

Kudos to the Board

(By S.Jaikumar and G.Natarajan, Advocates, Swamy Associates, Chennai)

Sir Henry Louis Mencken said, "Criticism is prejudice made plausible". While a Critic has the arrogance to whip a mistake, he should also be generous to hail when they are remedied. This rejoinder is to acknowledge the rectification of few of the mistakes committed by the Board, which have been addressed and amended with M.Schumacher Ferrari's speed.

Kind reference is drawn to our article titled as "One Sparrow does not make a Summer" [2003 (57) RLT R35] wherein we pointed out that, with the advent of Circular No. 48/2003-Cus dated 06.06.2003 vide F.No.605/41/2003-DBK, the manufacturer exporter, who were earlier required to execute 25% of bank guarantee in case of DEEC and 50% in case of EPCG scheme, were put in grave disadvantage. By supersession of the earlier Circular No.71/98 by the above stated circular, manufacturer exporters who were not having an export turnover Rs.1 Crore, were made to execute 100% bank guarantee for the above schemes. The said article questioned the intention behind such withdrawal. The Board vide its Circular No.74/2003 dated 21.08.2003 (F.No.605/41/2003-DBK) has come up with the requisite amendment restoring the original status of 25% BG in case of DEEC scheme and has reduced the original requirement of 50% to 25% BG in case of EPCG, thereby addressing the larger issue considerably.

Reference is drawn to our article titled as "Circular conflicts the Rules" [2003 (58) RLT R31] wherein we pointed out the conflict between the amended Rule 4 (2) (b) of Cenvat Credit Rules vide Notification 70/2003-CE (NT) dated 15.09.2003 and the Circular No.747/63/2003-CX dated 22.09.2003. As the amended Rule 4 (2) (b) dispensed only the "Possession and use" condition for the Moulds and Dies in the subsequent years to avail the balance 50% of Cenvat Credit, the said circular gave an another interpretation that, full Cenvat Credit on Moulds and Dies shall be available to the manufacturer in the first year of acquisition itself. We sought a suitable clarification as to which was loosely worded- the notification or the circular. The Board vide its Circular No.755/71/2003-CX dated 13.10.2003 has come out with such a turbo speed response by amending the circular by clarifying that the amended Rule 4 (2) (b) of Cenvat Credit Rules only dispensed with the "Possession and use" condition and the balance 50% Cenvat Credit such moulds and dies shall be available only in subsequent financial years.

It is very heartening to see such a speedy, prompt and committed response from the Board, which by this immediate rectifications has avoided a heap of litigations. Good show! Keep it up!.