

Circular No. 1055/04/2017-CX

F. No. 81/08/2016-CX.3
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, dated the 1st May, 2017

To

The Principal Chief Commissioners/ Chief Commissioners/Principal Commissioners of Central Excise (All)

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners of Central Excise & Service Tax (All)

Sub: Clarification regarding posting of Central Excise officer in Cigarette units-reg.

Madam/ Sir,

Representations have been received from the field formations and members of the trade and industry regarding practicality of round-the-clock posting of Central Excise officers in the cigarette manufacturing units. In terms of para 10 of instructions dated 24.12.2008 issued vide F. No. 224/37/2005-CX.6, read with para 2.2 of Chapter 4 of the CBEC Manual, mandatory, round-the-clock presence of Central Excise officer in the factory has been prescribed to ensure that the goods are not removed without his authorisation and also exercise supervision and control over operations as per instructions contained in the Commodity Manual for cigarettes. In view of the limited number of officers posted in the range, problems are being faced to post officers in the cigarette manufacturing units round-the-clock, resulting in delays in production/ clearance of goods.

2. The above issue has been examined. Rule 6 of the Central Excise Rules, 2002 lays down that in case of cigarettes, the Superintendent or Inspector of Central Excise shall assess the duty payable before the removal of goods by the assessee. Further, Rule 11 of the Central Excise Rules, 2002 prescribes that in case of cigarettes, each invoice signed by the owner of the factory or his authorized agent shall also be countersigned by the Superintendent or Inspector of Central Excise before the cigarettes are removed from the factory.

3. On plain reading of the said two rules, it is clear that the presence of Central Excise officers is required for discharging the twin functions of assessment of duty to be paid by the assessee and countersigning the invoices before the goods are removed from the factory. There is no requirement in law of round-the-clock posting of Central Excise officers in the cigarette manufacturing units. Some field formations are taking a view that production in a cigarette factory can take place only in such shifts where the Central Excise officer is physically present. Such interpretation is not correct. Further, under the Goods and Services Tax (GST) regime, no such requirement of round-the-clock posting of officers has so far been

envisaged on tobacco product dealers/manufacturers who would be paying GST and/or compensation cess.

4. In view of above, it is clarified that round-the-clock presence of Central Excise officers in the cigarette factories is not mandatory but directory. Those field formations which cannot post officers round-the-clock in cigarette factory shall use the preventive wing within their respective jurisdiction to maintain discreet preventive vigilance on the cigarette units round-the-clock. The presence of Superintendent or Inspector of Central Excise in all cases would be mandatory at the time of clearance of goods from the factory for the purpose of assessment of duty and countersigning the invoice.

5. Past circulars/ instructions/ provisions in manual in conflict with the above instructions shall stand rescinded to the extent of their conflict. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(ROHAN)

Under Secretary to the Government of India