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GOVERNMENT OF INDIA
MINISTRY OF FINANCE : DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
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No.1, WILLIAMS ROAD, TRICHIRAPALLI – 620 001

GENERAL CIRCULAR NO.5/2009

Dated:21.05.2009

Sub: Communication of Board's Circular Circular No. 887/07/2009-CX
in F. No 267/09/2007-CX.8 (Pt.I) dated 11.05.2009 -Reg.

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Copy of Board's Circular No. 887/07/2009-CX in F. No 267/09/2007-CX.8 (Pt.I) dated 11.05.2009 regarding Manner of Scrutiny of ER1, ER2 and ER3 returns as submitted by the Dealers by the proper officer is communicated herewith for information, guidance and strict compliance.

(Issued from file C.NO.IV/16/04/2009-C.Ex.Pol)

Sd/-
(VASA SESHAGIRI RAO)
ADDITIONAL COMMISSIONER(T)

Copy of Board's Circular No. 887/07/2009-CX in F. No 267/09/2007-CX.8 (Pt.I) dated 11.05.2009.

Sub: Manner of Scrutiny of ER1, ER2 and ER3 returns and submitted by Dealers
by the proper officer-Reg.

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These guidelines supersede the earlier instructions issued vide Circular No.818/15/2005-CX from F.No.224/1/2005-CX.6 dated 15th July, 2005 and Circular No.249/83/96-CX issued from F.No.206/1/96-CX.6 dated 11.10.96. These guidelines seek to explain the content of the Return Scrutiny Manual, which has been prepared and is now being circulated to all the field formations vide this circular.

2. Sub rule 3 of Rule 12 of the Central Excise Rules, 2002 provides for scrutiny by the proper officer to ensure correctness of duty assessed by the assessee on the goods removed. The returns would be received by the Superintendent of Central Excise who is the proper officer under sub rule (1) of Rule 12 to scrutinize the return. The Inspectors posted in the Range would assist him in this task. As clarified by the earlier instructions, the scrutiny of the return is required to be carried out in two stages, viz., (i) the scrutiny of the return and (ii) scrutiny of assessment. The rationale for this two stage scrutiny and its clear distinction from audit is explained in Chapter 1 of the Manual.

3. In the preliminary scrutiny (to be called the 'scrutiny of return'), all returns would be scrutinized as per the checklist given in Annexure-1 to this Circular, which is also contained in Chapter 2 of the Manual. This would involve checking the correctness of the information furnished, the timeliness of payment of duty and the timeliness of filing the return. For example, whether the 8-digit CETSH exists, and if so, whether the rate of duty is correctly mentioned. It would also involve checking the arithmetical accuracy of information contained in the return e.g. duty payment or the break-up of duty paid in cash and through CENVAT credit. Verification of the correctness of the provisional assessment order in respect of the assessee would also form part of the mandate of preliminary scrutiny. After the checklist at Annexure-1 has been executed, it should be

completed and duly signed by the Superintendent. Wherever any discrepancies/deficiencies are noticed, it shall be the responsibility of the Range Superintendent to take appropriate action including safeguarding the revenue.

4. It is visualized that as soon as the Automation of Central Excise and Service Tax (hereinafter referred to as ACES) project is implemented, preliminary scrutiny would be done by the system. The manner in which the system would conduct the scrutiny has been outlined in Chapter-3 of the Return Scrutiny Manual. Until the implementation of the ACES project, preliminary scrutiny would be done manually in terms of the procedure laid down in the para-3 supra. Chapter-2 of the Return Scrutiny Manual explains in detail the manner in which the manual preliminary scrutiny is to be done.

5. The second stage scrutiny called the 'scrutiny of assessment' would be confined to returns selected on the basis of mini risk parameters, which are given in Annexure-II and are also contained in Chapter-2 of the Return Scrutiny Manual. Once the ACES project is implemented, the returns would be selected automatically by the system and list in descending order of risk would be forwarded every month to the Commissionerate for final selection. It would be the responsibility of the jurisdictional Joint/Additional Commissioner to decide on the number of returns to be taken up for detailed scrutiny by the Ranges keeping in mind the availability of administrative resources which can deliver quality scrutiny.

6. In selecting the returns, the jurisdictional Joint/Additional Commissioner should not select returns of those units which are to be mandatorily audited. Further, once a return of an assessee has been selected, the return of the assessee should not be selected again for the next 12 months. The Joint/Additional Commissioner should also assign some returns of selected EOUs (ER2 return) and quarterly returns of dealers to the Ranges for scrutiny, selected on the basis of local risk factors. Chapter 4 of the Return Scrutiny Manual provides a detailed check list for scrutiny of ER1/ER3, ER2 returns and quarterly return submitted by Dealers.

7. The detailed checklist contained in Chapter-4 identifies the check-list for scrutiny and also indicates the documents that need to be perused. The Superintendent of Central Excise should verify the details as per the checklist and record the observations against each of the scrutiny activity. The documentation of the return scrutiny findings is extremely important. Besides raising non-compliance issues, it may also initiate referrals for Audit and Anti-evasion. Normally, no visit should be made to the unit for carrying out return scrutiny and documents required should be called for verification in terms of sub-rule (4) of Rule 12 of the Central Excise Rules, 2002.

8. Scrutiny done as per the checklist along with the observations should be signed by the Divisional Assistant/Deputy Commissioner who should also indicate the action taken on the basis of the scrutiny outcomes.

9. The field officers should carefully go through the Return Scrutiny Manual and follow the scheme of verification provided in the Manual.

Yours faithfully

(Ashima Bansal)
Under Secretary to the Govt. of India