

**भारतीय राष्ट्रीय राजमार्ग प्राधिकरण**  
(सड़क परिवहन और राजमार्ग मंत्रालय)  
**National Highways Authority of India**

(Ministry of Road Transport and Highways)  
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No.: 11041/217/2007-Admn.

05<sup>th</sup> February 2010

**POLICY MATTERS – ADMINISTRATOIN/FINANCE [63/2010]**  
(Decision taken on File No. NHAI/11010/1/2009-NII)

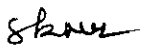
**Sub.: Exemption from Excise duty under the Notification No. 108/95 CE dated 28.08.1995-Previous policy circular No. 05/2002 dated 31.05.2002 and 10/2002 dated 19.06.2002.**

Reference may be made to the clarification issued by Central Board of Excise & Customs (CBEC) vide F.No.101/7/2008-CX-3 dated 12.06.2008 (**Annexure-I**) on the issue of availability of exemption from Excise duty benefit under the notification No. 108/95 CE dated 28.08.1995 only when the goods brought into the project are not withdrawn by the supplier or the contractor.

2. A copy of the Clarification dated 12.06.2008 issued by CBEC on the subject is enclosed herewith for information and further necessary action. CBEC has clarified that the excise duty exemption under notification No. 108/95 CE dated 28.08.1995 (Explanation-2 inserted vide notification No. 13/2008 CE dated 01.03.2008) (**Annexure-II**) is meant only for the goods which become part of the project on permanent basis and not for the goods which are used by the contractors for execution of the project and after completion of the projects, the goods remain with the contractors, being owners of such goods for further deployment in other projects. It has also been clarified that the amendment is purely clarificatory in nature and states the position that always meant to be.

3. All the Technical Divisions are requested to ensure that the essentiality certificates for exemption of excise duty is proposed in future, only for goods which satisfy the above discussed criterion. The details of the excise exemption certificate already issued under notification No. 108/95 CE dated 28.08.1995 for the goods which did not fulfill the above criterion may kindly be brought in the notice of their concerned Technical member for further necessary action.

4. This issues with the approval of Chairman, NHAI.

  
(S.K. Nirmal)

**Chief General Manager (Coord)**

1. PS to Chairman
2. PS to All Members
3. PS to All CGMs/CVO
4. All GMs/DGMs/Managers
5. All ROs/PIUs/CMUs/SPVs
6. Librarian/Hindi Officer

**F.No. 101/7/2008-CX-3  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Dated : June 12, 2008**

**Sub: Exemption from Excise duty under the Notification No 108/95 CE dated 28.8.95**

I am directed to refer to Explanation 2 to notification No 108/95 CE dated 28.8.95, inserted vide notification No 13/2008 CE dated 01.3.2008, specifying that the benefit under the notification is available when the goods brought into the project are not withdrawn by the supplier or the contractor.

2. Representations have been received expressing doubts regarding the scope of the said Explanation to the notification.

3. The matter has been examined. The purpose of this notification is to enable the optimum utilization of funds provided by United Nations/ International Agencies. The exemption was meant to be applied only to goods procured with the project funds and actually used and consumed in the core activity of the project. In the case of equipments purchased by contractors independently, after completion of the project, the contractor re-allocates the equipment for other commercial use.

Therefore, it is clarified that the exemption is meant only for the goods which become part of the project on permanent basis and not for the goods which are used by the contractors for execution of the project and after completion of the project, the goods remain with the contractors, being owners of such goods for further deployment in other projects.

The amendment is purely clarificatory in nature and states the position that always meant to be-

4. All pending disputes may be resolved accordingly. All the state governments and other authorities who issue the essentiality certificate may be requested to ensure that the certificates are issued only for goods which satisfy the above discussed criterion.

**Dilip Goyal  
Under Secretary to the Govt of India.**

Notification  
No.13/2008-Central Excise

New Delhi, the 1st March, 2008  
11 Phalgun, 1929 (Saka)

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 108/95-Central Excise, dated the 28<sup>th</sup> August, 1995 which was published in the Gazette of India, Extraordinary, vide number G.S.R.602 (E), of the same date, namely: -

In the said notification, the *Explanation* shall be numbered as *Explanation 1* thereof, and after *Explanation 1*, as so numbered, the following *Explanation* shall be inserted, namely:-

*'Explanation 2.*-For the removal of doubts, it is hereby clarified that the benefit under this notification, in the case of goods supplied to the projects financed by the United Nations or an international organisation, is available when the goods brought into the project are not withdrawn by the supplier or contractor and the expression "goods are required for the execution of the project" shall be construed accordingly.'

[F.No.334/1/2008-TRU]

(S. Bajaj)

Under Secretary to the Government of India

Note:- The principal notification No.108/95-Central Excise, dated the 28<sup>th</sup> August, 1995 was published in the Gazette of India, Extraordinary, vide number G.S.R. 602 (E), dated the 28<sup>th</sup> August, 1995 and was last amended vide notification No.50/2001- Central Excise, dated the 12<sup>th</sup> October, 2001 published vide number G.S.R. 776 (E), dated the 12<sup>th</sup> October, 2001.