



## CHAPTER VII MISCELLANEOUS ISSUES

### 7.1 Non levy of duty, interest and penalty

Rule 19 of the Central Excise Rules, 2002, stipulates that excisable goods can be exported without payment of duty subject to the conditions and procedures as laid down in the notification dated 26 June 2001, as amended. One of the conditions requires that the goods should be exported within six months from the date on which these were cleared for export or such extended period as may be allowed.

Section 11AB of Central Excise Act, 1944, stipulates that where any duty of excise has been short levied or short paid, the assessee shall pay the differential duty with interest.

**7.1.1** M/s Leemark Healthcare Pvt. Ltd., in Ahmedabad II commissionerate, had cleared pharmaceutical products for export without payment of duty during the period April 2006 to March 2007. However, neither was any proof of export submitted upto October 2008 nor was any extension of time sought and granted. The department has to recover the duty involved of Rs. 76.98 lakh.

**7.1.2** In 14 other cases, where export lapses were noticed by us, loss/short payment of duty of Rs. 91.11 lakh was observed. Of these, in six cases, the department accepted the audit observation of Rs. 3.20 lakh and reported

recovery of Rs. 1.65 lakh in five cases.

**7.1.3** We found that M/s Ranbaxy Laboratories Ltd., Dewas and M/s. Nicholas Piramal India Ltd., Pithampur, in Indore commissionerate, were engaged in manufacturing of patent or proprietary medicines and had made short payment of duty on physician samples cleared during the period April 2005 to September 2006. They paid the differential duty of Rs. 70.12 lakh including cess in December 2006 and September 2008 but interest of Rs. 17.07 lakh was not levied or paid.

On this being pointed out (May 2007 and February 2009), the department stated (October 2008) that the interest of Rs. 2.69 lakh was deposited in May 2007 by M/s Nicholas Piramal India Ltd., Pithampur and the recovery of the interest of Rs. 14.38 lakh was being pursued (February 2009) with M/s Ranbaxy Laboratories Ltd., Dewas.

**7.1.4** Similarly, during the period April 2005 to December 2008 in 25 other cases, the assessee did not pay the duty of Rs. 18.64 lakh in 12 cases, interest of Rs. 26.10 lakh in 17 cases and penalty of Rs. 8.70 lakh was not levied in three cases. On these cases being pointed out, the department accepted 11 cases involving Rs. 17.07 lakh and recovered Rs. 11.16 lakh in 10 cases and issued SCN for Rs. 5.29 lakh in one case.

## 7.2 E-payment procedure

CBEC vide notification No. 8/2007 CE (NT) dated 1 March 2007 had made e-payment of central excise duties mandatory with effect from 1 April 2007 for the assesseees who had been paying central excise duty of Rs. 50 lakh or more.

be strengthened.

Audit scrutiny revealed that e-payment procedure had not been followed by six assesseees, in five commissionerates, though these were paying duty of more than Rs. 50 lakh during the financial year 2006-07. The monitoring of the implementation of e-payment needs to

## 7.3 Acceptance of proof of export by division

The Board directed (vide circular dated 6 November 1996) that a special drive should be initiated to liquidate the pendency in acceptance of proof of exports as an export facilitation measure. Thereafter, acceptance of proof of exports was to be conveyed within 15 days of receipt.

applications. The delays ranged upto three years.

A scrutiny of the records of Division VI in Delhi commissionerate revealed that M/s Panacea Biotech had submitted the proof of exports involving duty of Rs. 21.12 crore during the period 31 May 2006 to 29 September 2007 for acceptance. The certificates of acceptance were not issued by the division upto May 2009 in 100 such

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