

F.No. 528/69/2011-STO (TU)

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs**

299-A, North Block, New Delhi,
30th August, 2011.

Subject: Export of Pan Masala-Gutkha packed in plastic sachet by 100% EOU - Application of provisions of Plastic Waste Management and Handling Rules, 2011 - regarding.

Board has received references seeking clarification on the applicability of the Plastic Waste (Management and Handling) Rules, 2011 to the export of pan masala / gutkha packed in plastic sachets by Export Oriented Units.

2. Some Chief Commissioners are of the view that whereas the manufactures of pan masala /gutkha shall be required to give an undertaking to comply with the provisions of the Plastic Waste (Management and Handling) Rules, 2011 under no circumstance should export of the goods in question be stopped or disallowed. Other Chief Commissioners had a contrary view that allowing the export of pan masala / gutkha packed in plastic sachets would be a contravention of the said Rules of 2011. The Board has examined the matter in the background of the Plastic Waste (Management and Handling) Rules, 2011 as well as the conflicting views of Chief Commissioners.

3. The Ministry of Environment and Forests notified the Plastic Waste (Management and Handling) Rules, 2011 on 04.02.2011 and amended the same on 02.07.2011. Rule 3(b) earlier defined a carry bag to mean "all plastic bags used to carry commodities, including self carrying features". After 02.07.2007 this definition has been changed as "bags made from all plastic material, used for the purpose of carrying or dispensing commodities but do not include bags that constitute or form an integral part of the packaging in which goods are sealed prior to use". On its part, Rule 3(k) earlier defined "multilayered packaging" and w.e.f. 02.07.2007 this was changed to apply to "multilayered plastic pouch or sachet" and corresponding changes have been made in Rule 3(m) and Rule 8.

4. Rule 5 of the said Rules deals with the conditions to be met during the course of manufacture, stocking, distribution, sale and use of carry bags and sachets. Of particular relevance is Rule 5 (d) which states that "sachets using plastic material shall not be used for storing, packing or selling gutkha, tobacco and pan masala". Further, Rule 5 (g), which is inserted w.e.f. 02.07.2011, states that "plastic material in any form, shall not be used in any package for packing gutkha, pan masala and tobacco in any form".

Rule 2, however, grants exemption from the application of Rule 5. Prior to 02.07.2011 the exemption was available to "the manufacture of carry bags exclusively for export purposes, by export oriented units, against an order for export..." whereas w.e.f. 02.07.2011 the

exemption is available to "manufacture of carry bags exclusively for export purposes, against an order for export...".

5. It is clear from the above that carry bags and sachets are two distinct items. Also, the exemption from the requirement of Rule 5 is available only to a manufacture of carry bags. Thus, a unit manufacturing pan masala / gutkha cannot claim this exemption. Therefore, export of said goods in plastic sachets / plastic material in any form would be in contravention of the provisions of Plastic Waste (Management and Handling) Rules, 2011.

6. Action in respect of all past cases may therefore be finalised in the light of the aforesaid clarification. Suitable Public Notice / Standing Order may be issued for guidance of all concerned in respect of all cases relating to past, present and future.

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