

Summary of Notifications, Circulars from 16thOctober 2014 to 19thNovember 2014

EXCISE

1. Splitting up of rebate claims to avoid pre-audit

As per CBEC Circular No. 869/07/2008-CX dated 16-05-2008 related to procedure relating to sanction and post-audit of refund/rebate claims, all refund/rebate claims involving an amount of Rs. 5 lakh or above should be subjected to pre-audit at the level of Deputy/Assistant Commissioner (Audit) in the Commissionerate Headquarter Office.

CBEC has noticed instances wherein the assesses have submitted rebate claims by splitting up the amounts of rebate claims below Rs. 5 lakhs to avoid pre-audit.

In this regard, CBEC has authorized the rebate sanctioning authority that they may order a pre audit by clubbing such artificially spilt claims. However, it is clarified that such power may be exercised only in exceptional cases.

[Instruction No.- F. No. 206/05/2014-CX.6, Dated: November 3, 2014]

2. CENVAT credit not available on Tower Parts & Pre-fabricated buildings

In case of M/s Bharti Airtel Ltd. vs The Commissioner of Central Excise, Pune III, Bombay High Court has rejected the appeal regarding availability of CENVAT Credit of duty paid on Tower Parts & Pre-fabricated buildings to a Cellular Mobile Service Provider.

It has been observed by the Bombay High Court that appellant is a service provider and not a manufacturer of capital goods. The appellant can avail the credit of the duty paid only if the subjected items fall within the ambit of the definition of capital goods under Rule 2(a)(A) or inputs under Rule 2(k) of the Credit Rules. The Tower Parts & Pre-fabricated buildings are in the nature of immovable goods and are non-marketable and non-excisable. Thus it was held that the subjected items were neither capital goods nor inputs and hence CENVAT credit of the duty paid thereon was not admissible to the appellants.

[Instruction No.- F. No. 267/60/2014-CX.8, Dated: November 11, 2014]

3. Condition of six months does not apply in case of re-credit of amount reversed

Notification No. 21/2014-Central Excise (N.T.) Dated: July 11, 2014 amended Rule 4(1) & 4 (7) CENVAT Credit Rules, 2004, to provide that a manufacturer or a service provider shall take credit on inputs and input services within a period of six months from the date of issue of invoice, bill or challan with effect from 1st September, 2014.

In this regard, CBEC vide Circular No: 990/14/2014-CX-8 dated. November 19, 2014 has clarified that the purpose of the amendment made by Notification No. 21 is to ensure that after the issuance of a document under Rule 9(1) of the CENVAT Credit Rules, CENVAT credit is taken for the first time within six months of the issue of the document. Once this condition is met, the limitation would not apply for taking re-credit of amount reversed under Rule 3(5B), Rule 4(5) (a) and Rule 4(7) of CENVAT Credit Rules, 2004.

[Circular No: 990/14/2014-CX-8 dated. November 19, 2014]