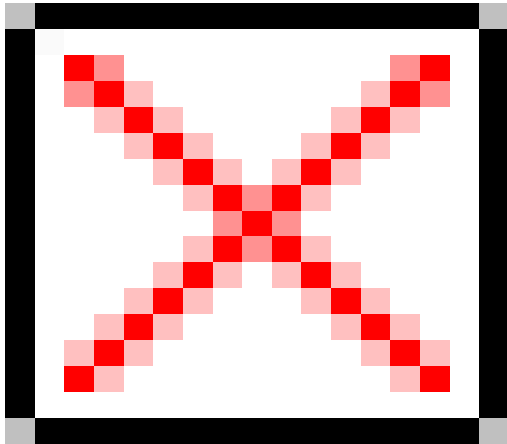


Taxes can be paid by old cash (Rs. 500 and Rs. 1000 notes) Today



TIOL-DDT 2969

11 11 2016

Friday

THE

Government has notified that the following payments can also be made by old cash today. Notification No. S.O. 3408(E) dated 08.11.2016 is amended to stipulate that the specified bank notes (Old Rs.500 and Rs. 1000) shall not be ceased to be legal tender with effect from the 9th November, 2016 until the 11th November, 2016

1. for making payments towards any fees, charges, taxes or penalties, payable to the Central or State Governments including Municipal and local bodies;
2. for making payments towards utility charges including water and electricity.

[MoF, Department of Economic Affairs Notification S.O.3429\(E\), Dated November 10, 2016](#)

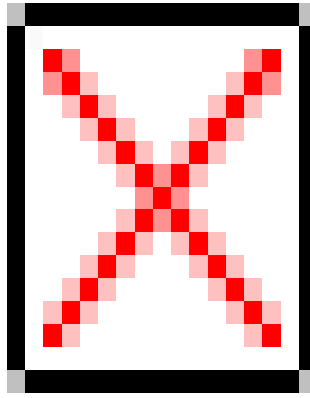
Also See : TIOL TUBE Videos on Black Money Saga

[Simply inTAXicating - Black Money Saga](#)

A sigh of relief - Service Tax on Renting of Hotels, Inns etc

THE

primary objective of the Regional Connectivity Scheme (RCS) of the Ministry of Civil Aviation is to facilitate/stimulate regional air connectivity by making it affordable. As per the Scheme, an all-inclusive airfare not exceeding Rs.2,500/- per RCS Seat will be applicable.Â



In [DDT 2962](#),

while highlighting the collateral damage caused while granting Service Tax largesse to the aforesaid endeavour of the government - UDAN -
 "Ude Deshka Aam Nagrik", we had mentioned - **While granting exemption to air passengers, CBEC by mistake withdraws Cenvat credit on input services for renting of hotels.**

What had actually happened is best explained by extracting the following table.

Kindly Note - In between the entries 5 and 6 to the notification [26/2012-ST](#), an entry 5A was inserted by the amending notification [38/2016-ST](#) dated 30.08.2016 resulting in the following -

Sl.No.	Description of taxable service	Percentage	Conditions
(1)	(2)	(3)	(4)
5	Transport of passengers by air, with or without accompanied belongings in (i) economy class (ii) other than economy class	40 60	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5A.	Transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport.	10	CENVAT credit on inputs and services used for providing the taxable service has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.
6	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60	Same as above

Inasmuch as whereas the condition attached to serial no. 6 above prior to insertion of Serial no. 5A was **non-availment of CENVAT credit on Inputs and Capital goods**, consequent upon the insertion of Serial no. 5A the **condition has enlarged itself to mandate non-availment of CENVAT credit on Inputs, Capital Goods and Input Services.**

DDT also said -

- + Even before the Aam Nagrik has taken to the skies, the hospitality sector is already in the pit!
- + Hopefully, the CBEC realises this gaffe and extinguishes the flames before they spread far and wide.

Our sincere plea has been accepted by the responsive CBEC and that too within a week.

Yesterday, a **corrigendum** was issued to the notification [38/2016-ST](#) and which does the following -

- (i) in line 23, for **"5"** read **"6"**;
- (ii) in the TABLE, in column 1, for **"5A"** read **"6A"**;
- (iii) in line 31, for **"5A of the TABLE"** read **"6A of the TABLE"**.

And so, the flames have been put out without any apparent loss to life or property.

DDT is ever-so-thankful to the Board. But should notifications be so complicated? And the corrigendum more complicated. Now who will understand where this line 23 is?

[Corrigendum dated November 10, 2016](#)

Service Tax - 'online information and database access or retrieval services'- Board issues complicated Circular

GOVERNMENT has made several changes with regard to the Service Tax on **"online information and database access or retrieval services"**

. Yesterday DDT reported the Notifications 46, 47,48 and 49 of 2016 dated 09.11.2016 issued in this regard. To explain the notifications and clarify doubts, CBEC has issued a very exhaustive and complicated Circular.

How to register? The Question No.29 and its answer are:

29.	What is procedure of registration?	First down load firefox software. Go to site https://www.aces.gov.in/ It will open home page for ACES. Click 'Service Tax'. It will open login window. Click on 'new user to click here'.
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Why only Firefox Sir? In fact, ACES site says

"It is advised that for accessing ACES Application, please use Internet Explorer (Standard Version 6.02 to 7.0) or Mozilla Firefox (Standard Version upto 3.0)."

. Have they changed their policy? Will they allow Internet Explorer? Or for that matter Chrome or Netscape or Safari?

[CBEC Circular No 202/12/2016-ST., Dated: November 09, 2016](#)

Timely and proper redressal of public grievances

IN a D.O.Letter to his Principal Chief Commissioners, the CBDT Chairman Mr. Sushil Chandra says:

1. As you are well aware, redressal of public grievances is one of the primary focus areas of the Government and is being monitored at the highest level through the PRAGATI interactions of Hon. Prime Minister. In the recent PRAGATI interaction, Hon'ble Prime Minister directed that all Departments should strive to reduce the grievance redressal time from current 60 days to 30 days.
2. CBDT is one of the 20 Government Departments/Ministries receiving the maximum number of public grievances on the online Public Grievances portal (CPGRAMS). Currently there are 2499 pending grievances.

3. An analysis of these grievances shows that the grievances received by CBDT are largely regarding legacy demands, mismatch of TDS and consequent delay in issue of refunds and issues relating to PAN transfer from one jurisdiction to another whenever the assessee changes his address due to his own specific circumstances.

4. Though some of these grievances arise due to system related issues, in a large number of cases these grievances get generated due to deficient actions of the Assessing Officers.

In order to stop the generation of these grievances at the very source itself, he wants the following steps to be taken in right earnest by all concerned:

i. The Range heads should provide guidance to the Assessing Officers regarding how to properly deal with the issues which give rise to repetitive grievances so as to ensure that the taxpayer is satisfied with the redressal at the AO level itself.

ii. The Range heads should contact the assessee as soon as the grievance is received and should take all necessary steps to redress the grievance.

iii. The CCsIT and PC sIT should also have a monthly outreach programme for hearing out the grievances of public which will not only provide the Department an opportunity to find out the ground realities leading to generation of grievances but will also ensure that administrative as well as systemic reforms are undertaken in a time bound manner for quicker and proper disposal of public grievances. This should be over and above the Wednesday open door meetings for meeting the public without prior appointment as well as the personal monitoring of grievances to find out the quality of disposal of grievances.

He wants all PCCsIT concerned to ensure timely disposal of grievances and send a report on the action taken on the above issues through their Zonal Members by 21st November, 2016 so that a progress report is submitted before the next PRAGATI meeting to be held on the 24th November, 2016.

[CBDT Chairman's D.O. Letter in Dir\(Hqrs\)/Ch.\(DT\)/39\(2\)/2015., Dated: November 08, 2016](#)

Seek Adjournment at least 48 hrs in advance - CESTAT

THE CESTAT in a Notice states:

It has been observed that the advocates/consultants and authorised representative of the parties(Assesses) are seeking adjournments in the open court at the time of hearing which cause difficulties to other parties who have made the preparation and travelled to argue the case.

Therefore, all parties are hereby requested to intimate regarding seeking of adjournment to the opposite parties (counsel) at least before 48 hours of hearing of the appeal/cases.

Parties are requested to exchange written note/case law etc at least 48 hrs in advance.

[CESTAT F. No. 32\(27\)/Misc./ DR\(J\)/Judl 2016., Dated November 08, 2016](#)

Order Obtained by Fraud - Recalled by CESTAT

THIS

case has all the elements of a Bollywood thriller. It all started with a simple order of the Tribunal dated 29.10.2015 dismissing the appeal of a party - something that happens in the Tribunal every day. We reported the case in [2016-TIOL-574-CESTAT-DEL.](#)

The assessee proceeded to the Supreme Court in appeal and before appealing to the Supreme Court, it also filed a Rectification of Mistake (ROM) Petition in the Tribunal arguing that limitation though pleaded was not considered.

The Supreme Court vide its order dated 08.07.2016, ordered deposit of the duty demanded along with interest.

A little later, on 2.8.2016, the Tribunal heard the ROM application, and allowed the appeal itself. We reported the case in [2016-TIOL-2471-CESTAT-DEL](#)

Now what happens to the appeal in the Supreme Court? It was alleged that while arguing the ROM application, the advocate of the assessee did not bring to the notice of the Tribunal, the order of the Supreme Court. The Economic Times carried a big story on this case alleging fraud by the advocate firm which is a top leading law office. It was also reported that the President had ordered that cases of this advocate should not be posted before a particular judge who passed the above order.

Revenue is aggrieved by the order of the Tribunal recalling its earlier order when the matter is pending before the Supreme Court. Revenue calls it forum shopping. The advocate who is a big name in the field submitted that Department has leaked the information to the press, in respect of a matter, which is a subjudice, with a mala fide intention to create pressure on the Bench of the Tribunal.

Anyway, the Tribunal found that it was not correct on the part of the advocate to suppress the information about the appeal pending in the Supreme Court. The Tribunal recalled its earlier order dated 2.8.2016. This means the original order passed in 2015 comes back to life and the party's appeal is dismissed. The Tribunal also sent a copy of its order to the Bar Council of India.

On a similar issue, the Mumbai Bench of the CESTAT recently dismissed a ROM application. Please see [2016-TIOL-2921-CESTAT-MUM](#)

Now, this raises several questions.

1. Can an assessee appeal to a higher Court (HC, SC) and simultaneously file a ROM application before the Tribunal?
2. Is it forum shopping?
3. Does the Tribunal have the power to recall its order?

Please also see [2016-TIOL-171-SC-ST](#), [2016-TIOL-2251-HC-MUM-ST](#) & [DDT 2947](#).

For more details on this case, please see [Breaking News](#)

Monday is a Holiday - Guru Nanak's Birthday

Until Tuesday with more **DDT**

Have a nice weekend.

Mail your comments to vijaywrite@tiol.in