

**SIGNIFICANT NOTIFICATIONS / CIRCULARS ISSUED DURING THE PERIOD
16TH Nov, 2013 TO 15TH Dec, 2013**

A. SERVICE TAX

1. Clarification on the issues in VCES

CBEC has issued *Circular No. 174/9/2013- ST dated 25.11.2013* to clarify various issues in regard to Voluntary Compliance Encouragement Scheme (VCES). Following issues have been clarified by the circular :

- ❖ If an inquiry, investigation or audit, pending as on 1.3.2013 was being carried out for the part period i.e. 2008-2011, benefit of VCES would be eligible in respect of 'tax dues' for the period not covered by the inquiry, investigation or audit i.e. for the year 2012.
- ❖ If an inquiry or investigation, pending as on 1.3.2013 was in respect of a specific issue, say renting of immovable property, benefit of VCES would be eligible in respect of 'tax dues' concerning any other issue in respect of which no inquiry or investigation was pending as on 1.3.2013.
- ❖ In case designated authority has reasons to believe that the declaration filed by declarant is covered by section 106(2), a notice of intention to reject the declaration will be given to the declarant within 30 days from the date of filing of declaration stating reasons of rejection so as to give an opportunity of being heard before the rejection.
- ❖ The designated authority may take a view on merit on the basis of facts and circumstances of each case as to whether the inquiry is of roving nature or whether the provisions of section 106 (2) are to be attracted.
- ❖ Benefit of scheme would be available for payment of tax made after 10.05.2013 even though the declaration under the scheme has been made later on.
- ❖ Benefit of scheme would not be available for waiver from penalty and other proceedings where service tax pertaining to the scheme along with interest has already been paid by the assessee.

Further CBEC has, vide *Circular No. F. No. B1/19/2013-TRU (Pt.) dated 11.12.2013*, directed all the commissionerate, NOT to ask any assessee for any undertaking /declaration other than in Form VCES-1.

It has also been directed NOT to ask any frivolous/unnecessary queries. Only if the Commissioner has reason to believe that the declaration filed by the declarant is substantially false he may, for reasons to be recorded in writing, serve notice on the declarant requiring him to show cause why he should not pay the tax dues not paid or short-paid.

[Circular No. 174/9/2013- ST dated 25.11.2013 and Circular No. F. No. B1/19/2013-TRU (Pt.) dated 11.12.2013]

2. Mandatory electronic payment in case service tax payment of Rs.1 Lacs

CBEC vide *Notification No. 16/2013 dated 22.11.2013* has prescribed that where an assessee has paid total service tax of Rs.1 Lac or more including the amount paid by utilisation of CENVAT Credit, in the preceding financial year, he shall deposit the service tax electronically through internet banking.

[Notification No. 16/2013 ST dated 22.11.2013]

3. Time limit for filing of Form A-3 by SEZ Unit / SEZ Developer to avail ab initio exemption on specified services

Notification 12/2013 dated 1.07.2013 require SEZ Unit or the Developer to furnish a quarterly statement, in Form A-3, to the jurisdictional Superintendent of Central Excise providing the details of specified services received by it without payment of service tax to avail ab initio exemption on the specified services received and used exclusively for authorised operations.

The aforesaid mentioned Notification has been amended by *Notification No. 15/2013- ST dated 21.11.2013* to provide that such quarterly statement has to be filed by 30th of the month following the particular quarter.

Further, the Notification states that Form A-3 pertaining to the period July, 2013 to September 2013 shall be furnished by December 15, 2013.

[Notification No. 15/2013- ST dated 21.11.2013]

B. EXCISE

1. Mandatory electronic payment in case excise duty payment of Rs.1 Lacs

CBEC vide *Notification No. 15/2013 -CX dated 22.11.2013* has prescribed that an assessee who has paid total duty of Rs.1 Lac or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year shall thereafter, deposit the duty electronically through internet banking.

[Notification No. 15/2013 -CX dated 22.11.2013]

2. Amendment in Rule 8,9 and 10 of the Central Excise Valuation Rules, 2000

CBEC vide *Notification No. 14/2013- CX(NT) dated 22.11.2013* has amended Rules 8, 9 and 10 of the Central Excise Valuation Rules, 2000 dealing with determination of assessable value in case of captive consumption and sale to related person.

These rules have been amended to provide that irrespective of whether the whole or a part of the clearances of manufactured goods are covered by the circumstances given in these rules, each clearance is required to be assessed according to section 4(1)(a) of the *Central excise Valuation Rules, 2000* or the relevant rule dealing with the circumstances of clearance of the goods, as the case may be.

For example, if an assessee clears his goods in such a way that first removal of goods is to an independent buyers, some goods are captively consumed, second removal is to a related person who is covered under rule 9 and third removal is to a person who is covered under rule 10, then the first removal should be assessed under section 4(1)(a), captively consumed goods should be assessed under rule 8, second removal should be assessed under rule 9 and third removal should be assessed under rule 10 of these rules. It may be noted that *Central Excise Valuation Rules, 2000* are not required to be followed sequentially. Each of these rules provide for arriving at the assessable value of goods under different contingencies as noted by Hon'ble Supreme Court at paragraph 70 in case of *Commissioner of Hon'ble Supreme Court at paragraph 70 in case of Commissioner of Central Excise, Mumbai vs M/s FLAT India Pvt Ltd [2012 (283) ELT 161 or 2012-TIOL-58-SC-CX]*.

[Notification No. 14/2013 -CX dated 22.11.2013 and Circular No. 975/09/2013-CX dated 25.11.2013]

3. Acceptance of LUT in place of Bank Guarantee for export warehousing for Status Holder Manufacturer Exporters

CBEC vide *Circular No. 976/10/2013-CX dated 12.12.2013* has prescribed that where the exporter is a manufacturer and a Status Holder with a clean track record, the requirement of security may be waived off on furnishing Letter of Undertaking (LUT) initially for a period upto six months, which may be extended by a further period not exceeding six months.

It may be noted that *Circular No. 581/18/2001, CX, dated 29.06.2011* has prescribed the requirement to furnish security equal to 25% of the bond amount in case of extension of export warehousing.

[Circular No. 976/10/2013-CX dated 12.12.2013]

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