Central Excise (Compounding of Offences) Rules, 2005.

2. Rule 5 of the said Rules has been amended to revise the compounding amount prescribed under the rules. Further, a proviso has been inserted in this rule, which provides that if a person has, in respect of same goods, committed offences falling under more than one category specified in this rule and where amount of duty evasion or amount of CENVAT Credit wrongly taken or utilized is same for all such offences, the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed. The interpretation and scope of this proviso is explained in the following illustrations;

- (a) A non-registered person removes goods without payment of duty which results into committing of offences specified in Sub-Section (1)(a), (1)(b) and (1)(bb) of Section 9 of the Act. In this case, the offence specified under Section 9 (1)(b) attracts compounding amount, which may extend up to 50 % of the amount of duty evasion (specified at Sl. No. 2 in the table given in the Notification) and this amount is higher than or equal to those prescribed for other two offences. Therefore, the compounding amount for all the said offences shall be determined under the said category of one offence [under Section 9(1) (b)] only.
- (b) A person takes or utilizes CENVAT credit wrongly and also furnishes false information. He, therefore, commits offence specified under Sub-Sections (1)(bbbb) and (1)(c) of Section 9 of the Act. In this case, the offence specified under Section 9 (1)(bbbb) attracts compounding amount, which may extend up to 50% of the amount of CENVAT Credit wrongly taken or utilized. This amount is higher than prescribed for other offence. Therefore, the compounding amount for all the said offences shall be determined under the said category of one offence [under Section 9(1) (bbbb)] only.
- (c) A person removes goods without payment of duty of Rs. 10 lakh and also takes the CENVAT credit of Rs. 20 lakh wrongly, thus committing offence under sub Sections (1)(b), (1)(bb) and (1)(bbbb) of Section 9 of the Act. In this case, the compounding amount shall be determined separately for,-
 - (i) Removal of goods without payment of duty; and
 - (ii) Wrong availment of CENVAT Credit, as the goods involved and duty evasion amount are different for these offences.

3. Further, in rule 4, a new provision has been added, whereby it has been provided that an applicant should pay duty, penalty, and interest before submission of application for compounding. Correspondingly, the Application Form has also been amended.

4. In view of reduction of compounding amount, the assesseees may be persuaded to opt for compounding route in more number of cases. Adequate publicity may be given about reduction of compounding amount, in order to make the scheme more popular as to reduce the cases pending in the Court. Further, in order to make best use of compounding of offence scheme, all persons against whom prosecution is initiated or contemplated, should be informed separately in writing, the offer of compounding. Guidelines issued vide Circular No. 54/2005 Cus dated 30.12.2005 shall continue to apply, subject to the amendments made by Notification No. 42/2007-C.E.(NT) dated 27.12.2007.

Sd/-

(RAHUL NANGARE)

Under Secretary to the Government of India
