S.K.KANODIA & ASSOCIATES
Chartered Accountants

INDIRECT TAX RECKONER

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NOTIFICATIONS & CIRCULARS

(http://www.cbec.gov.in/cae1-english.htm)

SERVICE TAX

Notification no. 06/2014-ST, Dated : July 11, 2014

Seeks to amend notification No. 25/2012- Service Tax, dated the 20th June, 2012 - so as to amend certain existing entries granting exemption on specified services and inserting new entries for granting exemption from service tax on specified services -exempts services by an educational institution to its students, faculty and staff - Ashrams/ Dharmsalas brought on par with hotels, inns for levy of servicetax; - exemption to services provided contract carriages is restricted to only services provided by non-air conditioned contract carriages.

Notification no.07/2014-ST, Dated : July 11, 2014

Seeks to amend notification No.12/2013-ST dated 1st July, 2013, relating to exemption from service tax to SEZ Units or the Developer

Notification no. 08/2014-ST, Dated : July 11, 2014

Seeks to amend notification No. 26/2012- Service Tax, dated 20th June, 2012, - abatement of 60% to services provided by contract carriages and Radio taxis. -conditions for availing the exemption against some entries modified

Notification no.09/2014-ST, Dated : July 11, 2014

Seeks to amend the Service Tax Rules,1994 so as to prescribe,- (i) the person liable to pay service tax for certain specified services - Banks to pay services tax on services provided by recovery agent (ii) mandatory e-payment of service tax for all the assessees, with effect from 1st October,2014

Notification no.10/2014-ST, Dated : July 11, 2014

Seeks to amend the notification No.30/2012-ST dated 20th June,2012, so as to prescribe, the extent of service tax payable by recipient of Recovery Agent service- Banks and Financial institutions to pay 100% service tax as recipient

Notification no.11/2014-ST, Dated : July 11, 2014

Seeks to amend the Service Tax (Determination of Value) Rules, 2006 so as to prescribe the percentage of service portion in respect of works contracts, other than original works contract. Both finishing services and Repair services to pay service tax on 70% of value

Notification no.12/2014-ST, Dated : July 11, 2014

Seeks to notify the interest rate applicable in cases of delayed payment of service tax for the purposes of section 75 of the Finance Act, 1994.-Interest rates fixed - upto six months delay 18%; upto one year 24%; beyond one year 30%

Circular no. 178/4/2014-ST, Dated: July 11, 2014

Manner of distribution of common input service credit under rule 7(d) of the Cenvat Credit Rules, 2004 – regarding

FOR OTHER NOTIFICATIONS ON CENTRAL EXCISE AND SERIVCE TAX please visit our Budget update.

IMPORTANT DECISIONS & CASE LAWS

Dismissal of case for noncompliance of pre deposit order by Commissioner (Appeals)- Matter remanded back by Tribunal -(M/s Mukund Foods Pvt Ltd Vs CCE 2014-TIOL-1206-CESTAT-KOL)

In this case the Issue related to demand of duty on shortage of goods noticed while making a comparison between monthly RT-12 returns and balance sheets of the respective years in question. The appellant submitted that because of some erroneous interpretation of data, error has crept into the balance sheet, showing excess production of finished goods. The Commissioner (A) had in the stay order ordered for pre deposit of 50% of penalty and 50% of duty amounting to Rs. 32 lacs (Approximately) against which the Appellants had moved a miscellaneous application seeking modification in stay order. However, the same was not considered and thus the Ld. Commissioner (A) dismissed the case u/s 35 F of the Central Excise act for failure to comply with pre deposit order. A CA certificate pointing out these mistakes was not considered by Commissioner (A) who dismissed their appeal on account of failure to make pre-deposit. The appellant thus in its appeal to the Hon'ble Tribunal made an offer to deposit Rs.5.00 Lakhs and prayed that the matter may be remitted. The Hon'ble CESTAT held that a fair chance must be given to appellant to present their case and at the same time, interest of Revenue should be safeguarded. Thus, the appellant was directed to deposit Rs.5 lakhs and report compliance directly to Commissioner (A) who after recording compliance would proceed with the matter without insisting for further pre-deposit.

No denial of Cenvat Credit on short receipt of cement due to different methods of Weighment- [M/s Ultra Tech Cement Ltd Vs CCE 2014-TIOL-1319-CESTAT-MUM]

In this case, the Appellant had received cement through water channel at Navi Mumbai from mother plant located in Gujarat. The cement cleared from mother plant was after payment of duty as per weighment done there. The goods where later shipped to JNPT and the cement was unloaded into road tankers which carried the cement to appellant's factory at Navi Mumbai.

The loaded tankers were weighed at weighbridge before and after unloading the cement. There was slight difference in the Weighment of cement and thus the department has sought to disallow the credit to the tune of short receipt of cement to the appellant. The appellant submitted that the maximum difference works out to 2% and which is only a mirage difference. The Hon'ble CESTAT held that there is no allegation that goods have been diverted during transit or there is any pilferage of the goods during the course of transportation. If the appellant had not weighed the inputs in their factory they were entitled to take credit on the quantity shown in invoice. The loss occurred only due to the various methods of Weighment. Thus, the CENVAT cannot be denied. Therefore the orders were set aside and appeals allowed with consequential relief.

Manpower supply service or not- K. Damodarareddy v. CCE, Tirupathi [2010 (19) S.T.R. 593 (Tri. – Bang.)]

The appellant had undertaken activities such as Loading of cement bags into closed wagons, Wagon door cleaning, Drawing of bags to the stencilling floor, Wagon door opening/wagon cleaning etc. at separate rates for each activity. The Revenue has alleged that the appellants had rendered taxable services classifiable under the category "Manpower recruitment or supply agency" without following the statutory formalities including payment of service tax. The Hon'ble Tribunal held that the appellants were compensated for the various items of work at separate rates prescribed under the contract. The appellants did not supply manpower charging for the labour provided on man-day basis or man-hour basis. The appellants carried out the work as a contractor employing its own labour. Such an activity is not classifiable as "manpower recruitment or supply agency."

LATEST HIGHLIGHTS

BUDGET 2014

The Budget in the form of Finance Bill 2014 was pronounced on 10.07.2014. The Finance Minister stressed the desire to attain simplicity, clarity and a non-adversarial approach in our tax system.

The challenge for the Finance Minister was to balance the unduly high expectations built up pre Budget. In that background, it was disappointing that some of the issues impacting investment sentiment, viz. Retrospective Amendments, GST & DTC were largely not dealt with in any manner of detail.

The detail budget analysis along with key highlights of the same are available for download from the below mentioned link:

http://skkassociates.com/downloads.php

The Bill has also been passed by the Lok Sabha on 25/07/2014 with slight modifications for betterment and clarity as also by the Rajya Sabha on 30/07/2014. So, Finance bill 2014 has almost become the Act with several doubts remaining and clarifications required. Let us hope the Revenue Boards will come up with suitable remedial circulars.

We at SKKA sincerely hope that the above publications would be useful to you.

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