
	<p style="text-align: center;">GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CENTRAL BOARD OF EXCISE AND CUSTOMS, CENTRAL EXICSE, CUSTOMS &amp; SERVICE TAX, ZONE - VADODARA.</p> <p style="text-align: center;">OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS &amp; SERVICE TAX, SILVASSA COMMISSIONERATE, IV FLOOR, ADARSHDHAM BUILDING, OPPOSITE OLD TOWN POLICE STATION, VAPI-DAMAN ROAD, VAPI, GUJARAT-396191. Email id : : <a href="mailto:actechvapi@gmail.com">actechvapi@gmail.com</a> TELE : 0260 - 24064023 FAX : 0260-2460459</p>	
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**TRADE NOTICE NO.05/2016**

**Vapi, Dated 22.09.2016**

**Subject: Admissibility of un-utilized CENVAT credit of DTA unit converted into EOU - regarding.**

Attention is invited to Circular No. 77/99-Cus dated 18.11.1999 which provided for lapse of unutilized balance Modvat credit on conversion of DTA unit into EOU/EHTP/STP unit.

2. Representations were received that consequent to extension of CENVAT Credit to EOUs, the said circular is redundant and needs to be withdrawn. Accordingly the matter has been examined by the Central Board of Excise & Customs.
3. The Circular No. 77/99-Cus dated 18.11.1999 was issued in view of the erstwhile Rule 100 H of Central Excise Rules, 1944 which specifically prohibited EOU's from availing Modvat Credit of Inputs / Capital Goods under Rule 57A and 57Q. But consequent to supersession of Central Excise Rules, 1944 by Central Excise Rules, 2002 there is no provision similar to Rule 100 H of Central Excise Rules, 1944 which prohibits the EOU from availing CENVAT Credit of Inputs / Capital Goods.
4. Moreover Rule 17 of Central Excise Rules, 2002 which deals with the removal of goods by an EOU, was amended w.e.f. 06.09.2004 to allow use of CENVAT credit for payment of duty by an EOU. Rule 10 of CENVAT Credit Rules, 2004 provides in unambiguous terms that if manufacturer transfers his factory on account of change in ownership or lease, then the manufacturer shall be allowed to transfer the CENVAT Credit lying unutilized in his accounts to transferred entity. EOU is a manufacturer, and hence this rule apply to them. Hence on conversion from a DTA unit to EOU, the transfer of unutilized CENVAT Credit lying in the books of DTA unit on the date of conversion into EOU unit is admissible.
5. Accordingly, the Circular No. 77/99-Cus dated 18.11.1999 has been withdrawn by the Central Board of Excise & Customs vide Circular No. 41/2016-Cus dated 30.08.2016 issued from F. No. DGEP/EOU/18/2008/pt./I to 39.
6. All the Trade Associations & Chambers of Commerce and members of the Regional Advisory Committees/Public Grievance Committees are requested to publicize this Trade Notice among their Members/Constituents. Difficulty, if any faced in this regard may be brought to the notice of this office.

*Reshma Lakhani*

(RESHMA LAKHANI)

Commissioner,  
Central Excise, Customs & Service Tax,  
Silvassa.

Vapi, dated 22.09.2016

F. No.: V/Misc-08/SIL/T/16-17/262