



CENVAT CREDIT ON COURIER BILL OF ENTRY **-By CA Lakshmi G K**

The import of goods through courier bill of entry is permitted in accordance with the Courier Imports and Exports (Clearance) Regulations, 1998. In courier imports or exports, the duty, where ever applicable would be paid by the courier company on behalf of importer/exporters before taking delivery and the same would be reimbursed by the importer/exporters with charges of courier agency.

The importer is availing the credit of CVD portion and additional duty (4% - only for manufacturers) based on the consolidated [many imports by different companies] courier bill of entry provided by the courier agency. This is an eligible cenvat credit as per Rule 3 of Cenvat Credit Rules, 2004. However, department is denying such credit availed based on the courier bill of entry by stating that it is not a valid document as per Rule 9 of the Cenvat Credit Rules, 2004.

Circular No. 31/2007-Cus issued by the department clarifies that if the importer wishes to avail Cenvat credit on CVD paid on import, he should file normal bill of entry to avail such Cenvat credit.

The said circular provides a clarification that, the credit of CVD portion can be availed based on the document prescribed under Rule 9 of CCR, 2004. It also clarifies that the importer is required to file normal bill of entry and based on which credit can be availed.

As per the Cenvat Credit Rules, 2004 the provider of output service / manufacturer can avail credit on eligible input, input services and capital goods, which may be utilized for paying the service tax on any output services / excise duty. However the credits should not be restricted as per the definition of inputs, input services and capital goods. Further, as per Rule 9 of the CCR, 2004 the manufacturer or service provider can take the Cenvat credit on the basis of documents prescribed under this rule. In case of import of goods, the document for taking credit is 'Bill of Entry' which is specified in Rule 9(1)(c) of Cenvat Credit Rules, 2004. The said rules do not enumerate any specific type of bill of entry.

In case of ambiguity one should refer judicial decisions where in the case of CCE Vs Fusion Electronics P Ltd., 2011 (264) ELT 513 (Tri-Del) it was clearly held that credit on courier bill

of entry is eligible, **even if the bill of entry is not in the name of importer**. It was also held that denial of credit on courier bill of entry is in contravention of customs procedure for courier imports, which allows courier agency to file common bill of entry for several imports and hence courier agency could not give original bill of entry to each importer and hence the importers are allowed to avail the cenvat credit on the photocopy of the bill of entry provided by the courier agency.

In case of *Ruby Mills Ltd Vs CCE, Mumbai 2007 (220) E.L.T 212 (Tri –Mum)* such bill of entry should be certified or notarized by the courier agency. The decisions referred above clarify the same. Therefore one can avail the credit of CVD portion if the courier bill of entry is certified or notarized. Further it maybe noted that circular which is not in line with law is not valid as per the decision held in the case of *CCE Vs Ratan Melting & Wire Industries 2008 (231) ELT 22 (SC)*.

Conclusion:

From the decision and the rules of Cenvat Credit Rules, 2004 it is clear that the importer is eligible to take credit on the courier bill of entry however the same should be authenticated or notarised by the courier agency.