

INDIRECT TAXES UPDATE - 125

EXCISE

Clarifications regarding Mandatory pre-deposit of duty or penalty for filing appeal

Section 35FF of the Central Excise Act, 1944 and Section 129EE of the Customs Act, 1962 prescribe mandatory pre-deposit as a percentage of the duty demanded where duty demanded is in dispute or where duty demanded and penalty levied are in dispute.

In this regard, CBEC vide *Circular No. 993/17/2014-CX., Dated: January 05, 2015* has provided the following:

- i) In order to facilitate seamless verification of the deposits at the time of processing the refund claims made in case of favorable order from the Appellate Authority, the Commissionerates are required to maintain a database of the record of deposits made. Following pro forma has been prescribed to maintain the separate database (e-register preferably) in respect of appeals before CESTAT and Commissioner (Appeals):

Sl. No.	Name of the Appellant/ Party	Details of duty paying document viz Challan etc.	Amount of pre-deposit paid	Order No and date of the order of Commissioner(A)/Tribunal
---------	------------------------------	--	----------------------------	--

- ii) In order to process the refund claims quickly, the Tribunal Registry (where appeal memo is received)/ Commissioner (Appeals) must send a copy of the appeal memo to the Commissionerate concerned immediately after receipt in lines with Rule 17 of the CESTAT (procedure) Rules, 1982.
- iii) The amended provisions regarding filing of appeal along with stipulated percentage of pre-deposit shall apply to all appeals filed on or after 6th August, 2014.
- iv) Drawback, like rebate in Central Excise, is refund of duty suffered on the export goods. Mandatory pre-deposit would be payable in cases of demand of drawback as the new section 129E would apply to such cases.
- v) Mandatory pre-deposit would be required to be paid in cases of drawback, rebate and baggage at the first stage appeal before Commissioner (Appeals). However, no pre-deposit would be payable in such cases where the appeal is filed before the Joint Secretary (Revision Application) because the ambit of the Section 129E of the Customs Act, 1962 does not extend to appeals under section 129DD in the legislation.

[*Circular No. 993/17/2014-CX., Dated: January 05, 2015*]

Source: www.cbec.gov.in

Disclaimer

Information published in the newsletter are taken from publicly 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 itdc@icai.in for feedback.
You can also write to:*

*Secretary
Indirect Taxes Committee
The Institute of Chartered Accountants of India
ICAI Bhawan A-29, Sector -62, NOIDA (U.P.) India*