

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi**

Notification No. 32/2006-Central Excise (N.T.)

Dated 30th December, 2006

G.S.R. (E).- In pursuance of rule 12CC of the Central Excise Rules, 2002, and rule 12AA of the CENVAT Credit Rules, 2004, the Central Government, hereby declares that where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter is prima facie found to be knowingly involved in any of the following,-

- (a) removal of goods without the cover of an invoice and without payment of duty;
- (b) removal of goods without declaring the correct value for payment of duty, where a portion of sale price, in excess of invoice price, is received by him or on his behalf but not accounted for in the books of account;
- (c) taking of CENVAT Credit without the receipt of goods specified in the document based on which the said credit has been taken;
- (d) taking of CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine;
- (e) issue of excise duty invoice without delivery of goods specified in the said invoice;
- (f) claiming of refund or rebate based on the excise duty paid invoice or other documents which a person has reason to believe as not genuine,

an officer authorized by the Board may order for withdrawal of facilities or impose certain restrictions as specified in para 2 of this Notification.

2. Facilities to be withdrawn and imposition of restrictions :

- (1) Where a manufacturer is prima facie found to be knowingly involved in committing the offences as specified in para 1, the following restrictions may be imposed on the facilities, namely :-
 - (i) the facility of monthly payment of duties may be withdrawn and the assessee shall be required to pay excise duty for each consignment at the time of removal of goods;
 - (ii) payment of duty by utilisation of CENVAT credit may be restricted and the assessee shall be required to pay excise duty without utilising the CENVAT credit :

Provided that where a person is found to be knowingly involved in committing any one or more type of offences as specified in para 1 for the second time or subsequently, every removal of goods from his factory may be ordered to be under an invoice which shall be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the said goods are removed from the factory or warehouse.

Explanation I

- It is clarified that a person against whom the order under sub-para (3) of para 4 has been passed may continue to take CENVAT credit; however, he would not be able to utilize the credit for payment of duty during the period specified in the said order.

Explanation II

- For second time or subsequent offence, the restriction specified in clauses (i) and (ii) may also be imposed.

- (2) Where a first stage or second stage dealer is found to be knowingly involved in committing the type of offence specified at clauses (d) or (e) of para 1, the registration granted under rule 9 of the Central Excise Rules 2002 may be suspended for a specified period.

Explanation

- During the period of suspension, the said dealer shall not issue any Central Excise Invoice. However, he may continue his business and issue sales invoices without showing excise duty in the invoice and no CENVAT credit shall be admissible to the recipient of goods under such invoice.

(3) Where a merchant exporter is found to be knowingly involved in committing the type of offence specified at clause (f) of para 1, the self sealing facility for export consignment may be withdrawn whereby each export consignment shall be examined and sealed by the jurisdictional Central Excise Officer :

Provided that any other facility available to a manufacturer, first stage or second stage dealer or an exporter provided by a circular or an order issued by the Board may also be ordered to be withdrawn for a specified period.

3. Monetary Limit.- The provisions of this Notification shall be applicable only in a case where the duty or CENVAT Credit alleged to be involved in the offences specified in para 1 is more than Rs. 10 lakhs.

4. Procedure.-

(1) The Commissioner of Central Excise or Additional Director General of Central Excise Intelligence, as the case may be, after examination of records and other evidence, and after satisfying himself that the person has knowingly committed the offence as specified in para 1, may forward a proposal to the Chief Commissioner or Director General of Central Excise Intelligence, as the case may be, specifying the facilities to be withdrawn and restriction to be imposed and the period of such withdrawal or restrictions, within 30 days of the detection of the case, as far as possible.

(2) The Chief Commissioner of Central Excise or Director General of Central Excise Intelligence, as the case may be, shall examine the said proposal and after satisfying himself that the records and evidence relied upon in the said proposal are sufficient to form a reasonable belief that a person has knowingly committed the offences specified in para 1, may forward the proposal along with his recommendations to the Board. However, the Chief Commissioner of Central Excise or Director General of Central Excise Intelligence, before forwarding his recommendations, shall give an opportunity of being heard to the person against whom the proceedings have been initiated and shall take into account any representation made by such person before he forwards his recommendations to the Board.

(3) An officer authorized by the Board shall examine the recommendations received from the Chief Commissioner of Central Excise or Director General of Central Excise Intelligence and issue an order specifying the type of facilities to be withdrawn or type of restrictions imposed, along with the period for which said facilities will not be available or the period for which the restrictions shall be operative.

Sd/-

(RAHUL NANGARE)

Under Secretary to the Government of India

(F. No. 224/40/2006-CX. 6)