



सत्यमेव जयते

मुख्य आयुक्त का कार्यालय-

OFFICE OF THE CHIEF COMMISSIONER

केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर, वडोदरा क्षेत्र

CENTRAL EXCISE, CUSTOMS & SERVICE TAX, VADODARA ZONE

द्वितीय तल, केन्द्रीय उत्पाद शुल्क भवन, रैसकोर्स सर्कल, वडोदरा-390 007 (गुजरात)

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BY SPEED POST

F. No. IV/16-64/CCO/T/2013

Dt. 24.12.2014

To,

All RAC Members of the Trade.

Sir,

Subject : Minutes of the RAC meeting for Organized Sector & SSI Sector Meeting for the block year 2014-15 held at Vadodara on 09.12.2014.

Please find enclosed herewith copy of Minutes of the RAC meeting for Organized Sector & SSI Sector Meeting for the block year 2014-15, held on 09.12.2014 at Vadodara.

2. The Meeting of RAC for Organized Sector & SSI Sector for the block year 2014-15 has been fixed on 22nd January, 2015 at 11.30 hrs. in Central Excise & Customs, New Central Excise Building, Opp. Gandhi Baug, Chowk Bazar SURAT.

It is requested to send your points, if any, to be discussed in the meeting latest by 29.12.2014 to the undersigned. The points received after stipulated date will be discussed in the next RAC meeting. Further, meeting should only be attended by the nominated members personally and while sending the agenda points, reference to the Para-5 of the Trade Notice No. 1/2014 may kindly be taken in cognizance.

Yours faithfully,

(Vinish Chaudhary)

Ex-Officio Secretary & Additional Commissioner (CCO)
Central Excise, Customs & Service Tax
Vadodara Zone

Encl. : As above.

MINUTES OF THE MEETING OF REGIONAL ADVISORY COMMITTEE FOR ORGANIZED SECTOR, SSI SECTOR AND SERVICE TAX SECTOR HELD ON 09.12.2014 AT 16-00 HRS. IN THE NEW CONFERENCE HALL, CENTRAL EXCISE AND CUSTOMS BUILDING, RACE COURSE, VADODARA-390 007.

The combined meeting of the Regional Advisory Committee for Organized and Small Scale Sectors (including Service Tax) and Grievance Committee for the block year 2014-15 was held on 09.12.2014 at 16.00 hrs. under the Chairmanship of Shri Jayant Misra, Chief Commissioner of Central Excise, Customs and Service Tax, Vadodara Zone.

The following officers & members of RAC attended the meeting:-

Departmental Officers:-

1. Shri Jayant Misra, Ex-Officio Chairman and Chief Commissioner, Central Excise, Customs and Service Tax, Vadodara Zone.
2. Shri A.K.Jyotishi, Commissioner, Central Excise, Customs and Service Tax, Vadodara-I, Vadodara-II, Anand, Audit-I
3. Shri V.K.Verma, Commissioner, Central Excise, Customs and Service Tax,, Surat-I & Audit-II
4. Shri. Manoj Kumar Kedia, Ex-Officio Secretary and Additional Commissioner(CCO), Central Excise, Customs and Service Tax,, Vadodara .
5. Shri Pankaj Dwivedi, Additional Commissioner, Central Excise, Customs and Service Tax, Silvassa.
6. Shri B.P.Singh, Joint Commissioner, Central Excise, Customs and Service Tax, Daman & Valsad.
7. Shri. A.T.Dhruva, Assistant Commissioner (CCO), Central Excise, Customs and Service Tax, Vadodara.

Members from the Trade:-

1. Shri Nilesh J Shukla, President, Vadodara Chamber of Commerce & Industry, Vadodara.
2. Shri Rakesh Chaudhary, Executive Director, South Gujarat Textiles Exporters Association, Surat.
3. Gp. Capt.(Retd.) Ashok Gajanan Chitre , President, Ankleshwar Industries Association, Ankleshwar .

4. Shri Chandrakant Parekh, President, Silvassa Industries Association, Vapi.
5. Shri Paresh M Patel, President, Bilimora GIDC Industries Association, Bilimora.
6. Shri Jagdamba Prasad Chaturvedi, Member, Small Scale Industries Association, Valsad.
7. Shri Vijay Shah, Joint. Secretary, EXIM club, Vadodara
8. Shri Kapil Triklani, Dy.Manager, GSFC, Vadodara.
9. Shri Dilip Shrikrishna Sohoni, President, Umbergaon Industries Association, Umbergaon.
10. Shri Sreeram Kaza, General Manager, M/s Alembic Pharmaceutical Ltd., Vadodara.

At the outset, the Chairman and Chief Commissioner of Central Excise, Customs and Service Tax, Vadodara Zone, Shri Jayant Misra, extended a warm welcome to the members present and initiated the proceedings after a brief introduction. The Chairman took a note of the thin attendance on the part of the members of the trade and stressed the importance of participation and interaction irrespective of the presence or absence of issues. Thereafter the following four points sponsored by members were discussed in the meeting.

A. Agenda Points sponsored by Ankleshwar Industries Association, Ankleshwar

Point -1:

Requesting to increase time limit for availing Cenvat Credit of 6 months

Time limit of 6 months has been introduced for availing Cenvat credit on inputs and input services vide Notification No. 21/2014 C.E.(NT) Dt. 11.07.2014 amending Rule 4 of Cenvat Credit Rules 2004 with effect from 01.09.2014. The manufacturer and service provider will be required to avail Cenvat credit within 6 months from the date of issue of invoice.

This restriction of availment of credit within 6 months of issuance of invoice has taken the industry back to 1995 when identical provisions were introduced for the first time, which was subsequently deleted in the year 2000 to allow industries to avail credit at any time for which they were eligible. Re-introduction of such restriction may lead to considerable difficulties to the extent of even putting road block for units being set up. Some of the difficulties faced by the trade are given hereunder:

1. NPPA has reduced the prices of many drugs in recent past, pharma companies have to call back the medicines from the market for re-stickering and re-stickering amounts to manufacture. Cenvat credit cannot be claimed on six month old stock, even though there is down ward price reduction and over and above one has to pay one more time Excise duty on reduced prices. Second scenario is when manufacturer receive rejected material by customer after six month on original documents, cenvat credit is not possible.
2. In some cases where bulk quantities of material are required to be imported (it is not feasible to import in small quantities), material have to be stored outside the factory after Customs clearance due to lack of storage space in the factory. This material is subsequently received in the factory over a period of time (each month quantity received is in line with consumption / storage space available) and Cenvat credit cannot be availed till the entire shipment under one Bill of Entry is received in the factory, which at times takes more than six months. Also in case of transport by rail, missing wagons (on account of wagons being declared sick after loading and such wagons are detached from the rake and left behind at the railway station at loading point) are received in the factory after a long time (often more than 6 months). This restriction will now lead to loss of legitimate Cenvat credit (for no fault of the assessee) which would otherwise be available as the duty paid inputs are finally used in or in relation to manufacture of dutiable final products.
3. In addition to above, in case of transportation by Railways, service tax on freight is payable by Indian Railway. Thereafter Indian Railway issues a certificate for the Service Tax paid after a long time e.g. for material transported during January and February 2014, where application for the certificate has been filed in early March 2014 are yet to be received despite extensive follow-up with Railways. Finally when such certificates are received and even if Cenvat credit is taken immediately, the date of taking credit may exceed six months from the date on which Service Tax was paid by Railways and field formations are bound to raise disputes regarding eligibility of such credit due to this 6 month restriction. Also while certificates are being received for the service tax paid on freight from Railways, albeit the delay, no certificate has been received from Indian Railway for demurrage charges for more than one year despite constant follow-up.

In view of above practical issues, limitation of this nature, poses a serious doubt as to whether we are moving towards GST or farther away from it as it goes against the fundamental concept of value added tax i.e. reducing the cascading effect of taxes.

Comments

Board vide Circular No.990/14/20J4-CX-8 dated 19.11.2014 has clarified that the purpose of the amendment made by Notification No.21/2014-CE(NT) dated 11.07.2014 is to ensure that after the issue of document under sub-rule (I) of Rule 9, credit is taken for the first time within six months of the issue of the document. Once this condition is met, the limitation has no further application. The limitation of six months would apply when the credit is taken for the first time on an eligible document. It would not apply for taking re-credit of amount reversed, after meeting the conditions prescribed in these rules.

B. Agenda Points sponsored by Small Scale Industries Association, Valsad

Point-1

Whether the Service Tax is payable by the employer on the remuneration amount of the full time Executive Director / Director who is working in company as an employee.

Comments

It was opined that as per Section 65B(44) of Finance Act, 1944, "Service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—

(a) --

(b) a provision of service by an employee to the employer in the course of or in relation to his employment

(c) --

In view of above provisions, if the service provided falls under proviso (b) then the same may be excluded from the purview of service tax.

Point-2

Whether the Cenvat Credit of Input Services can be utilized for the payment of Input Service Tax in a case where the recipient of Input Service is liable to pay a part of Service Tax under reverse charge mechanism.

Comments

It was opined that as per Explanation to Rule 3(4) of Cenvat Credit Rules, 2004 specially provide that "Cenvat credit cannot be used for payment of service tax in respect of services where the person liable to pay tax is the service recipient".

C. Agenda Points sponsored by Bilimora GIDC Industries Association

Point-1

The member association has requested that since long time they do not have any full time Superintendent, so if possible one regular Superintendent may be posted.

Comments:

The Chairman has asked the jurisdictional Joint Commissioner to resolve the issue within a week.

Before concluding the meeting, the Chairman thanked all the members present and advised them to utilize the forum fruitfully so that all doubts/issues that may come across on Central Excise & Service Tax matters by the Trade could be clarified to the members.

The meeting was concluded at 17.30 hrs.



[Vinish Chaudhary]
Additional Commissioner (CCO),
Central Excise and Customs,
Vadodara.

F. No. IV/16-64/ CCO/T/2013

Vadodara, dt. 15.12.2014

Copy to :-

1. All RAC Members of the Trade & Department (as per mailing list).