

UDYOG TAX NEWS FLASH

15th April 2012



Demand of interest is barred by the same period of limitation as the main amount

It is a settled position that interest is an adjunct of duty / tax. However, if for some reason interest is not paid, it is to be demanded within the statutory period of limitation prescribed for demand of duty / tax. This is confirmed by the Delhi High Court in the case of Kwaliti Ice Cream Company v Union of India, reported in 2012-TIOL-252-HC-DEL-CX [WP (C) No. 14414-14/2006].

Study team to set up a Common Tax Code for excise & service tax

The central government has set up a study team under the leadership of a retired officer MK Gupta (former Vice-Chairman of the Settlement Commission) to formulate a common tax code for central excise and service tax, in the context of the impending move to GST. The terms of reference of the study team include a study of the system of input credits to mitigate the cascading effect of taxation and to make the procedures trade-friendly. Also, any other measure that will reduce the costs of compliance for business or help in transition towards a comprehensive GST will be suggested by the team. The study team will interact with various chambers of commerce and industry and recognized business and industry associations representing various segments of the services and manufacturing sector, as may be required. Government has directed the Study Team to submit its report by the 30th of September, 2012. <http://cbec.gov.in/rhs-misc/pressnote-ctc.pdf>.

Draft circular on excise & service tax returns

The CBEC has placed a draft circular on its website for comments, on the proposed changes to returns in service tax and central excise. A single form is proposed, but strangely an assessee who pays both service tax and excise duties is required to file the returns separately for each (instruction no. 2). (Probably a slight restructuring of column 4 of the form would enable single filing.) The periodicity of both returns is to be synchronised with the payment of tax / duties, and with each other. The effect will be that the assessee will not have to keep track of several different due dates. The draft circular can be seen at <http://cbec.gov.in/draft-circ/exc-st-ret.htm>.

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Harmonisation of service tax and central excise registration

The government proposes to revisit the process of registration in both central excise and service tax. A common process is proposed for both. The requirement of submitting ground plan of the premises is being reintroduced, and is proposed now for service tax also. (How is it relevant for service tax??) A provision of cancellation of registration on ground of non-filing of periodic returns is also being introduced. The draft circular can be seen at

<http://cbec.gov.in/draft-circ/registrationcircular.htm>

Committee set up to review service tax refund to exporters

A three member committee, consisting of the Director General of Service Tax, the Commissioner of Service tax in the CBEC office, and Director TRU, has been set up to review the modality of service tax refunds to exporters. The CBEC has issued Circular No. 156/7 /2012-ST dated 9 April 2012 to this effect. The committee will review the scheme for electronic refund of service tax to exporters that was notified under notification 52/2011-ST dated 30 December 2011. The terms of reference of the committee are to (a) evolve a scientific approach for the fixation of rates in the schedule of rates for service tax refund; and (b) propose a revised schedule of rates for service tax refund, taking into account the revision of rate of service tax from 10% to 12% and also movement towards 'Negative List' approach to taxation of services. The circular can be seen at <http://www.servicetax.gov.in/circular/st-circular12/st-circ-156-2012.htm>

Point of taxation – Air tickets issued before 1 April

The CBEC has clarified that where air tickets were issued and paid for before 1 April, the old rate of service tax, i.e. 10% will be applicable. This is so even if the payment is made through agents authorised by the airlines, who remit the amount to the airlines after 1 April, as these agents act for the principal and payment to them is considered as payment to the principal. If the airlines have, however, already collected tax at the higher rate and do not refund the same to the passengers, they will have to pay the tax to the government at the higher rate, as per the provisions of section 73A of the Finance Act 1994. The circular can be viewed at <http://www.servicetax.gov.in/circular/st-circular12/st-circ-155-2012.htm>.

ICD Kannur notified

Kannur has been notified as an inland container depot (ICD) station by notification 32/2012-Cus(NT) dated 11 April 2012 issued under section 7(aa) of the Customs Act 1962. This is the fourth ICD in Kerala and the ninety seventh in India. The notification can be viewed at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2012/cs-nt2012/csnt32-2012.htm>.



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ADD on phosphoric acids, persulphates

Provisional anti-dumping duty had been imposed on phosphoric acids manufactured in or exported from Taiwan or Israel, vide notification 4/2012-Cus (ADD) dated 13 Jan 2012. This notification has been rescinded by notification 18/2012-CUs(ADD)dated 4 April 2012, and definitive anti-dumping duty has been imposed, at different rates, vide notification 19/2012-Cus(ADD) dated 4 April 2012.

The central government has also issued notification 20/2012-Cus (ADD) dated 4 April 2012, extending the anti-dumping duty on peroxosulphates, also known as persulphates, manufactured in or exported from China or Japan, which was levied under notification 96/2007-Cus dated 29 August 2007. The duty has been extended upto 18 March 2013.

All three notifications can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfn-2012/cs-add2012/csadd-18-20-2012.pdf>.

India files dispute against USA on steel pipes

On 12 April 2012, India requested consultations with the US under the dispute settlement system concerning the latter's countervailing duties on certain steel products (certain grades of steel pipe) from India. Countervailing duties are levied to offset subsidies given in the country of export, which means that the USA alleges unfair subsidies that reduce the export price of the goods in question. If the consultations fail to resolve the issue, India is likely to ask for adjudication by the dispute settlement body. The developments can be monitored at the WTO site, at

http://www.wto.org/english/news_e/news12_e/ds436rfc_12apr12_e.htm.

A newspaper report on the details of the dispute is available at

http://www.thehindubusinessline.com/industry-and-economy/article3311622.ece?homepage=true&ref=wl_home.

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