DGFT issues eligibility criteria for refund of TE

TED

DGFT vide new notification has clarified the eligibility of refund of Terminal Excise Duty (TED).

Sheela Mamidenna

DGFT vide Trade Notice No. 17/2016 dated 22.09.16 has clarified the eligibility of refund of Terminal Excise Duty (TED) paid by utilizing CENVAT Credit in cases where *ab-initio* exemption is not available. Giving his views on the same, Gopal Mundhra, Associate Partner, ELP, (Advocates and Solicitors), Mumbai writes, “in terms of the Para 7.03(c) read with the Para 7.05 of the FTP 2015-20, the benefit of TED refund shall be available only in cases where there is no *ab-initio* exemption of duty. Realizing that some of the entities started claiming TED refund after payment through CENVAT credit even in cases where *ab-initio* exemption was prevailing, the Authorities sought to deny the refund of TED. However, the more cautious officers developed the trend to deny TED refund in all cases on the sole basis that the payment was made through CENVAT credit without examining the aspect of *ab-initio* exemption."

The Trade Notice seeks to clarify that the aspect of ‘payment of TED through CENVAT credit’ should not be considered as a thumb rule to deny TED refund. It clarifies that in eligible cases of deemed export, where *ab-initio* exemption is not available, refund of TED should be allowed irrespective of whether the payment of TED has been made in cash or through CENVAT credit.”

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