

**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
CHENNAI II COMMISSIONERATE
692 MHU COMPLEX NANDANAM CHENNAI-35**

Trade Notice No: 6/2004

Dated: -1-2004

Sub: Communication of Board's Circulars – Reg.

Please find enclosed copies of following Board's Circulars for information and necessary action.

1. Board's Circular No: 763/79/2003 –CX dated 21.11.2003 regarding the amount of "Dharmada", (Charity) receipts charged in the invoice and recovered from the customers, is to be included in the assessable value.
2. Board's Circular No:767/83/2003 –CX dated 31.12.2003 communicating certain clarifications in respect of Sl.No:41 of Notification No: 7/2003 – CE dated 1.3.2003.
3. Board's Circular No:770/3/2004 –CX dated 09.1.2004 regarding the jurisdiction of Maritime Commissioners.

The contents of this trade notice may please be brought to the notice of all constituent members of your association in general and manufactures in particular.

(Issued from File C. No:IV/16/504/2004 –Tech)

**(K.R. UDAY BHASKAR)
ADDL. COMMISSIONER (TECH)**

To
Trade and Department (As per mailing list)

Copy to
The Superintendent Computer Cell – for placing the trade notice on Department web site

**Circular No. 763/79/2003-CX
Nov 21, 2003**

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Judicial Cell, North Block, New Delhi

Subject : Whether the amount of Dharmada charged in the invoices and recovered from the customers as required to be included in the assessable value under Section 4 of Central Excise Act, 1944, order dated 28-11-2002 of the Hon'ble Supreme Court in Civil Appeal Nos. 7900-7902/95 in the case of CCE, Allahabad v. M/s. Panchmukhi Engg. Works & Ors.

I am directed to say that the issue whether the amount of "Dharmada" collected from the buyers by the assessee is includible in the assessable value or not has been subject matter of dispute in a number of cases. Recently, this issue again came up before the Hon'ble Supreme Court in Civil Appeal Nos. 7900-7902/95 in the case of CCE, Allahabad v. M/s. Panchmukhi Engg. Works & Ors. and the Hon'ble Supreme Court vide its order dated 28-11-2002 allowed the appeals in favour of Revenue. The Revenue's stand in the said of case had been that "Dharmada" is includible in the assessable value.

2. Ministry of Law had also advised that the division bench decision dated 28-11-2002 of the Hon'ble Supreme Court should be followed by the Department on this issue.
3. It is therefore clarified that "Dharmada" collected by the assessee from the buyer is includible in the assessable value of the goods.
4. Suitable Trade Notice may be issued for the information of the Trade.

Circular No.770/3/2004-CX
9th January, 2004.

F. No. 209/01/2003-CX.6
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

**Subject : - Jurisdiction of Maritime Commissioners
- regarding.**

I am directed to say that doubts have been expressed regarding the jurisdiction of Maritime Commissioners regarding filing

of rebate claims and execution of bonds consequent to issue of notifications No. 79/2003-CE (NT) and No. 80/2003-CE (NT) both dated 29.10.2003, amending the notifications No. 40/2001-CE (NT) and No. 42/2001-CE (NT) both dated 26.6.2001.

2. The matter has been examined by the Board. It may be seen that as per para 4 of Notification No. 40/2001-CE (NT) dated 26.06.2001, claim of rebate of duty was to be lodged with the Assistant /Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse, as the case may be, or the Maritime Commissioner. This position continues to remain the same after the aforesaid amendments. However earlier, Explanation-III of the said notification defined Maritime Commissioner as Commissioner of Central Excise under whose jurisdiction the port, airport, land customs station or post office of exportation is located in respect of certain specified places only, but after issue of Notification No.79/2003-CE (NT) dated 29.10.2003, each Commissioner of Central Excise under whose jurisdiction the port, airport, land customs station or post office of exportation is located has been designated as Maritime Commissioner. Thus, the jurisdiction of the Maritime Commissioner is in relation to the port, airport, land customs station or post office under the jurisdiction of the said Commissioner of Central Excise from which the export has actually taken place. It is evident that the jurisdiction of the Maritime Commissioner is directly related and restricted to the port of exportation of the export goods under consideration. This position was clearly explained in Circular No.758/74/2003-CX dated 29.10.2003.

3. Similarly, for exports under bond without payment of duty under notification No.42/2001-CE (NT) as amended vide notification No. 80/2003-CE (NT), as per condition (i) of the said notification, the exporter shall furnish a general bond in the specified Form to the Assistant/ Deputy Commissioner of Central Excise having jurisdiction over the factory, warehouse or such approved premises, as the case may be, or the Maritime Commissioner or such other officer as authorized. This position also continues to remain the same after the aforesaid amendments. The jurisdiction of the Maritime Commissioner for the purpose of acceptance of bonds for export is also directly related and restricted with the port of exportation of goods and the bond can be executed only with the Maritime Commissioner under whose jurisdiction the port of exportation is located.

4. It may be noted that amendment to notification No.40/2001-CE (NT) and No.42/2001-CE (NT) both dated 26.6.2001 have resulted in increase in number of Maritime Commissioners but the basic concept of jurisdiction of Maritime Commissioner continues to be related to the jurisdiction of the Commissioner of Central Excise under whose jurisdiction the port/ airport/ land customs station or post office of exportation is located.

5. To obviate the difficulty of those merchant-exporters who have already executed bonds till 29.10.2003 for export of goods under rule 19 of the Central Excise Rules, 2002 read with Notification No. 42/2001-CE (NT) dated 26.06.2001 with the Maritime Commissioner, Mumbai-I, it has been decided to permit export of goods by such merchant-exporters through Air Cargo Complex, Sahar and Nhava Sheva Port against the bonds already executed (upto 29th October, 2003) with Maritime Commissioner, Mumbai-I till the expiry of the such bonds. All exports under the said bonds including monitoring of fulfillment of export obligation shall be the responsibility of Maritime Commissioner, Mumbai-I. This facility is being extended purely as a transitional measure and any fresh bonds for export under rule 19 of Central Excise Rules, 2002 (after 29th October, 2003) shall be executed only with the respective jurisdictional Maritime Commissioners (where the exporter chooses to execute such bonds with Maritime Commissioner).

6. Trade and the field formations may suitably be informed.
7. Receipt of this Circular may please be acknowledged.
8. Hindi version will follow.

Neerav Kumar Mallick
Under Secretary to the Government of India