

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE  
NO.1, WILLIAMS ROAD, CANTONMENT, TRICHY-1.

TRADE NOTICE: 26/2005

DATED: 23.06.2005.

Sub: Communication of Ministry's Circular's No. 816/13/2005 – CX  
dated 16.06.2005 – Regarding.

Copy of Ministry's Circular's No. 816/13/2005 – CX dated 16.06.2005 [F.No. 6/18/2003-CX-1] regarding Clarification with regard to valuation of goods is communicated herewith.

The contents of the Trade Notice may be brought to the knowledge of all constituent members of Trade Associations / Chambers of Commerce

**(Issued from file C.No.IV/16/2/2005 – C.Ex.Pol.)**

//ATTESTED//

Sd./xxx  
(V. JAYARAMAN)  
JOINT COMMISSIONER (TECH)

SUPERINTENDENT (TECH.)

To

As per mailing list II / III / All Section in Hqrs., Trichy.

Copy of Ministry's Circular's No. 816/13/2005 – CX Dated: 16.06.2005

I am directed to refer to Board's Circulars No. 643/34/2002-CX dated 1.7.2002 and No. 813/10/2005-CX dated 25<sup>th</sup> April, 2005 in which clarification was issued on valuation in certain situations, inter alia in respect of valuation of capital goods or inputs removed as such from the factory of the manufacturer. It was clarified that in such situations, the provisions of rule 3(5) of CENVAT Credit Rules, 2004 shall apply.

2. Consequent to that, a point has been raised as to whether the provisions of rule 3(5) of CENVAT Credit Rules, 2004 shall apply to situations when the provisions of sub-rule (1C) of rule 57AB of Central Excise Rules, 1944, or rule 3(4) of CENVAT Credit Rules, 2001 or rule 3(4) of CENVAT Credit Rules, 2002 were in force.

3. The matter has been examined. As per sub-rule (1C) of rule 57AB of Central Excise Rules, 1944, or rule 3(4) of CENVAT Credit Rules, 2001, or rule 3(4) of CENVAT Credit Rules, 2002 upto 28.02.2003, in case a manufacturer removes inputs or capital goods as such, he was required to pay an amount equal to the duty of excise leviable on such goods at the rate applicable on the date of

such removal and on the value determined under section 4 or section 4A, as the case may be. As per notification No. 13/2003-CE (NT) dated 1.3.2003, rule 3(4) of CENVAT Credit Rules, 2002 was amended to provide that in such situations, the manufacturer shall pay an amount equal to the credit availed in respect of such inputs or capital goods. This position remains unchanged in rule 3(5) of CENVAT Credit Rules, 2004.

4. It was in this context that the clarification was issued vide Circular No. 813/10/2005-CX dated 25<sup>th</sup> April, 2005 to say that in case, the inputs or capital goods are removed as such, the provisions of rule 3(5) of CENVAT Credit Rules, 2004 shall be applicable. The situation prior to 1.3.2003 {when rule 57AB(1C) of Central Excise Rules, 1944, or rule 3(4) of CENVAT Credit Rules, 2001 or un-amended rule 3(4) of CENVAT Credit Rules, 2002 was in force} shall continue to be governed by the provisions as in force at the relevant time.

5. Trade and field formations may be informed suitably.

6. Hindi version shall follow.

**(Ashok Kumar)**  
**Under Secretary to the Government of India**