

Remission of Duty and Destruction of Goods

Question 1

Briefly explain the provisions of Rule 21 of the Central Excise Rules, 2002 regarding Remission of Duty.

Answer

The term '**Remission**' means waiver or cancellation of excise duty legally payable. According to Rule 21 of Central Excise Rules, 2002 remission of duty can be granted in the following cases:-

- (a) Goods have been lost or destroyed by natural causes.
- (b) Goods have been lost or destroyed by unavoidable accident.
- (c) Goods are claimed by manufacturer as unfit for consumption or for marketing.

It will not be out of context to mention that application for remission should be submitted before removal of goods from factory. In different words, there is no provision for remission of duty after goods are cleared from the factory.

Question 2

Briefly state the powers of various Central Excise Officers to grant 'Remission of Duty'.

Answer

The powers of various Central Excise Officers to grant 'Remission of Duty' have been exhibited in the following brief table:

Rank of Central Excise Officer	Monetary limit on power to remit duty
Commissioner	Without limit but normally any amount exceeding ₹ 5,00,000
Additional/Joint Commissioner	Between ₹ 1,00,000 and ₹ 5,00,000
Deputy/Assistant Commissioner	Between ₹ 10,000 and ₹ 1,00,000
Superintendent	Below ₹ 10,000/-
Inspector	None

Question 3

What are the situations in which duty can be remitted under rule 21 of Central Excise Rules, 2002.

11.2 Indirect Tax Laws

Answer

Rule 21 of the Central Excise Rules, 2002 provides that where it is shown to the satisfaction of Commissioner empowered to remit the duty, that:-

- (i) goods have been lost or destroyed by **natural causes** or,
- (ii) goods have been lost or destroyed by **unavoidable accident** or
- (iii) the goods have become **unfit for consumption or for marketing**.

at any time before removal, he may remit the duty payable on such goods subject to such conditions as may be imposed by him by order in writing.

Question 4

Explain briefly, with reference to rule 21 of the Central Excise Rules, 2002 relating to remission of duty, the following:

- (i) *Can remission of duty be granted on goods cleared from the factory after payment of duty, but which were destroyed by fire in transit?*
- (ii) *Upon grant of remission of duty, the CENVAT credit on inputs used in final product has to be reversed.*

Answer

- (i) Remission of duty is granted when the goods are lost or destroyed by natural causes or by unavoidable accident or are claimed by the manufacturer as unfit for consumption, **at any time before removal**.

Hence, in this case remission of duty cannot be granted under rule 21 of the Central Excise Rules, 2002 as **goods have already been cleared** from the factory after payment of duty.

- (ii) As per sub-rule (5C) of rule 3 of CENVAT Credit Rules, 2004 inserted vide *Notification No. 33/2007 CE (NT) dated 07.09.2007*, where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods shall be reversed.

Question 5

Discuss whether remission of duty shall be granted or not, in the following cases, under the Central Excise Rules, 2002:

- (i) *Excisable goods manufactured in the factory are claimed by the manufacturer as unfit for consumption or for marketing.*
- (ii) *Duty paid goods were damaged due to breakage in handling.*
- (iii) *Finished goods entered in Daily Stock Account (DSA) were stolen from the factory.*
- (iv) *Finished goods (fully manufactured) were lost before removal from the factory and the assessee has received a claim from the insurance company.*
- (v) *Finished Goods are destroyed in fire during the process of fire due to spontaneous combustion.*

(vi) *Fished Goods kept in open yard are lost or damaged due to heavy storm and rain.*

Answer

Rule 21 of the Central Excise Rules, 2002 *inter alia* provides that where it is shown to the satisfaction of the Commissioner that goods have been lost or destroyed by natural causes or by unavoidable accident or are claimed by the manufacturer **as unfit for consumption or for marketing, at any time before removal**, the Commissioner may remit the duty payable on such goods, subject to such conditions as may be imposed by him by order in writing. With reference to the said rule, the cases under consideration are discussed as follows:-

- (i) Remission of duty shall be granted as the goods have been claimed as unfit for consumption or for marketing by the manufacturer.
- (ii) Remission cannot be granted on duty paid goods as there is no provision for granting remission of duty after removal of the goods.
- (iii) Remission of duty in case of theft is not allowed as the goods are available for consumption somewhere else [**Chapter 18 Part I Para 2.6 of CBE&C's Central Excise Manual, 2001**].
- (iv) Remission of duty has is grantable even if the assessee has received insurance claim in respect of fire accident as has been held in the following cases:
 - (a) **Sarda Plywood Industries Ltd. V CCE 1987 (32) E.L.T. 116(CEGAT);**
 - (b) **CCE V Jai Bhavani SSK (2008) 222 ELT 370 (CESTAT)**
- (v) Remission of duty is grantable if goods are destroyed during process due to spontaneous combustion which is a natural cause as has been held in **CCE Vs Balrampur Chini Mills(2008) 223 ELT 34 (All HC)** wherein it was pronounced that destruction by spontaneous combustion is a natural cause and question of negligence or unavoidable accident does not arise.
- (vi) Remission of duty is grantable if goods kept in open yard are lost/damaged due to heavy storm and rain as has been held in the following cases:-
 - (a) **EID Parry V CCE 2004 (167) ELT 336 (CESTAT)**
 - (b) **Rajapalavam Cement V CCE (2008) 227 ELT 401 (CESTAT)**

Exercise

1. *Briefly outline the manner of destruction of goods.*
2. *Describe the procedure for destruction of goods and remission of duty.*
3. *X an exporter clears goods for export under bond without payment of duty. Goods are destroyed in road accident before export. Whether X is liable to remit duty in terms of Rule 21 of Central Excise Rules, 2002?*