

**-COPY OF-
STAX DEPARTMENTAL INSTRUCTION
DATED 14-1-2011**

Rule 27 of the Central Excise Rules, 2002, read with rule 15A of Cenvat Credit Rules, 2004 - General penalty - Enforcement of penal provisions for non-submission of returns

1. Under Central Excise Law, the assessee is required to file different categories of returns depending on its applicability to them. Some of them are monthly *viz.*, ER-1, ER-2 and ER-6, some are quarterly *viz.*, ER-3 and some others are yearly *viz.*, ER-4, ER-5 and ER-7. Central Excise Law envisages self-assessment of duty by the assessee and filing of the prescribed returns periodically, so that department is kept informed about the assessment and duty payment by the assessee. Fundamental ingredient of this trust based scheme, is the regular filing of returns by the assessee. These returns enable the department to verify the duty payment, Cenvat credit taken and other such parameters related to assessment.

2. It has been brought to the notice of the Board, that many assessees are not filing the returns at all and some others are submitting the same after long delays. This problem has been found to be more pronounced in the case of specialized returns like ER-5, ER-6 and ER-7. It has also been brought to the notice of Board that the field formations do not identify the defaulters and take necessary follow up action to ensure submission of these returns.

2.1 It is stated that scrutiny of returns is the essential and basic job of the Central Excise Ranges in the field formations. Scrutiny includes identifying the assessees who have not submitted the prescribed returns, and taking follow-up action to ensure that these returns are filed at prescribed periodicity. In this regards, it is also pointed out that penalty under Rule 27 of Central Excise Rules, 2002 and Rule 15A of CENVAT Credit Rules, 2004 can be invoked against such errant assessees.

3. In view of above, the Board directs that immediate action may be taken by the jurisdictional Commissioners to institute a mechanism to identify such defaulters, and ensure that follow-up action including invoking penalty under the provisions of Central Excise law are taken against them. The jurisdictional Chief Commissioners shall also monitor the proper working of this mechanism every quarter.

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