

MINUTES OF THE REGIONAL ADVISORY COMMITTEE (ORGANIZED SECTOR, SSI SECTOR AND SERVICE TAX SECTOR) FOR THE 1st QUARTER OF THE YEAR 2015 (BLOCK YEAR 2014-15) WAS HELD ON 22.01.2015 AT 11.30 HOURS IN THE CONFERENCE HALL, NEW CENTRAL EXCISE BUILDING, CENTRAL EXCISE AND CUSTOMS, OPP. GANDHI BAUG, SURAT.

The combined meeting of the Regional Advisory Committee for Organized and Small Scale Sectors (including Service Tax) for the 1st Quarter of the year 2015 (Block year 2014-15) was held on 22.01.2015 at 11.30 hours 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, 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
3. Shri V.K.Verma, Commissioner, Central Excise, Customs and Service Tax, Surat-I
4. Shri Ajay Saxena, Commissioner, Central Excise, Customs and Service Tax, Surat-II & Bharuch
5. Shri Karnail Singh, Commissioner, Central Excise, Customs and Service Tax, Daman & Valsad
6. Shri Shrikant Patil, Commissioner(Appeals), Central Excise, Customs and Service Tax, Surat-I
7. Shri A.G. Ubale, Commissioner, Central Excise, Customs and Service Tax, Audit-I
8. Shri J.S. Negi, Commissioner, Central Excise, Customs and Service Tax, Audit-II
9. Shri. Vinish Chaudhary, Ex-Officio Secretary and Additional Commissioner(CCO), Central Excise, Customs and Service Tax, Vadodara .
10. Ms Manisha Saxena Addl. Commissioner, Central Excise, Customs and Service Tax, Bharuch

11. Shri Rajendra Nagar, Addl. Commissioner, Central Excise, Customs and Service Tax, Surat-I
12. Shri Vinod Rao, Joint Commissioner, Central Excise, Customs and Service Tax, Silvassa.
13. Shri OM Prakash, Joint Commissioner, Central Excise, Customs and Service Tax, Surat-II
14. Shri Mohankumar Meena , Joint Commissioner, Central Excise, Customs and Service Tax, Vadodara-II
15. Shri. S.S. Gadkari, Assistant Commissioner (CCO), Central Excise, Customs and Service Tax, Vadodara.

Members from the Trade:-

1. Shri Rakesh Chaudhary, Executive Director, South Gujarat Textiles Exporters Association, Surat.
2. Gp. Capt.(Retd.) Ashok Gajanan Chitre , President, Ankleshwar Industries Association, Ankleshwar .
3. Shri Sharad Purohit, Member(RAC) Member Daman Industries Association, Daman.
4. Shri Jagdishbhai I Patel, Member(RAC), President, Vitthal Udyognagar Industries Association, Anand
5. Shri Vijay Shah, Joint. Secretary, EXIM club, Vadodara
6. Shri S.S. Rathi, Member(RAC) President, Bilimora GIDC Association Bilimora
7. 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.

Keeping in view the Union Budget 2015-16, the Chairman has also appealed the members to send their suggestions to the office by 27.01.2015, so that same can be forwarded to the CBEC for consideration. It was requested to make constructive suggestions in the areas of procedures under Central Excise Law. Simplification of procedures can be done devising acceptable system which would effectively protect the risk areas to the revenue and at the same time cost effective for the Trade and

Industries. Thereafter the following three points sponsored by members were discussed in the meeting.

A. Agenda Points sponsored by South Gujarat Textiles Exporters Association

Point-1: The association has requested that all the cases relating to utilization of Cenvat credit of service Tax paid on service of Sales Commission Agent be transferred to the Call book till the verdict of Hon. Supreme Court is pronounced in case of M/s Cadila Healthcare.

Comments:

The members were informed that the transfer of cases to call book are permissible under the categories mentioned in the Board's Circular No.162/73/95-CX.3 dated 14.12.95 read with Circular No.719/35/2003-CX dated 26.5.2003 and also circular No.992/16/2014-CX dated 26.12.2014. The issue raised in the association's point does not fall under the categories specified. Further for trade facilitation a reference has already been made to the Board to revisit the clarification given at the Circular No.943/4/2011-CX dated 29.4.2011 following the decision of the High Court of Gujarat in case of M/s Cadila Healthcare Ltd.

Point-2 : The member association has brought the following issue for clarification:-
The manufacturer Exporter engaged in the manufacture of Nylon Filament yarn and is registered with the Central Excise Department for this product. The assessee also clears Twisted Nylon Filament yarn. For producing this product, twisting facility is not available with the manufacturer, so they send Nylon filament yarn to the job worker for twisting after intimating the same to Central Excise Department. The manufacturer sends the NFY on challan and also on payment of duty to the twisting unit for job work. Once the twisting is over, Twisted Nylon Filament yarn is brought back to the premises of the Manufacturer Exporter and duty amount is credited back. Twisted Nylon yarn is packed in cartons and sold to the buyer on payment of duty. For this purpose, the manufacturer maintains Annexure-IV register in which outgoing & incoming particulars of the job work is maintained.

Issue:

The department considers such activity as illegal as the unit is registered for the manufacture of Nylon Filament yarn so they cannot clear Twisted Nylon Filament yarn from the premises even on payment of duty.

Request:

In Surat, Textile Industry is an unorganized sector. In one unit all the activities from manufacturing of yarn to manufacturing of processed fabrics do not take place under one roof. For every manufacturing process, there are different units. Hence, if one manufacturer gets an order of some goods, which they manufacture partially, has to be send it to the job worker/different unit to complete the process. If it is not allowed, it will adversely affect exports.

The assessee has sought clarification on this issue so that Manufacturer Exporters can work freely without hassles.

Comments

The members were informed that this matter will be examined and resolved by the Commissioner, Central Excise, Customs & Service Tax, Surat-II.

Jobwork activity under Central Excise Law is governed by various provisions under the act and the manufacturer may opt for suitable choices. For example Rule 16(A) and the Central Excise rules 2002, Cenvat Credit rules 2004, Notfn. No. 214/86-CE dtd. 25.3.1986, Notfn. No. 83/94-CE dtd. 11.04.94, Notfn. No. 70/92-CE dtd. 17.06.92 provide procedures and related conditions for carrying job activities. In case of difficulties, Trade can seek guidance from the local Commissionerates

B. Agenda Points sponsored by Federations of Small Industries of India

Point-1: The member association is seeking clarification on the following issue:-

In case of Loss/Non-traceability of Duplicate/original invoices, how to take cenvat credit/ the procedure thereof. Whether cenvat credit can be availed on the extra copy obtained from the supplier or not?

Comments

As per Rule 9(1) of Cenvat Credit Rules, 2004,

"The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :-

(a) an invoice issued by -

(i) a manufacturer for clearance of -

(I) inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;

(II) inputs or capital goods as such;

(ii) an importer;

(iii) an importer from his depot or from the premises of the consignment agent of the said importer if the said depot or the premises, as the case may be, is registered in terms of the provisions of Central Excise Rules, 2002;

(iv) a first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; "

Further, Rule 9(2) of Cenvat Credit Rules, 2004 provides that: -

"(2) No CENVAT credit under sub-rule(1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document:

Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, assessable value, Central Excise or Service Tax registration number of the person issuing the invoice, as the case may be, name and address of the factory or warehouse or premises of first or second stage dealers or provider of taxable service, and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit"

Rule 11(3) of Central Excise Rules, 2002 prescribes that invoice shall be prepared in triplicate in the following manner, namely :-

- (i) The original copy being marked as ORIGINAL FOR BUYER;
- (ii) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER;
- (iii) The triplicate copy being marked as TRIPLICATE FOR ASSESSEE.

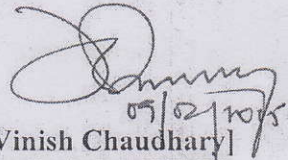
Further as per **Para 4.2 of Chapter 4 of CBEC's** Supplementary Instructions provides

"The above requirement is mainly for Central Excise purposes. However, the assessee may make **extra copies** of invoice for his other requirements. But such copies shall be prominently marked **"NOT FOR CENVAT PURPOSES"**.

In view of the provisions of Rule 9(1) of Cenvat Credit Rules, 2004, it appears that the Cenvat Credit can only be availed on basis of the Invoice (prepared as per Rule 11). The statute does not permit to take credit on the extra copy of invoice.

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. On request of the RAC members, it was also decided that the notices of the RAC will be sent to the concerned members by email who have intimated their email address to this office. The Chairman also informed that the **next meeting of RAC will be held on 11th March, 2015 (11.30 hrs)** at Vapi.

The meeting was concluded at 01.15 hrs.


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

F. No. IV/16-1/ CCO/T/2015

Vadodara, dt. 04.02.2015

Copy to :-

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