

**Circular No.:989/13/2014-CX.3**

Dated:07.11.2014

F. No. 103/02/2012-CX.3  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

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**Sub: Excisability of Odoriferous compound/agarbathi mix arising during the course of manufacture of agarbathi – regarding.**

Attention is invited to Board's circular no. 495/61/99-CX.3 dated 22.11.1999 (issued from F.No. 103/6/98-CX.3) regarding the above subject. It was clarified therein that 'Odoriferous Compound' is normally used in the manufacture of Agarbathis in a continuous manner. The formula of preparation of such compounds is kept a secret. Such odoriferous substances which are not capable of being bought and sold in the market in normal course of trade are not excisable products.

2. It has been reported that some manufacturers of such odoriferous compounds have claimed non-excisability on the ground that such compounds are a trade secret, not sold in the market and hence not excisable. This is despite the fact that such compounds have shelf life and are capable of being marketed as a distinct identifiable commodity.

3. It may be noted that Section 2(d) of the Central Excise Act, 1944 has been amended in 2008 to insert a deeming fiction regarding marketability. Specific cases have been detected, where intermediate masala mix has been found to be actually bought and sold. It is therefore clarified that Board's Circular No. 495/61/1999-CX.3 dated 22.11.1999 is applicable only to such intermediate compound or odoriferous compounds as are not capable of being bought and sold. In cases where on the basis of evidence it is established that such intermediate compounds are capable of being marketed, the same will be excisable, irrespective of whether the compound is actually marketed or not.

4. Trade and field formations may be suitably informed.

(Shankar Prasad Sarma)  
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