



**OFFICE OF THE COMMISSIONER
CENTRAL EXCISE & SERVICE TAX COMMISSIONERATE
CHANDIGARH –I**

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व्यापार सूचना सं. 6 /2012/C.E TRADE NOTICE NO. 6 /2012/C.E

**विषय/SUB: - Payment of arrears from Cenvat Credit earned at a later date
-Req.**

1) उपर्युक्त विषय पर केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड, राजस्व विभाग, वित्त मंत्रालय, भारत सरकार की फा.सं. **267/96/2009-CX8** से जारी परिपत्र सं. **962/05/2012-CX**, दिनांक **28.03.2012**, की प्रति व्यापार एवं क्षेत्रीय संगठन को सूचना एवं मार्गदर्शन हेतु इसके साथ संलग्न की जाती है। उक्त परिपत्र स्वतः स्पष्ट है।

1) A copy of **Circular No. 962/05/2012-CX** dated **28.03.2012** from F. No. **267/96/2009-CX8** issued by the Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India, on the above subject matter, is enclosed herewith for information and guidance for the trade and field formation. The said **Circular** is self – explanatory.

2) सभी व्यापार संघ/वाणिज्य मण्डल एवं क्षेत्रीय सलाहकार समिति/ लोक शिकायत निवारण समिति के सदस्यों से अनुरोध किया जाता है कि वे इस व्यापार सूचना की अंतर्वस्तु को अपने सदस्यों /संघटकों की सूचना एवं आवश्यक कार्यवाही हेतु उनके ध्यान में लाएँ / प्रचार करें।

2) All the Trade Associations / Chambers of Commerce and the members of the RAC/PGRC are requested to bring/publicize the contents of this Trade Notice amongst their Members/Constituents for their information and necessary action.

**Sd/-
12.04.12
[S.J. SINGH]
COMMISSIONER**

संलग्नक Encl. यथोपरि As above.

फा.सं. F.No.IV(16) Tech/Trade Notice/50/2012

दिनांक Dated:/4 / 2012

Superintendent (Tech.)

F.No.267/96/2009-CX8
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi, dated the 28th March, 2012

To,
All Director Generals,
All Chief Commissioners of Central Excise (including LTU),
All Commissioners of Central Excise (including LTU).

Sir/ Madam,

Subject: Payment of arrears from Cenvat Credit earned at a later date

Reference was received from the field formation seeking clarification on the issue as to whether the arrears of duty can be paid by utilizing the cenvat credit which has accrued subsequent to the period to which the arrears pertained. Such clarification has been sought in view of first proviso to rule 3(4) of the Cenvat Credit Rules, 2004. As per this proviso, *“while paying duty of excise or service tax, as the case may be, the cenvat credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, as the case may be, for payment of duty or tax relating to that month or the quarter, as the case may be.”*

2. Doubts have been raised whether these restrictions will be applicable to duty payable in terms of Section 11A or duty paid after due date in terms of rule 8 of the Central Excise Rules, 2002.

3. The matter has been examined in the Board. Practice ascertained from field formations points out that in majority of cases the payment of demands confirmed under Section 11A are being permitted to be paid by utilizing cenvat credit without linking the same to the period to which these demand pertain.

4. A harmonious reading of rule 8 of Central Excise Rules' 2002 and first proviso to rule 3 (4) of the Cenvat Credit Rules, 2004 indicates that the restriction with regard to the utilization of cenvat credit is relating to the normal payment of duty in terms of rule 8 of the Central Excise Rules, 2002, where duty for a particular month or quarter is to be discharged by the 5th of the next month. For this proviso, the cenvat credit allowed to be used is what was in balance on the last date of that month or quarter and not what accrued thereafter. Even in case of duty paid late in terms of rule 8, the credit available for utilization will remain same i.e. the credit in balance on the last date of month or quarter, as the case may be.

5. Further duty payable under rule 8 is on a different footing from duty payable under Section 11A. Duty under Rule 8 is paid after self determination by the assessee unlike Duty payable under Section 11A where generally the duty is determined by the Central Excise officer and the payment is mandated after such determination. There is no time limit prescribed under Section 11A i.e., monthly or quarterly unlike the date prescribed under Rule 8 (i.e., 5th of the next month). Therefore, the restriction on the utilization of the cenvat credit accruing subsequent to the last date of the month or quarter in which the arrears arise, is not applicable to the demands confirmed under Section 11A of the Central Excise Act, 1944.

6. Trade & Industry as well as field formations may be suitably informed.

7. Receipt of this circular may kindly be acknowledged.

8. Hindi version will follow.

Yours faithfully,

(Vikas Kumar Jeph)