

:केंद्रीय उत्पाद तथा सीमा शुल्क के आयुक्त का कार्यालय:

:टाऊन सेंटर : सिडको : औरंगाबाद 431 030:

व्यापार सूचना नं. 04/2009

(अ.क.2/GEN./2009 दिनांक 04.03.2009)

विषय : Determination of the value of the excisable goods for the purposes of charging Central Excise duty in respect of industrial units located in Jammu & Kashmir and availing VAT remission vide SRO 91 dated 16.03.2005-Reg...

उपरोक्त विषय पर भारत सरकार के वित्त मंत्रालय राजस्व विभाग, नई दिल्ली द्वारा प्राप्त परिपत्र सं. 880/18/2008-CX दिनांक 22.12.2008 की फा.सं.6/12/2008-CX1 के तहत जारी पत्र की प्रतिलिपी सूचना, मार्गदर्शन एवं कार्यवाही के लिये प्राप्त करें /

सभी संबंधित संगठनों से अनुरोध है कि वे इस परिपत्र/पत्र की जानकारी अपने सभी सदस्य निर्माताओं और व्यापारियों को दें /

(अरूण साहु),

आयुक्त

फा.सं.VGN(30) 55/TC /2009

औरंगाबाद, दिनांक 05.03.2009

प्रतिलिपि प्रेषितः डाक सूची के अनुसार

उप/सहायक आयुक्त सभी मंडल प्रभारी तथा आय.सी.डी.

सभी अनुभाग प्रमुख मुख्यालय

मुख्य आयुक्त केंद्रीय उत्पाद तथा सीमा शुल्क नागपुर

आयुक्त के उत्पाद तथा सी.शुल्क (अपील), औरंगाबाद

22nd December 2008**F.NO. 6/12/2008 – CX 1**

Government Of India

Ministry Of Finance

Department Of Revenue

Central Board Of Excise & Customs

Sub: Determination of the value of the excisable goods for the purposes of charging central Excise Duty in respect of industrial units located in Jammu & Kashmir and availing VAT remission vide SRO 91 dated 16.03.05.

Representations have been received from the Trade in J&K on the above referred subject.

2 The Notification SRO-91 dated 16.03.2006 issued by the Government of J & K states that every registered industrial unit claiming tax (VAT) remission shall make price adjustment in the selling price equivalent to the amount of tax chargeable on the finished goods sold, where after the tax shall be charged on the net selling price so that the benefit of such price adjustment is passed on to the purchasing dealer/consumer. In order that transparency is maintained in the transactions, every sale invoice shall invariably mention the amount of price adjustment made in the selling price. In case no price adjustment is made the industrial unit shall not be entitled to any tax remission. Following examples given in SRO 91 make the scheme of remission clear:

In the case mentioned below at "a" there shall be no remission of tax and in respect of case mentioned at "b", there shall be remission of Tax.

a. No remission of Tax

Qty	Description of goods	Unit price	Value (Rs.)	VAT Rate	Amount of VAT (Rs.)
1	Transformer	10000	10000	4%	400
Total			10000		400

Total Amount Paid by the Buyer = Rs. 10,400.00 (Rs 400 is paid by the manufacturer to the state as VAT hence total value of transaction for the manufacturer is Rs 10000)

b. Price adjustment Method for tax remission.

Qty	Description of goods	Unit Price			Value(Rs.)	VAT Rate	Amount of VAT(Rs)
		Before	Price	Net unit			
		Price adj.	Adjustment	Price			
1	Transformer	10,000	384.6	9615.4	9615.4	4%	384.6
				Total	9615.4		384.6

Total Amount Paid by the Buyer = Rs 10,000 (Since no VAT is paid to the state, total value of transaction for the manufacturer is Rs 10000)

3. In case mentioned at "a", the transaction value of Rs 10,000 is exclusive of the VAT, and the VAT of Rs 400, is charged separately from the customer and paid to the exchequer. In this case, there is no remission of VAT by the state, and transaction value inclusive of excise duty, for determination of the excise duty is Rs 10,000. In case mentioned at 'b', the assessee has determined the assessable value taking transaction value as Rs 10,000, because for the said transaction he gets Rs 10,000 from the customer inclusive of a notional amount of Rs 384.6 as VAT. However this VAT is not paid to the state. Thus in both the cases transaction has earned Rs 10,000 for the assessee. This scheme implies that the VAT element is only notional as far as the manufacturer is concerned and is neither paid nor payable to the Government. The question for consideration is what shall be the transaction value inclusive of excise duty, for determination of excise duty in case "b".

4 Section 4 defines the term 'transaction value' as the price actually paid or payable for the goods,but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods;..

5 Further, the circular F.No. 354/81/200-TRU dated 30.6.2000 in paras Nos. 10 and 11 explains that only those taxes which are actually paid or are payable to the concerned governments are deductible for determination of Assessable value. Those amounts which are neither paid nor payable at a later date cannot be deducted while arriving at the assessable value.

6 In view of above, it is clarified that the VAT element indicated as price adjustment in the invoices in terms of SRO 91 and remitted by the state is not to be deducted for determining the assessable value.

7 Trade & industry as well as field formations may please be informed suitably.

8 Receipt of the Circular may be acknowledged.

9 Hindi version will follow.

(Ashima Bansal)

Undersecretary to the Government of India