

PETROFED

Ref. No.: PF/9
February 2, 2015

Shri Pravir Kumar, IAS
Director General of Foreign Trade
Directorate General of Foreign Trade
Ministry of Commerce & Industry
Udyog Bhavan, New Delhi – 110 011

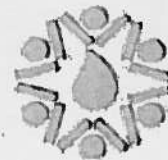
**Sub: Refund of Terminal Excise Duty on Supply of HSD for
Petroleum Operations in Oil & Gas Exploration - Para 8.2(f)
of Foreign Trade Policy (FTP)**

Dear Sir,

1. As per Para 8.2(f) of FTP, supply of goods to any project or purpose, in respect of which Ministry of Finance (MoF) permits import of such goods at zero customs duty, is entitled for deemed export benefits. Import of specified goods in connection with 'petroleum operations' by exploration projects are entitled to the benefit of Nil customs Duty in terms of Notification No.12/2012-Customs dated 17.03.2012' as amended from time to time. Therefore, Indigenous Supplies of specified goods in connection with 'Petroleum operations' to exploration projects are entitled to the benefit of deemed exports. One of the benefits of deemed exports is refund of terminal excise duty.
2. Supplies of HSD to exploration projects, under ICB route, are being made by Public Sector Oil Marketing Companies from their duty paid depots stocks/inventories. Public Sector Oil Marketing Companies are unable to supply Excise Duty Free HSD to Explorers for the following reasons:
 - i. With effect from 06.09.2004 warehousing provisions for petroleum product have been withdrawn. Accordingly, fuel cannot be cleared from refineries to depots of oil companies

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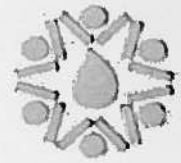


without payment of applicable excise duty (copy of excise Notification No. 17/2004-CE (NT) dt. 04.09.2004 & 47/2001-CE (NT) dt. 26.06.2001 and also copy of CBEC circular dt. 04.09.2004 enclosed).

- ii. The supplies for these specified projects are required in small quantities at regular intervals. Such small quantities cannot be directly sourced from the oil refineries, which are sometimes located far from the project site;
 - iii. Since fuel available for sale from depots of oil companies is necessarily duty paid and as it is not feasible to source the fuel directly from the petroleum refineries, the only option available to Public Sector Oil Marketing Companies is, to supply duty paid HSD to Explorers, and claim refund of Terminal Excise Duty from DGFT under the FTP.
3. However, as per Para 8.3(c) of FTP, refund of terminal excise duty shall not be available where exemption of excise duty is available ab initio. Exemption from excise duty is available where supplies are against ICB. On account of this provision, supply of HSD made to oil exploration projects, under ICB route, from the depots of public sector refineries are being denied the benefit of refund of terminal excise duty. This has led to undue hardship to the petroleum explorers.
 4. HSD is an important input for running the exploration rigs in both onshore as well as offshore operations.
 5. To ameliorate this situation we invite your attention to Para 8.3.1(iii) (b) of Handbook of Procedures Volume I. For ease of reference the Para is reproduced below:

Quote

"(b) For supply of High Speed Diesel / Furnace Oil from Depots of domestic oil Public Sector Undertakings under Para 8.2(b) of FTP,



terminal excise duty shall be refunded on the basis of duty paid certificate issued by concerned domestic oil Public Sector Undertaking in the format given in Annexure I to ANF 8. Duty refund will be allowed for quantity of HSD / Furnace oil procured by EOU / EHTP / STP / BTP unit for its production activities, as certified by concerned DC / Bond authorities"

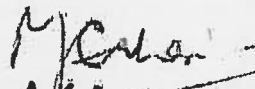
Unquote

The provision quoted above recognizes the practical difficulties in obtaining excise duty exempt supplies of fuel, subsequent to withdrawal in 2004, of warehousing provisions for petroleum products. Unfortunately the relief has only been extended to supplies under Para 8.2 (b) of FTP [Supply of goods to EOU / STP / EHTP / BTP]. We request that the above dispensation to avail terminal excise duty refund provided in Para 8.2 (b) of FTP may please also be extended to supplies made under Para 8.2 (f) of FTP. This permission will restore the duty exemption benefit envisaged in the Policy to petroleum exploration companies.

An early redressal is requested please.

Thanking you,

Yours faithfully,


A.K. Arora
Director General

Encl.: As above

26th June, 2001.

Notification No. 47/2001-Central Excise (N.T.)

In exercise of the powers conferred by sub-rule (1) of rule 20 of the Central Excise (No.2) Rules, 2001, the Central Government hereby extends the facility of removal of all excisable goods specified in column (2) of the Table below from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty.

TABLE

Sl. No.	Excisable goods
1.	Goods falling under Heading Nos. 27.07, 27.10, 27.11, 27.12, 27.13 (except Sub-heading No.2713.12), 27.14 and 27.15, of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1985);
2.	Goods of the following description, namely :- (a) benzene; (b) toluene; (c) xylene; (d) propylene; and (e) tertiary amyl methylene ether, falling under Chapter 29 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1985);
3.	All the following goods where such goods are cleared from the factory of production to a warehouse appointed under section 57 or licensed under section 58 of the Customs Act, 1962 (52 of 1962) and are intended for direct supply - a. as stores to a foreign-going vessel or aircraft; or b. to a meal uplift station outside India: (i) Cigarettes, (ii) Aerated waters, (iii) Prepared and Preserved Foods, (iv) Aluminium foil covers, (v) Stainless steel cutlery, (vi) Butter, (vii) cheese. <i>Explanation:</i> - "Foreign-going vessel or aircraft" and "stores" shall have the meanings respectively assigned to them in Section 2 of the Customs Act, 1962 (52 of 1962).

2. This notification will come into force on 1st July, 2001.
[F.No.281/27/9/2001-CX.8]

(P.K. Sinha)
Under Secretary to the Government of India

4th September, 2004

Notification No. 17/2004-Central Excise (N.T).

In exercise of the powers conferred by sub-rule (1) of rule 20 of the Central Excise Rules, 2002 and in supersession of the Ministry of Finance, Department of Revenue, notification No. 47/2001-CE (N.T.), dated the 26th June, 2001, published vide G.S.R. 476(E), dated the 26th June, 2001, the Central Government hereby, extends the facility of removal of all excisable goods specified in column (2) of the Table below from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty.

Table

Sl. No.	Excisable goods
(1)	(2)
1.	<p>Goods of the following description, namely :-</p> <ul style="list-style-type: none">(a) benzene;(b) toluene;(c) xylene;(d) propylene; and(e) tertiary amyl methylene ether, falling under Chapter 29 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1985);
2.	<p>All the following goods where such goods are cleared from the factory of production to a warehouse appointed under section 57 or licensed under section 58 of the Customs Act, 1962 (52 of 1962) and are intended for direct supply -</p> <ul style="list-style-type: none">a. as stores to a foreign-going vessel or aircraft; orb. to a meal uplift station outside India: <ul style="list-style-type: none">(i) Cigarettes,(ii) Aerated waters,(iii) Prepared and Preserved Foods,(iv) Aluminium foil covers,(v) Stainless steel cutlery,(vi) Butter,(vii) cheese . <p><i>Explanation :-</i> "Foreign-going vessel or aircraft" and "stores" shall have the meanings respectively assigned to them in Section 2 of the Customs Act, 1962 (52 of 1962).</p>

2. This notification will come into force on 6th September, 2004.

F.No.261/27/3/2001-CX.8

Vijay Mohan Jain
Under Secretary to the Government of India

Circular No. 798/ 29/2004-CX
4th September, 2004

F.No.261/27/3/2001-CX 8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Sub: Withdrawal of the warehousing facility for removal of petroleum products without payment of duty from the refineries - regarding.

I am directed to say that the Government has decided to withdraw w.e.f. 6.9.2004 the warehousing facility of removal of petroleum products from the refineries to warehouses or from one warehouse to another warehouse without payment of duty. Accordingly, Notification No. 47/2001-CE (N.T.) dated 26.06.2001, issued under rule 20(1) of Central Excise Rules has been rescinded by Notification No.17/2004-CE (N.T.) dated 4.9.2004. The implications of withdrawal of warehousing facility are explained below:

- (i) Consequent on the withdrawal of the facility of removal of petroleum products without payment of duty for warehousing purposes, the excise duty is liable to be paid by the refineries at the time of removal w.e.f. 6th September, 2004. The refineries are to pay duty on monthly basis.
- (ii) Since no stocks on or after 6th September, 2004 can remain bonded/ warehoused, the excise duty is liable to be paid on the stocks of petroleum products lying in the warehouses on the midnight of 5th/ 6th September, 2004. The jurisdictional officers should ascertain such stocks of each petroleum product lying in the warehouses and ensure that appropriate duty is paid by the warehouses on such stocks immediately.
- (iii) Since the warehousing provisions stand withdrawn w.e.f. 6.9.2004, the refineries are required to discharge the excise duty on petroleum products in transit immediately. The jurisdictional officers should ascertain the details of such goods and ensure appropriate duty is paid by the refineries immediately.

2. The assessable value of petroleum products cleared from the refineries on or after 6.9.2004, is to be determined under section 4 of the Central Excise Act, 1944 read with the Valuation Rules. For example, if the product is sold at the factory gate (refinery), the assessable value would be the transaction value under section 4(1)(a). If however, a product is removed by the refinery but sold from the depot, the assessable value is to be determined as per the mode of valuation applicable to the sale of goods through depot.

3. At present, the assessable value of Liquefied Petroleum Gases (LPG) varies depending upon whether the sale is to the domestic consumers or to industrial consumers. However, w.e.f. 6.9.2004, the duty on LPG is to be paid by the refineries at the time of clearance of LPG. Since it may not be ascertainable in all cases whether a particular consignment is to be ultimately sold to domestic consumers or to industrial consumers, the assessment of LPG at the time of removal from the refineries in such cases may have to be done on provisional basis. Alternatively, the refineries may pay the excise duty at the highest of the assessable values and claim refund later on.

4. Certain products are allowed to be cleared without payment of duty to specified categories of end-users subject to the specified conditions. These exemptions continue to be in force. If such clearances to the end-users are effected directly from the refinery, no difficulty should arise in the implementation of such end-use exemptions. If any problem is noticed in the administration of end-use exemption, the same may be examined by the Chief Commissioner immediately and the details promptly reported to the Board with suitable suggestions and recommendations including any refund mechanism.

5. The Chief Commissioners and Commissioners are requested to ensure that there is no hold-up of clearances of petroleum products or any disruption caused in the movement of petroleum products as a result of the withdrawal of warehousing provisions. No precipitate action should be taken. In case of any difficulty in determining the assessable value or on any other account, refineries/warehouses may be advised to resort to provisional assessment. Difficulties/ problems, if any, that are noticed in the implementation of "switch over" may be examined on an urgent basis by the Chief Commissioner and the same may be brought to notice of Board immediately along with views and suggestions.

6. Suitable instructions may be issued to all the officers concerned and the trade and industry may also be suitably informed about the above changes.

7. It may, however, be noted that the warehousing facility continues to be extended to specified goods falling under Chapter-29 of First Schedule to Central Excise Tariff Act, 1985 and to specified goods intended for direct supply as stores to a foreign-going vessel or aircraft or to a meal uplift station outside India vide Sl. No. 1 and 2 of the new Notification No. 17/2004 – CE (N.T.) dated 4th September, 2004.

8. Trade and field formations may be informed suitably.

9. Receipt of the circular may be acknowledged.

10. Hindi version shall follow.

Vijay Mohan Jain
Under Secretary to the Government of India