



CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/FD-Taxation/ST (CO)/12-13

11th October 2012

Service Tax Circular # 63

Subject = Chargeability of Service Tax on the Storage and Handling of Rice stored by FCI and other Govt. Agencies.

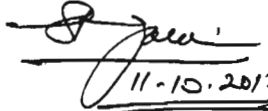
Reference is invited to the amendments carried out to the Finance Act, 1994 through the Finance Act, 2012, whereby a new section 65B notifying the interpretations and definitions of various terms used in the Act ibid was inserted, according to which sub-clause 5 of Section 65B defines the term of Agricultural Produce as under:

"Agricultural Produce means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer, which does not alter its essential characteristics but makes it only marketable for primary market."

In this connection, reference is also drawn to Service Tax (Removal of Difficulty) Order No. 1/2002-ST date-d 01.08.2002, which clarified the Agricultural Produce for the Pre-2012 Budget Period, to mean as under :-

"Agricultural Produce means any produce resulting from cultivation or plantation, on which either no further processing is done or such processing is done by the cultivator like tending, pruning, cutting, harvesting, drying which does not alter its essential characteristics but make it only marketable and includes all cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea but does not includes manufactured products such as sugar, edible oils, processed food, processed tobacco."

Though as a consequence of these changes in the definition of Agricultural Produce, certain commodities including the Rice, which were earlier included in the definition of Agricultural Produce by a special mention in the clarification furnished by CBEC vide Order No. 1/2002/ST dated 01.08.2002, do not find a mention in the Revised Definition u/s 65B(5), the Corporation is of the view that these commodities continue to be covered under the definition of Agricultural Produce for the purpose of Service Tax. It has, therefore, taken up the matter with the Ministry of Finance (CBEC) as also with its own Administrative Ministry for necessary confirmation of the fact the Understanding of the Corporation, in this regard, is correct and the Rice, being an Agricultural Produce, is exempt from the levy of Service Tax.

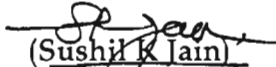

11-10-2012

Pending receipt of necessary clarification either from its Administrative Ministry or the Ministry of Finance, in this regard, the Corporation would continue to treat the Rice stored by the Food Corporation of India (FCI) or any other Central or State Govt. Agency or the Department in its Godowns as an Agricultural Produce and thus exempt from the levy of Service Tax, both on its Handling as well as the Storage.

However, in case any confirmation to the contrary is furnished by the Govt., the Corporation shall be constrained to levy Service Tax on the Marketing Facilitation Charges (Handling & Transport) as well as the Storage & Warehousing Charges of Rice retrospectively from 01.07.2012 onwards from all its Depositors, which may be informed to the concerned Depositors. A copy of the Letter of even number (452A) dated 09.10.2012 addressed FCI Headquarters, in this regard, is enclosed for ready reference.

Receipt of this Circular may be acknowledged and its Contents brought to the Notice of all concerned for Scrupulous Compliance.

This issues with the approval of the MD.


(Sushil Jain)
AGM (Finance)
11-10-2012

Distribution to:

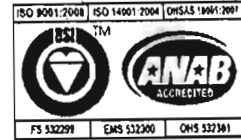
1. All Regional Managers of the Central Warehousing Corporation.
2. All Superintending/ Executive Engineers in-charge of all the Construction Cells of the Central Warehousing Corporation.
3. All AGMs/Managers/(Sr.) Asstt. Managers in-charge of the Finance, Accounts & Internal Audit Wings of all ROs & CCs of Central Warehousing Corporation.

Copies for information to:

1. All HODs at CWC, Corporate Office, New Delhi.
2. All DGM/AGMs/Managers/(Sr.) Asstt. Managers/Accountants in Finance, Accounts & Internal Audit Cadre at CWC, Corporate Office, New Delhi.
3. PS to Managing Director, CWC, Corporate Office, New Delhi.
4. PS to Director (Pers)/Director (MCP)/Director (Fin), CWC, CO, New Delhi.
5. PS to CVO/ OSD (Recovery)/GM (F&A)s, CWC, Corp. Office, New Delhi.
- ✓ 6. PS to GM (Systems), CWC, CO, New Delhi with the request to place this Circular on CWC's Website.
7. Manager (Rajbhasha), CWC, CO, New Delhi with the request to arrange Hindi Version of this Circular.



CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/FD-Taxation/ST (CO)/12-13

452A

9th October 2012

The Executive Director (Finance)
Food Corporation of India
FCI Headquarters
New Delhi – 110 001

Subject = Clarification with regard to the term "Agricultural Produce"

Dear Sir

1. Reference is invited to the amendments carried out to the Finance Act, 1994 through the Finance Act, 2012, whereby a new section 65B notifying the interpretations and definitions of various terms used in the Act ibid was inserted, according to which sub-clause 5 of Section 65B defines the Term of Agricultural Produce as under:-

"Agricultural Produce means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer, which does not alter its essential characteristics but makes it only marketable for primary market."

2. In this connection, reference is also drawn to Service Tax (Removal of Difficulty) Order No. 1/2002-ST dated 01.08.2002, which clarified the Agricultural Produce for the Pre-2012 Budget Period, to mean as under :-

"Agricultural Produce means any produce **resulting from cultivation or plantation**, on which either no further processing is done or such processing is done by the cultivator like **tending, pruning, cutting, harvesting, drying** which does not alter its essential characteristics but make it only marketable and includes all cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea but does not includes manufactured products such as sugar, edible oils, processed food, processed tobacco."

3. In view of the above changes in the definition of the Agricultural Produce through Finance Act, 2012, Rice which was included in the definition of Agricultural Produce by a special mention in the clarification furnished by CBEC vide Service Tax (Removal of Difficulty) Order No. 1/2002/ST dated 01.08.2002 has been excluded by omitting the inclusive Definition in the Revised Definition u/s 65B of the Finance Act 1994. Consequently, the Storage & Handling of Rice appears to

have become taxable w.e.f. 1st July 2012. Though CWC is seeking a clarification from CBEC and also requesting its Administrative Ministry to take up the matter with the Ministry of Finance for the restoration of original Definition of Agricultural Produce, it is apprehended that the Rice, being out of the Revised Definition of Agricultural Produce, may attract the levy of Service Tax w.e.f. 01.07.2012 on the Storage & Handling of Rice.

4. In case, if the contention of the Corporation is not accepted by CBEC or the Service Tax Department and the Rice is not treated as the Agricultural Produce, the Corporation shall be constrained to levy Service Tax on the Marketing Facilitation (H&T) and the Warehousing Charges paid/payable by FCI to CWC from 01.07.2012 onwards. If that being the case, the Service Tax component will be an extra cost to FCI and as such, it would be in the interest of FCI to represent to the Ministry of Finance (CBEC), in this regard.
5. It is, therefore, requested to take up the matter with the Ministry of Finance CBEC (Central Board of Excise & Custom) as also with the Ministry of CA, Food & Public Distribution on priority for treating the Rice as Agricultural Produce for the purpose of Section 65B of the Finance Act, 1994, and thereby making it exempt from Service Tax as hither-to-fore.
6. An early action in the matter will be highly appreciated.


Yours faithfully,


(NK Grover) etc

General Manger (F&A)

Copy to:

1. PS to MD, CWC, Corporate Office.
2. PS to Director (MCP)/Director (Fin), CWC, Corporate Office.


P. R. Redha
10/10/12