OFFICE OF COMMISSIONER OF CUSTOMS (IMPORT)

JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,

DIST. RAIGAD, MAHARASHTRA � 400 707.

F. NO. S/26-Misc-09/06



STANDING ORDER NO.23/2006

a) ������It is noticed that refunds are sanctioned based upon Chartered Accountant�s certificates.� No efforts are made to verify the correctness of such certificates.� It is necessary that the authority sanctioning refund satisfies itself by examination of the Balance Sheet, profit of Loss Accounts, Invoices, Cost data and other basic financial records of the claimant, that the certificates are correct.

Refer: Kirloskar Oil Engines ltd. Vs. C.C., 2004 (174) ELT 54 (T)

(112) ELT 877 (T)

Apollo Exports Vs. CC, 1998 (101)

ELT 188 (T) (P/6)

**Co. Vs. CCE, 2004

(174) ELT 216 (T)

b) Refunds are sanctioned on the ground that, the books of accounts show the amount to be recoverable from Customs. It must be noted that merely because an amount is shown as recoverable from Customs does not mean that it may not have been recovered from another person as part of the cost of goods. Hence, it is necessary that the cost and pricing of goods sold must be examined to be determined whether such amount is collected from another person.



c) ••••••• The principle of unjust enrichment shall apply to all amounts to be refunded, whether it be duties, interest, pre-deposits on appeal, revenue deposits, fines and penalties.

QDCW Vs. UOI, 2006(720 RLT 103 (Guj.)

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��������������Shri Vindhya Paper Mills Vs. UOI, 2005 (187) ELT 442(Bom)

(188) ELT A81 (SC)

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- d) ������All refund of Rs. 5 (Five) lacs or above, must be pre-audited, and sanctioned by way of on Order-in-Original only. The exercise is one of pre-audit cum review by the Commissioner. It is observed that in some instances amounts have been refunded without such pre-audit. This must not happen. (Refer Circular No. 80916/2005-CX dt. 1.3.2005 of the CBEC).

stipulates that the sales invoices and all other documents relating to the goods must clearly mention the amount of duty which shall form part of the sale price. This is the only statutorily prescribed mode of discharging the burden of showing that there is no unjust enrichment (unless there is evidence to the contrary).

composite (cum duty) price without indicating the exact amount of duty and even if a situation as at (i) above exists, it is to be presumed that the claimant shall first collect the duties (being an indirect levy and hence statutorily prescribed to be passed on) and only later his cost. (This does not apply to cases of captive consumption of goods on which duties, claimed for refund, have been paid, as in such cases there shall be no sale of such goods. In such cases (a) to (d) above shall apply).



Refer: �UOI Vs. Solar pesticides, 2000 (116) ELT 401 (SC) (paras 14 to 18)

������� The above instructions must be adhered to when examining claims for refund.









Copy to Chief Commissioner for information.



