

# News Flash - Central Excise Tax

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Udyog Software (India) Ltd.  
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### **Central excise: Time-bound exemption from excise duty on bunker fuels for Indian ships on coastal run**

The central government has exempted excise duty on bunker fuels for ships that are flying the Indian flag and carry containerised cargo or empty containers between two Indian ports (including an intermediate foreign port). However the exemption is valid only till 11 May 2015. The notification can be seen at <http://cbec.gov.in/excise/cx-act/notfns-2014/cx-tarr2014/ce21-2014.htm>.

### **Central excise: Excise duty on petrol and diesel increased**

The central government has issued notification 22/2014-CE dated 12 November 2014 to raise the excise duty rates on petrol and diesel. The notification can be seen at <http://cbec.gov.in/excise/cx-act/notfns-2014/cx-tarr2014/ce22-2014.htm>. A report on the background of this can be read at <http://economictimes.indiatimes.com/news/economy/policy/excise-duty-on-petrol-diesel-hiked-by-rs-1-50/litre-to-boost-government-finances/articleshow/45133960.cms>.

### **Central excise: CBEC issues instructions on dross and skimmings**

Further to the decision of the CESTAT Larger Bench in the case of Hindalco Limited that dross and skimmings are excisable goods, the CBEC has brought the decision to the notice of its field formations and instructed them to follow it. The instruction dated 12 November 2014 issued from F.No. 17/02/2009-CX.1(Pt) can be perused at <http://cbec.gov.in/excise/cx-circulars/cx-ins-14/cx-ins-juddgemt-alumn-dross-skimming.htm>. It may be recalled that the reasoning of the CESTAT was mainly that the items are goods and find mention in the central excise tariff. In this connection a comment, based on the fact that the central excise tariff contains entries for animals too, may be seen at <https://www.linkedin.com/pulse/article/20140923070642-4236346-are-live-animals-manufactured-goods/edit>.

Sadly, the decision of the CESTAT is not yet available on its website, though private taxation portals have published it in their paid-access sections. A summary of the decision from the open section of one such portal can be perused at [http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews\\_detail.php3&newsid=21506](http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&newsid=21506).

### **Central excise: CBEC clarifies on intermediate products for agarbathi manufacture**

In 1999 the CBEC had issued a clarification that odoriferous compounds that are prepared according to secret formulae and used in a continuous process in the manufacture of agarbathi are not excisable goods because they are not capable of being brought to the market to be bought and sold. The CBEC now notes in a new circular that several manufacturers claim non-excisability for odoriferous compounds that have shelf life and are capable of being marketed as a distinct commodity, contending that such compounds are secret and are not sold in the market. The latest circular adverts to the amendment of section 2(d) of the Central Excise Act in 2008, whereby a deeming fiction regarding marketability was inserted into the definition of 'excisable goods'. It also informs the reader that cases have been detected in which the intermediate masala mix is actually sold. The CBEC advises its field formation that the 1999 circular is applicable only in cases where the intermediate product is not capable of being bought and sold. If it is capable of being bought and sold, even though not actually traded, it is excisable. See CBEC Circular 989/13/2014-CX.3 dated 7 November 2014 at <http://cbec.gov.in/excise/cx-circulars/cx-circ14/989-2014cx.htm>.

### **Central excise: Splitting up of rebate claims to avoid pre-audit: CBEC deprecates**

The CBEC has noted that rebate claims, which are subject to pre-audit (under administrative instructions) if a claim is in excess of Rs 5 lakhs, are being split up artificially to avoid pre-audit. The CBEC wants the rebate sanctioning authorities to use their discretion to club such claims and order pre-audit where necessary. The instruction dated 3 November 2014, issued from F.No.206/05/2014-CX.6, can be perused at <http://cbec.gov.in/excise/cx-circulars/cx-ins-14/cx-ins-split-rebateclaims.htm>

**Central excise: Exemption not to be denied because duty paid in some cases**

The departmental authorities tend to take payment of duty as conclusive proof that duty is payable and to use it to deny exemption if later claimed. This was the case with Patel Engineering Works, who claimed an exemption for supplies made to the Navy. In some cases the amount paid was a cum-duty price, and the assessee, as required under law, paid the duty component to the credit of the government. This became the ground for denial of exemption on the remaining supplies. In appeal number ST/201791/2014 of Patel Engineering Works v CCE Visakhapatnam, the CESTAT, Bangalore, set aside the demand and allowed the exemption. The order can be accessed from the CESTAT website at [http://judis.nic.in/dist\\_judis/Cestat\\_Delhi/Retrieve/CaseNo\\_Qry.asp](http://judis.nic.in/dist_judis/Cestat_Delhi/Retrieve/CaseNo_Qry.asp) when it is available, by entering the details given above in the option of 'case number' search.

**Central excise: 6-month limit for Cenvat does not apply to re-credit: CBEC**

In a welcome assessee-friendly move, the CBEC has clarified to its field formations that the six-month limit for taking Cenvat credit on a document applies only to the first time the credit is taken. If it is reversed and then re-taken, this limit will not apply, as in the situations covered in Rules 4(7), 3(5B), and 4(5a) of the Cenvat Credit Rules 2004. This CBEC circular number 990/14/2014-CX.8 dated 19 November 2014 can be perused at <http://cbec.gov.in/excise/cx-circulars/cx-circ14/990-2014cx.htm>.

Content provided by:

Radha Arun  
Consultants to Udyog Software (India) Ltd.  
[radha.arjuni@gmail.com](mailto:radha.arjuni@gmail.com)

Please connect with us at:

Web: [www.udyogsoftware.com](http://www.udyogsoftware.com)  
Call: +91 (0) 40 6603 6561  
Email: [teammarketing@udyogsoftware.com](mailto:teammarketing@udyogsoftware.com)