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सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX
हैदराबाद 1 आयुक्तालय HYDERABAD-1 COMMISSIONERATE

केंद्रीय शुल्क भवन, एल बी स्टेडियम रोड, बशीर बाग, हैदराबाद-500 004
KENDRIYA SHULK BHAVAN, L.B. STADIUM ROAD, BASHEER BAGH, HYDERABAD 500 004

(Tele ☎ - 040-23212072 fax)

व्यापार सूचना सं. **Trade Notice No. 05/2012 (C.Ex.,)**

दिनांक **Date : 01.05.2012**

सामान्य सं. **General No.3/2012**

केन्द्रीय उत्पाद व सीमा शुल्क बोर्ड, राजस्व विभाग, वित्त मंत्रालय, भारत सरकार, नई दिल्ली द्वारा जारी निम्नलिखित परिपत्रों की प्रतिलिपियाँ सूचना, मार्गदर्शन और आवश्यक कार्यवाही हेतु संप्रेषित हैं।

Copies of the following Circulars issued by the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi, are communicated herewith for information, guidance and necessary action.

क्रमांक Sl.No.	परिपत्र सं./फाइल सं. Circular No. / File No.	विषय Subject
01.	No.962/05/2012-CX-8, dated 28.03.2012 (F.No.267/96/2009-CX.8)	Payment of arrears from Cenvat Credit earned at a later date – Reg.
02.	No.965/08/2012-CX, dated 17.04.2012	Clarification regarding admissibility of exemption under area-based Notification No.56/2002-CE, dated 14.11.2002 – Reg.

02. इस व्यापार सूचना की विषय-वस्तु सभी संबंधितों की जानकारी में लाई जाए।
The contents of this Trade Notice may be brought to the notice of all concerned.

संलग्न Encl: यथोपरि As above

(जी. ए. रामाराव **G.A. RAMA RAO**)
सहायक आयुक्त (तक) **ASST. COMMISSIONER(TECH.,)**

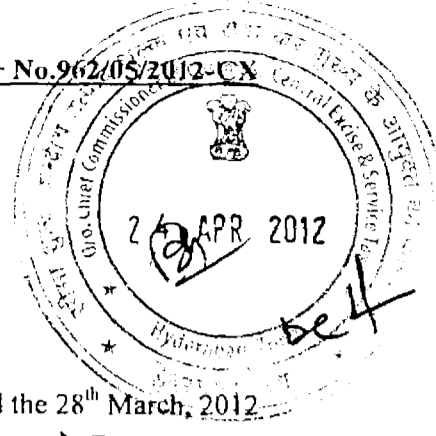
प्रति To

वितरण सूची-1 के अनुसार As per Distribution List-I
(फाइल सं.C.No.IV/16/58/2012-C.Ex.,Tech.II/Hyd.Iसे जारी)
(Issued from file C.No.IV/16/58/2012-C.Ex.,Tech.II/Hyd.I)

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Circular No. 962/05/2012-CX

F.No.267/96/2009-CX8
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)



New Delhi, dated the 28th March, 2012.

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

Sir/ Madam,

Subject: Payment of arrears from Cenvat Credit earned at a later date

Reference was received from the field formation seeking clarification on the issue as to whether the arrears of duty can be paid by utilizing the cenvat credit which has accrued subsequent to the period to which the arrears pertained. Such clarification has been sought in view of first proviso to rule 3(4) of the Cenvat Credit Rules, 2004. As per this proviso, "while paying duty of excise or service tax, as the case may be, the cenvat credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, as the case may be, for payment of duty or tax relating to that month or the quarter, as the case may be."

2. Doubts have been raised whether these restrictions will be applicable to duty payable in terms of Section 11A or duty paid after due date in terms of rule 8 of the Central Excise Rules, 2002.

3. The matter has been examined in the Board. Practice ascertained from field formations points out that in majority of cases the payment of demands confirmed under Section 11A are being permitted to be paid by utilizing cenvat credit without linking the same to the period to which these demand pertain.

4. A harmonious reading of rule 8 of Central Excise Rules' 2002 and first proviso to rule 3 (4) of the Cenvat Credit Rules, 2004 indicates that the restriction with regard to the utilization of cenvat credit is relating to the normal payment of duty in terms of rule 8 of the Central Excise Rules, 2002, where duty for a particular month or quarter is to be discharged by the 5th of the next month. For this proviso, the cenvat credit allowed to be used is what was in balance on the last date of that month

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or quarter and not what accrued thereafter. Even in case of duty paid late in terms of rule 8, the credit available for utilization will remain same i.e. the credit in balance on the last date of month or quarter, as the case may be.


5. Further duty payable under rule 8 is on a different footing from duty payable under Section 11A. Duty under Rule 8 is paid after self determination by the assessee unlike Duty payable under Section 11A where generally the duty is determined by the Central Excise officer and the payment is mandated after such determination. There is no time limit prescribed under Section 11A i.e., monthly or quarterly unlike the date prescribed under Rule 8 (i.e., 5th of the next month). Therefore, the restriction on the utilization of the cenvat credit accruing subsequent to the last date of the month or quarter in which the arrears arise, is not applicable to the demands confirmed under Section 11A of the Central Excise Act, 1944.

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

7. Receipt of this circular may kindly be acknowledged.

8. Hindi version will follow.

Yours faithfully,


28.3.12
(Vikas Kumar Jeph)
OSD (CX-8)

By No.	924
Date	23/4/12

Circular No. 965/08/2012-CX



F.No. 101/ 15/2010-CX-3

Government of India
Ministry of Finance
Department of Revenue

*Central Board of Excise & Customs

New Delhi the 17th April, 2012

To

All Chief Commissioners of Central Excise & Customs,
All Chief Commissioners of Central Excise,
All Directors General

Sir/Madam,

Sub: Clarification regarding admissibility of exemption under area-based
Notification No. 56/2002-CE dated 14.11.2002 – reg.

Your kind attention is invited to Notification No. 56/2002-CE dated 14.11.2002 which provides for exemption from the duty of excise to specified goods cleared from industrial units in the State of Jammu & Kashmir to the extent of duty paid in cash by way of a refund mechanism, for a period of ten years from the date of publication of the notification or from the date of commencement of commercial production, whichever is later. The exemption is available to new units which have commenced commercial production on or after 14.06.2002 as well as existing units which have undertaken substantial expansion or have made new investments for employment generation on or after 14.06.2002.

2. A doubt has been raised whether in the case of existing units undertaking substantial expansion, the 10 year exemption period has to be computed from the date of commencement of initial commercial production or from the date of commencement of commercial production from the expanded capacity. Some field formations have taken a view that in the case of existing units which had commenced commercial production prior to 14.06.2002, the exemption period of ten years would be computed from the

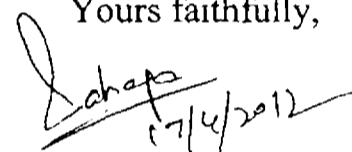
date of publication of notification, i.e., 14.11.2002, irrespective of the fact that such units had undertaken substantial expansion after 14.11.2002.

3. The matter has been examined in the Board. It is clarified that the exemption period of ten years is to be computed from the date of publication of the notification when a new unit commences commercial production or an existing unit undertakes substantial expansion and commences commercial production from such expanded capacity during the period from 14.06.2002 to 14.11.2002. However, if a new unit commences commercial production or an existing unit undertakes substantial expansion and commences commercial production from such expanded capacity after the date of publication of the notification, i.e., 14.11.2002, the ten year exemption period is to be computed from the date of commencement of commercial production in the case of new units and from the date of commencement of commercial production from the expanded capacity in the case of existing units.

4. Trade, industry and field formations may be suitably informed.

5. Hindi version will follow.

Yours faithfully,


17/4/2012

(Madan Mohan)
Under Secretary (CX-3)