

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi

Trade Notice No 17/2016

Date : 22nd Sep 2016

To

All Regional Authorities
Members of Trade

Sub: Refund of Terminal Excise Duty (TED) under Deemed Exports where Duty has been paid from CENVAT Credit and ab-initio waiver is not available.

Sir,

The Para 7.03 (c) of FTP 2015-20 provides for refund of Terminal Excise Duty if exemption is not available. The Para 7.05 (ii) of FTP 2015-20 states that supply of goods which are exempted ab-initio from payment of Terminal Excise Duty would be ineligible to get refund of TED.

2. The Policy Circular No. 16 (RE-2012/2009-14) dated 15.3.2013 also while specifying the categories where ab-initio exemption is there, specified that no refund of TED should be provided by RAs of DGFT/Office of Development Commissioners, because such supplies are ab-initio exempted from payment of excise duty.

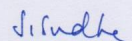
3. Even though there was ab-initio exemption from payment of TED for supplies to EOUs, some firms were trying to get refund of TED, paid in many cases with accumulated CENVAT credit. This amounted to encashment of the accumulated CENVAT credit by way of TED refund under deemed exports, wherein no TED was required to be paid in the first instance.

4. This lead to a certain position being taken also regarding the refund of TED in deemed export cases where no such ab initio waiver existed and the duty had been paid using the CENVAT credit, on grounds related to the permissibility of refunds of TED paid through CENVAT Credit. Some RAs had also denied the refund of TED in such cases. There were representations from trade and industry on this arguing that they have all along been getting such refunds.

5. In light of representations, the issue has been examined in consultation with Department of Revenue and it is accordingly clarified that the refund of TED as per FTP, subject to all other conditions, shall continue to be available where the ab-initio exemption was not provided and duty had been paid using CENVAT credit. However DOR has advised that necessary safeguards should be adopted to ensure that the TED is not already claimed (or shall not be otherwise claimed) as refund in any other manner, such as area based exemptions.

6. It is reiterated that no refund of TED shall be allowed where ab-initio exemption was there, as already specified in the FTP.

This issues with the approval of DGFT.


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