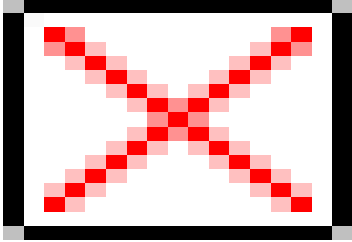


No Education Cess from 01-07-2012!



TIOL-DDT 1887

26.06.2012

Tuesday

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IN DDT [1880 - 15.06.2012](#),

we pointed out that Service Tax could not be levied from 1.7.2012. That sent shock waves all over and a few TV channels contacted us, but could not understand the complexities of Section 68, 66 and 66A. We asked them to approach the Board for better clarification. The wise Board told them that it was only a numbering mistake, which was being corrected! Anyway, Board acted in unusual haste and issued an order called the **Service Tax (Removal of Difficulty) Order, 2012**, by which they corrected Section 66 as 66B in Section 68.

Now, they are in for another shock.

Education Cess on taxable services:

This was imposed in 2004. As per Section 95 of the Finance Act 2004, this tax is collected at the rate of 2 percent of the tax levied and collected under **Section 66** of the Finance Act, 1994.

Secondary and Higher Education Cess on taxable services:

This was imposed in 2007. As per Section 140 of the Finance Act 2007, this tax is collected at the rate of 1 percent of the tax levied and collected under **Section 66** of the Finance Act, 1994.

And as we know, Section 66 ceases to have effect from 1.7.2012. So there is no provision to collect Education Cess and SHE Cess on Service Tax from 1.7.2012.

And this time around, the Board has no escape route. They cannot amend Finance Act 2004 and Finance Act 2007 by an order!

For a more detailed write up, please see an [article by Advocate Vaitheeswaran](#) in [SERVICE TAX - NEW LAW +VE or -VE](#)

Customs - Exemption Under EPCG and SHIS

GOVERNMENT

has amended Notification Nos 100/2009 to 104/2009 - Cus to align these with the Foreign Trade policy announced on 5.6.2012. These notifications deal with exemption for Export Promotion Capital Goods (EPCG) Scheme and Status Holders Incentive Scrip (SHIS)

[Notification No. 42 /2012-Cus., Dated: June 22, 2012](#)

Service Tax Seminar in Hyderabad

YESTERDAY CBEC Member (Service Tax) Shiela Sangwan addressed a Seminar in Hyderabad on **Impact of Budgetary changes - Taxation of Services**. JM Kennedy, Director (Service Tax) in TRU gave a rather lengthy presentation on the new Service Tax regime with effect from 1st July 2012. The packed auditorium with a capacity of over 500 was filled and overflowing with assesses, consultants and departmental officers. At the end of his speech, we got an sms message - "no value addition so far", but the FAPCCI chief who hosted the function said that Kennedy was a professor and "we are all students". A question was asked whether remuneration paid to a partner was liable to Service Tax and whether the partner was an employee. The CBEC bosses had no clue on this issue and so they cleverly skirted it.

Another delegate wanted to know a few examples of "transfer of goods without transfer of right to use such goods". They had no clue though they had included it in the Statute. The Board should ensure that their brand ambassadors are well trained before they embark on their road shows.

The highlight of the programme was the very sensible 'vote of thanks' by Chief Commissioner SB Singh who said that any change is received with a lot of apprehension about an uncertain future and nobody understands it better than a Government Servant who is under the threat of a transfer every year. He said that the two words, "thank you" are not enough to convey the deep feelings of gratitude and for want of better words, he was constrained to limit his expression to "thank you" - maybe the law makers can get a few tips from him.

And if you want to know how the Pink Press understood Kennedy, The Business Standard today covering the event reports that, "The government has hiked the service tax rate to **14 per cent**, from the earlier **12 per cent** in this year's Budget!"

Income Tax - Setting up of Tax Kiosks and use of mobile vans

AS

a taxpayer friendly initiative, the Income Tax Department has decided to set up Tax Kiosks at various places within CCIT regions. The Tax Kiosk would be a temporary structure set up for 1-2 days in a residential area such as apartment blocks in association with RWAs, large offices and other central locations of the cities. These Tax Kiosks would be manned by TRPs who would handle queries of taxpayers relating to return filing, PAN applications, refund status as well as assist the taxpayers in preparing their returns of income.

[CBDT F. No. RC/TRP-1\(1\)/2011-12 Dated: June 19, 2012](#)

External Commercial Borrowings (ECB) - Repayment of Rupee loans

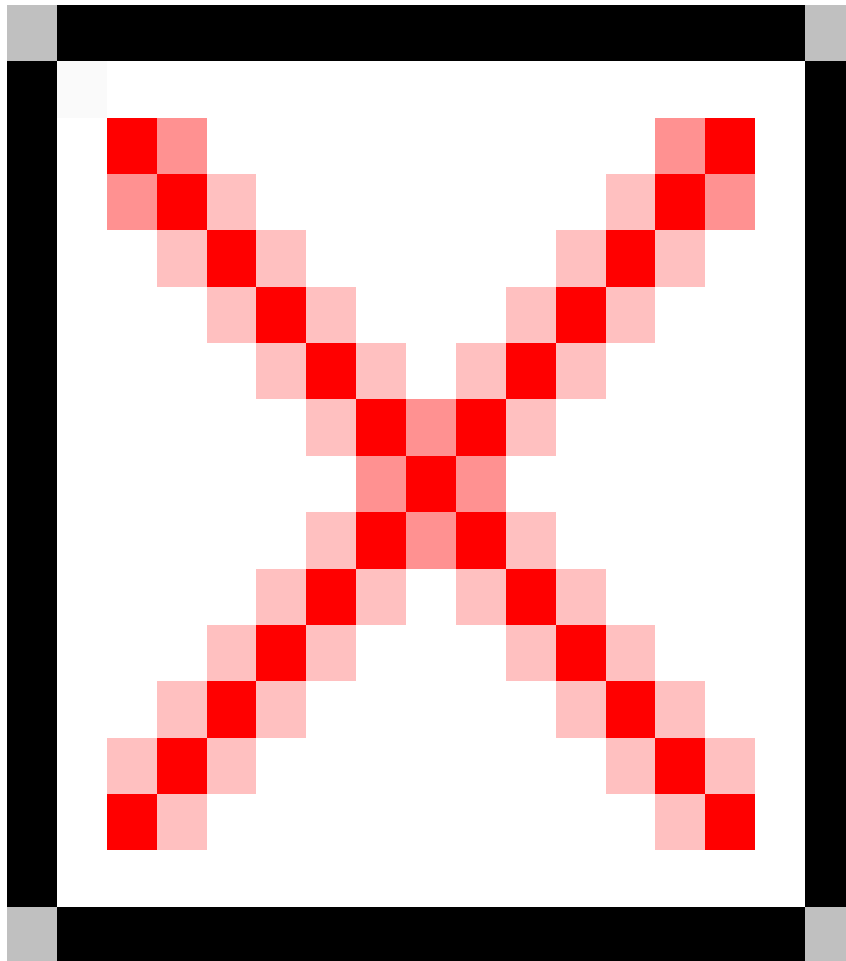
RBI has decided to allow Indian companies to avail of ECBs for repayment of Rupee loan(s) availed of from the domestic banking system and / or for fresh Rupee capital expenditure, under the approval route , subject to them satisfying the following conditions:-

- i. Only companies in the manufacturing and infrastructure sector will be eligible to avail of such ECBs;
- ii. Such companies shall be a consistent foreign exchange earner during the past three financial years;
- iii. Such companies are not in the default list/caution list of the Reserve Bank of India; and
- iv. Such ECBs shall only be utilized for repayment of the Rupee loan(s) availed of for 'capital expenditure' incurred earlier and are still outstanding in the books of the domestic banking system and / or for fresh Rupee capital expenditure.

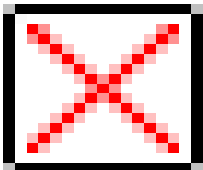
This facility will come into with immediate effect and is subject to review at an appropriate time depending upon evolving macroeconomic conditions and other relevant factors.

[A P \(DIR Series\) CIRCULAR No. 134/RBI ; Dated: June 25, 2012](#)

DDT Cartoon



Jurispruden^{tiol} - Wednesday's cases



Central Excise

Though storage tanks have been specified under capital goods, only such storage tanks which are 'goods' can fall within definition of capital goods - steel items which have gone into manufacture cannot be treated as 'input' for manufacture of capital goods - Pre-deposit ordered of Rs.35 lakhs: CESTAT

THE appellants are manufacturers of Cement and Clinker. Scrutiny of the records revealed that they availed *CENVAT credit* amounting to Rs.61,44,464/- in respect of steel items such as MS Plates, angles, channels, beams etc. used in the construction of storage tanks/silo and chimney which are in the nature of immovable property.

A show-cause notice was issued for denying the aforesaid CENVAT credit. The demand was confirmed.

Service Tax

Since appellants have paid service tax liability under category of BAS and Renting of Immovable Property services, they are liable to pay interest also: CESTAT

THE appellants were operating as Multi Service Operator (MSO) in TV cable operation business as a commission agent and distributor of M/s Win Cable & Datacom Pvt. Ltd. by retransmitting TV signals to various cable subscribers. For these services, they were earning commission from the signal supplier on which they were not paying the service tax.

Since the activity falls under the category of 'Cable Operators Service', a show-cause notice was issued for recovery of service tax and also for commission received from their signal supplier under the category of 'Business Auxiliary Service'. There was also a proposal to demand of service tax on 'Renting of Immovable Property Service' against the appellants. The show-cause notice was adjudicated and all the demands were confirmed by the Commissioner of Service Tax, Mumbai-II.

See our columns Tomorrow for the judgements

Until Tomorrow with more **DDT**

Have a Nice Day

Mail your comments to vijaywrite@taxindiaonline.com