

F.No.267/29/2015-CX-8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Sub: Clarification regarding Cenvat Credit in transit sale through dealer - reg.

Kind attention is invited to Notification No. 8/2015 - Central Excise (NT) dated 1-3-2015 amending Central Excise Rules, 2002 (CER). Representations have been received from trade regarding the scope and purpose of third and fourth proviso inserted in sub-rule (2) of rule 11 particularly with reference to procedural requirement after the amendment where an indenting or unregistered dealer negotiates transit sale. For ease of reference these two provisos are reproduced below -

" Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice:

Provided also that if the goods imported under the cover of a bill of entry are sent directly to buyer's premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises. "

2. Clarification has also been requested by the trade regarding continued applicability of circular no 96/7/95-CX dt 13-2-1995, 137/48/95-CX dt 18-7-1995 and 218/52/96-CX dt 4-6-1996, in so far as these circulars pertain to availment of credit on strength of original manufacturer's invoice where a dealer including an indenting dealer has procured order and has arranged direct transport of the goods from the premises of the manufacturer to the premises of the consignee. Further, clarification has also been sought regarding change in the requirement of registration for dealers consequent upon amendment in the rules.

3. The issue involved has been examined. It is clarified that the purpose of inserting the third and fourth provisos in sub-rule (2) of Rule 11 of CER is to allow an additional facility for direct transport of goods from the manufacturer or the importer to the consignee where the consignee avails CenvatCredit on the basis of the Cenvatable invoice issued by the registered dealer or the registered importer. This facility obviates the need for the goods to be brought to the premises of the registered importer or the registered dealer for subsequent transport of the goods to the consignee.

4. It is further clarified that the provisions of the circulars on the issues referred in Para 3 would continue to apply as no amendment has been made in rule 9 of the Cenvat Credit Rules, 2004 which prescribes the document on the basis of which Cenvat Credit can be availed. No amendments have been made regarding registration requirements also.

5. Various specific issues referred to by the trade are clarified as follows -

(i) Where a registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. In such cases no Cenvatable invoice shall be issued by the registered dealer in favour of the consignee though commercial invoice can be issued. Where a registered dealer negotiates sale of goods from the total stock ordered on a manufacturer or an importer to multiple buyers and orders direct transportation of goods to the consignees and the manufacturer or the importer is willing to issue individual invoices for each sale in favour of the consignees for such individual sale, the same procedure shall apply.

(ii) Where a registered dealer negotiates sale by splitting a consignment procured from a manufacturer or a registered importer and issues Cenvatable invoices for each of the sale, it would now be possible for the dealer to order direct transport of the consignments as per the individual sales to the consignee without bringing the goods to his godown. This would save time and transportation cost for the dealer adding to ease of doing business. This is a new facility which flows from the amended provisions. Procedure as prescribed in the third proviso of rule 11(2) shall be applicable in such case.

(iii) Where a un-registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. As the dealer is not registered, there is no question of issuing any Cenvatable invoice by him . Such dealers as in the past can continue to be un-registered.

(iv) Where goods are sold by the registered importer to an end-user (say a manufacturer) who would avail credit on the basis of importer's invoice and the goods are transported directly from the port or warehouse at the port to the buyer's premises, the amendment prescribes that for such movement the factum of such direct transport to the buyer's premises needs to be recorded in the invoice.

6. It may be noted that the new provisos are meant to improve the ease of doing business by providing an additional facility to the registered dealer or importer for direct dispatch of goods from the manufacturer to the consignee, when he is issuing Cenvatable invoice,. They do not withdraw any past facility. These amendments should therefore be harmoniously interpreted with the existing rules and circulars in conformity with the legal provisions, keeping the intention of the Government in mind. Difficulty faced, if any, should be brought to the notice of the Board. Hindi version would follow.

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