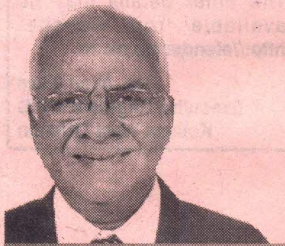


# 'Govt grants refund of CVD and SAD paid for regularisation of defaults under advance authorisation'



## CHATROOM

T N C RAJAGOPALAN

**We had imported certain capital goods under EPCG authorisation before introduction of GST. We are unable to export our goods. So, we want to regularise paying the duty and interest. We understand that we have to pay the duty that we saved, as per old duty structure, i.e. BCD, CVD, SAD and Cess. In that case, can we get credit of CVD, SAD, etc.?**

I have always taken a view that there is no provision in the GST laws to take input

tax credit of the CVD and SAD paid for regularisation of bonafide default under advance authorisation or EPCG authorisation. Recently, however, I came across an order granting refund of the CVD and SAD paid upon regularisation of default under advance authorisation. The order relies on Section 142 (6a) of the CGST Act, 2017, which reads as follows:

"Every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of

the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act". The order treated the refund claim as arising out of a reference relating to a claim for Cenvat Credit and found the CVD and SAD paid as admissible credit under the Central Excise laws.

**We have been exporting our goods to Central American and other countries. We have been availing export incentives of credit scrips. However, in some of the consignments, our clearing agent did not claim the same in the shipping bill. We noticed later when we claimed it, but it was denied. Is it possible now to**

**amend the shipping bill and get the incentive under MIES?**

As per first proviso to Section 149 of the Customs Act, 1962, no amendment of a shipping bill or bill of export shall be authorised to be amended after the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were exported. So, unless you have some documentary evidence that existed at the time of export to show your entitlement, shipping bill amendment may not be possible.

**We have defaulted under the EPCG scheme due to bad market conditions. Can we reduce our liability by approaching Settlement Commission?**

Para 2.60 of FTP empowers Settlement Commission to decide cases where parties have defaulted under FTP for reasons beyond their control.