

Service Tax Return - Problems in Filing - Will Board react?

TIOL-DDT 1759

23.12.2011

Friday

WE received this mail from an officer of a top consulting firm.

While filing returns for our clients, who are engaged in providing both taxable and non-taxable service and availing option under Rule 6(3A) of CENVAT Credit Rules, we observed that the return does not provide for inclusion of the details of CENVAT Credit reversal on the proportion of non-taxable goods.

In the CENVAT sheet at table 5B - CENVAT Credit taken and utilised sub-table (I) at point (c)(vi) asks for details of 'Payment under Rule 6(3) of the CENVAT Credit Rules', whereas the ST-3 that we can file online the same cell is titled as 'Credit of education cess and secondary and higher education cess utilised for Payment under Rule 6(3) of the CENVAT Credit Rules'.

Also the in the sub-table (II) - CENVAT Credit of education cess and secondary and higher education cess, no row is given to provide details of 'Payments under Rule 6(3) of the CENVAT Credit Rules'.

If this is the problem faced by experts in the field, what will poor assesses who dare to file their returns on their own do?

Will CBEC do something? Any way returns are being filed and accepted.

Online transmission of DES (Advance Authorization and DFIA) and EPCG at Krishnapatnam Port

AS and when Customs (CBEC) have conveyed their readiness to implement on-line message exchange between Customs and DGFT, Policy Circulars have been issued from time to time by DGFT indicating the names and Port Codes of such Customs Ports where EDI facility would be available.

Now it has been decided to add one new location, Krishnapatnam Port (LOCODE INKRI1) to 84 existing locations for on-line transmission of DES (Advance Authorization and DFIA) and EPCG Authorization. All authorizations for DES (Advance authorization and DFIA) and EPCG in respect of this port issued on or after 23.12.2011 by Regional Authorities would be communicated to Customs on-line.

[DGFT Policy Circular No. 49/\(RE-2010\)/2009-14 Dated: December 22, 2011](#)

Corrigendum in description of export item at Sl. No 1011, Product Code-62 of DEPB Rate Schedule

DESCRIPTION

of export item at Sl. No 1011, Product Code-62 "Chemicals" of the DEPB Rate Schedule had a typographical error. It was wrongly appearing as Metamitron Tech (98%Min.). It is corrected to read as "**Metamitron Technical (98%Min.)**". Extra 'i' has been removed from the spelling. There is no other change.

[DGFT Public Notice No. 86/\(RE-2010\)/2009-14 Dated: December 21, 2011](#)

FTP - Deferment in date of effect for implementation of bar-coding on Primary and Secondary level packaging

AS

per Public Notice No. 59 (RE-2010)/2009-14 dated 30.06.2011, incorporation of barcodes (1 D) encoding unique product identification code (GTIN), Batch Number, Expiry Date and Unique Serial Number of the Tertiary pack (shipper/carton) on export consignments of pharmaceuticals and drugs has come into effect from 01.10.2011.

Barcoding was to be mandatory for Secondary Level Packaging with effect from 01.01.2012 and for Primary Level Packaging (strip/vial/bottle) with effect from 01.07.2012.

Now this is not coming into force on 1.1.2012, but will come into force from 1.7.2012 and 1.1.2013 for Secondary level and Primary level packaging respectively.

DGFT Public Notice No. 87/(RE-2010)/2009-14 Dated: December 22, 2011

Mobile Banking Transactions - Limits

BANKS

are increasingly extending mobile banking facilities (financial) to their customers. Interbank Mobile Payment Service (IMPS) developed and operated by National Payment Corporation of India (NPCI) has also enabled real time transfer of funds through the medium of the mobile phone between accounts in different banks. The volume and value of mobile banking transactions is also showing an uptrend.

In terms of RBI circular dated December 24, 2009, a transaction limit of Rs. 50,000/- per customer per day had been mandated. On a review it has been decided to remove this cap.

Now RBI directs that banks may place per transaction limits based on their own risk perception with the approval of its Board.

RBI/2011 -12/312 Dated: December 22, 2011

CBEC - Transfer of Commissioners and above - Full Board being bypassed?

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per the Transfer Policy, the Placement Committee will be the final authority for transfer of officers below the rank of Commissioner, provided the case falls within the purview of the existing guidelines. The Placement Committee consists of the Chairman, Member (P&V) and one Member nominated by the Chairman on rotation for a period of six months.

However transfer of Commissioners and Chief Commissioners are decided by the Full Board and sent for the approval of the Finance Minister through Revenue Secretary and MoS. Members in charge of Zones are likely to know the Commissioners and Chief Commissioners better and so their views are perhaps important in making transfers of senior officers.

Now, it seems the Board is contemplating a change in the scheme with the fate of Commissioners and Chief Commissioners also to be decided by the Placement Committee instead of by the Full Board. Is it because the powers that be are not confident of getting the support from all or some Members of the Board for their proposals?

A Commissioner told DDT that transfer is one of the largest commercial activities in Delhi's Government Offices, Anna and Lokpal notwithstanding.

Lok Pal, CBI, CVC Anna et al - will they eradicate corruption?

WE

have ACB, CBI, CVC and all kinds of sleuths working relentlessly for the past few decades, to curb corruption. But corruption simply grew from under the table envelopes to brief cases to gunny bags of currency with the anti corruption agencies also becoming corrupt. Then comes the Messiah, Anna Hazare who believes that all it takes to curb corruption is an authority called Lok Pal and he could persuade the lawmakers of India into initiating legislation to create this superman. And the Lok Pal Bill is before the Lok Sabha.

Speaking in Lok Sabha yesterday, Asaduddin Owaisi said, "There is a conceptual problem in this Bill. That is, it starts on the premise that not only the Members of the august House, but also the Prime Minister is corrupt."

Joginder Singh, former Director of CBI, in an article says,

"The issue whether the Prime Minister should be brought under the purview of the Lok Pal is not as relevant, as quick action. In any case, Majority of the population do not deal with the Prime Minister, but a plethora of Inspectors, whether they of the Police or Revenue or Panchayat or Municipal, Weight and Measure, Shop or custom or excise or income tax, pollution or sanitation, to quote a few, who make the life of the common man a hell. Till the last count, about 65 Inspectors of various Departments are visiting any industrial or other establishments, ostensibly to ensure legal compliance, but actually to take their cut."

And if you think things are going to be better in future, young men who are selected to join India's premier civil services are leaving IAS and IPS to join the IRS because they presume there is more money in IRS.

A Chief Commissioner called up a Commissioner to enquire about the integrity of an Assistant Commissioner who was to be given a plum posting on the recommendation of a Minister. The Commissioner certified from his personal knowledge that the Assistant Commissioner's integrity was of the highest

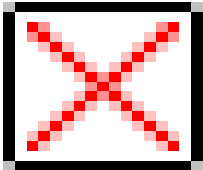
order. Everybody knew that all four were awfully corrupt.

Let Lok Pal save this country!

Farmer Associations Support FDI in Retail

FARMERS have reiterated their support for Cabinet's decision to allow FDI in Multi-Brand Retail. In a meeting with the Minister of Commerce, Industry and Textiles, Anand Sharma yesterday, Secretary General of Consortium of Indian Farmers Associations (CIFA), P. Chengal Reddy conveyed the desire of various farmers' body to implement the decision as soon as possible. FDI in retail will free farmers from the middleman and will get the remunerative price for the produce to the farmer, said Shri Reddy after the meeting.

Jurispruden^{tiol} – Monday's cases



Central Excise

Appeals – Commissioner (Appeals) ordered pre-deposit of 10% and 50% of demand on two appellants sans a hearing - No infirmity: HC

THE

Commissioner (Appeals) considered the grounds of appeal and waived the condition for entertaining the appeals by restricting the pre-deposit amount to 10% and 50% respectively. No infirmity is discernable with the impugned order passed by the first respondent”.

Income Tax

Whether wheeling charges paid for transmission of electricity can be construed as rental income within provisions of Sec 194I - NO, rules ITAT

ASSESSEE

is a Public Limited Company, doing trading of electricity - it purchased power from the generators of electricity and sold the same to the distribution companies which in turn distributed the powers to consumers. The assessee for the purpose of carrying power from the generation point to the end of distribution companies utilized the transmission lines of some company and paid them - During the course of assessment proceedings the AO was of the view that payments made by the assessee were in the nature of rent and hence attracted the provisions of section 194I and hence the assessee ought to have deducted TDS on these payments.

Service Tax

Appellants claim before original authority that in terms of Rule 5 of CENVAT Credit Rules, credit was eligible to them irrespective of whether services exported by them were taxable or not, not dealt with by original authority or lower appellate authority - Matter remanded: CESTAT

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appellant's submission that payments were made to the input service providers electronically and the bank statements submitted to prove the payments along with hard copies of invoices from the said input service providers corroborating payments for service charges and service tax also deserves to be considered afresh by lower authority.

See our columns Monday for the judgements

Until Monday with more DDT

Have a Nice Weekend. And a Merry Christmas

Mail your comments to vi Jaywrite@taxindiaonline.com