

**CIRCULAR NO**

**910/30/09-CX, Dated : December 16, 2009**

**Subject :Clarification regarding labelling and repacking etc. amounting to manufacture .**

It has been brought to the notice of Board that certain dealers are receiving liquid chemicals in bulk in containers and offloading the same at the dealers' premises or godown into drums of 200ltrs for subsequent marketing of these materials to customers. Doubts have been raised as to whether such activity would amount to manufacture in terms of Chapter Note 10 to Chapter 29. As the said Chapter Note has been amended in 2008 budget, it has been contested that the said activity is covered by the present wordings of the Chapter note. The relevant portions of the chapter note reads as under:

**Before Amendment (1.03.2008)**

*10. In relation to products of this Chapter, labelling or relabelling of containers **and** repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to 'manufacture'.*

**After amendment (1.03.2008)**

*10. In relation to products of this Chapter, labelling or relabelling of containers **or** repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to 'manufacture'.*

2. Whether an operation amounts to repacking from bulk packs to retail packs or not, is a question to be decided on facts. However before examining the implication of the substitution of word 'and' by 'or', it is necessary to examine whether the activity itself is covered by term repacking from bulk packs to retail packs. Hence the first issue which needs to be decided is whether the "container/ lorry tanker" can be considered as bulk pack.

3. Tribunal has in the case of Ammonia Supply Co. [2001 (131) ELT 626 (T)] = ([2002-TIOL-179-CESTAT-DEL](#)), held that "As per Note quoted above, labelling or re-labelling of the container should take place at a time when the goods are packed from bulk packs to retail packs. The assessee was not getting Ammonia in bulk packs. They were getting it in tankers. Ammonia gas brought in tankers can never be termed as brought in bulk packs. So the assessee was not repacking the goods from bulk packs to retail packs. Accordingly the activity undertaken by the assessee in filling the smaller container from bulk container namely tankers can never fall within the fiction of manufacture as envisaged by Note 10 quoted above."

4. Therefore the tankers cannot be termed as bulk packs and therefore the activity of transferring the goods from tankers into smaller drums cannot be said to be covered by the said chapter note 10.

5. Pending cases may be disposed of accordingly.

6. Hindi version will follow.

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This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

**Lunawat & Co.**

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**F No 6/3/2009-DS (CX 1 & 4)**

**Madan Mohan  
Under Secretary (CX 1)**

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