

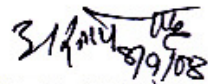
**:केंद्रीय उत्पाद तथा सीमा शुल्क के आयुक्त का कार्यालय:
:टारुन सेंटर : सिडको : औरंगाबाद 431 003:**

**व्यापार सूचना नं. 13/2008
(अ.क. 11/GEN./2008 दिनांक 05.09.2008)**

**विषय : Instructions on implementation of changes carried out to
Notification No.08/2003-CE dated 01.03.2003-Reg...**

उपरोक्त विषय पर भारत सरकार वित्त मंत्रालय राजस्व विभाग नई दिल्ली द्वारा दिनांक **1st September, 2008** की फा.सं.354/124/2008-TRU तहत जारी परिपत्र/पत्र की प्रतिलिपि सूचना मार्गदर्शन एवं कार्यवाही के लिये प्राप्त करें /

सभी संबंधित संगठनों से अनुरोध है कि वे इस परिपत्र/पत्र की जानकारी अपने सभी सदस्य निर्माताओं और व्यापारियों को दें /


(अरुण साहु)
आयुक्त

फा.सं. VGN(30)07/TC /2008
औरंगाबाद, दिनांक 05.09.2008

प्रतिलिपि प्रेषितः डाक सूची के अनुसार

- §उप/सहायक आयुक्त सभी मंडल प्रभारी तथा आय.सी.डी.
- §सभी अनुभाग प्रमुख मुख्यालय
- §मुख्य आयुक्त केंद्रीय उत्पाद तथा सीमा शुल्क नागपुर
- §आयुक्त के उत्पाद तथा सी.शुल्क (अपील), औरंगाबाद

F.No. 354/124/2008-TRU
 Government of India
 Ministry of Finance
 Department of Revenue
 Tax Research Unit



New Delhi, dated the 1st September, 2008

To,

All Directors General
 All Chief Commissioners of Central Excise and Customs
 All Chief Commissioners of Central Excise

Shri Parthiv
02/09/08

Subject :Instructions on implementation of changes carried out to notification No.8/2003-CE dated 1.3.2003 -regarding.

Sir/Madam,

Notification No.8/2003-Central Excise provides full exemption from Central Excise duty to goods manufactured by small-scale units i.e. units whose aggregate value of clearances did not exceed Rs.4 crore in the preceding financial year. The exemption is available for clearances up to Rs.1.5 crore in a financial year if the prescribed conditions are fulfilled. One of the conditions of this notification is that goods bearing the brand name or trade name of another person are not eligible for exemption barring a few exceptions such as goods cleared as 'original equipment', goods bearing the brand name or trade name of KVIC, or if such goods are manufactured in a factory which is located in a rural area.

2. Disputes have arisen in the past about the applicability of this condition to goods that bear the brand name of another person but which are sold under that brand name by the buyer of the goods and not by the SSI unit affixing the brand name. Such goods are normally manufactured by the SSI unit as per the orders of the customer for further use by the latter in the manufacture of the final product. Examples of such goods are elastic tapes used in the manufacture of undergarments, castings, packing materials such as printed cartons of paper, HDPE bags, Polypropylene caps, metal containers etc. On the basis of circulars/ clarifications issued by the Government, from time to time, the brand name restriction was not being applied to such goods and the benefit of the exemption was being extended on the ground that there is no nexus between the person manufacturing the goods and the brand name. In the case of Kohinoor Elastics Pvt. Ltd. Vs CCE, Indore [2005(183)ELT3(SC)], the Hon'ble Court has held that the wording of the notification does not allow the benefit of the exemption in this situation as the

notification does not envisage a nexus between the manufacturer and the brand for it to attract the mischief of the brand name restriction. Accordingly, the mere affixation of brand name of another person is adequate to disqualify the goods for SSI exemption.

3. In the light of the Supreme Court decision, instructions were issued by the Board to raise protective demands in cases where the benefit of SSI exemption was being extended by the field formations in such cases on the basis of Circulars/clarifications referred to above. Board's letter F.No. 115/1/2008-CX.3 dated 16th June, 2008 refers.

4. Subsequently, representations have been received from the trade and industry particularly from the manufacturers of packing materials such as printed cartons, seeking exemption.

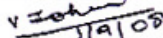
5. Notification no.47/2008-Central Excise dated 01.09.2008 has been issued to amend the SSI exemption. It provides that the benefit of the exemption shall be available to specified goods bearing the brand name or trade name of another person if they are in the nature of packing materials, namely, printed cartons of paper or paper board, metal containers, HDPE woven sacks, adhesive tapes, stickers, PP caps, crown corks and metal labels. The amendments contained in the notification come into immediate effect and would be applicable to the clearances of these goods effected on or after 1st September, 2008.

6. In pursuance of the Supreme Court decision in the case mentioned above, the following instructions/circulars/clarifications of the Board may be treated as withdrawn:-

- (i) Letter F.No. 345/35/87 -TRU dated 29.10.87 (Point 1 at paragraph 2);
- (ii) Letter F.No. 213/28/87-CX.6 dated 27.11.87; and
- (iii) Circular no. 71/71/94-CX dated 27.10.94

7. It is requested that the trade and industry may be suitably informed. Commissioners under your charge may also be advised to take necessary action accordingly.

Yours sincerely


(Vivek Johri)
Joint Secretary