

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)

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F.No. S/12-Gen-1/2009-10 AM(X)

Date : .04.09

PUBLIC NOTICE NO. 29/2009

Sub :Payment of Additional Excise Duty (AED) and Special Additional Excise Duty (SAED) on motor spirit and high speed diesel and National Calamity Contingent Duty (NCCD) on excisable goods exported from units located in Special Economic Zone (SEZ) regarding

Attention of all the exporters, trade and industry, CHA and all concerned is invited on above subject. The Board has issued the following clarification vide letter F.No.354/188/2008-TRU dated 7th January, 2009., on a reference, whether the Additional Excise Duty (AED) and Special Additional Excise Duty (SAED) are payable on motor spirit and high speed diesel when cleared for export from units located in a Special Economic Zone (SEZ) and in respect of National Calamity Contingent duty (NCCD) payable on specified excisable goods. The duties in question are leviable under the following statutes :

- (a) Additional Duty of Excise (Motor Spirit) under Section 111 of the Finance (No.2) Act, 1998 (21 of 1998);
- (b) Additional Duty of Excise (High Speed Diesel) under Section 133 of the Finance Act, 1999 (27 of 1998);
- (c) Special Additional Excise Duty on Motor Spirit and HSD under section 147 of the Finance Act, 2002 (20 of 2002); and
- (d) National Calamity Contingent Duty (NCCD) under section 136 of the Finance Act, 2001 (14 of 2001)

2. It is clarified that the Basic Excise Duty on goods produced or manufactured in India is levied under section 3 of Central Excise Act, 1944 at the rates set forth in the First Schedule to the Central Excise Tariff Act, 1985. However, goods produced or manufactured in SEZs have been excluded from the purview of this section implying that this duty is not leviable to such goods. Accordingly, excisable goods manufactured and cleared from units located in SEZs, whether for export or for home consumption do not attract this levy. Moreover, section 7 of the Special Economic Zones Act, 2005 provides that any goods exported out of a unit in a SEZ shall, subject to such terms, conditions and limitations, as may be prescribed be exempt from the payment of taxes, duties or cess under all enactments specified in the First Schedule. The First Schedule enlists 21 such statutes including the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and the Additional Duties of Excise (Textile and Textile Articles) Act, 1978. Thus, duties of excise or cesses levied as duties of excise under these enactments are also not chargeable when goods produced by an SEZ unit are exported. However, the relevant statutes/Acts listed at (a) to (d) of para 1 above are neither specified in the First Schedule of the SEZ Act, 2005 nor do they contain any exclusion for goods manufactured by units in a SEZ. Under the circumstances, duties of excise leviable under these statutes are chargeable to goods manufactured by SEZ units. However, it is pertinent that the statutes referred to in para 1 above also provide that the provisions of the Central Excise Act, 1944 and the rules made thereunder shall apply to the levy and collection of these duties as they apply to the levy and collection of excise duty under the Central Excise Act, 1944. The implication is that the machinery provisions for the levy and collection of basic excise duty have been borrowed for the purposes of the Additional Excise Duty, Special Additional Excise Duty and NCCD. Among the machinery provisions of the Central Excise Act and rules are the facilities for export of excisable goods under claim for rebate (rule 18 of the Central Excise Rules) or the facility for export under bond (rule 19). It is evident that owing to the enabling provision these facilities would also be available to SEZ units manufacturing excisable goods in respect of the duties specified in para 1 above.

3. In view of the above, it is clarified that AED or SAED levied on motor spirit and high speed diesel under the respective sections of the Finance Acts and NCCD on goods leviable to it, are not required to be paid for goods exported under bond from a manufacturing unit located in a Special Economic Zone. Similarly, a manufacturer located in a SEZ would be entitled to avail of the facility of export under claim for rebate in terms of rule 18 of the Central Excise Rules in respect of these duties. In both cases, the manufacturer would be required to follow the procedure notified under these rules.

(K.L.GOYAL)

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