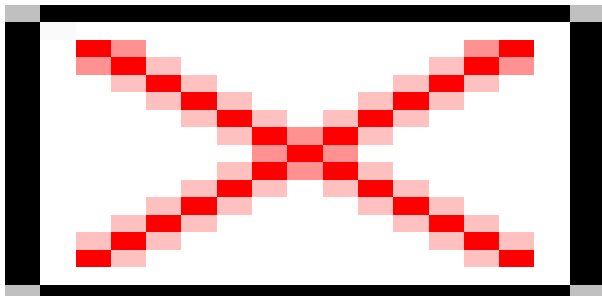


Confusing, Complicated and Controversial Notifications - Storm in the Teacup blows over - DDT Effect - Board amends



TIOL-DDT 2646

22 07 2015
Wednesday

Stop Press : THE Central Government has issued the "Curative" trio of notifications [37](#), [38](#), [39-CE](#), all dated 21.07.2015 setting right its Confusing, Complicated and Controversial Notification [34](#), [35](#) & [36/2015-CE](#) issued on Friday, 17 July, 2015. The CBEC has also come out with a *clarificatory* [Circular 1005](#) yesterday. More on these "remedial" measures is being covered in the "DDT-add-on" shortly.

Confusing, Complicated and Controversial Notifications - Storm in the Teacup blows over - DDT Effect - Board amends

THE Board has finally acted. Just after we uploaded today's DDT, we have come to know that the CBEC has issued three notifications and a circular to control the damage they created on Friday.

The Board Circular clarifies that the whole exercise was an offshoot of the Supreme Court judgement in the case of **SRF Ltd and ITC Ltd (2015-TIOL-74-SC-CUS)**, wherein the Supreme Court had allowed the benefit of exemption in CVD on imported goods, based on excise exemptions, as we mentioned in **DDT 2645 21 07 2015**.

According to the Board, "

The implication of the Hon'ble Supreme Court judgment was that all such final products when imported by manufacturer importer would have attracted concessional excise duty as CVD, while the domestic manufacturer of such final products had to forgo input tax credit to be eligible for such concessional rate. This would put the domestic manufacturers at a disadvantage vis-a-vis imports and would adversely impact the Make in India Policy of the Government."

So, ***with the concurrence***

of the Ld. Attorney General, notifications No.34/2015-CE.No.35/2015-CE and No.36/2015-CE all dated 17.7.2015 were issued amending the conditions in notifications No.30/2004-CE dated 09.07.2004, No.1/2011-CE dated 01.03.2011 and No.12/2012-CE dated 17.03.2012 respectively.

Blame it on AG!

Board has realised that apprehensions have been raised about the use of the phrase of "appropriate duty". So, Explanations have been inserted in the notifications No.30/2004-CE dated 09.07.2004, No.1/2011-CE dated 01.03.2011 and No.12/2012-CE dated 17.03.2012 so as to clarify that the ***appropriate duty***

or appropriate additional duty or appropriate service tax for the purposes of the said notifications / entries includes ***nil duty or lax or concessional duty or tax*** whether or not read with any relevant exemption notification for the time being in force.

Board finally clarifies that, the domestically manufactured goods covered under these notifications / entries continue to be exempt from excise duty or subject to concessional rate of excise duty, as the case may be as they were prior to 17th July, 2015.

Now, an explanation is added to all these notifications to the effect that:

appropriate duty or appropriate additional duty or appropriate service tax includes nil duty or nil service tax or concessional duty or concessional service tax, whether or not read with any relevant exemption notification for the time being in force.

Section 66B brought back: In **DDT 2644 - 20 07 2015**

, we mentioned that Board seems to be unaware of the Section 66B, to charge Service Tax, as the notifications mentioned Section 66. Board has amended this lapse also inserting "

for the word and figures "section 66", the word, figures and letter "section 66B" shall be substituted".

Massive confusion conceived over the last few months, delivered last Friday, causing a catastrophe in the trade circles, has finally been sorted out.

Still there seems to be a question - when I have to prove to you that the goods are to be duty paid, which includes nil duty, how do I prove that it is duty paid? Anyway the Board has made a hasty retreat and corrected some of the blunders - they can now leisurely study the notifications again and reassure themselves that everything is fine.

The notifications 34, 35 & 36-CE came into effect on 17 July 2015 and the amending notifications 37, 38 & 39 came into effect yesterday, 21 July 2015. If so, what would be the legal position for the interregnum period - does the Board wish to deal with it?

[Notification No. 37, 38 and 39 - CE of 2015 dated July 21, 2015 and Circular No. 1005/12/2015-CX, Dated: July 21, 2015](#)

Confusing, Complicated and Controversial Notifications - ripple is spreading -Surat Trade Notice Withdrawn

AFTER

issuing those complicated Central Excise notifications 34, 35 and 36 of 2015 on Friday, the CBEC seems to be fiddling while the proverbial

Rome is burning. Everybody is confused, more so the departmental officers and overanxious officers have already started their 'Mission Enforcement'. The Textile sector seems to be the worst victim.

A Trade Notice supposed to have been issued by Surat-I Commissionerate is doing the rounds and has been carried on a website. The Trade Notice No. 3/2015, dated 20.07.2015 requires:

1. All such manufactures are required to get registered themselves under the Rule 9 of the Central Excise Rule 2002.

2. All such manufactures are directed to declare the stock of the inputs and finished goods separately, as on 17th July, 2015, (in duplicate) to the Jurisdictional Range Office on or before 24/07/2015.

DDT

called up the Surat Commissioner to find out if this was correct. He said that the Trade Notice was withdrawn and there is no change in the situation. The position prevailing prior to 17.07.2015, will continue. When asked whether he was issuing a clarification that the Trade Notice is withdrawn, he said that it was so informed to the Trade Associations.

In the meanwhile, this Trade Notice has spread like wildfire causing immense confusion. Even this morning I got a copy from a well-meaning source. We only hope that other Commissioners do not follow and issue such trade notices.

The Board is still silent. Amen!

Make in India Made More Messy - Detailed Scrutiny of Central Excise Returns

CBEC has issued instructions/guidelines on Detailed Scrutiny of Central Excise Returns.

Detailed Scrutiny of Central Excise returns should be conducted regularly by the proper officers in the field following the procedure already prescribed.

Chief Commissioners and Commissioners shall also have powers to manually select returns for detailed scrutiny using such criteria as deemed fit to further complement the list of assessees selected on the basis of risk. After selection of units centrally, month-wise detailed scrutiny plan should be laid down by the Commissionerate headquarters for each Range, conveyed to the Range and monitored for compliance.

Board had earlier issued instructions on detailed scrutiny of Service Tax returns. ([DDT 2636 08.07.2015](#)) and this had to follow.

This is going to be yet another audit by the Range. A Central Excise assessee has to work to the satisfaction of the following Central Excise functionaries who are never functus officio :

1. Range
2. Division
3. Commissionerate
4. Audit
5. Audit (CAG)
6. DGCEI
7. DGRI

He might have to pursue litigation with Superintendent, AC/DC/JC/ADC; Commissioner (A); Tribunal; High Court; Settlement Commission; Supreme Court.

He is also to be ready with Revenue figures to the minute and assist the officers in submitting their reports. He should pay duty promptly and file several returns within the stipulated time.

And this is just one Department; he has to deal with several of them - and every officer of every department feels that he IS the authority.

If he gets time in between, he may also manufacture some goods and try to sell them.

And the Board has no time or inclination to clarify the genuine doubts of the assessees. ***What to do with the balance of education cesses*** is one among them.

[**CBEC Circular No. 1004/11/2015-CX., Dated: July 21, 2015**](#)

Customs - Exemption to Diamonds imported for grading or Certification

GOVERNMENT

has exempted cut and polished diamonds falling under Chapter 71 when imported (for grading or certification and re-export out of India) by the laboratories and agencies notified in the Foreign Trade Policy. The diamonds imported for certification or grading shall be re-exported within a period of three months from the date of their import. Customs Officers may visit the premises of the said laboratories and agencies for audit or checks.

[**Notification No. 40/2015-Cus., Dated July 21, 2015**](#)

FTP - Import Policy for Controlled Substances

GOVERNMENT

has amended the Import Policy for certain controlled substances like potassium permanganate, Butanone, pseudoephedrine etc. The import will be subject to "No Objection Certificate" from the Narcotics Commissioner of India.

[**DGFT Notification No. 15/2015., Dated July 21, 2015**](#)

Extortion of money in name of Customs Officers - Delhi Customs Alert

INSTANCES

have come to notice that people are being cheated by unscrupulous elements who promise to send baggage of the passengers from abroad to people in India against payment of some amount. They impersonate as customs officers by using their names and instruct the passengers to deposit money in the Bank Accounts created for fraudulent purpose of extorting money. They may also issue fictitious receipts for having received the amount.

The Delhi Customs Commissioner in a Public Notice says:

1. Customs duty shall be deposited in favour of Commissioner of Customs (Government Account) through nominated nationalized bank. Central Bank of India is the nominated bank for IGI Airport, Delhi.
2. Customs officers never call anyone and ask to pay customs duty to any individual or deposit into any account.
3. At IGI Airport, New Delhi, after appraisal of goods which may include examination of the baggage, if any Customs duty is payable. Customs Officer issues a BR (Bank Receipt) in quintuplicate (for passenger, - for customs,- for bank records & retaining the blue copy with BR Book) mentioning the value of goods and duty amount payable. These BRs are presented before the notified bank i.e. Central Bank of India (located in Arrival Hall itself) and the duty amount is deposited. The custom duty at IGI Airport cannot be deposited online presently.

4. All the BRs are endorsed by the Bank after the duty amount is deposited with them.

The Commissioner alerts the public not to pay any amount in the name of Customs to any person or to any private account. If anybody demands such payments claiming to be Officer of Customs or the baggage is alleged to be detained by Customs at IGI Airport, public are advised to contact the Assistant / Deputy Commissioner of Customs (on duty), IGI Airport, New Delhi on their land line nos. 011-25656555 and 011-25652088.

Interestingly, this Public Notice was issued last July, 2014 but the CBEC has made it Public through its website yesterday ONLY.

[Commissioner of Customs, New Delhi Public Notice No. 04/2014., Dated July 15/18 2014.](#)

CESTAT Bench at Allahabad - HC Issues Notice to Finance Ministry

IN a recent order, the Allahabad High Court observed,

We find the Tribunals are extending stay orders because of the non-disposal of the appeal. The non-disposal of the appeals before the Tribunal is also on account that the Additional Benches are not being created. We, accordingly, issue notice to the Joint Secretary, Ministry of Finance, Department of Revenue, Central Government as well as to the Chief Commissioner of the Central Excise, Lucknow to file their personal affidavits. The Joint Secretary will file an affidavit explaining as to why a permanent Bench is not functioning at Allahabad for disposal of the appeals. The Joint Secretary will also explain as to why the Additional Members are not being appointed. The Chief Commissioner of Central Excise, Lucknow will also file an affidavit indicating as to why these appeals against the stay orders are being filed with the limited prayer that the hearing of the appeal should be expedited when the Department knows that the appeals are not being disposed of by the Tribunal on account of pressure of work. The Chief Commissioner of the Central Excise, Lucknow will justify the expenses that has been incurred in the filing of these appeals.

Issue notice to the Registrar, Customs, Excise & Service Tax Appellate Tribunal, Principal Bench, West Block No.2, R.K.Puram, New Delhi-110066. The Registrar will also file an affidavit indicating the number of appeals pending before the Tribunal as on 30.06.2015 and will also indicate the number of appeals which are liable to be transferred to Allahabad Tribunal pursuant to the creation of the Bench vide notification dated 01.11.2013.

The case is posted for 31.07.2015. What will the Government tell the Court?

Please see [2015-TIOL-1646-HC-ALL-CX](#)

Jurisprudential- Yesterday's SC Judgements

Central Excise - Paper - Exemption - Paper made out of pulp from rags entitled for concessional rate:

This is all about rags

. Much worse. It is about rags cut out of old, used and worthless gunny bags. Notification 22/94-C.E. dated 1-3-1994 provides concessional rate of duty to kraft paper made out of pulp containing not less than 75% by weight of pulp made from materials other than bamboo, hardwood, softwood, reeds or rags. It is admitted that the assessee in this case made kraft paper out of pulp of rags cut out of old gunny bags. The Revenue contends that the assessee is not entitled to the benefit of the said notification as amended during the period 1994-95 to 1998-99, as they used pulp made out of rags in the manufacture of kraft paper. The Commissioner of Central Excise, who adjudicated the dispute, held that the assessee was entitled for the benefit of the said notification. (These are the words of the Tribunal)

Tribunal did not agree. The Supreme Court yesterday set aside the Tribunal's order and restored the Commissioner's order.

Customs - Classification - Risograph covered under sub-heading 84.43

Classification of the machines known as Risograph, which are imported by the appellant M/s. HCL Limited, is the issue involved in the appeal. The question is as to whether Risograph is an office machine having duplicating function and thus to be classified under sub-heading 8472.90

of the Customs Tariff Act, 1975 or is it a printing machine to fall under sub-heading 8443.50.

The Supreme Court yesterday held that Risograph machine is in the nature of a screen printing machine and not duplicating machine. It would, therefore, be covered under sub-heading 84.43 and not 84.72.

In this order, the Supreme Court embarked on a brief journey of printing from Gutenberg to date to see how it has evolved over a period of time.

Printing, today, has become one of the most important means of mass communication though with the advent of computers and e-form of communication, in recent years its importance is somewhat dented. Fact remains that even today it remains an important means of mass communication along with Radio, Television and Films. In or around the year 1440, Johannes Gutenberg invented and developed the printing press. It was 'printing with movable type'. Gutenberg made separate pieces of metal type for each character to be printed. With movable type, a printer could quickly make many identical copies of a book. Using this process, the same pieces of type could be used over and over again - to print many different books. Over a period of time, there has been improvement in the methodology of printing with the advancement of technology.

However, there are certain steps which are common to all printing processes. These steps include: (i) typesetting, (ii) proofing, (iii) preparing illustrations for reproduction, and (iv) page makeup. Typesetting is the process of putting into type the words to be printed. It is also called composition. Typesetting can be classified as (1) hot-metal typesetting or (2) photocomposition. Hot-metal type printing is now done mostly by machine, which was earlier done by hand. There are two main kind of machines that set metal type - the line caster and the Monotype.

We bring you these two orders today. Please see [Breaking News](#).

GST is a National Disaster

IN the letters column in News Mail of Australia today, a reader wrote:

- AS A nation we are living way beyond our means.
- Despite the amount that the government gets in tax, it has already been mooted that the GST be increased to 15%.
- Taxation is far too heavy a burden now without adding to it.
- Instead of adding to GST, I would be in favour of getting rid of it.
- Ever since it was brought in, it has been a disaster for the economy.
- A lot of businesses went broke, and it has greatly inflated the cost of living for everyone.
- It has also made the taxation system more complicated.

And their GST is not half as complicated as ours is going to be - with double the rate and authorities.

Until Tomorrow with more **DDT**

Have a nice day.

Mail your comments to vijaywrite@tiol.in