

SIGNIFICANT NOTIFICATIONS / CIRCULARS ISSUED DURING THE PERIOD 16TH FEBRUARY, 2012 TO 15TH MARCH, 2012

A. SERVICE TAX

- 1. No service tax on toll fee paid by users:** *Circular No. 152/3/2012-ST dated 22.02.2012* has been issued to clarify that Service tax is not leviable on toll paid by the users of roads, including those roads constructed by a Special Purpose Vehicle (SPV) created under an agreement between National Highway Authority of India (NHAI) or a State Authority and the concessionaire (Public Private Partnership Model, Build-Own/Operate-Transfer arrangement). Tolls collected under the PPP model by the SPV is collection on own account and not on behalf of the person who has made the land available for construction of the road.

However, if the SPV engages an independent entity to collect toll from users on its behalf and a part of toll collection is retained by that independent entity as commission or is compensated in any other manner, service tax liability arises on such commission or charges, under the Business Auxiliary Service.

B. CENTRAL EXCISE

- 1. Rebate of duty paid would be allowed even for export of goods to Nepal:** CBEC has issued *Notification No. 02/2012-Central Excise (N.T.) dated 22.02.2012* to delete the word "Nepal" from the opening paragraph of *Notification No. 21/2004-Central Excise (N.T.) dated 06.09.2004* which allow rebate of the duty paid on excisable goods used in the manufacture or processing of goods exported out of India except to Nepal and Bhutan.

Hence, now even export to Nepal would be treated as an export to any country and rebate of the duty paid on excisable goods used in the manufacture or processing of goods would be allowed for export of goods to Nepal.

- 2. Stringent Restrictions on manufacturer, first stage dealer, second stage dealer and an exporter:** CBEC has issued *Notification Nos. 03-05/2012-Central Excise (N.T.) dated 12.03.2012* which provide very stringent restrictions on manufacturer, first stage dealer, second stage dealer and an exporter prima facie found knowingly involved in any of the seven activities mentioned in the *Notification No. 05/2012-Central Excise (N.T.) dated 12.03.2012* if the duty of excise or CENVAT Credit alleged to be involved exceeds Rs. Ten lakhs. The restrictions which may be imposed are like payment of duty on each removal of goods, restriction on utilization of CENVAT Credit etc.
- 3. Change in ownership or shifting of Unit to a new location within the specified area does not affect the exemption under area – based Notifications No. 49/2003-CE and 50/2003-CE, both dated 10.06.2003:** CBEC has issued *Circular No. 960/03/2012-CX dated 17.02.2012* which clarify that exemption under area – based *Notifications No. 49/2003-CE and 50/2003-CE, both dated 10.06.2003* would continue to be available even in the following cases:
 - (i) when there is change in the ownership of a Unit already availing of the benefit of an area-based exemption Notification.
 - (ii) when a Unit availing the exemption physically shift to a new location within the areas specified in the exemption Notification.
 - (iii) when a Unit availing of the exemption under an area-based Notification expands by acquiring a plot of land adjacent to its existing premises and installing new plant/machinery on such land.

The complete text of the above-mentioned notifications and circulars can be downloaded from the following link : www.cbec.gov.in