

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
SURAT-I, 6th floor, New Central Excise Building, Opp.Gandhi Baug, Chowk Bazar,
Surat – 395 001 Email : cexsurat@excise.nic.in

Minutes of the Regional Advisory Committee for Organized/SSI Sector was held on 12.02.2008 at 11.00 hrs in the Office of the Commissioner , Central Excise & Customs, Surat-I.

The meeting was presided over by the Commissioner of Central Excise & Customs, Surat-I (Chairman).

The following members attended the meeting:

Sr.No.	Name of Member	Association represent
1	Shri Arunchandara N. Jariwala	The Surat Art Silk Cloth Manufacturers Association, Surat.
2	Shri Narain Agarwal	The Sythetics and Rayon Textiles Export Promotion Council, Surat
3	Shri Rameshchandara M. Gajjar	The South Gujarat Textile Processors Association, Surat.
4	Shri Jitendra P. Vakharia.	Pandesara Ind. Co. Op. Society Ltd., Surat.
5	Shri Arvindbhai A. Shah	Registered Public Sector Fertilizers Co. (KRIBHCO)
6	Shri Dhaval M. Parekh	General Manager, DIC, Govt. of Gujarat.
7	Smt.Lalitha R. Menon	Office of the Jt. D.G.F.T., Surat.

The following Departmental Officers attended the meeting:

Sr.No.	Name of Officers	Designation
1	Shri P. Suresh Kumar	Additional Commissioner (Tech.)
2	Shri Shubh Chintan	Additional Commissioner (L & R)
3	Shri V. K. Singh	Joint Commissioner (Prev.)
4	Shri Navneet	Joint Commissioner, Surat-II
5	Shri S. Venu Gopalachar	Assistant Commissioner (S. Tax)
6	Shri N. B. Deshmukh	Assistant Commissioner (Audit)
7	Shri C. S. Patil	Assistant Commissioner, Divn-I
8	Shri A. H. Velingkar	Assistant Commissioner, Divn-II / III
9	Shri Amala Raj	Assistant Commissioner, Divn-IV
10	Shri J. T. Dabhi	Assistant Commissioner, Divn-V

At the outset, the Hon'ble Commissioner of Central Excise & Customs, Surat-I welcomed all RAC members. Thereafter, the following points sponsored by the members were taken up for discussion. It was brought to the knowledge of all the members that the previously this office had called for the points for discussion in RAC meeting, but since no specific point was received from any of the members for discussion, the meeting could not be held during 2007.

POINT NO.1 : Shri D. B. Naik, Manager of the South Gujarat Textile Processors Association, Surat mentioned that in 2005, the Central Excise Department, Surat-I found some of the power loom weaving units to be fake / bogus / non-existence who had fraudulently passed Cenvat Credit during 2003-04. On the basis of this information, the department directed the processors (i.e. dyeing and printing units) to provide details of Cenvat Credit taken on the basis of Invoices issued by the said fake / bogus weaving units, and that if any one has taken the Cenvat Credit, the same should be reversed immediately.

As per the Cenvat Credit Rules, 2004, credit can be taken only on physical receipt of inputs in the factory. Here, it is mentioned that the processors availed the Cenvat Credit in good faith on the basis of Invoices endorsed by the suppliers of grey fabrics i.e. the Traders who purchased the goods from the weavers and got the same processed. The processors do not come in direct dealing with the weavers.

Since the processors have no knowledge / information regarding issuance of fake invoices and they have physically received the inputs (grey fabrics) in the factory, as per the Invoices endorsed by the Traders, for which they also maintained the records of receipt and clearance of goods. The processors processed the records of receipt and clearance of goods. The processors processed the goods, on job work basis, and returned the same to the Suppliers, they therefore cannot be held responsible for reversing of Cenvat Credit.

In view of the above, it is requested that the department should make a detailed investigation of each cases before issuing Show Cause Notices and should not treat all the cases by one stick, thereby putting the processors unnecessarily under harassment and mental torture.

REPLY : The Chairman apprised to the members that as per the statutory provisions under Rule 7(2) of Cenvat Credit Rules, 2002 (Now Rule 9(3) of Cenvat Credit Rules, 2004);

“ the manufacturer or producer taking Cenvat Credit on inputs or capital goods shall take all reasonable steps to ensure that the inputs or capital goods in respect of which he has taken Cenvat Credit are goods on which the appropriate duty of excise as indicated in the documents accompanying the goods, has been paid”.

As per explanation below the above Rules, the manufacturer of producer shall be deemed to have take reasonable steps, if he satisfied himself about the identify and address of the manufacturer or supplier using the documents evidencing the payment of duty either :

- (a) from the personal knowledge or
- (b) on the basis of certificate given by a person who whose handwriting or signature he is familiar or
- (c) On the basis of Certificate issued to the Manufacturer or the Supplier or as the case may be, the provider of input service by the Superintendent of Central Excise within whose jurisdiction such manufacturer has his factory or such supplier or provider of output service has his place of business or where the provider of input service has paid the service tax.

and where the identify and address of the manufacturer or the supplier or the provider of input service is satisfied on the basis of certificate, the manufacturer or producer or provider of output service taking the CENVAT Credit or input service distributor distributing the Cenvat Credit shall retain such certificate for production before the Central Excise officer on demand.

In view of the above statutory requirement for taking precaution before taking Cenvat Credit by the manufacturer, they should comply with the requirement before taking Cenvat Credit. Moreover, the action proposed / taken is only after proper investigation / verification of the records of the assessee and no action proposed / taken against those assesses whose transaction were found genuine.

Point No.2 : Shri Narain Agarwal, Regional Chairman of the Synthetics and Rayon Textiles Export Promotion Council have mentioned that they have received some complaints from member-exporters, Surat for non refund of rebate claim in time from the department particularly from Division-I and Division-V.

REPLY : On receipt of the above point, the Chairman was asked to furnish the details of pending rebate claims of Division I & Division V as alleged, which have not been received so far from the Council.

However, the Chairman apprised the members that in respect of Divn-I, 94 cases of rebate claims have been reported. There are 2 rebate claims pending for want of verification of Shipping Bills and 3 rebate claims pending under persuasion, where SCN is to be issued. In remaining pending rebate claims, the Deptt. has already issued the show cause notices.

As regards the pending rebate claims of Central Excise, Division-V, the Chairman replied that the Trade and Industry are well aware that the Department have detected some cases, where registered persons have issued the excise duty paying documents without any movement of the goods with a view to pass on the bogus CENVAT credit on fake/bogus documents. In these cases, the department is now taking pre-caution in sanctioning Rebate/Refund claims by way of verification of genuineness of input Invoices/Shipping Bills/Bank Realisation Certificate etc. After completion of such verifications, the refund/rebate claim can be sanctioned in order to safeguard the Government Revenue and in order to prove the credential of genuine exporters. The Chairman requested all the members to cooperate in following the procedure.

The meeting ended with a vote of thanks to the Chair.

(P. Suresh Kumar)
Additional Commissioner (Tech.),
Central Excise & Customs,
Surat-I.

F.No.V/Tech-101/2006

Surat, Dated : 20.02.2008

- Copy to :
- (1) All members of Regional Advisory Committee, Organised Sector / SSI Sector / Public Grievances Committee.
 - (2) The Secretary, CBEC, New Delhi.
 - (3) The Chief Commissioners of Central Excise, Vadodara.
 - (3) All Commissioners of Central Excise.
 - (4) All Additional Commr./Joint Commr., Surat-I Commissionerate.
 - (5) All Assistant Commissioner / All Section Heads, C. Ex. & Customs, Surat-I Commissionerate.