

CIRCULAR No. 13/06/CT

Sub: Export - refund of input tax - clarification - reg.

Doubts have been raised regarding the methodology to be adopted for granting refund of input tax credit to exporters in cases where the exporters procure the raw materials in bulk during a season to get price advantage, consume them in the manufacture of intermediate products in any subsequent month and export the manufactured products still later on getting export orders. To cite an example, a manufacturer of oleoresins may buy spices like pepper, ginger etc. during season in respect of each item; the materials thus collected in a season may be used for production of the intermediary products after 5 or 6 months and the sale of that product may happen after another 2 or 3 months from the date of production of the intermediary products. In the case of slow moving items it may take even a longer period than that. Where the products have a longer shelf life the purchase of the raw material in relation to an export would have been made 8 - 9 months prior to such export sale. The raw product obtained from a raw material is not directly sold. It undergoes various processes such as extraction, distillation, purification, blending etc. as per the specific requirement of the customer for quality of the product. The product prior to the final blending even though a saleable product, may not be the one which is exported. The final product blending will be only based on customers' requirements like colour value, volatile oil content, etc

Sub-rule (3)(ii) of Rule 47 of the KVAT Rules stipulates that where the dealer claiming refund under sub-rule (1) had claimed input tax credit in respect of any purchase in relation to which refund is claimed, which could not be set off till date, refund shall be allowed under clause (i) and the input tax credit carried over shall be reduced by the amount of the refund allowed.

In Para 2.07 of Circular No.C1.150/06/CT dated 28-01-'06 (No.5/2006) it was clarified with reference to the definition of "Zero rated sale" and sub-section (2) of section 13 as follows:

"Zero rate sale is defined to mean the sale of any goods on which no tax is chargeable but in relation to which input tax credit or refund of input tax paid is admissible. Further the proviso to sub-section (2) of section 13 provides that the dealer claiming refund shall not, claim input tax credit on such purchase for any return period. So, the law does not prohibit claiming of input tax credit in respect of input tax in relation to goods exported.

But, the dealer claiming refund under section 13 should not have availed of input tax credit in respect of the tax for which refund is claimed. While examining claims of refund, the authority concerned should verify the invoices shown in Form No 21] with reference to the purchases for which input tax credit had been claimed in the return and satisfy itself that input tax credit and refund are not claimed for the same purchase."

When inputs are purchased in one month, used in the manufacture of an intermediary product, which is at the same time a saleable finished product also, and the final product which is exported still later, it may not be practically possible for an exporter to link the exported goods specifically to the actual invoice by which the raw material, out of which the exported goods were produced, was purchased. The law does not require such a link to be established. What is required to be ensured is that for the same amount of input tax, input tax credit and refund are not simultaneously availed of. Where during April 2006 a dealer pays input tax to the tune of Rs. Five lakhs and the output tax payable during that return period is only Rs. Two lakhs, input tax amounting to Rs. Two lakhs will be fully set off against the output tax (Rs. Two lakhs) and the balance Rs. Three Lakhs will be carried over to the subsequent return period (May, 2006) to be set off during May 2006 or any subsequent return period or periods. Merely because the amount of Rs. Three lakhs remains at the credit of the dealer, on the 1st day of May 2006, it cannot be said that the dealer has availed of input tax credit for the amount of Rs. Three lakhs also, so long as the input tax is not fully set off against the output tax. If in May the dealer purchases inputs, after paying input tax amounting to Rs. Three lakhs and the output tax during May is Rs. Four lakhs, the input tax of Rs. Three lakhs standing at the credit of the dealer as on 1st day of May shall be first set off against the output tax of Rs. Four lakhs and input tax amounting to Rs. one lakh out of the input tax of Rs. Three lakhs paid on the purchases made during the month of May will then be set off, following the principle "First In First Out" (FIFO). Set off of input tax will be verified in the chronological order in which the purchases are made, without attempting to establish a link between a purchase bill and the sale, whether local, interstate or export. If during a subsequent month, say in August 2006, the dealer exports goods worth Rs. Five lakhs, the amount of input tax in respect of which the dealer would be entitled for refund would be worked out by applying the ratio of the turnover under different heads for the period from April 2006 to August 2006 and the same ratio would be applied to the input tax and the amount of input tax attributable to export would be found out.

In order to prevent any possible misuse by the exporter, the quantitative details of the goods consumed, the products obtained and the products disposed of in different ways will be obtained from the exporter and verified. Here also it is not necessary to establish a one-to-one linkage, as it is not feasible and also not intended. Detailed verification will, however, be done by the Audit Assessment Wing subsequent to the issue of refund. For this purpose the Audit Assessment Wing shall verify the monthly production account in Form No.14, which the

manufacturers are required to maintain under Rule 58. The Audit Assessment Wing shall cross verify the particulars furnished in Form 14 with reference to the production ratio conceded for the previous years and if any discrepancy is noticed, penal action shall be initiated after a detailed audit. Allowances shall be given for marginal variation in the production ratio that may occur due to reasons beyond the control of the manufacturer such as place of origin, quality and time of purchase of the raw materials, nature of manufacturing process employed, nature of the product manufactured and the like.


Commissioner
Commercial Taxes

To

All Deputy Commissioners