

## INDIRECT TAXES UPDATE - 3

### CENTRAL EXCISE

#### CENVAT credit cannot be used for paying Clean Energy Cess

Rule 3(4) of the CENVAT Credit Rules, 2004 has been amended to provide that the CENVAT credit of any duty specified in sub-rule (1) of rule 3 cannot be utilized for payment of the Clean Energy Cess.

*Notification No. 26/2010 CE(NT) dated 29.06.2010*

#### Reversal of CENVAT credit not required when goods are removed for the use of foreign diplomatic missions/consular missions/career consular offices/diplomatic agents

Rule 6(6) of the CENVAT Credit Rules, 2004 has been amended to provide that provisions of the sub-rule (1), (2), (3) and (4) shall not apply in a case where the excisable goods are removed without payment of duty for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents in terms of the provisions of *Notification No. 6/2006- CE dated 01.03.2006*.

In other words, neither any CENVAT credit be reversed nor any amount be paid when excisable goods are removed without payment of duty for the above purpose.

*Notification No. 27/2010 CE(NT) dated 01.07.2010*

#### Exempted goods not to be exported under bond

*Circular No. 928/18/2010-CX dated 28.06.2010* has been issued to explain the amendment made in *Notification No. 42/2001-CE (NT) dated 26.06.01* vide *Notification No. 24/2010-CE (NT) dated 26.05.10*. *Notification No. 42/2001-CE (NT) dated 26.06.01* prescribes the procedures and conditions for export without payment of duty under bond. The said notification has been amended to provide that goods which are exempted from payment of duty or chargeable to nil rate of duty shall not be allowed to be exported under bond. Since, 100% EOU's are required to export the goods under bond, in terms of Customs and Excise notifications, the exports from 100% EOU's have been specifically excluded from the purview of this amendment.

As a policy, the Government does not tax exports. There are different methodologies and procedures for refund in different situations. If the goods are exempted, then the department has prescribed a detailed procedure for refund of input taxes through *Notification No. 21/2004-CE (NT) dated 06.09.2004*, wherein a detailed procedure requiring verification of details like manufacturing process, input-output ratio, wastages etc., by the departmental officer is prescribed. The reason for the same is that in case of exempted goods, the department does not exercise control. In order to avoid such detailed verification and scrutiny by the department for claiming of refund of input taxes, some of the exporters were exporting the exempted goods under bond and claiming refund under rule 5 of the CENVAT Credit Rules, 2004, though a bond is executed only when goods are liable for payment of excise duty. If there is no excise duty then there is no question of exporting under bond. This was the reason

for amending *Notification No. 42/2001-CE (NT) dated 26.06.01* in the above manner.

**Polyester Staple Fibre manufactured out of PET scrap and waste bottles is a textile material classifiable under Section XI of the Central Excise Tariff**

*Circular No. 929/19/2010-CX dated 29.06.2010* has been issued to clarify that polyester staple fibre manufactured out of PET scrap and waste bottles is nothing but a textile material and hence will be classified as textile material under heading 55032000 under Section XI and not as article of plastic in Chapter 39.

*The complete text of above notifications and circulars are available at [www.cbec.gov.in](http://www.cbec.gov.in)*

**Disclaimer**

Information published in the newsletter are taken from publically available sources and believed to be accurate. The Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the newsletter. No part of this newsletter may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of ICAI.

**Feedback**

The Indirect Taxes Update is an endeavour of the Indirect Taxes Committee to apprise the readers about the amendments made in various central indirect tax laws vide significant notifications, circulars etc. We welcome your feedback on the Update and its contents.

Please email [idt@icai.org](mailto:idt@icai.org) for feedback.

You can also write to:

Secretary

Indirect Taxes Committee

The Institute of Chartered Accountants of India

ICAI BhawanA-94/4, Sector -58, NOIDA (U.P.)India

Telephone Direct - +91 120 3045 906 Telephone Board - +91 120 3989398 Ext. 906