

FINALLY, ADJUDICATION POWERS NOTIFIED FOR SERVICE TAX

TIOL-DDT 177

11 08 2005

Thursday

Netizens may please recall DDT 168 (29 07 2005) wherein while analyzing the Circular by TRU dated 27th July 2005, we observed that:

DDT, having raised the issue relating to the issue of Show Cause Notice earlier, eagerly searched for the clarification.

But in the entire 38 paragraphs, nowhere any clarification was found on the issue of who has to issue and adjudicate show cause notices. May be, we will have to wait for another clarification.

As early as on 22 06 2005 - DDT 141, it was pointed out,

But in the mega exercise of budget Notifications, the Board forgot to specify the powers of adjudication by a Notification under Section 83 A

Finally, the wait is over and a Notification was issued yesterday under Section 83 A of the Finance Act 1994 prescribing the monetary limits for adjudication of Service Tax Cases. The powers of AC/JC/ADC/Commissioner are identical to those under the Central Excise.

The need for a separate Notification arises because of the amendment made to section 73 of the Finance Act 1994, to substitute the words "Central Excise Officer" with Central Excise and insertion of a new Section 83A empowering the Board to specify the adjudicating powers.

While the powers of adjudication were to be notified immediately on the Finance Bill becoming Act on 13.5.2005, the Board took a cool three months time to issue the Notification. Now what will happen to those cases which were adjudicated during these months by the Assistant/Deputy Commissioners? Are they valid?

Anyway, we in Taxindiaonline are grateful to the Board for the response, late though.

[Notification No 30/2005 Service Tax dated 10.8.2005](#)

CESTAT – Principal Bench – All India jurisdiction withdrawn

The Customs, Excise and Service Tax Appellate Tribunal functions with the Principal Bench in New Delhi and zonal benches at Mumbai, Kolkotta, Chennai and Bangalore. The Principal Bench in New Delhi has All India jurisdiction, that is an appeal can be filed in or transferred to the Principal Bench on any matter arising in other zones.

Apparently the system is not working well. The new President, Justice Abichandani is on a reform spree in the Tribunal. And in a major reform, he has ordered removal of this special position of the Principal Bench. He has observed that this system has not proved to be conducive to efficient administration since, often matters are filed in the Principal Bench at the stage of interim relief and waiver of deposits and later transfers of such matters are sought to the zonal benches in which they ought to have been filed.

So the President has ordered that the cases arising within the jurisdiction of the Zonal benches will be filed and heard before the respective Zonal benches.

[CESTAT PUBLIC NOTICE NO. 02 OF 2005 Dated: 05.08.2005](#)

Until tomorrow with more DDT

Have a nice day.

Mail your comments to vijaywrite@taxindiaonline.com