

Remission of Duty and Destruction of Goods

Question 1

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' are given in the following 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 2

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

Answer

As per Rule 21 of the Central Excise Rules, 2002, the Commissioner may remit the duty payable on goods if it is shown to his satisfaction that:-

- (1) goods have been lost or destroyed by natural causes or,
 - (2) goods have been lost or destroyed by unavoidable accident or
 - (3) the goods have become unfit for consumption or for marketing.
- at any time before removal.

Question 3

Can remission of duty be granted on duty paid goods which are destroyed by fire in transit after being cleared from the factory? Explain.

Answer

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.

Question 4

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 before removal.*
- (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 spontaneous combustion.*
- (vi) *Finished 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 would be allowed even if the assessee has received insurance claim in respect of fire accident [**Sarda Plywood Industries Ltd. V CCE 1987 (32) E.L.T. 116(CEGAT) and CCE V Jai Bhavani SSK (2008) 222 ELT 370 (CESTAT)**].
- (v) Remission of duty would be allowed if goods are destroyed due to spontaneous combustion which is a natural cause as has been held in **CCE Vs Balrampur Chini**

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Mills(2008) 223 ELT 34 (All HC). It was held in this case that destruction by spontaneous combustion is a natural cause and question of negligence or unavoidable accident does not arise.

- (vi) Remission of duty would be allowed if goods kept in open yard are lost/damaged due to heavy storm and rain [**EID Parry V CCE 2004 (167) ELT 336 (CESTAT) and Rajapalavam Cement V CCE (2008) 227 ELT 401 (CESTAT)**].

Exercise

1. Describe the procedure for destruction of goods and remission of duty.
2. X an exporter clears goods for export under bond without payment of duty. Goods are destroyed in road accident before export. Can duty be remitted in this case?