

केंद्रीय उत्पाद शुल्क के आयुक्त का कार्यालय: पुणे-III
41/ए; आई सी ई हाउस; ससून रोड; वाडिया कालेज के सामने; पुणे-411 001

व्यापार सूचना संख्या-04/2010

विषय:- Leviability of cess on tractors
under the Tractor Cess Rules,1992-reg-

भारत सरकार; वित्त मंत्रालय; राजस्व विभाग; सी बी इ सी; नई दिल्ली द्वारा जारी परिपत्र की प्रतियां जिसका उल्लेख नीचे किया गया है; संलग्न हैं:-

परिपत्र संख्या	फाईल संख्या	दिनांक
Cir. No. 916/06/2010-CX	262/01/2008-CX-8	04/03/2010

सभी व्यापार एसोसिएशन्स तथा वाणिज्य और उद्योग मंडलों से अनुरोध किया जाता है कि इस व्यापार सूचना के साथ जोड़े गये परिपत्र में निहित बातों की जानकारी अपने-अपने घटक सदस्यों के ध्यान में लाने का कष्ट करें।

बी. एस. वासुदेव
(बी. एस. वासुदेव)
आयुक्त

संलग्न: यथोपरि

केंद्रीय उत्पाद शुल्क पुणे-III

फा. संख्या: बी जी एन (30)10/ट्रेड नोटिस/2009
पुणे दिनांक: 1 अप्रैल 2010

प्रतिलिपि प्रेषित:-

- सचिव, उत्पाद शुल्क तथा सीमा शुल्क केंद्रीय बोर्ड कार्यालय.
- उपसचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली.
- महानिदेशक, निरीक्षण महानिदेशालय, सी तथा कें उत्पाद शुल्क, नई दिल्ली.
- मुख्य आयुक्त, केंद्रीय उत्पाद एवं सीमा शुल्क, पुणे क्षेत्र
- मुख्य सतर्कता अधिकारी, उत्पाद शुल्क तथा सीमा शुल्क, केंद्रीय बोर्ड कार्यालय, नई दिल्ली
- सहायक आयुक्त, निरीक्षण अधिकारी, पश्चिम क्षेत्रिय युनिट, मुंबई.
- सहायक निदेशक, शुल्क अपवचन रोधी क्षेत्रिय कार्यालय, पुणे.
- केंद्रीय उत्पाद शुल्क, राजस्व लेखा परीक्षण कार्यालय, मुंबई.
- सेन्टेक्स पब्लिकेशन प्रायवेट लिमिटेड, 1512 बी, भीष्म पितामह मार्ग, नई दिल्ली.
- केंद्रीय उत्पाद शुल्क वार एसोसिएशन कार्यालय, मुंबई.
- पुणे-III आयुक्तालय में क्षेत्रिय सलाहकार समिति तथा लोक शिकायत निवारण समिति के सभी सदस्य.
- पुणे-III आयुक्तालय में सभी व्यापार एसोसिएशन/वाणिज्य तथा उद्योग मंडल.
- मुख्यालय पुणे-III कार्यालय के सभी अपर आयुक्त.
- मुख्यालय में सभी उप आयुक्त.
- मुख्यालय कार्यालय पुणे में सभी सहायक आयुक्त/अधीक्षक/श्रेणी 'क' तथा 'ख' अधिकारी /मुख्यालय, कार्यालय, तकनीकी शाखा के अनुभाग प्रमुख.
- पुणे-III आयुक्तालय के अधिनस्थ सभी मंडल कार्यालय

F.No.262/01/2008-CX8
 Government of India
 Ministry of Finance
 Department of Revenue
 (Central Board of Excise & Customs)

New Delhi, dated the 24 March, 2010.

To,

All Director Generals,
 All Chief Commissioners of Central Excise (including LTU)
 All Chief Commissioners of Customs & Central Excise,
 All Chief Commissioners of Customs.

Sir/ Madam,

Subject: Leviability of cess on tractors under Tractor Cess Rules, 1992-~~reg.~~

It has been brought to the notice of the Board that Hon'ble High Court of Himachal Pradesh in the case of Indo Farm Tractors & Motors Ltd. V/s UOI [2008(222) ELT184 (HP)], has held that Automobile Cess Rules are not applicable for imposition of cess on tractors. The said judgement was upheld by the Hon'ble Supreme Court in CWP No. 895/2005. Subsequent to the said judgement, some of the manufacturers have stopped paying cess on the tractors manufactured by them.

2. A reference was made to the Ministry of Heavy Industry & Public Enterprises, the administrative ministry responsible for Automobile cess, to take suitable action consequent to the Court judgement. The Ministry of Heavy Industry & Public Enterprises has informed that cess on tractors is leviable under the Tractor Cess Rules, 1992 and related notifications issued by the administrative ministry. However, existence of these rules were not brought to the notice of the Hon'ble Courts and the Hon'ble Court has passed the order without having any occasion to consider these rules. In view of the said situation, the opinion of the Law Ministry was sought. Law Ministry has clarified that since the decision of the Hon'ble High Court was not rendered in the context of Tractor Cess Rules, 1992, therefore, it is legally correct to collect the tractor cess as per the law. Further, the Hon'ble High Court has also held that the cess on tractors can be recovered if the rules are framed by the Government. As the rules are already in existence, there is no bar on collection of cess. In this connection, it is mentioned that Ministry of Heavy Industry & Public Enterprises has clarified that the Tractor Cess rules, 1992 were notified vide Notification No. S.O. 55(E) dated 19.01.1993 and these are still in existence. Further, cess at the rate of 1/8% ad valorem was levied vide Notification No. 662(E) dated 06.09.1985. Copies of the rules and the notifications are enclosed.

3. In view of above mentioned legal position, it is clarified that tractors are chargeable to tractor cess in terms of the Tractor Cess Rules, 1992 read with the IDRA Act, 1951. Necessary steps to collect the cess may be taken.

4. Trade & Industry as well as field formations may be suitably informed.

5. Receipt of this circular may kindly be acknowledged.

6. Hindi version will follow.

Encl: As above (7 pages).

Yours faithfully,

(Amish Kumar Gupta)
 OSD (CX-8)

- (b) "Tractor" means tractor as covered under the Sub-heading (1) of heading 10 'Agricultural Machinery' of the First Schedule to the Act and of power take-off House Power exceeding 25;
- (c) "Cess" means the cess levied and collected in terms of notification of the Government of India in the Ministry of Industry (Department of Heavy Industry) No.S.O.662(B) dated the 6th September, 1985 issued under sub-section (1) of section 9 of the Act;
- (d) "Collector" means the collector of Central Excise and includes the Additional Collector of Central Excise, the Deputy Collector of Central Excise, Assistant Collector of Central Excise and Superintendent of Central Excise;
- (e) "Development Council" means the Development Council for Automobiles and Allied Industries established under section 6 of the Act;
- (f) Words and expressions used herein and not defined but defined in the Central Excise and Salt Act, 1944 (1 of 1944) or the rules made thereunder, shall have the meaning respectively assigned to them in that Act or the rules.

3. Application of Central Excise and Salt Act, 1944 and the rules made there under:- Save as otherwise provided in these rules, the provisions of the Central Excises and Salt Act, 1944 (1 of 1944) and the rules made thereunder including those relating to refund of duty shall, so far as may be apply in relation to the levy and collection of the cess as they apply in relation to the levy and collection of the duty of excise on manufacture of tractors under the Act and the rules.

4. 1) Submission of returns:- (1) Every manufacturer shall submit to the Collector and to the Development Council on or before the 10th of every month a return in the Form specified in the annexure to these rules of all stocks of items of tractors manufactured or produced in, and removed from his undertaking during the previous month.

2

...3/- 31

establishment and equipment, stationery, postage, telegrams, telephones telex, wages and allowances of staff employed in the Secretariat, travel and daily allowance of members and expenditure connected with holding of council meetings.

THE GAZETTE OF INDIA: EXTRAORDINARY (PART-II SEC. 3(11))

ANNEXURE

Form of Monthly Return to be submitted under the Tractor Cess Rules, 1985. (See rule 4)

Month ending

Name of Factory

Address

Opening balance of goods subject to cess		Goods subject to cess manufactured		Goods subject to cess removed	
Description	Quantity	Description	Quantity	Description	Quantity
1	2	3	4	5	6

Description	Closing Balance	Remarks
7	Quantity	8
		9

I/We declare that I/we have compared the ^{above} shown particulars with the records and books of my/our factory and that they are, in so far as I/we can ascertain accurate and complete.

Date:

(E.N. Murthy)
Joint Secretary to the Govt. of India
F.No. 5(18)/90-ABI-III

15/2/93

(5)

(33)

Amended-12

3

PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY
II SECTION 3 SUB-SECTION (1)

Government of India
Ministry of Industry & Commerce
Department of Heavy Industry

New Delhi, the 26 Sept. 1985

ORDER

No. 662(E)

S.O. In exercise of the powers conferred by sub-section (1) of Section 9 of the Industries (Development & Regulation) Act, 1951 (65 of 1951), the Central Government hereby specifies the class of goods manufactured or produced in the scheduled industry of Agricultural machinery as mentioned in column (1) of the Table below on which a duty of excise shall be levied and collected as a cess for the purpose of the said Act with effect from the 1st October, 1985 at the rate specified in the corresponding entry in column (2) of the said Table:-

TABLE

Description of Class of Goods	Rate of duty of Excise
Tractors of power take-off Horse power exceeding 25 (the value of any weight-lifting or other specialised material handling equipment which may be mounted, fitted or fixed to tractors will be excluded from the assessable value of such tractors.)	1/2 per cent advalorem

(R.S.Bains)

Joint Secretary to the Govt. of India

F.NO. 7(1)/85-IND(I)

②

12/9