

Export Procedures

Question 1

What is CT-1 certificate?

Answer

CT-1 certificate is the document on the basis of which a **merchant-exporter can procure excisable goods for export without payment of duty**. Such a certificate has to be obtained from the Superintendent of Central Excise. CT-1 forms are issued to the merchant-exporter in lots of 25 covering a period of 1 to 3 months depending on his track record. The merchant-exporter has to send the CT-1 form to the manufacturer from whom the goods are to be procured for exports and should specify the estimated amount of duty liability in the said certificate. CT-1 is valid for one year from the date of issue.

CT-1 contains the details of bond amount, quantity of goods to be received, value and duty involved.

Question 2

Write a short note on the procedure in respect of exported goods subsequently re-imported and returned to factory.

Answer

Exported excisable goods, which are re-imported for carrying out repairs, reconditioning, refining, remaking or subject to any similar process, may be returned to the factory of manufacturer for carrying out the said processes and subsequent re-export.

Notification No. 42/2001-CE (NT) as amended prescribes the procedure in respect of exported goods subsequently re-imported and returned to the factory as under:

- (i) The manufacturer shall **maintain separate account** for return of such goods in the daily stock account and shall make suitable entry in the said account after the goods are processed, repaired, reconditioned, refined or remade.
- (ii) Such re-import and re-export shall be governed by the provisions of the Customs Act, 1962.
- (iii) Any **waste or refuse arising as a result of the said processes shall be removed from the factory after the payment of appropriate duty or destroyed** after informing the proper officer in writing at least 7 days in advance and after observing such conditions and procedure as may be specified by the Commissioner of Central Excise.
- (iv) Thereafter, the duty payable on such waste or refuse may be remitted by the said Commissioner of Central Excise.

Question 3

Under what circumstances it may be beneficial to pay duty and claim rebate under Rule 18 of Central Excise Rules, 2002.

Answer

It is usually preferable not to pay duty rather than to pay it and wait for refund from the government. However, in the following situations, it is beneficial to pay duty and claim rebate under Rule 18 of Central Excise Rules, 2002:

- (A) If assessee has balance of duty in Capital Goods CENVAT Credit Account, it is advisable to pay duty and claim refund, as balance in Capital Goods CENVAT Credit Account is never refundable. The said situation may take place if duty paid on capital goods is heavy and assessee may not be able to utilize the credit.
- (B) An SSI Unit may pay excise duty and claim rebate, as getting refund of CENVAT Credit of inputs is not an easy preposition. Further, he is not entitled to get refund of duty paid on capital goods.
- (C) When duty paid goods are proposed to be exported.
- (D) Claiming rebate is comparatively easy procedure than claiming refund of duty paid on inputs under CENVAT Credit Rules, 2004.

Question 4

Answer in brief the following questions relating to export without payment of duty to any country other than to Bhutan under Rule 19 of the Central Excise Rules, 2002:

- (i) *What is the type of bond to be executed? Who is exempted from furnishing such bond?*
- (ii) *What is the export document for export clearance? How many copies are required to be prepared for it?*
- (iii) *Is it necessary to prepare an invoice also? If yes, how should it be prepared?*
- (iv) *What will be the duty payable, if goods are not exported within six months after clearance?*

Answer

Procedures and conditions for export without payment of duty to all countries except Bhutan are specified in **Notification No.42/2001 C.E. (N.T.) dated 26.6.2001**. Part-wise answers to the questions are given below:

- (i) A bond in Form B-1 is required to be executed by a **merchant exporter** in case of export without payment of duty. The bond should be at least equal to the duty chargeable on the goods, with such surety or security as the excise officer may approve. **Manufacturer-exporter** is exempted from furnishing such bond. He can furnish an annual Letter of Undertaking (LUT) in Form UT-1.
- (ii) **ARE-1** is the export document for export clearance which shall be prepared in **five**

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copies (quintuplicate). The fifth copy is the optional copy which the assessee can use for claiming other export incentives.

- (iii) Yes, the goods have to be cleared from the factory under **an invoice** which shall be prepared in terms of rule 11 of the Central Excise Rules, 2002. The invoice should be prominently marked as “FOR EXPORT WITHOUT PAYMENT OF DUTY”.
- (iv) Goods must be exported within 6 months from the date of clearance for export, unless extension is granted by Assistant Commissioner/Deputy Commissioner. If goods are not exported within 6 months from the date of clearance for export, the exporter **should deposit the applicable excise duty on such goods along with the interest.** As per **rule 5** of the Central Excise Rules, 2002, the applicable duty shall be computed **as per the rate and tariff value applicable on the date of removal of such goods from the factory.**

Question 5

Write a brief note on “Cancellation of Export Documents” with reference to Central Excise Act, 1944 and the Rules made thereunder.

Answer

If the excisable goods cleared under A.R.E. 1 are not exported for any reason and the exporter intends to divert the goods for home consumption, he may request in writing the authority which accepted the Bond or Letter of Undertaking [LUT] to allow cancellation of application, and diversion of goods for consumption in India. He will be permitted to do so if he pays the duty as specified in the application along with interest on such duty from the date of removal for export from the factory or warehouse till the date of payment of duty. The permission shall be granted within three working days. Since duty assessment on A.R.E. 1 has to be done in normal course, there will not be any need for re-assessment by the Department or the assessee unless there are reasons to believe that the assessment was not correct. After discharge of duty, the exporter may take credit in his running bond (where bond is furnished) on the basis of letter of permission, invoice and GAR-7 Challans on which duty is paid. He shall also record these facts in the Daily Stock Account.

If the exporter, after clearing the goods for export without payment of duty, **intends to change the destination or buyer or port or place of export**, he may do so provided he informs the Bond/LUT accepting Authority in writing about the changes and makes necessary changes in all the copies of A.R.E. 1 and the invoices. **If he intends to cancel the original export documents and issue fresh ones**, the same may be done under permission and authentication by bond/LUT accepting authority which will ensure that the serial no. and date of the initial documents are endorsed on the fresh documents. In such cases, if bond was furnished for single consignment, fresh bond may not be asked.

Question 6

Happy Ltd., cleared certain goods to P. Ltd., paying higher rate of excise duty in the month of March, although the rate of duty on the said goods had been reduced in the Budget of the same financial year. However, P Ltd., refused to pay the higher duty which Happy Ltd., had

paid by mistake. P Ltd., raised a debit note in the month of June of the same year. Happy Ltd., applied for refund of the excess excise duty paid in August. The Department rejected the claim on the ground that the incidence of duty has been passed by Happy Ltd. to P. Ltd.

While claiming refund Happy Ltd., relied on the debit note raised by P Ltd., in the month of June to demonstrate that its customer P Ltd, had not paid the excess duty to Happy Ltd. The Department contended that since the debit note was issued in the month of June and not March it could not be the basis for refund.

With a brief note:

- (i) *Examine, with the help of decided case law, whether the contention of the Department is correct in law.*
- (ii) *State whether in the above case, assuming that the issue is decided in favour of Happy Ltd. by the Commissioner of Central Excise (Appeals) and the duty involved is ₹ 4,80,000, the Revenue could file an appeal before the CESTAT against such an order.*

Answer

- (i) The facts of the given case are similar to the case of *CCE v. Techno Rubber Industries Pvt Ltd. 2011 (272) E.L.T. 191 (Kar.)* wherein the High Court has held that the Department is bound to refund the excess amount of duty received by it to the person who has paid this excess duty. In this case, the buyer had refused to pay excess duty claimed and had raised a debit note. The High Court observed that in such a situation, the only inference which could be drawn was that the assessee had not received the excess duty paid by him to the Department.

In the given case also, P Ltd. (buyer) has refused to pay the higher duty and has raised a debit note on Happy Ltd. (assessee). Thus, it can be inferred that Happy Ltd. has paid higher duty to the Department and has not received it from P Ltd. Thus, Happy Ltd. is entitled to the refund of such excess duty paid by him and the contention of the Department is not valid in law.

- (ii) No, Revenue could not have filed an appeal to CESTAT against the order passed by the Commissioner of Central Excise (Appeals) as the duty involved for refund is ₹4,80,000.

CBEC has issued the instructions vide *F.No.390/Misc./163/2010-JC dated 17.08.2011* fixing the monetary limits of duty below which an appeal cannot be filed in CESTAT, High Court and Supreme Court by the Department and these monetary limits apply to cases of refund as well. As per the said instructions, an appeal cannot be filed before the Tribunal if the duty involved in a case is ₹ 5,00,000 or below.

Question 7

Briefly explain the documents required for filing claim of rebate of duty on export of goods under rule 18 of the Central Excise Rules, 2002.

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Answer

The following documents are required for filing claim of rebate:-

- (i) A request on the letterhead of the exporter containing claim of rebate, A.R.E.1 numbers and dates, corresponding invoice numbers and dates on each A.R.E.1 and its calculations.
- (ii) Invoice issued under rule 11.
- (iii) Self attested copy of shipping bill
- (iv) Self attested copy of Bill of Lading
- (v) Disclaimer Certificate (in case where the claimant is not the exporter).
- (vi) Original copy of the A.R.E.1

After satisfying himself that goods were actually exported based on original and duplicate copies of A.R.E.1 duly certified by Customs and that goods are of duty paid character as certified in the triplicate copy of A.R.E.1 received from the jurisdictional Superintendent of Central Excise, rebate sanctioning authority would sanction the rebate in part or full.

Question 8

Indicate the central excise authorities who can accept bonds executed for various purposes and obligations of exporter in respect of bond acceptance while filling in ARE-1 form.

Answer

Bonds may be accepted by any of the following officers:

- (i) Assistant/Deputy Commissioner of Central Excise having jurisdiction over the factory or warehouse or any other premises approved by the Commissioner for storing non-duty paid goods
- (ii) Jurisdictional Maritime Commissioner in case of exports or
- (iii) Deputy/Assistant Commissioner of Central Excise (Export) as officers authorized by the Board for this purpose.

Exporters are required to indicate on the ARE-1 the complete address of the authority before whom the bond is executed and to whom the documents are to be submitted for admission of proof of export.

Exercise

1. *What are the conditions to be followed while exporting to Bhutan under bond, where payment is in freely convertible currency?*

2. *Discuss the provisions in respect of re-entry of the goods cleared for export under bond but not actually exported in the factory of manufacture.*
3. *Answer the following questions relating to export of excisable goods under Rule 18 of the Central Excise Rules, 2002 to countries other than Bhutan?*
 - (i) *Should a bond be executed in such export? Support your answer with proper reason.*
 - (ii) *What is the form for clearance of excisable goods in such export?*
 - (iii) *How can the rebate of duty on the exports be claimed? Is there any time limit for the same?*
 - (iv) *Is there any duty limit below which the rebate of duty cannot be granted? If yes, then, what is the limit? Is there any other restriction on the grant of rebate?*
 - (v) *Which duties of excise are eligible for rebate under Rule 18?*
 - (vi) *Is it necessary that in order to claim rebate, excise duty should be paid in cash?*

Answer/Hint: Under Rule 18 of Central Excise Rules, 2002, the rebate of excise duty paid on exported goods is granted. Procedures and conditions for export of excisable goods under claim of rebate to countries other than Bhutan are specified in Notification No.19/2004 C.E. (N.T.) dated 06.09.2004. Answers to each part of the question are as follows:

- (i) There is no need to execute a bond in such a case as the goods are exported under claim of rebate after full payment of duty under an invoice.
- (ii) Export under claim for rebate should be made under ARE-1 form.
- (iii) A claim of rebate of duty paid, along with the original copy of the ARE-1, shall be lodged with the Assistant/Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case maybe, the Maritime Commissioner. As per section 11B of the Central Excise Act, 1944, the claim must be filed within one year from the date of export.
- (iv) The rebate will not be granted if amount of rebate of duty is less than ₹500. Further, the rebate will also not be granted if the market price of the excisable goods at the time of exportation is less than the amount of rebate.
- (v) Following duties are eligible for rebate:
 - (a) duties of excise collected under the Central Excise Act, 1944;
 - (b) duties of excise collected under the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
 - (c) duties of excise collected under the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;

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- (d) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001, as amended from time to time;
 - (e) special excise duty collected under a Finance Act;
 - (f) additional duty of excise as levied under section 157 of the Finance Act, 2003;
 - (g) education cess on excisable goods levied under Finance (No.2) Act, 2004;
 - (h) additional duty of excise leviable on pan masala and specified tobacco products under Finance Act, 2005.
- (vi) No. It is not necessary that rebate can be obtained only if duty is paid in cash. Duty on final products can be paid either through cash or PLA or Cenvat credit [*CBE&C Circular No. 262/96/96-CX 6 dated 06.11.96*].