

SIGNIFICANT NOTIFICATIONS / CIRCULARS ISSUED DURING THE PERIOD 16TH APRIL, 2012 TO 15TH MAY, 2012

A. SERVICE TAX

1. Services provided by the Agricultural Produce Marketing Committee (APMC) /Board out of the market fee are not liable to service tax

The services provided by APMC out of the 'market fee' (mandi shulk) collected from the licensees, do not fall under the category of Business Support Services (BSS). In the light of the distinction provided between BSS and Business Auxiliary Services (BAS) in the instructions dated 28.02.2006 issued from F.No.334/4/2006-TRU, the service provided by APMC out of the market fee is not in the nature of 'outsourced service'.

As statutory bodies, APMCs provide basic facilities in the market area out of the 'market fee' collected from the licensees, mainly to facilitate the farmers, purchasers and others. APMCs provide a host of services to the licensees in relation to the procurement of agricultural produce, which are 'inputs' in terms of the definition given in section 65(19) of the Finance Act, 1994 itself. To that extent the meaning of 'input' is much wider in scope than the meaning assigned in rule 2(k) of CENVAT Credit Rules, 2004. Therefore, it is clarified that the services provided by the APMC are classifiable as BAS and hence covered by the exemption under *Notification 14/2004-ST*.

However, any other service provided by the APMCs for a separate charge (other than 'market fee') to either the licensees or farmers or any other person, e.g. renting of shops in the market area, etc. would be liable to tax under the respective taxable heads.

[Circular No. 157/8/2012 ST dated 27.04.2012]

2. Service tax payable @ 12% on 8 specified services and services taxable under reverse charge if the payment is received after 31st March, 2012 - CBEC clarifies

Service tax rate has been increased from 10% to 12% with effect from 01.04.2012. There have been doubts regarding applicability of rate of tax in case of 8 specified service providers (covered under Rule 7 of POT Rules, 2011) and services on which tax is paid under reverse charge when the invoices have been issued and services rendered prior to 1st April, 2012.

The Board has clarified that the rate of service tax prevalent on the date when point of taxation occurs is the rate of service tax applicable on any taxable service. Therefore, in the abovementioned cases where the point of taxation is the date of payment, service tax should be charged @ 12% on these services, if the payment is received on or after 1st April, 2012 even though the invoices have been issued before 1st April, 2012.

It has also been clarified that the supplementary invoices may be issued to reflect the new rate of tax, if required to recover the differential amount and that CENVAT credit can be availed on such supplementary invoices and tax payment challans (in case of reverse charge).

[Circular No. 158/9/2012 ST dated 08.05.2012]

B. CENTRAL EXCISE

1. Quarterly returns prescribed for certain goods specified under *Notification No.12/2012 CE dated 17.03.2012*

Quarterly return of production and removal of goods has also been prescribed for the assessee who is availing exemption in respect of goods falling under Sl.No.67, 128, 199(I) and 200(I) of *Notification No. 12/2012 CE dated 17.03.2012* and does not manufacture any other excisable goods other than those specified in the said notification, and other relevant particulars, within ten days after the close of the quarter to which the return relates.

[Notification No. 23/2012 CE(NT) dated 18.04.2012]

2. Reversal of credit not required where excise duty has been paid on the process of cutting, slitting and printing of aluminium foils (final product) – Order issued u/s 5B of the Central Excise Act, 1944

An order has been issued by the Central Government under section 5B of the Central Excise Act, 1944 to provide that an assessee who has paid excise duty on the process of cutting, slitting and printing of aluminium foils (final product), need not reverse the CENVAT credit taken or utilised, of the duty or tax or cess paid on inputs, capital goods and input services used in the making of the said final product.

The credit can be taken irrespective of the fact that the process of cutting, slitting and printing of aluminium foils have been held as not amounting to manufacture by the Central Excise and Service Tax Appellate Tribunal in the case of *M/s Printo India Graphics (P) Ltd. Vs CCE, Delhi* and upheld by the Supreme Court.

The non-reversal of the credit would be subject to following conditions:

- (a) the said non-reversal shall be allowed only for the CENVAT credit taken upto the 15.03.2012.
- (b) the said non-reversal shall be allowed only when excise duty has been paid on removal of the said final product.
- (c) the said assessee shall not prefer a claim of refund of the excise duty paid by him on the said final product:

Further, the CENVAT credit, if any, taken by the buyer of the said final product, of the excise duty paid by the said assessee on the said final product made and cleared up to the 15th March, 2012 shall not be required to be reversed.

[Notification No.24/2012 CE(NT) dated 19.04.2012]

3. Rule 6 of the CENVAT Credit Rules, 2004 has been amended to provide that provisions of sub-rule (1), (2), (3) and (4) of rule 6 would not apply to supplies made for setting up of solar power generation projects or facilities. Further, reference to *Notification No. 6/2006 CE dated 1.03.2006* in rule 6 has been substituted with reference to *Notification No. 12/2012 CE dated 17.03.2012*.

[Notification No. 25/2012 CE(NT) dated 08.05.2012]

4. Articles of jewellery exempt from excise duty

Articles of jewellery falling under Heading 7113 of the Central Excise Tariff have been exempted from excise duty. Further, all goods falling under Heading 8607 have also been exempted from excise duty if the same are manufactured by a factory belonging to the Central Government and they are intended for use by any department of the Central Government.

[Notification No. 23/2012 CE dated 08.05.2012]

5. Clarification regarding admissibility of exemption under area-based Notification No. 56/2002-CE dated 14.11.2002

Notification No. 56/2002-CE dated 14.11.2002 exempts excise duty on specified goods cleared from industrial units in the State of Jammu & Kashmir to the extent of duty paid in cash by way of a refund mechanism, for a period of ten years from the date of publication of the notification or from the date of commencement of commercial production, whichever is later. The exemption is available to new units which have commenced commercial production on or after 14.06.2002 as well as existing units which have undertaken substantial expansion or have made new investments for employment generation on or after 14.06.2002.

It has been clarified that the exemption period of ten years is to be computed from the date of publication of the notification when a new unit commences commercial production or an existing unit undertakes substantial expansion and commences commercial production from such expanded capacity during the period from 14.06.2002 to 14.11.2002. However, if a new unit commences commercial production or an existing unit undertakes substantial expansion and commences commercial production from such expanded capacity after the date of publication of the notification, i.e., 14.11.2002, the ten year exemption period is to be computed from the date of commencement of commercial production in the case of new units and from the date of commencement of commercial production from the expanded capacity in the case of existing units.

[Circular No. 965/08/2012 CX dated 17.04.2012]

The text of the above notifications/circular is available at www.cbec.gov.in