OFFICE OF THE CHIEF COMMISSIONER OF CENTRAL EXCISE: MUMBAI ZONE-I
CENTRAL EXCISE BUILDING, 115, M.K. ROAD, CHURCHGATE, MUMBAI-400 020.
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F.No. IV/16-Tech-76/CCO/MCX-I/2013 Date: June, 2014.

MINUTES OF THE REGIONAL ADVISORY COMMITTEE MEETING HELD ON 25.06.2014.

The Regional Advisory Committee (RAC) meeting was convened at the Central Excise Building, Conference Hall, at Churchgate on 25.06.2014 at 15.30 hours. Shri V.S. Krishnan, Chief Commissioner, Central Excise and Service Tax, Mumbai Zone-I, presided over the meeting. The meeting was attended by the following officials and representatives of the Trade Associations:

1) Shri. Suresh Kishnani, Commissioner, Cen. Excise, Mumbai-I;
2) Shri. Alok Chopra, Commissioner Central Excise, Thane-II;
4) Shri. S.H. Pandit, Superintendent, C.C.O., C.Ex. Mumbai Zone-I;
5) Shri. H.F. Vohra, CAPEXIL, Mumbai.
6) Shri. V.Y. Tamhane, Mill Owners Association, Mumbai.

2. Chief Commissioner welcomed the representative of the Trade Association and the officers present.

The Committee thereafter took up the points sponsored by the CAPEXIL for discussion.

1) M/S. FLOORATEX RUBBER & PLASTICS (P) LTD

In order to claim refund of Service Tax paid on taxable services used by the exporter of goods (allowed under Notification No. 17/2009 ST dated 7.7.2009), the exporter has to file his refund claim with the office of Central Excise having jurisdiction over the factory or office. In this connection, the company was facing a difficult situation vis-a-vis authorities of Central Excise, Kottayam Range (Kerala) while submitting documents to evidence the amount of service tax paid and for establishing the use of service in exports.

The member reported that the invoices of Service Providers are computer generated and that these documents therefore do not bear any signatures or official seals. It seems their repeated efforts to impress upon their service providers to provide signed and sealed invoices for mandatory submission to the office of Central Excise have not yielded the desired results till date. Thus, inability on their part to submit such invoices with signature and seal has come in the way of settlement of their claims for refund of genuine and legitimate service tax paid out by them in earlier years.

As a result of the same, the company has suffered irreparable loss in terms of the amount of service tax paid, which is Rs. [Amount] to the company.

Steps taken by the company:

- They have approached the service provider for signed invoices.
- They have initiated the process of obtaining signatures from the service providers.
- They have sought clarifications from the authorities regarding the required documents.
- They have prepared and submitted the necessary documents as per the instructions.

The Committee expressed concern over the difficulties faced by the company and suggested:

- The trade association should liaise with the authorities to streamline the process of obtaining signed invoices.
- The company should be encouraged to adopt alternative methods of verifying service tax paid, such as electronic invoices and digital signatures.
- The authorities should be made aware of the issue and take steps to facilitate the process.

The Committee recommended that the matter be taken up with the Central Excise authorities immediately for expeditious resolution.
documents do not have party's signature and official seal. This piquant situation was being explained to various authorities of Central Excise, Kottayam Range time and again, but without any favourable response. The excise authorities are still insisting that the exporter should furnish invoices with signatures and official seals for ready acceptance. The Service Providers, on their part, strongly maintain that as the invoices are computer generated, they need not have signature and or seals.

In view of the current prevailing situation of this digital age, you are requested to give your written opinion that the Computer Generated Invoices and other documents of Service Providers do not require any signatures or official seals for claiming refund of Service Tax in the larger interest of the trade, if otherwise found to be in order. This is somewhat like an electronically generated receipt, which need not carry any signature, and these are accepted universally.

COMMENTS

Provisions of Section 4A of the Service Tax Rules, 1994 provide that the provider of Service shall issue an invoice which shall contain details as mentioned in the said Section including signature of the service provider or his authorized agent. In view of the said provisions, suggestion to accept e-bills, which do not contain signature of the service provider/his agent, cannot be acceded to. However, since the issue raised by the Association involves all India ramifications it was decided to forwarded the said issue to CBEC for examination and appropriate decision.

2) M/S. DCW LTD, MUMBAI

a) CENVAT on inputs entering the factory:

The RAC may recommend to the government to allow CENVAT credit on all inputs entering the factory, as the inputs are used in the relation of manufacture of final products. Denial of CENVAT will only increase the product cost and make our local products not cost effective to face the global competition. Denial also leads to dispute between industry and the department in deciding the eligibility for the credit of items concerned.

b) CENVAT on all input services under the negative list of service tax regime:

Now all the services other than the specifically notified for exemption are taxable services. Hence the government should allow CENVAT on all input services used in relation of business by incorporating the words “used in
relation to business" in the CENVAT credit rules on input services. Such a measure will reduce the litigation dispute on input services and industry will also be able to avail the credit of input services used for the business purpose. Allowing all input services will only be a precursor to the proposed GST for seamless credit use.

c) Abolition of restriction of 50% CENVAT availment on capital goods:

At present the CENVAT credit rules restricts a manufacturer to avail only 50% of the credit in a financial year and the balance 50% is to be availed in the subsequent financial year. The above restriction only increases the cost and there is no direct benefit or indirect benefit to the Government by the above restriction as in any way the balance credit is availed in the subsequent years. The Government should abolish the above restriction.

d) Inserting Chapter Note 4 in Chapter No.26 of Excise tariff as “the process of converting Ores to concentrates shall amount to manufacture:

The Finance Act 2011 had made provisions for levy of excise duty on ores which are concentrated. In 2011-12 only, the chapter note 26 was inserted by note 4 which reads “4. In relation to products of this chapter, the process of converting ores into concentrates shall amount to “manufacture”. Consequent to the insertion of note 4 in the chapter notes to chapter 26, excise duty was levied on the Limenite ore concentrates obtained from M/s. Indian Rare Earths Ltd while earlier to the insertion the Limenite ore concentrates were not subjected to excise duty. The levy of excise duty on ores is a retrograde step by amending the chapter note to Tariff heading of chapter 26 of Central Excise Tariff. The Government should withdraw the chapter note as the process of converting ores to concentrates is only a manual activity and no manufacturing activity takes place.

e) Levy of export duty on ores to be withdrawn:

The exports of Limenite ores of chapter 26 are subjected to export duty from 2013 budget. India exports the ore as such and after value added product. The government should withdraw the export duty on value added products so that our country’s products are globally competitive.

f) Abolition of consumer welfare fund and the concept of unjust enrichment:

The above fund was consequently introduced to manage the refunds that are denied based on the concept of unjust enrichment. In the Current era of liberalisation and integration of our economy with the global economy the concept of unjust enrichment has out lived its time which was brought into
force during the licensing raj. By the above concept the manufacturer has to prove that the duty burden has not been passed on either directly or indirectly to anyone puts the local industries at a great disadvantage compared to other players. The concept of unjust enrichment is unheard of other parts of the world. In the present era of global competition, the goods are price only on the efficiency in production. The existence of such out lived concept only increases the transaction cost whereby the efficient manufacturer is penalised for his efficiency in production by casting the burden on him to prove that the duty which was wrongly levied and paid by him was not either passed on directly or indirectly to anyone. The consumers interest are protected and serviced only by the efficiency in manufacture and thus the abolition of the above fund and the concept of unjust enrichment will only benefit the ultimate consumer who is only driven by the product cost and its benefit to him.

g) Validity of advance authorisations:

The Advance authorisation licences issued by the Director General of Foreign Trade are valid for 18 months. The one time extension of 6 months is given. If the licence is again to be extended further the policy doesn’t allow. The government should allow further extension of advance authorisation validity if there is no import of item involved but only the raw materials are sourced locally against such authorisations, as there is no foreign exchange outflow and would also help the local industry to supply duty free.

h) Fly ash from power plants:

Disposal of flyash from the coal-based power plants is a major problem and small-scale brick manufacturers are the only consumers for the flyash. The transportation is a major cost. To have effective use of the fly ash at the generation stage itself, Cement should be exempted from excise duty for manufacture of flyash bricks by the coal-based power plant itself at its site. This would reduce the transportation cost and would be an effective means to utilize the flyash.

i) GST:

Model Goods and Services Tax Act to be announced early to have the industry view for its drafting. A minimum time gap of 4 months to be given for enactment and implementation of GST to enable the industries to upgrade their IT systems / modify their internal systems to implement the GST without any hitch / hardship.

Comments:- Points from 2 a) to 2 i) also involve policy decisions. In view of the same it was decided to forward the same to the CBEC for its examination and appropriate decision.
3. The meeting concluded with vote of thanks to all the members present in the meeting.

4. This issues with the approval of the Chief Commissioner, Central Excise and Service Tax, Mumbai, Zone-I.

To

1. PS to The Chief Commissioner, Central Excise & Service Tax, Zone-I Mumbai.
2. The Chief Commissioner, Central Excise & Service Tax, Zone-II Mumbai.
3. All Commissioners, Central Excise & Service Tax, Mumbai Zone-I.
4. All members of RAC, C.Ex. Mumbai Zone-I.