

F No.6/15/2007-CX.I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, the 30th April, 2009

Subject: Request for comments of Trade and Industries on the proposal to modify the present abatement rates for products assessed under Section 4A (RSP based assessment).

As you are aware that as per the provisions of Section 4A of the Central Excise Act on specified product, the Central Excise Duty is collected on the value, which is determined based on the RSP declared on the packet of the said product. From the declared RSP, a specific percentage of abatement is deducted to calculate the value for payment of excise duty. The said RSP based assessment was introduced by the Govt. in order to minimize the valuation disputes and to provide certainty in the assessment for determining the value.

2. In order to study the working of Section 4A based assessment, the CBEC has carried out a study regarding a few commodities. The data has been obtained from the Industries through the field formations. The study has been carried out to find out whether value determination under Section 4A is matching with the transaction value (Section 4 value) of the said goods, in most of the cases or not. This comparison has been made considering the fact that generally, the value determination under Section 4A should be more or less equal to the value determined under Section 4, because the abatement percentage prescribed by the Govt. generally consist of post-removal expenses. Board is aware of the fact that there could be some variation where the value determined under both the provisions may vary but as a matter of principle, there should not be large variation in majority of cases.

3. Analysis of the data shows that in respect of the six commodities, the value determined under Section 4A (RSP based value) is lower than the transaction value (value under Section 4) in more than 50% of the cases. These commodities are as follows:

(i) Paints; (ii) Colour TV; (iii) Aerated Water; (iv) Ceramic Tiles; (v) Cosmetics; and (vi) Lubricants.

4. In view of the above mentioned fact, it is felt that the present abatement rate for these six commodities should be reduced in order to bring the assessable value determined under Section 4A nearer to the transaction value (Section 4) in majority of the cases.

5. Before taking any decision on this subject, CBEC would like to have the views and comments of the trade and industry Associations. In case the Associations feel that

the study made by the department do not reflect the true position, in that case they may submit the data alongwith the documents for the products which are sold in maximum quantity to present their case. While submitting their representation they should provide the actual transaction value (excluding taxes & duties) in order to have comparison with the Section 4A value. In case the goods are sold form depot etc in that case the actual commercial invoice from the depot should be used.

6. The Chief Commissioners of Central Excise are requested to bring the contents of this letter to the notice of the major industries manufacturing the above mentioned items in their jurisdiction. This letter is being placed on the website cbec.gov.in.

7. The comments of the Department, Associations and Industries may kindly be sent by post alongwith the documents to Shri Sanjiv Srivastava, Director(CX-1/4), Room No.47-B , Department of Revenue, Central Board of Excise & Customs, Ministry of Finance, North Block, New Delhi-110001. Comments along with any additional data that needs to be considered in excel format, may also be sent by e-mail to ashima_irs @ yahoo.co.in or to sandevpan@gmail.com.

8. The comments and views of the industries may kindly be sent by 20th May, 2009 positively.

(Sushil Solanki)
Commissioner (CX.)
Room No.154-B
Fax No.23092817

LIST OF INDUSTRY ASSOCIATIONS

- (I) CII;
- (II) FICCI;
- (III) ASSOCHAM;
- (IV) PHD Chamber of Commerce
- (V) Consumer Electronics & Appliances Manufacturers Association
- (VI) Indian soft Drinks Manufacturers Association and
- (VII) Any other Association representing the above mentioned products.