



PRE BUDGET RECOMMENDATIONS 2010-11

Electronics Hardware like all other sectors has gone through a sobering process during the last 18 months as a result of the financial crises and recessionary conditions which gripped the world. Worst affected were the developed countries and as a result, Asian economies too were effected as they are dependent on these countries for their export markets. Two countries which have come out relatively quickly from this recession are India and China. India particularly is already showing signs of a robust comeback due to its lower dependence on exports, conservative financial policies followed by the government and even more so, due to the package of special policies implemented by the government of India. This is an opportune time for India, and continuous rapid growth is vital for us to quickly bring the gains of development to our masses and create a virtuous long term growth cycle.

In spite of the above positive development, exports of electronic hardware have been impacted adversely due to drop in demand from developed economies. India has been relatively uncompetitive in export markets due to lower prices and higher capacities in competing countries, particularly China and our companies are finding themselves losing export market share. They need support to enable them to regain past market shares and grow faster to become major players in export markets.

Domestic markets continue to cheer, and barring a drop in demand for a short spell, specially for Computers/IT products, continue their growth trend of 20-25%. However, as we all know, our abysmal dependence on imports to feed domestic demand remains a source of constant concern and a challenge we have not yet been able to overcome. With electronics continuing to maintain its place as the largest and fastest growing manufacturing industry in the world, and a major opportunity for us, we cannot let this situation simmer and must enable high value added manufacturing. Electronics and IT are of great strategic importance as it drives the whole economy by enabling enhancement of productivity and value creation.

ELCINA estimates that with the current market growth rate of ~25% per annum, the total demand for electronic components, products and equipment is well on its way to approach the US\$ 200 Bn mark. We also feel that a manufacturing output of approximately US\$ 125- 150 Bn is possible with right support and would have the potential to create huge employment of 21 million (7m direct + 14m indirect) and Revenue of ~US\$ 40-50 Bn including direct and indirect taxes.

To realize the potential of 5-6 fold growth in manufacturing over next 5 years, some key hurdles must be removed and investments in high value add manufacturing incentivised, to make manufacturing rather than trading the preferred option.

Some of the general problems related to policy and high costs faced by this industry are:

- Inverted Duties due to ITA-1 & FTAs, specially due to Dual Use Inputs such as Plastics, Copper, Aluminium, etc plaguing hardware manufacturers
- Domestic Taxes and Levies impose Fiscal Disabilities
 - Cascading impact of CST on components detrimental for finished products manufacturing
- High cost of Finance and Power add to disabilities: Overwhelming Impact under zero duty regime
- **Higher the Value Addition, Higher the Disability faced by manufacturer - Disabilities –fiscal & physical- discourage capital intensive, high value add investments *In the present scenario of 7-8% disability cost, investments have been extremely sluggish and inadequate and we need to make this sector attractive and investor friendly.***

- Absence of level playing field is discouraging investments in manufacture of components / parts which require high and long term investments and calling for a supportive fiscal and infrastructural environment

The above issues become critical in a zero duty regime where imports are cheap making it impossible for local manufacturing to flourish.

Key Recommendations

- Zero duty on all inputs for manufacture of electronic components and parts, including dual use inputs; necessary to avoid inverted duty
- ELCINA supports Implementation of GST wef April 2010; 12% GST (8% Excise + 4% VAT) on electronics value chain, specially components, parts and assemblies.
- 4% Vat on all electronic components and assemblies as these are industrial inputs
- In case of any delay in implementing GST, Zero CST on electronics value chain till such time as GST is implemented
- Retain 8% Excise Duty which is a positive step by the government and should be retained till GST is rolled out
- 4% SAD should be abolished; if it cannot be abolished, it should not be refundable on imports of finished equipment or for imports by traders
- Finished electronic equipment import to be dutiable to encourage local manufacturing
- Allow SEZ units to sell in DTA on Duty foregone concept
- Mandate local content in key sectors such as telecom, rural IT infrastructure, e-governance projects (similar to 30% under DOFA in defence sector) and in special giveaway schemes such as the Tamil Nadu Government scheme of donating TVs.
- Do not implement ITA -II and do not include electronic components and parts in any future FTA's

SPECIAL RECOMMENDATIONS

Promote Domestic Manufacturing & Value Addition

- Policy for encouraging local manufacture of champion products such as CFLs, Solar Lighting, Mobile accessories (Chargers) etc. Simple products required in large quantity with high employment potential.
- For Electronic Components and Parts have high value addition – Allow manufacturers to retain Excise Duty paid through PLA as interest free loan for 5 years.
- Promote hardware manufacturing zones

SPECIAL REQUEST ON BEHALF OF INDUSTRY ASSOCIATIONS

Industry associations have been brought under **Service Tax** under section 65(25a) of Finance Act, 1994, with retrospective effect from 16th June, 2005.

Industry associations represent vital economic interests of our country, are non-profit organizations and serve the cause of nation building and economic development. We request you to kindly review the rules framed and consider our submission as follows:

- Keep Membership Subscriptions out of the ambit of Service Tax. This is against the interests of the associations and our economic progress. We believe that this is also contrary to the principle of 'mutuality' as these subscriptions are not for any specific service provided to a member, but pay for general upkeep of the association.
- Associations provide other value added services as well, which are often specific for members or non-member companies who pay for the same. These may be Training programmes (Workshops), Advertisements in publications, conference services and so on. If at all, service tax is payable by industry associations, it could be on these above services where payment made and service provided are directly linked. This would be reasonable and correct.
- Presently Social/ Entertainment Clubs and Associations are being treated as one and the same; this should be changed and Industry Associations should be treated as a separate category. Industry Associations cannot be equated with social and entertainment clubs, which have totally different purpose.

The recommendations below are in two sections as follows:

Section - I. - ELCINA'S DETAILED TAX RECOMMENDATIONS

Section - II.- SIMPLIFICATION OF PROCEDURES

Section – I

ELCINA'S DETAILED TAX RECOMMENDATIONS

CUSTOMS:

To ensure import of all Raw Materials and Capital Goods for manufacture of electronic components & equipment at 0%, please find attached three Annexures listing products / goods which need to be allowed for import by actual users at zero duty under the following three categories:

1. *Raw Materials to be placed under 0% Notifn 25/99-Customs*
2. *Raw Materials for which end-use extension is required for additional electronic components which must be added to Notifn 25/99-Customs.*
3. *Capital Goods to be placed under 0% Notifn 25/2002-Customs*

Components required as inputs for Consumer Electronics equipment such as CTVs, Audio and Video equipment should not be brought under ITA and continue to attract peak customs duty to encourage their local manufacture. This is particularly important because a number of such inputs are anyway facing lower or even nil duties under various FTA's being signed by India.

The list submitted last year by ELCINA for including pending inputs for component manufacture is still pending with Finance Ministry. A fresh rationalized list is attached herewith for kind consideration and urgent action.

DTA sales by EHTP for Space & Defence Programs

Reg: Input duty on products sold against CDEC (Customs Duty Exemption Certificate) given by Indian Space Research Organization (ISRO) – refer notification 20/2007

Customs insist on payment of customs duty on imported & domestic inputs used to manufacture the products sold to ISRO against CDEC citing para 3 of Customs notification 52/2003

However, when ISRO imports from abroad, citing notification 20/2007, does not have to pay any duties whereas if ISRO procures from EHTP (which is equivalent to imports), or DTA units, it results in the EHTP units paying the duties on the inputs used for such goods. This clearly makes EHTPs (and DTA) uncompetitive vis-à-vis imports. Also, this discourages the development of domestic suppliers for Space Programs.

ELCINA suggests amendment of Para 3 of Customs notification 52/2003, such that, supplies by EHTP and DTA units to ISRO (and other Defence Programs) do not suffer any disability and are at par with imports. For example, they should be allowed import of inputs at zero Customs Duty. This will promote local manufacturing and enable EHTPs and DTA's to support the space and defence programs of Government of India and reduce dependence on imports.

Exclusion of Royalty and Licence Fee in Assessable Value of Imports

The Customs Department contrary to the specific legal mandate (Explanatory Notes to Rule 10(1)(c)] is seeking to add royalties related to reproduction, distribution and resale of the Import of content in Master tape format in the Assessable Value of the such Imports.

Customs duty on import of exposed and developed cinematographic films in reel form, (Chapter 3706 of Customs Tariff), is levied only on the material value (i.e. cost of the reel) due to an exemption that has been granted for not levying Customs duty on the entire contract value (i.e. including the royalty or licence fee paid / payable for content rights) [*Customs notification no. 33/2003- Cus dated March 1, 2003*].

However, such exemption is still awaited for the import of cinematographic films in master tape formats (classified under chapter 8523 of the Customs Tariff).

It is recommended that exemption may be granted from levy of Customs duty on the royalty / license fee paid / payable by the importer on import of cinematographic films in master tape formats (classified under chapter 8523 of the Customs Tariff) by extending the benefit of exemption notification 33/2003-Cus, dated March 1, 2003.

EXCISE:

The reduction of Excise Duty to 8% gave significant relief to industry and while encouraging manufacturing, it enhanced competitiveness, reduced overflow of credit and also discouraged grey market operations. ELCINA acknowledges this step with gratitude as it gave the necessary fillip to struggling units.

ELCINA understands and appreciates the Government's anxiety about loss of revenue but strongly feels that growth and better compliance will more than offset this loss. This relief should be maintained till such time as the global economy is completely out of the woods and Indian exports, which have been hit start recovering.

SPECIAL RECOMMENDATIONS FOR INCENTIVISING LOCAL MANUFACTURING:

1) Allow retention of Excise Duty paid through PLA to be retained (paid over 5 years) as an interest free loan:

- For Electronic Components and Parts (high value addition) – *allow manufacturers to retain ED paid through PLA as interest free loan as a special incentive which can be paid in five equal installments over 5 years. This benefit should be provided for sales from DTA to DTA units.*

This is similar to Sales Tax/Trade Tax Schemes promoted by State Governments. (Eg. In Uttar Pradesh UPTT Rule 4-A) to promote investments and expansion schemes of manufacturers. Value Addition = Excise Duty paid in cash through PLA and this scheme would ensure that manufacturers adding higher value get higher benefit. This would be WTO compliant and give benefit to those who deserve it.

2) Treatment of EOU / EHTP / SEZ supply of Electronic Components and Parts to DTA -

- Allow supplies of all Electronic Components and Parts manufactured in the EOU / EHTP / SEZ units to DTA units to be counted towards fulfillment of positive NFE condition (At present all EHTP sales to DTA of ITA-1 items *only*, are counted towards contribution to positive NFE).

The proposal seeks to encourage use of local components in equipment being assembled in India. It is well known that the electronic components sector has stagnated and is not able to service equipment manufacturing in the country. It is estimated that share of local components in electronics manufacturing has declined from 45% to less than 20% between 1997 and 2008. Components are the building blocks for electronics manufacturing with high value addition and require high investment.

The above measures will enhance use of local components and provide relief to industry.

Impact of 4% SAD on Imported Input Material

In today's scenario for manufacturing of IT, Telecom, & Other Electronic Equipment and parts thereof, value addition is generally less than 20%.

In this situation, manufacturer importers cannot utilize the full Modvatable amount in Excise duty payable on their output. On the contrary, traders are allowed to take refund of 4% SAD after submitting VAT returns. This is against the interest of manufacturing in India.

REMEDY :

1. SAD should be scrapped for manufacturer importer on submission of a declaration that he is a bonafide manufacturer and actual user.
2. SAD should remain for traders as well as "End User Importer" to create level playing field for domestic manufacturers. Traders may be allowed SAD refund only if the imported product is sold to a manufacturer as an input.

Reduction of Excise duty on Blank optical media products (CD-R/DVD-R)

Optical media and solid state storage media, which is also included in the ITA list, has been brought under zero Excise Duty. These include CD/DVD Recorded (852340), USB Flash Memory (852351) Microprocessor for computer, other than motherboards; Floppy disc drive, Hard disc drive, DVD Drive, Combo drive (8471 or 8473) the manufacturers are either given exemption from whole of the excise duty or reduction in rate, as per details given hereunder.

However CD/DVD –Unrecorded (852340) still attracts 8% Excise inspite of the similarity of the goods in terms of their purpose and use. This results in the manufacturers in India having to pay aggregate duty of 8.24% while clearing these goods within the country.

Manufacturers of Optical media who are part of the IT Industry have invested huge amounts in creating manufacturing capacities within the country for manufacture of optical media products, are forced to compete with many unscrupulous mis-declared imports showing lower values or through the grey market. Such goods are dumped into India at very cheap prices thereby creating problems to the domestic manufacturers.

In view of above facts, it is essential that the duty structure on CD/DVD- unrecorded is reviewed and reduced for providing a level playing field to the domestic manufacturers. Hence, we find it appropriate to request that excise duty on '**CD/DVD- unrecorded (HS Code 8523)**', manufactured in India, may be reduced by fixing effective rate of excise duty from the present rate of cenvat of 8% to at least 4% *ad valorem* rate by way of amendment in Notification No. 6/2006-C.E. dated 1.3.2006 as amended.

Reduction in Excise Duty Rate on EOU Despatches

EOUs were paying duty on their DTA sales at 25% of Basic customs duty+Countervailing duty+Special Additional duty vide notification No 23/2003-CE dt 31.3.2003. This notification was amended Vide Notification No 10/2008-CE dt 1.3.2008 and EOUs are now required to pay excise duty at 50% of Basic customs duty+Countervailing duty+Special duty.

Prior to the year 2006, exemption was granted for 50% of all the duties. Assuming that the BCD on a particular product is 0% then the trader will pay CVD and manufacturer will pay ED on the same product. Therefore there is no incentive to manufacture. Cheap imports are flooding Indian market and realizations of the EOU manufacturers have also come down. Hence, exemption should be provided to an EOU @ 50% on all the duties wherever, basic customs duty is nil.

If the above is not acceptable, then the amendment made in the budget for 2008 should be withdrawn and duty levied at old rate of 25% BCD+CVD+SAD.

4% VAT on all Components

Electronic components and sub-assemblies are industrial inputs and duty on them is modvatable and therefore they need to be at 4% VAT. Some of the components mentioned in the schedule are levied at 4% VAT, while those not included in the schedule attract the highest levy which is a great anomaly.

ELCINA pleads that all electronic components should be covered at 4% VAT, which will have no revenue implications for the Central or State Governments.

We request that sub-assemblies should also be at 4% VAT.

Zero CST across the value chain

Till such time as CST is abolished and GST implemented, we recommend that CST should be abolished completely on all Electronic components, assemblies, and inputs with immediate effect to ensure that there is no negative protection against electronics hardware.

Goods & Services Tax (GST)

As per promise made in the 2007-08 Budget, the deadline for the Goods & Services Tax (GST) is April 2010. That leaves little time for various issues to be resolved, before India's most radical indirect tax reform in many decades is brought into effect – with goal of creating a genuine single market in Federal India. Some States have demanded that the GST introduction be delayed till standardization is achieved. But the general argument is that even if some States do not cooperate, the Centre should keep its date with GST – April 2010.

According to a schedule drawn up by the Government, GST is to be unveiled in the Budget for 2010-11. The Government has released a First Discussion Paper on the subject and ELCINA's comments on the same are as follows:-

1. No clarity on domestic procurements for GST: Whereas The discussion paper mentions that exports will be zero rated and such benefits may be given to SEZ but it does not mention how the GST will work for EOUs. If it is only by way of set-off then whether unutilized credit will be refunded to EOUs or not. It may be noted that EOUs are primarily involved in exports and those should be zero rated as per the directions laid down in the discussion paper. The treatment to EOUs in this regard should be at par with SEZ as both promote exports for the country.

2. Separate records and returns for Central GST and State GST: Under the proposed dual GST, it is mentioned that separate returns will be required to be submitted to the Centre and States, in the same format as far as possible. This may imply maintenance of separate records which may be prescribed by the Centre and States. This will create more work in terms of record keeping and duplication thereof. The cost of compliance will increase and the possibility of difference of opinion on a particular matter will increase putting the assesses at inconvenience which may lead to litigation.

It is suggested that single consolidated return should be prescribed for both CGST and SGST and the centre and the respective state should share the data as they deem fit.

3. Carry forward of unutilized credit: The discussion paper does not clarify whether carry forward will be allowed of the CGST & SGST credit at the close of the year or not. It is important to note here that from the trader's point of view the refund route is very tedious, time consuming, cost ineffective and inefficient. It might also lead to malpractices.

Therefore, it is suggested that the unutilized credit should be allowed to be carried forward without any restriction and only in the cases of cessation of business, the refund should be given.

4. Centralised Registration for service providers: Currently an assessee who is having more than one office from where services are provided and has centralized accounting system can obtain one centralized registration. Under the proposed GST, regarding registration it appears that he will have to take separate registration for each place if it is situated in different states and different places even within the State as it is not clear from the discussion paper. This would mean that the assessee will have to maintain separate records for GST in respect of each office and file separate returns and pay GST separately. This will increase the work and cost of compliance.

It is suggested that the current facility of centralized registration should be retained in the GST regime too.

5. Avoidance of uncertainty and providing clarity: One of the difficulties faced by the multinational companies having subsidiaries in India and other domestic companies is the

uncertainty of Indian tax laws. The main reason is ambiguity in the law leading to varied interpretations. This only causes uncertainty in tax expense as the same cannot be estimated and thus not provided by the corporates in their accounts. It also poses many difficulties in project evaluations as the profitability remains uncertain.

Therefore, it is requested that when the white paper and rules for GST are drafted, utmost care must be taken to keep the language simple and provide clarity, with examples therein, wherever there is scope for different interpretation. Further, the limitation period should be reduced to three years to improve the certainty.

SERVICE TAX:

Total Exemption from Service Tax for SEZ

Our Association understands from its constituents that with effect from March, 2009, total exemption from Service-tax for SEZ has been restricted to only those services rendered inside SEZ. Services rendered outside SEZ would come under the scheme of refund by the Government. In order to obtain the refund, there is a cumbersome procedure and slow process, under which one has to submit all original supporting documents to the concerned authorities. We suggest that Finance Ministry may consider reverting to pre-March/2009 procedure.

Service Tax Exemption by way of Refund on all Services used by Exporters

Presently service tax exemption by way of refund has been granted to exporters on 16 services vide ST notification No 17/2009 dated 7.7.09.

The number of services covered under this notification has to be increased to cover all categories of services where cenvat credit is not available as we find that in many cases, the services are outbound (beyond the factory) and cenvat credit is being denied. Furthermore, the service providers are providing the services to exporters mentioned in the notification but are registered under different categories of services which are not specifically covered by the notification under the eligible 16 services. For example Business support services, Business auxiliary services etc.

Hence, it is essential that exemption by way of refund should be granted for all the services used by the exporter wherever cenvat credit facility is not available.

OTHER ISSUES:

MRP Based Assessment

Manufacturers of components and parts (eg. Relays, Switches) are experiencing problems in MRP based assessment with regard to Rule 2A of the Standards of Weights & Measures Rules 1977. MRP based assessment should be for consumer goods which are sold in the retail market directly to the consumers and should not be made applicable to products sold directly or indirectly to Industrial or Institutional buyers. ELCINA has already represented on this subject to the Finance Ministry and to Director (Legal Metrology), Department of Consumer Affairs, New Delhi.

Further, for MRP based assessment under Notif No. 49/2008-CE dt 24.12.2008, though Personal Computers are included with 20% abatement on MRP for Tariff Codes 8471 30 and 8471 60, ELCINA suggests that an entry for Microcomputers under 8471 41 be also inserted to include the smaller versions of Personal Computers which may get classified as Microcomputers. This will take care of the current industry trend of miniaturization. There is a strong view that products under this tariff may become more popular and a provision of 20% on MRP as provided to PCs would be found in order both for the industry as well as for government revenues.

DEPB Rates

In view of the economic slow-down, our members are unable to fulfill export commitments and there is a case for increase in DEPB rates for some components. Connectors falling under Sl.No.44A/83 which have considerable exports, need to be increased to 7%.

Piece parts and accessories of components may also be allowed drawback to give a push to exports for which there is a great potential.

Piece parts of Connectors attract import duty, whereas finished Connectors can be imported at 0%. Suggest import duty on parts may be removed to make local manufacture competitive..

Extension of Time Limit for Deduction available to 100% EOU (Sec 10B)

The benefits conferred by Section 10B of the Act envisages a tax holiday period of 10 years to 100% EOU. However the deduction under section 10B is restricted till FY ending 31.03.2011 only. (Previous year 2009-10)

Restricting the benefits available to these units will make such units uncompetitive and unviable globally threatening their closure.

It is requested that the sun-set clause in section 10B be extended to such units for another 5 years to offset the losses suffered by the units owing to rising input costs.

PRE BUDGET RECOMMENDATIONS 2010-11

Section - II

SIMPLIFICATION OF PROCEDURES

CURRENT PROCEDURES WHICH INVOLVE COSTS / INCONVENIENCE TO THE MANUFACTURER EXPORTERS/SERVICE PROVIDERS AND PREFERRED VIABLE SOLUTIONS

MOST IMPORTANT RECOMMENDATION PENDING SINCE THREE YEARS

1. **Import Of Goods Under Concessional Rate Of Duty For Manufacture of Excisable Goods (IGCRDMEG):-**

The prevalent procedures for import at concessional rate (zero duty) continue to be a major obstacle in manufacturing due to delays in the process:

- Presently the application for obtaining the concessional rate of duty is to be submitted to Assistant Commissioner or Deputy Commissioner of Central Excise through Range Supdt..
- This causes undue delay in clearing consignment, and a good number of cases involve demurrage.
- Hence the application should be countersigned by the Range Supdt. instead of Assistant commissioner or Deputy Commissioner of Central Excise

The procedure involves executing a bond for the differential amount of duty, which has to be given individually against each consignment or a running bond for the total amount required for a year. The procedure for extinguishing this bond is also not clear and very cumbersome. Applications are made for each item separately for port of import for requirement of three months. *This is a tedious and repetitive procedure and it is recommended that assesses may be allowed to make yearly applications.*

Intimation is required to be given to Central Excise within 24 hours of material receipt it cannot be used till it is verified. *This restriction must be removed monthly information of the items received should be filed.*

*Another provision is that Central Excise Department verifies the records and input to output ratio and issues the **End Use Consumption certificate**. This procedure takes too much time and serves no purpose as most items covered under notification No.25/99 can be used only in the manufacture of the related end product. The end result is delay, stock out and stoppage of production. Self certification / Chartered engineer certification based on the input output ratio and /or norms for consumption of the raw materials should be accepted.*

It is also recommended that the assesses records may be accepted for issuing consumption certificate and the format for this record and the input output ratios may be fixed when a new product is introduced. These can be reviewed and reconfirmed once every year by Central Excise.

We strongly recommend that the import of raw material/inputs by local manufacturers of Electronic Components should be routed through a green channel procedure, at least for established and regular manufacturers with a good track record. There should be no need of any Certificate or Bond and only a consumption report may be required periodically to confirm genuine use of the imported material.

It is noteworthy and ironical that any Importer gets benefit of zero Customs Duty on ITA-1 /other exempt goods while a manufacturer has to go through the complex procedure with Excise and Customs authorities explained above. This is a big anomaly and unfair for our manufacturers.

For example, Aluminium Electrolytic Capacitors under Tariff Heading No.8532.22 are eligible for import under 0% Customs Duty without any conditions: by which even a trader can import capacitors freely with no payment of customs duty. However, all the inputs for the manufacture of above product, viz., Aluminium Electrolytic Capacitors under Tariff Heading No.8532.22 are eligible for 0% customs duty provided that the importer follows the procedure set out in the customs (Import of Goods at concessional rate of duty for manufacture of Excisable Goods) Rules, 1996.

In Rule 4 (1A), words 'for a quarter' may be removed.

Explanation: Under this Rule, importer has to either submit an application for a particular consignment or estimated requirement for a quarter. Due to this provision customs authorities refuse to accept certificate issued by Excise authorities beyond three months of its issue date and importer has to go back and submit another application and go through a cumbersome procedure which results in loss of production.

Inclusion of provision to transfer items imported under above referred Rules to another unit either of same importer or any other unit controlled by Excise authorities.

Explanation: This suggestion is pending since last couple of years and acceptance of our request will reduce the cost of production of a manufacturer importer and give a leverage to plan combined RM requirement for both or more units of same organization.

Refund of customs duty under Section 26A of the customs Act.

In the budget for 2009-10, a new Section 26A has been introduced for refund of customs duty on imported (which are defective) goods which are exported within 30 days and can be extended up to 3 months after obtaining the approval of Commissioner showing sufficient cause.

A period of 1 month, or even three months is too short for goods to get consumed/ sold and defectives received back. This cycle is typically not less than 6 months. That being the case, it is very difficult to re-export the defective goods within 1 month from the date of receipt and entitling oneself for refund of the customs duty paid at the time of import.

It is requested that the time period for export of defective goods should be increased from one month to six months. Beyond this, the Commissioner can be empowered to approve extension on case to case basis.

Reversal of Customs Duty payable on Wastage of Goods Imported at Nil Duty Notification No.25/99-Customs dated 28.02.1999 as amended:

Present Procedure: When a manufacturer imports inputs under, Customs (Import of goods at concessional rate of duty for manufacture of excisable goods) Rules, 1996, the same inputs are used only in the manufacture of excisable finished goods and subsequently the same are cleared on payment of appropriate rate of excise duties. The said Rules have not imposed any such condition to reverse the customs duty payable on such imported inputs, on the wastage, if any, generated during the process of manufacture. However, in the absence of any specific guidelines, still the Excise Department is demanding to reverse applicable rate of customs duty on such wastage, if any, generated during the manufacturing process of excisable goods.

Viable Solution: ELCINA pleads the Government may issue guidelines/clarification with regard to the treatment of wastage derived out of the manufacturing process of imported inputs at concessional rate of customs duty.

Letter of undertaking for export without payment of duty

Present Procedure: It is mentioned in the CBEC's Central Excise Manual with regard to LUT to be submitted by a manufacturer exporter, before clearance of excisable goods on export without payment of duty. However it is also mentioned that the LUT should be renewed every year and there is no clarity about the procedure for such submission i.e. Whether the same can be in the form of a letter or to be typed on a stamp paper of worth of Rs.100/-. In fact, there is no such restriction in the relevant Rule 19 of Central Excise Rules, 2002 read with relevant Notifications issued by the CBEC laying down the procedure to be followed for export of excisable goods without payment of duty against LUT.

Under these circumstances, in the absence of specific procedure in the relevant Rules, the Excise Department is insisting on the following:

- The LUT should be typed on a stamp paper of Rs.100/- and duly notarized.
- The LUT should be renewed every year.
- The details of proof of export should be submitted relating to the previous year while submitting for every such LUT renewal, irrespective of the fact that even though all the proof of exports are submitted and accepted by the same divisional head i.e. Dy/Asst. Commissioner of Central Excise.

Viable Solution: ELCINA pleads for issuance of specific guidelines, which will reduce not only the unnecessary paper work but also plug the loop holes for unfair practices as detailed below:

- The Letter of Undertaking duly typed on the letter head of the Manufacturer Exporter, one time, before effecting the clearance of his excisable goods for export, without payment of duty, to be submitted to the jurisdictional Dy/Asst. Commissioner of Central Excise to obtain the dated acknowledgment. The manufacturer Exporter needs to submit the proof of exports regularly on monthly basis along with Annex.19, to the jurisdictional Dy/Asst. Commissioner of Central Excise for acceptance.
- The Letter of Undertaking is valid continuously till such time that the Manufacturer exporter is in export business and/or till the excise registration is surrendered.

Excise Audit 2000

Under the present procedure, selective audit groups formed at every Commissionerate level are visiting the manufacturing units and auditing the records relating to central excise, and other private records.

This is time consuming and counterproductive as explained hereunder:

- Demanding verification of all private records viz. Personnel records, copies of various agreements.
- Records not relating to stores, manufacturing.
- All financial records viz. Ledgers, cash books etc.
- Demanding for disclosure of profit margins and other related information including the information bearing confidential in nature and disclosure of which may cause damage to the organizational entity.

This results in collection of irrelevant information, harassment and undue pressure on the assesses. We feel this vitiates the cordial relations which should exist between the assessor and assesses and results in lack of transparency.

Viable Solution: Hence, it is recommended that the audit of the Central Excise records & Relevant Financial records (only) by selective audit parties may be conducted at the jurisdictional divisional office where all the data relating to every assesses is available and give the written objections if any to the assesses on the spot. In case any relevant data is required the same can be obtained by directing the assesses to produce the same for audit purpose.

Requirement for Sealing of Each Export Consignment

1. Every Export shipment, however small the value may be, requires seal of the excise authorities. Exporters do the sealing and get signature of excise officials. There is a cost involved in this. We feel there is no need for sealing each individual consignment as exporter provides post export documents to the Excise department any way. The same should be accepted as adequate safeguard?
2. For all duty free import, manufacturer needs to get a certificate and is required to give consumption certificate to cancel the bond. There is no meaning behind this as all ITA products and inputs can be imported for resale duty free without all these headaches.

Cenvat Credit Availed on Duty Paid Goods Received for Rework

Rule 16 of Central Excise Rules 2002 provides for credit of duty on goods brought to the factory for rework/ reconditioning. This rule is a combination of erstwhile Rule 173H and 173L of Central Excise Rules 1944 in a simplified form.

Under the new rule:

The Assessee is entitled to take CENVAT credit of the duty paid as if such goods (received for rework) are received as inputs under the CENVAT credit rules and reverse the same while clearing the same after the required process is carried out. If for any reason, the goods are not returned then the credit earned and utilized is not admissible.

There was a provision available under erstwhile rule 173L for refund of excise duty for goods received for rework. In the new rule, duty paid goods received for rework, remade or for any other reason have been treated at par with input received for manufacturing process. If the input is rejected in process, the reversal of CENVAT credit is not required.

Suggestion: If for any reason (rejected in process) the goods received for rework or for reconditioning are not returned then the credit earned and utilised be made admissible.

Procedure for Refund of Cenvat to DTA Exporters

Presently, exporters from DTA have to pay Cenvat. For zero duty raw material imports, they have to pay CVD + Additional Duty, which results in blocking of funds leading to higher cost. ELCINA suggests that for recognized manufacturer-exporters, CVD + Additional Duty may be removed. There is no revenue loss since these levies are in any case refundable and will greatly help by reducing involvement of working capital and also reduce the Governments headache of processing refunds.

Alternatively, it should be provided that refunds will be processed within 30 days of export and interest paid to the assessee in case of delay.

EHTP / EOU Units

EHTP / EOU units are charged Cost recovery charges by Excise / Customs authorities at the time of renewal of Bonded warehouse license. These charges are based on the salary of a senior officer and a field officer. This should be done away with as a substantial amount involved contributes to the cost of product which is already under great pressure.

Role of STPI in day to day activity needs to be done away with as it does not have any function for routine matters. It is recommended that the provision for approval for every import should be deleted from Customs Notification # 52/03 dt. 31.03.2003. Project approval and valid Green Card issued by STPI is enough proof for this purpose.

For import of Moulds, tools and dies under concessional duty, manufacturers of electronic hardware products have to approach Ministry of Information Technology as per condition of Customs Notification # 21/2002 dt. 01.03.2002, serial # 175 and condition # 23. This should also be done away with and one time certificate from Ministry should be considered good enough for this purpose.

Fixation of Wastage Norms : As per FTP 2009-14 para 6.8 (e) Scrap / Waste remnants arising out of production process cannot be sold in DTA unless Norms are fixed. The Procedure for fixation of Norms is very tedious as application is filed with local STPI, the local STPI forwards the application to STPI Zonal office, who further sends it to IMSC from where it goes to DGFT. It takes more than a year for fixation of Norms

Recommendation: The Scrap Norms should be fixed by the concerned STPI where the unit is situated & a reasonable time frame, say one month, should be fixed.

Proof of Export : Under Rule 19 of Central Excise Rules,2002 and Notification no. 42/2001-C.Excise (N.T) dated 26.06.2001 proof of export has to be submitted within six months from date of clearance for Export in Annexure-19 in the concerned Central Excise Divisional Office. The exporter is permitted to take credit in his running bond account on the basis of copy of the statement/letter duly acknowledged by the Range office or the bond accepting authority. The letter of final acceptance of Proof of Exports is generally not given.

Recommendation: The Range Superintendent under whose supervision export is done should be authorized to issue letter of Proof of Export **OR** the letter of Proof of Export from Division office should be given within one month of submission of Proof of Exports.

Refund/Rebate claim in Export : Under Rule 18 of Central Excise Rules,2002 & Rule 12 of Central Excise Rules, 1944 the rebate of duty paid on goods exported may be granted by Government. The Rebate claim documents are filed with Divisional office with a copy to Range office. The Rebate claim is normally given in three months.

Recommendation: The Rebate claim from Division office should be given within one month of submission of rebate claim application.

B-17 Bond & Customs Bonding Licence Renewal : Under Notification no. 14/98-Cus dated 10.03.1998 a single all purpose Bond B-17is executed by 100 % EOU and Customs Licence is taken with the validity of Five years.

Recommendation: The Cutoms Bonding Licence & B-17 Bond should be valid till the 100% EOU is in operation like Central Excise Registration No.

MOT Charges : The 100 % EOU Unit has to deposit Merchant Overtime Charges (MOT Charges) under Customs (Fee for Rendering Services By Customs Officers) Regulations, 1998 whenever export sealing and re-warehousing of goods being done by Central Excise/Customs staff.

Recommendation: The Merchant Overtime Charges (MOT Charges) should be waived as other duties like Central Excise, Customs are not applicable for 100 % EOU.

Form C

Usage of "C" Forms should be abolished under the new GST regime as the present system of collection/submission of these forms is cumbersome and leads to malpractices.

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