



वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
सीमा शुल्क आयुक्त कार्यालय / Office of the Commissioner of Customs
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PUBLIC NOTICE NO. 38 /2016

Subject: - Admissibility of un-utilized cenvat credit of DTA unit converted into EOU - reg.

Attention of all Exporters / Clearing Agents / Steamer Agents/Shipping agents/Trade and Industry and Public is invited to Circular No. 77/99-Cus dt. 18.11.99 which provided for lapse of unutilized balance modvat credit on conversion of DTA unit into EOU/EHTP/STP unit.

2. Representations have been received that consequent to extension of cenvat credit to EOUs, the said circular is redundant and needs to be withdrawn. Accordingly the matter has been examined by the Board office.

3. The Circular No. 77/99-Cus dt. 18.11.99 was issued in view of the erstwhile Rule 100 H of Central Excise Rules, 1944 which specifically prohibited EOU's from availing Modvat Credit of Inputs / Capital Goods under Rule 57A and 57Q. But consequent to supersession of Central Excise Rules, 1944 by Central Excise Rules, 2002, there is no provision similar to Rule 100 H of CER, 1944 which prohibits the EOU from availing Cenvat Credit of Inputs/ Capital Goods.

4. Moreover Rule 17 of Central Excise Rules' 2002 which deals with the removal of goods by an EOU, was amended w.e.f 06-9-2004 to allow use of Cenvat credit for payment of duty by an EOU. Rule 10 of Cenvat credit Rule'2004 provides in unambiguous terms that if manufacturer transfers his factory on account of change in ownership or lease, then the manufacturer shall be allowed to transfer the Cenvat credit lying unutilized in his accounts to transferred entity. EOU is a manufacturer, and hence this rule applies to them. Hence on conversion from a DTA unit to EOU, the transfer of unutilized cenvat credit lying in the books of DTA unit on the date of conversion into EOU unit is admissible.

5. Accordingly, the Circular No. 77/99-Cus dt. 18.11.99 is hereby withdrawn by the Board office.

6. Difficulties, if any, in implementation, may be brought to notice of this Office.

 22/09/2016

ASHOK
आयुक्त / **COMMISSIONER**

C.No.VIII/48/06/2016-Cus.Pol.(PF)
Customs Policy Section,
Custom House, Tuticorin.
Date: .09.2016

To

As per Mailing List I, II and III.

Notice Board

EDI Section, Custom House, Tuticorin for uploading in the website

Copy submitted to: The Chief Commissioner of Customs (Preventive), Trichy.