

Notes and Notifications

Circular No. 1027/15/2016-CX

F.NO. 96/115/2015-CX.1
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(CENTRAL BOARD OF EXCISE & CUSTOMS)

New Delhi, Dated 25th April, 2016

To

Principal Chief Commissioner / Chief Commissioner of Central Excise (All),
Principal Chief Commissioner / Chief Commissioner of Central Excise and Service Tax (All),
Principal Commissioner of Central Excise, Service Tax (All), Web-master, CBEC

Madam/Sir,

Subject : Withdrawal of Circulars/Instruction on excisability of bagasse, aluminium/zinc dross – reg.

Excisability of bagasse and similar other by-products or wastes arising during the course of manufacture of an excisable product has been an issue under dispute. Following circulars/instruction have been issued from time to time on the subject:-

- (a) Circular No. 904/24/2009-CX dated 28.10.2009,
- (b) Circular No. 941/02/2011-CX dated 14.02.2011,
- (c) Instruction F.No.17/02/2009-CX (Pt.) dated 12.11.2014.

2. The issue came before the Hon'ble Supreme Court in a case of M/s Union of India and Ors vs M/s DSCL Sugar Ltd. [2015-TIOL-240-SC-CX] dated 15.07.2015. Hon'ble Supreme Court examined the issue and reaffirmed that bagasse is not a manufactured product. The Judgment applies to both periods, before and after the insertion of explanation in Section 2(d) of the Central Excise Act, 1944 by the Finance Act, 2008. It may also be noted that Hon'ble High Court of Bombay in case of M/s Hindalco Industries Ltd. vs. Union of India [2015(315)E.L.T.10 (Born.)] came to similar conclusion in relation to dross and skimming of aluminium, zinc or other non-ferrous metal.

3. In the light of the above judgments, circulars of the Board on the subject viz 904/24/2009-CX dated 28.10.2009, 941/02/2011-CX dated 14.02.2011 and instruction issued vide F.No. 17/02/2009-CX(Pt.) dated 12.11.2014 have become non-est and are hereby rescinded. Cases kept in Call Book on the above issue may be taken out and adjudicated.

4.1 It may also be noted that rule 6 of the Cenvat Credit Rule (CCR), 2004 was amended with effect from 01.03.2015 by inserting explanation 1 and explanation 2 in sub-rule (1) of rule 6. These explanations continue in the present rule 6 also and are reproduced below for ease of reference :-

“Explanation 1. - For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.

Explanation 2. - Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.”

4.2 Consequently, Bagasse, Dross and Skimmings of non-ferrous metals or any such byproduct or waste, which are non-excisable goods and are cleared for a consideration from the factory need to be treated like exempted goods for the purpose of reversal of credit of input and input services, in terms of rule 6 of the CENVAT Credit Rules, 2004.

5. Difficulty experienced, if any, in implementing the circular should be brought to the notice of the Board. Hindi version would follow.

(Santosh Kumar Mishra)
Under Secretary to the Government of India

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITIES

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 14th May, 2016

The following Act of Parliament received by the assent of the President on the 14th May, 2016, and is hereby published for general information—

THE INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2016

No. 27 of 2016

[14th May, 2016]

An Act further to amend the Industries (Development and Regulation) Act, 1951

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Industries (Development and Regulation) Amendment Act, 2016

Short title.

65 of 1951.

2. In the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), after section 29D, the following section shall be inserted, namely:—

Insertion of new section 29E.

“29E. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any power exercised, or action taken or done or purported to have been taken or done, by the Central Government or, as the case may be, the State Government, shall be deemed to be, and shall always be deemed to have been, for all purposes, as validly taken or done or omitted to be done, as if the amendment made to the First Schedule by the Industries (Development and Regulation) Amendment Act, 2016 had been in force at all material times and no suit or claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority as such.”

Validation.

Amendment of First Schedule

3. On and from the date of commencement of the principal Act, in the First Schedule, for the heading “26. FERMENTATION INDUSTRIES:”, the heading “26. FERMENTATION INDUSTRIES (OTHER THAN POTABLE ALCOHOL);” shall be substituted.

Sd/-

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India

[To be published in Part-I, Section-1 of the Gazette of India, Extraordinary]

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(Department of Food and Public Distribution)**

NOTIFICATION

New Delhi, the 19th May, 2016

No. 20(43)/2015-S.P.-1—Pursuant to Part 4 of the Production Subsidy Scheme notified vide notification No. 20(43)/2015-S.P.-1 dated 2.12.2015, the Central Government, after having been satisfied with the assessment that sugar prices are now substantially higher than levels required for operational viability of the sugar industry, hereby withdraws the Production Subsidy Scheme with immediate effect.

Sd/-

(Prashant Trivedi)
Join Secretary to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part-I, Section-1 vide number 20(43)/2015-S.P.-I Dated 2.12.2015.

NO. 3(7)/2015-SP-I

GOVERNMENT OF INDIA

**MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION
DEPARTMENT OF FOOD & PUBLIC DISTRIBUTION**

Krishi Bhawan, New Delhi,
Dated the 23rd May, 2016

To

Managing Director
National Federation of Cooperative Sugar Factories Ltd.,
Ansal Plaza, 'C' Block,
2nd Floor, August Kranti Marg,
Khel Gaon Marg,
New Delhi-110049

Subject : Fixation of Fair and Remunerative Price payable by sugar mills for 2016-17 sugar season.

Sir,

I am directed to inform that the Government of India has determined the 'Fair and Remunerative Price' of sugarcane payable by Sugar Mills for 2016-17 sugar season at Rs. 230/- per quintal linked to a basic recovery rate of 9.5% subject to a premium of Rs. 2.42/- per quintal for every 0.1 percentage point increase in recovery above that level.

2. This may please be given wide publicity.

Yours Faithfully,

Sd/-

(Jitender Juyal)
Under Secretary to the Government of India
Telefax. 23385726