

**:केंद्रीय उत्पाद तथा सीमा शुल्क के आयुक्त का कार्यालय:
:टारुन सेंटर : सिडको : औरंगाबाद 431 030:**

**व्यापार सूचना नं.05/2010
(अ.क.05/GEN./2010 दिनांक 12.03.2010)**

विषय : Irregular availment of Cenvat Credit on certain activities not amounting to manufacture - reg.

उपरोक्त विषय पर भारत सरकार के वित्त मंत्रालय राजस्व विभाग नई दिल्ली द्वारा दिनांक 14.01.2010 की फा.सं.267/116/2009-CX8 के तहत जारी परिपत्र सं. 911/01/2010-CX dated 14.01.2010 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 /

31/03/10
(अरुण साहु)
आयुक्त

फा.सं. VGN(30) 24/TC /2010
औरंगाबाद, दिनांक 12.03.2010.

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.267/116/2009-CX8
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi dated the 14th January, 2010

To,
All Director Generals,
All Chief Commissioners of Central Excise (including LTU),
All Commissioners of Central Excise (including LTU).

Sir/ Madam,

Subject: Irregular availment of Cenvat credit on certain activities not amounting to manufacture-reg.

Reference has been received from field formations stating that though certain activities including connectorising, testing, repacking and relabeling of feeder cables, cutting of HR/CR coils into sheets or slitting into strips do not amount to manufacture, such processors are taking Cenvat credit and justifying their Cenvat availment on ground that they are paying duty on final products.

2. The matter has been examined. As per the provisions of Rule 3 of the CENVAT Credit Rules, 2004, read with Rule 6, credit of duty paid on the inputs is allowed only if these inputs are used in the **manufacture** of a final product. The Board vide circular dated 26.09.07 issued from F.No.93/1/2005-CX3, had clarified that if the process does not amount to manufacture, duty is not required to be paid and hence no Cenvat credit of duty paid on inputs is admissible. Attention is also invited to the provisions of Section 5B of the Central Excise Act, 1944, where an assessee, who has paid excise duty on a product under the belief that the same is excisable, but subsequently the process of making the said product, is held by the Court as not amounting to manufacture, in such cases, the Central Government may issue an order for non-reversal of such credit in past cases.

3. In view of above, following instructions are issued:-

- (i) In cases where the process undertaken by an assessee indisputably does not amount to manufacture, the department should inform the assessee about the correct legal position and advise him not to pay duty and not to avail credit on inputs.
- (ii) If the assessee has already paid duty, and in a situation where there is no manufacture as held by the Courts subsequently, and facts of the case are covered by the provisions of Section 5B of the Central Excise Act, 1944, the assessee is at liberty to approach the Central Govt. for issue of appropriate notification for regularization of the Cenvat credit availed.

4. Trade & Industry as well as field formations may be suitably informed.

5. Receipt of this circular may kindly be acknowledged.

6. Hindi version will follow.

Yours faithfully,
(Amish Kumar Gupta)
OSD (CX-8)