A2Z TAXCORP LLP
NEW DELHI, INDIA

Indirect Tax and Other Laws Communique
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This bulletin brings to you the highlights of recent updates and important judgments in the field of Indirect taxation along with key inputs from other fields to keep you abreast of all the latest happenings.

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SERVICE TAX

RECENT CASE LAWS

➢ **Pre-deposit has to be waived off if Assessee's case is a good/ strong prima facie case covered by a binding precedent**

Shukla & Brothers Vs. Customs, Excise & Service Tax Appellate Tribunal [(2015) 54 taxmann.com 182(Allahabad)]

Shukla & Brothers (**"the Appellant"**) is a proprietorship firm registered under Service tax under the category of 'Construction Work'. However, under some confusion and misguidance, the Appellant was issued registration under ST-2 in the category of 'Civil Structure Construction Work'. The Appellant claimed that the services provided are of maintenance/ sanitation services provided at factory premises of clients, which does not fall within the Service tax net.

Thereafter, the Show Cause Notice was issued to the Appellant demanding the alleged amount of Service tax along with interest and penalties, which was further confirmed by the Adjudicating Authority. Being aggrieved, the Appellant filed an appeal before the ld. Commissioner (Appeals) but the same was rejected.

Thereafter, the Appellant filed an appeal before the Hon'ble CESTAT, Delhi. The Hon'ble Tribunal vide a non-speaking Order dated February 26, 2013 (**"Impugned Order"**) ordered pre-deposit of 40% of the demand under Section 35F of the Central Excise Act, 1944 made applicable to the Finance Act, 1994 (**"the Finance Act"**) vide Section 83 thereof. Later vide Order dated April 11, 2013, the Hon'ble Tribunal dismissed the appeal filed by the Appellant for non-compliance of condition of pre-deposit. Being aggrieved, the Appellant filed an appeal before the Hon'ble High Court of Allahabad.

The Hon'ble High Court of Allahabad held as follows:

- It has been a uniform view of various Courts that while considering provisions of pre-deposit of duty and penalty, the Authority concerned has to examine the question as to whether the Assessee has a good prima facie case so as to justify the dispensation of requirement of pre-deposit.

  Further, the Authority must exercise its discretion to dispense with such requirement particularly in a case <u>where the Assessee satisfies the Appellate Authority that his case is squarely covered by the decision of a competent court binding on it and in such cases, asking the appellant to deposit the duty demanded and the penalty levied would cause undue hardship to the Appellant</u> - ***Hindustan Ferro & Industries Ltd. Vs. CESTAT [2006 (205) ELT 153 (All)]; B.P.L. Sanyo Utilities & Appliances Ltd. Vs. Union of India [1999 (108) E.L.T. 621]; Andhra***

Civil Construction Co. Vs. CEGAT [1992 (58) E.L.T. 184]; J.N. Chemical (P.) Ltd. Vs. CEGAT [1991 (53) E.L.T. 543].

- For a good or strong prima facie case, it is not necessary for the Assessee to satisfy the Tribunal that his case is full proof and is bound to succeed. Strong prima facie case would mean that the case is an arguable one and fit for trial, or prima facie covered by a binding precedent. In such a situation, the Tribunal is under a legal obligation to consider the application of waiver taking into account the undue hardship which would require examination of prima facie case, on merits;
- The Impugned Order, running into six lines and directing the Appellant to deposit 40% of the demand is sans any reason and as such is cryptic.

Therefore, the Hon'ble High Court set aside the Impugned Order and the matter was remitted back to the Hon'ble CESTAT, Delhi for re-determine the issue and passing fresh orders on the applications for waiver of the condition of pre-deposit and the appeal itself thereafter.

Our Comments: Important to note changes brought in by the Finance (No. 2) Act, 2014

Effective from August 6, 2014, the Finance (No. 2) Act, 2014 substituted new Section 35F of the Central Excise Act, 1944 which is also applicable for Service tax vide Section 83 of the Finance Act, 1994 and for Customs vide Section 129E of the Customs Act, 1962 prescribing a mandatory fixed pre-deposit of:

a) 7.5% of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, for filing of appeal before the Commissioner(Appeals) or the Tribunal at the first stage; and

b) 10% of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, for filing second stage appeal before the Tribunal.

However, the amount of pre-deposit payable is subjected to a ceiling of Rs 10 Crore.

The said amendment has done away with the requirement of filing stay applications for waiver of pre-deposit. However, it is to be noted that all pending appeals/ stay applications would be governed by the statutory provisions prevailing at the time of filing such appeals/ stay applications.

Now, even though the above stated judgment of the Hon'ble High Court of Allahabad pertains to the period prior to August 6, 2014, the moot question still remains as to whether the Assessee is required to make mandatory pre-deposit under the new provisions even when his/her case is covered by a binding precedent. Hope that the Board may come out with some clarification in this regard.

➢ **No extended period if demand arose out of correct figures shown in ST-3 Returns**

Central Warehousing Corporation Vs. Commissioner of Service Tax, Ahmedabad [(2015)54 taxmann.com 209 (Ahmedabad - CESTAT)]

In the instant case, Central Warehousing Corporation (**"the Appellant"**) filed an appeal before the Hon'ble CESTAT, Ahmedabad against the Order of the Ld. Commissioner (Appeals) wherein demand of Rs. 6,18,946/- was confirmed against the Appellant by invoking extended period of limitation under Section 73 of the Finance Act, 1994 (**"the Finance Act"**).

The Appellant submitted that the aforesaid demand was raised as per CERA objection on the basis of short payment of Service tax shown in Service Tax Returns (**"ST-3 Returns"**) filed by the Appellant. Accordingly, when proper duty calculations were shown in the ST-3 Returns, extended period is not invokable. The Appellant relied upon the following cases in support of his contentions:

- ***Aneja Construction (India) Ltd. Vs. CST [Final Order No. A/1262/2012 - WZB, dated 9-8-2012]***
- ***Commissioner Vs. Meghmani Dyes & Intermediates Ltd. [2013 (288) E.L.T 514 (Guj)] ("Meghmani Dyes case")***
- ***Bhansali Engg. Polymers Ltd. Vs. CCE [2008 (232) ELT 561 (Tri. Delhi)]***
- ***Johnson Mattey chemical India P. Ltd. Vs. CCE [Final Order No. 50323 of 2014, dated 22-1-2014]***

However, the Revenue argued that the extended period is rightly applicable in the present case because the Appellant failed to give details/ information that short payment made in a particular month was made good in the next month's Service tax payment.

The Hon'ble CESTAT, Ahmedabad, relying on the decision in the Meghmani Dyes case, held that if prescribed Returns are filed by Assessee giving correct information, then extended period of limitation cannot be invoked. In the instant case also, prescribed ST-3 Returns were duly filed by the Appellant giving correct information and differential tax payable was apparent from the figures furnished by the Appellant.

Accordingly, the Appellant cannot be held to have suppressed any information with intention to evade payment of Service tax and thus, extended period cannot be invoked. Therefore, the demand raised on the Appellant is time-barred.

➢ **Under Service Tax law, the Assessee is not prohibited from paying tax on services exempted under a notification – there is no provision akin to Section 5A(1A) of the Central Excise Act, 1944**

M/s Deloitte Haskins And Sells Vs. Commissioner of Central Excise, Thane [2015-TIOL-366-CESTAT-MUM]

M/s Deloitte Haskins and Sells (**“the Appellant”**) is a firm providing services of practising Chartered Accountant and Management Consultancy services to clients in India and abroad. The Appellants were operating from the different locations, each with a separate Service tax registration number and the accounting operations were carried out from Worli address (**“registered unit”**).

The Department alleged that the services rendered by the Appellant during the period under dispute were exempted under Notification No. 04/2004-ST dated March 31, 2004 (which provides exemption to services provided to SEZ units) [**“Notification 4/2004”**] and Notification No. 25/2006 dated July 13, 2006 (which provides exemption to services relating to representation before the statutory authorities) [**“Notification 25/2006”**].

Accordingly, the Appellant has wrongly availed Cenvat credit while providing exempted services as well as taxable services in violation of the Cenvat Credit Rules, 2004 (**“the Credit Rules”**) as the Appellant did not maintain separate records for the exempted and taxable services in terms of Rule 6(1) of the Credit Rules. Therefore, as per Rule 6(3)(c) of the Credit Rules (as was prevalent during the period under dispute), the Appellant could utilize Cenvat credit only to the extent of 20% of the amount of Service tax payable on their output services. Hence, the Appellant was required to pay Rs. 2,78,23,485/- in terms of Rule 6(3)(c) of the Credit Rules.

It was further alleged that the Appellant has also irregularly availed Cenvat credit of Rs. 5,65,000/- and Rs. 31,25,737/-on the strength of invoices raised on the registered unit at Worli whereas the Cenvat credit was taken in another registered unit at Mafatlal House, Mumbai.

Being aggrieved, the Appellant filed an appeal before the Hon’ble CESTAT, Mumbai submitting as under:

- Notification 25/2006 provides exemption to services relating to representation before the statutory authorities, whereas the Appellant had charged consolidated amount for entire work i.e. drafting, compliance, appearance and sometimes their contract is for entire taxation related issues. Therefore, they chose to pay tax on the entire amount and not to avail exemption;

- Notification No. 4/2004 which grants conditional exemption to services provided to SEZ units was not availed because it is beyond control to ensure that the service receiver follows the conditions of the Notification such as maintenance of proper records;

- Unlike Section 5(A)(1A) of the Central Excise Act, 1944 (**“the Excise Act”**) there is no provision in the Finance Act, 1994 (**“the Finance Act”**) requiring that unconditional exemption has to be necessarily availed;

- Cenvat credit cannot be denied on procedural grounds.

The Hon'ble CESTAT, Mumbai held as under:

- Cenvat credit cannot be denied for the procedural infraction that the addressee in the invoices was another office of the Appellant and relied upon following judgments: ***Commissioner Vs. DNH Spinners* [*2009 (16) STR 418 (Tri.-Ahmd.)*], *Modern Petrofils Vs. CCE[2010 (20) STR 627 (Tri.Ahmd)]*.**

  Thus, the matter was remitted back to the Commissioner for verifying that the Inputs services in respect of such invoices were actually used in the Mafatlal House office and not in the Worli office.;

- Revenue has not examined the records in detail to see the nature of actual activities undertaken by the Appellant. Issue of Show Cause Notice without examining and analysing of all the documents does not serve any purpose;

- Unlike Section 5(A)(1A) of the Excise Act, there is no provision in the Finance Act requiring that unconditional exemption has to be necessarily availed and relied upon following judgments: - **Crown Products Pvt. Ltd. Vs. CCE, Nashik** [2012 (28) STR 406 (Tri.-Mum)] and **MPS Ltd. Vs. Commissioner of Service Tax,** Bangalore [Appeal No. ST/763/2011];

- Everyone has a right to waive and to agree to waive the advantage of a law or rule made solely for the benefit and protection of the individual in his private capacity, which may be dispensed with without infringing any public right or public policy. Thus it is clear that under Service tax laws, the Assessee is not prohibited from paying tax on services exempted under a notification.

Thus, the Hon'ble Tribunal decided the matter in favour of the Appellant by holding that the Appellant had not provided exempted and taxable services in terms of Rule 6(2) of the Credit Rules and therefore the restriction of availment of Cenvat credit up to 20% of the value of taxable output services would not apply.

CENTRAL EXCISE

RECENT CASE LAWS

➢ **Cenvat credit cannot be denied at the end of the recipients of the goods, on the premise that higher duty has been paid by the manufacturer**

CCE Pune I Vs. Pefco Foundry And Other [2015 (2) TMI 556 - CESTAT MUMBAI]

In the instant case, Bajaj Auto Ltd. Pune/Aurangabad and Telco, Pimpri (**"the manufacturers"**), sold scraps (**"impugned goods"**) to the first stage dealers who, in turn, sold the impugned goods to Pefco Foundry (**"the Assessee"**). The Revenue denied Cenvat credit amounting to Rs.

49,89,412/- to the Assessee on the following grounds:

- Cenvat credit has been availed by the Assessee against the invoices indicating supply of MS Off cuts, whereas the material which was actually supplied under the cover of invoices was CRCA scrap;
- The price at which the impugned goods were sold by the manufacturers to the first stage dealers was excessively higher than the price at which the dealer sold such impugned goods to the Assessee.

The Assessee submitted that the impugned goods sold by the manufacturers at a certain price to the first stage dealers are segregated wherein the scrap which can be used for manufacturing of components directly is sold at higher price and the scrap which either cannot be used or sold for use of melting are sold under the cover of invoices at a lower price. It was further submitted that till 1997, the manufacturers were describing the impugned goods as M.S. Scrap but after the decision of the Hon'ble Supreme Court in the case of LML, they revised the classification list and classifying the same material as MS Off cuts. Therefore, the contentions of the Revenue are not sustainable.

Thereafter, the Adjudicating Authority decided the matter in favour of the Assessee, allowing the Impugned Cenvat credit. Being aggrieved, the Revenue preferred an appeal before the Hon'ble CESTAT, Mumbai.

The Hon'ble CESTAT, Mumbai held as under:

- From the various statements of dealers and the manufacturers, recorded by the Revenue, it is clear that till 1997, the impugned goods were described as M.S. scrap and thereafter in terms of the decision of Hon'ble Supreme Court in the case of LML, the impugned goods were classified into various types of M.S. Offcuts. These M.S. Offcuts either can be used for manufacture of components or can be used as melting scrap;
- Further, from the statements of first stage dealers, it is clarified that after procuring the impugned goods from the manufacturer, they used to segregate them and the goods which can be used for manufacture of components or can be re-used were sold at higher price and the remaining were sold at lower price as CRCA melting scrap;
- During the period 1996-97, Bajaj Auto Ltd. was clearing the MS scrap by reversing the Cenvat credit availed on MS Sheets (inputs). In that case, the Revenue cannot dispute reversal of Cenvat credit by Bajaj Auto Ltd., at the end of the recipients of the said goods as Cenvat credit is taken on the duty paid by Bajaj Auto Ltd., on the said goods;

- The Hon'ble Supreme Court in the case of ***MDS Switchgear Pvt. Ltd. [2008 (229) ELT 485 (S.C.)]***, has held that Cenvat credit cannot be denied at the end of the recipients of the goods on the premise that higher duty has been paid by the manufacturer.

Thus, the Hon'ble Tribunal upheld the Order of the Adjudicating Authority allowing Cenvat credit to the Appellant and decided the case in favour of the Assessee.

- **In case of composite Show cause Notice in respect of two Assessees, there is no rule or principle that authorizes the apportionment of liability based upon the past figures**

Commissioner of Central Excise Vs. Modern Industrial Enterprises [2015 (2) TMI 609 - DELHI HIGH COURT]

Modern Industrial Enterprises (**"MIE"**) and Florida Electrical Industries Ltd. (**"FIEL"**) (collectively referred to as **"the Assessees"**) were subject to independent search operations by the Central Excise Authorities on September 22, 2001, wherein Clandestine removal of excisable goods was ascertained and some material was seized. Therefore, the Revenue vide Show Cause Notice (**"the SCN"**) dated March 25, 2003 sought duty on such clandestine removal and also imposed penalty.

The Assessees contended that the SCN issued by the Ld. Commissioner lacked the jurisdiction. Further, without attributing the extent of clandestine removal alleged in respect of each unit specifically, duty liability could not be imposed. However, the Ld. Commissioner vide Order dated June 30, 2004 confirmed the demand raised in the SCN.

Being aggrieved, the Assessees preferred an appeal before the Hon'ble Tribunal. The Hon'ble Tribunal upheld the contentions of the Assessees and set aside the demand raised in the Order of the Ld. Commissioner. It was held by the Hon'ble Tribunal that the Commissioner of Central Excise, Delhi-I could not issue the SCN against FEIL as FEIL falls within the jurisdiction of the Central Excise Commissioner, Delhi-II. Further, without attributing the actual removals and working out the duty liability on the basis of the past production of goods is untenable. In other words, since it was not possible to arrive at the value of clearances separately between MIE and FEIL, duty demanded could not be confirmed.

Being aggrieved, the Revenue preferred an appeal before Hon'ble High Court of Delhi. The Hon'ble High Court allowed the appeal in favour of the Respondents in regard to the duty demanded on clandestine removal by remanding the same on merits and decided the jurisdiction issue involved in favour of the Revenue along with the following observations:

- Issuing of the SCN in a composite manner to two parties ipso facto did not vitiate the proceedings. However, if at the stage of determination of liability or at the final stage, it was open to the Commissioner to ascribe one figure or the other, to each of the parties, that course ought to have been adopted;

- There is no rule or principle that authorizes the apportionment of liability based upon the past figures;

- As regards the issue of jurisdiction, the Assessees' submission that upon the issuance of Notification No. 14/2002-CE(NT) dated March 8, 2002, legality of investigations stood protected but upon the ceasing of such proceedings, the appropriate Commissioner necessarily had to exercise jurisdiction is textual and narrow. In tax proceedings, such as the present one, there is certain seamlessness to the entire process, and splitting up that into different stages, i.e., investigation, adjudication, etc., and the spelling up of the process would defeat the underlying object of Section 38A of the Central Excise Act, 1944 *("Where any rule, notification or order made or issued under this Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not—(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect, and lead to startling as well as anomalous results…")* and would lead to startling as well as anomalous results.

Accordingly, the Hon'ble High Court held that the matter requires to be re-examined on the merits of the clandestine removal and directed that the Tribunal may, depending upon the submissions made and the extent of materials available with it, take such course, as is available in law, for this purpose, after giving due opportunity to both the parties.

- **Subsequent reversal of Cenvat credit initially availed but not utilized, tantamount to non-availment of Cenvat credit**

JCT Limited Vs. CCE, Jallandhar and Ludhiana and vice-versa [2015 (2) TMI 600 - CESTAT NEW DELHI]

JCT Limited (**"the Assessee"**), in their composite mill, manufactured cotton yarn from cotton and used the same within the factory for weaving of fabrics. In respect of captive clearances of cotton yarn, the Assessee was availing full duty exemption under Notification No. 30/04-CE dated July 9, 2004 (**"the Exemption Notification"**). The goods covered by the Exemption Notification are fully exempt from Excise duty, if no Cenvat credit in respect of Inputs has been taken. In the instant case, the Assessee took Cenvat credit in respect of packing material during November, 2005 and December 2005 of Rs. 1,622/- and during January to March 2006 of Rs. 2,753/-. However, subsequently on being pointed out by the Department, the Assessee reversed the said Cenvat credit. Further, there was no dispute that aforesaid Cenvat Credit of Rs. 4375/- was utilized by the Assessee for payment of duty on any of their final product.

But, the Department contended that the Assessee is not eligible for availing the benefit of the Exemption Notification even if the availed Cenvat credit is subsequently reversed. Therefore, the Adjudicating Authority confirmed the demand along with interest and penalty, by denying the exemption under the Exemption Notification and also allowed the cum duty benefit i.e., treating the sale price of the yarn as including the Excise duty. Thereafter, the Order of the Adjudicating Authority was upheld by the Ld. Commissioner (Appeals). Being aggrieved both the Assessee and the Department preferred an appeal before the Hon'ble CESTAT, Delhi in respect of duty demanded and allowing of the cum duty benefit respectively.

The Hon'ble CESTAT, Delhi relying upon the judgment of Hon'ble Allahabad High Court in the case ***Hello Minerals Water (P) Ltd. Vs. Union of India [(2004 (7) TMI 98]*** which was based on the Hon'ble Apex Court judgment in the case of ***Chandrapur Magnet Wire (P) Ltd. Vs. CC, Nagpur [1996 (81) E.L.T. 3 (S.C.)]***, held that since the Cenvat credit initially taken was reversed without being utilised by the Assessee, it is to be treated as if the Assessee has not taken the Cenvat credit and hence, would be eligible for the exemption benefit under the Exemption Notification.

It was further held by the Hon'ble Tribunal that since the duty demand itself has been set aside, the Revenue's appeal would not survive and is accordingly dismissed.

CUSTOMS

NOTIFICATIONS/CIRCULARS

- **Exemption of Customs duty on import of Urea under Urea Off-Take Agreement between the Government of India and Oman-India Fertilizer Company S.A.O.C.**

The Central Government vide **Notification No.04 /2015 – Customs dated February 16, 2015**, has exempted **"Urea"**, falling under tariff item no. 3102 10 00 of the First Schedule of the Customs Tariff Act, 1975 (**"the Customs Tariff Act"**) when imported into India under the Urea Off-take Agreement (**"UOTA"**) dated May 29, 2002, between the Government of India and Oman-India Fertilizer Company S.A.O.C., from so much of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, and from the so much of the additional duty leviable thereon under Section 3(1) of the Customs Tariff Act, as is in excess of the amount calculated on the declared value of Urea as agreed under the UOTA. However, the exemption shall be provided subject to the condition that the importer shall produce a Certificate prior to clearance of the said goods, from an officer not below the rank of Under Secretary to the Government of India in the Department of Fertilizer before the Assistant Commissioner of Customs or Deputy Commissioner of Customs having jurisdiction, as the case may be to the effect that such declared value is in terms of agreed price under UOTA.

- **Levy of definitive Anti-dumping duty on imports of Acetone, originating in or exported from Korea RP**

The Central Government vide **Notification No. 05/2015-Customs (ADD) dated February 18, 2015** has continued the imposition of Anti-Dumping Duty (**"ADD"**) on imports of **"Acetone"** falling under tariff item no. 2914 11 00 of the First Schedule to the Customs Tariff Act, 1975, originating in or exported from Korea RP.

The ADD imposed under the Notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of notification in the Official Gazette and shall be paid in Indian currency.

- **Revision in Rate of Exchange for valuation of exported and imported goods**

In the exercise of the power conferred under Section 14 of the Customs Act, 1962, the Central Government vide **Notification No. 25/2015-Customs (N.T.) dated February 19, 2015** has revised the Rate of Exchange (**"ROE"**) applicable with effect from February 20, 2015 to determine the assessable value in respect of imported and exported goods.

- **Appointment of 'Bhogat port' as coastal port for carrying on of coastal trade in crude petroleum**

In the exercise of the power conferred under Section 7 of the Customs Act, 1962, the Central Board of Excise and Customs vide **Notification No. 24/2015 - Customs (N.T.) dated February 16, 2015**, has appointed the **"Bhogat Port"** situated in the State of "Gujarat" as a coastal port for carrying on of coastal trade in crude petroleum.

- **Appointment of 'Pipraun' as Land Customs Station and Route for import and export of goods by land**

In the exercise of the power conferred under Section 7 of the Customs Act, 1962, the Central Board of Excise and Customs, vide **Notification No. 23/2015- Customs (N.T) dated February 16, 2015,** has notified **"Pipraun"**, District Madhubani, in the State of "Bihar" as a Land Customs Station and Route (relating to Land Frontier of Nepal) for import and export of goods by land**.**

RECENT CASE LAWS

- **Time limit prescribed for filing refund under Section 27 of the Customs Act, 1962 cannot be made applicable to the amount of duty paid by mistake**

Parimal Ray & Another Vs. the Commissioner of Customs (Port), Customs House & Others [2015 (2) TMI 826 - CALCUTTA HIGH COURT]

In the present case, a Thailand based Company, Italian Thai Development Public Company Limited and an Indian Public Company, ITD Cementation India Limited having its place of business in Salt Lake City, Kolkata decided to establish a Joint Venture Organisation - ITD-ITD CEM JV. This Joint Venture was unincorporated, represented by Parimal Ray and Another (“collectively along with Joint Venture Company referred to as **“the Petitioner”**).

The Kolkata Municipal Corporation invited tenders, in or about 2008 for its Drinking Water Supply Project. The Petitioner was successful in tendering and the Contract for the same was awarded to them. For the Contract awarded, the Petitioner imported the tunnel boring machines (**“impugned goods”**) vide Bills of Entry were dated December 15, 2009, December 21, 2009, May 31, 2010 and paid Custom duty of Rs. 3,60,45,561/-. Later on during September, 2012, the Petitioner came to know that they made their classification erroneously and as per the correct classification the impugned goods enjoyed 100% duty exemption as per the Exemption Notification issued under Section 25 of the Customs Act, 1962 (**“the Customs Act”**).

Accordingly, the Petitioner vide Application dated June 4, 2013 applied for refund of the entire amount of Rs. 3,60,45,561/- mistakenly paid by them. However, the Revenue denied refund to the Petitioner on the ground that refund had to be made within time limit prescribed under Section 27 of the Customs Act. Further, the Application made by the Petitioner cannot be taken as a proper Application for refund under Section 27 of the Customs Act. Being aggrieved, the Petitioner filed Writ Petition before the Hon’ble High Court of Calcutta contending that the time limit prescribed under Section 27 of the Customs Act cannot be made applicable to the amount of duty paid by mistake.

The Hon’ble High Court of Calcutta held as under:

- Section 27 of the Customs Act only applies when there is over payment of duty or interest under the Customs Act. Therefore, the duty or interest must be leviable under the Customs Act and paid under it. However, in the instant case, the impugned goods were not exigible to any duty, hence any sum paid into the exchequer by the Petitioner was not duty or excess duty but simply money paid into the Government account;

- The money received by the Government, could more appropriately called money paid by mistake by one person to another which the other person has an obligation to repay under Section 72 of the Contract Act, 1962;

- A person to whom money has been paid by mistake by another person, becomes at common law a trustee for that other person with an obligation to repay the sum received - ***Shiv Shankar Dal Mills Vs. State of Haryana [AIR 1980 Supreme Court 1037]***;

- As per Section 17 of the Limitation Act, 1963, money paid by mistake can be recovered up to three years from the time the plaintiff discovers the mistake or could have discovered the same with reasonable diligence.

Therefore, the Hon'ble High Court directed the Department to refund the said sum of Rs. 3,60,45,561/- to the Petitioner within 12 weeks of the communication of this Order.

VALUE ADDED ACT

NOTIFICATIONS/CIRCULARS

➢ **Extension of period of filing Reconciliation Return under DVAT for the year 2013-14**

The Government of National Capital Territory of Delhi, vide **Circular No. 26 dated February 16, 2015,** has extended the last date of filing of online return in Form 9 for the year 2013-14, prescribed under Rule 4 of Central Sales Tax (Delhi) Rules, 2005 to March 31, 2015.

The return shall only be filed by dealers who have made inter-state sale at concessional rates against statutory forms 'C' or stock transferred against 'F' forms or sold the goods against 'H' forms to dealers (other than Delhi) or claimed deduction from taxable turnover against E-I/E-II forms or I/J forms etc.

RECENT CASE LAWS

➢ **Works contract executed for SEZ units cannot have the benefit of zero rating since goods transferred by a contractor are neither exported as such or used in the manufacture of other goods which are exported**

Tulsyan Nec Limited Vs. The Assistant Commissioner (CT) [2015 (2) TMI 564 - MADRAS HIGH COURT]

Tulsyan Nec Limited (**"the Petitioner"**) was engaged in the manufacture of High Tensile Fasteners, Gear Shifters etc., and its factory was located in Special Economic Zone (**"SEZ"**). The Petitioner was awarded contracts for construction of their factory building and related infrastructure in SEZ. The Petitioner *inter alia* contended that in terms of Section 18(1)(ii) of the Tamil Nadu Value Added Tax Act, 2006 (**"TNVAT Act"**), sale of goods to any registered dealer located in SEZ is zero rated sale, if such registered dealer has been authorised to establish such unit by the authority specified by the Central Government in this behalf and shall be entitled for Input tax credit or refund of the amount of tax paid on the purchase of goods specified in the First schedule including Capital Goods.

While on the other hand, the Revenue contended reversal of Input tax credit on the basis of the Circular No. 9 of 2013, dated July 24, 2013 (**"the Circular"**) issued by Commissioner of Commercial Taxes, Chepauk, Chennai stating that sale of goods, involved in the execution of Works contract, to any other registered dealer located in SEZ in the State is not zero rated sale, as the goods are not exported as such or consumed or used in the manufacture of other goods that are exported, as required under Section 18(2) of the TNVAT Act. Consequently relying upon the Circular, the Assessing Officer issued an Assessment Order to reverse the Input tax credit availed as the transaction involved is not a zero rated sale and imposed penalty. Being aggrieved, the Petitioner challenged the Circular and the Assessment Order by filing Writ Petition before the Hon'ble High Court of Madras.

The Hon'ble Madras High Court *interalia* held as under:

- Zero rated sale as defined under Section 2(44) of the TNVAT Act means sale of any goods on which no tax is payable, but credit for the Input tax related to that sale is admissible;
- To be considered as a zero rated sale and to be eligible for Input tax credit or refund, the sale transaction should fall within any of the three clauses of Section 18(1) of the TNVAT Act;
- Section 18(2) the TNVAT Act has to be read along with Section 18(1) thereof. Hence, the Petitioners contention that Section 18(2) of the TNVAT Act will not apply to Section 18(1)(ii) thereof is not sustainable as it amounts to inserting a new provision to the statute when the statute does not contemplate of such situation/ contingency;
- In terms of Rule 22 of the Central Special Economic Zones Rules 2006, grant of exemption, drawbacks and concession to the entrepreneur or Developer shall be subject to conditions contained therein. Therefore, the scheme of the Central Special Economic Zones Act, 2005; Tamil Nadu Special Economic Zones Act, 2005 and the Rules made thereunder makes it clear that benefit is intended to the SEZ unit for the authorised operations which essentially is the export activity for which approval has been granted;
- In the case of ***Kerala State Cooperative Marketing Federation Vs. CIT, reported in [1998 (5) TMI 6 - SUPREME COURT],*** wherein the Hon'ble Supreme Court pointed out that while interpreting statutory provision, attention should be given to the setting in which the provision occurs and regard must be had to the language of an entire group of connected provisions which may form an integral whole;
- It is a settled rule of interpretation that in a taxing statue one has to look merely what is clearly stated, there is no room for any intendment, there is no equity about tax, there is no presumption as to tax, nothing is to be read in, nothing is to be implied and

one can only look fairly to the language used.

Thus, the Hon'ble High Court upheld the validity of the Circular stating that Works contract executed for SEZ units cannot have the benefit of zero rating since goods transferred by a contractor are neither exported as such or used in the manufacture of other goods which are exported, as not being ultra vires to the provisions of the TNVAT Act and not violative of Article 14 of the Constitution of India.

- **The fact that the contractor could seek refund of the tax paid did not absolve the contractee of their statutory obligation to deduct and pay TDS on Works contract**

Krishnapatnam Port Company Ltd. Vs. The Govt. of AP., rep. by its Principal Secretary (Revenue) (CT), Hyderabad & Ors.[2015 (2) TMI 472 - Andhra Pradesh High Court]

Krishnapatnam Port Company Ltd.(**"the Petitioner"** or **"KPCL"**) was engaged in the business of construction and development of the Krishnapatnam Deep Water Port in Nellore District, and in providing necessary infrastructural facilities for handling port operations thereat. By virtue of State concession contract dated September 17, 2004 (**"the Agreement"**), the Petitioner was granted construction and infrastructure activities of the Port for, and on behalf of, the State of Andhra Pradesh. In terms of the Agreement, the relationship between the State of Andhra Pradesh and KPCL was that of a principal and an agent. Further, Clause 3.16 of the Agreement specifically provided exemption from Sales Tax (VAT from 2005 onwards) on all Inputs and sales, if any, deemed. Further, Sales tax was totally exempt on all Inputs, required for construction of the Port, for the purpose of the project construction throughout.

KPCL entrusted the work of the Port construction to its holding company Navayuga Engineering Company Limited (**"NECL"**) on engineering, procurement and construction (EPC) basis for an agreed amount. The Department alleged that KPCL had deducted tax at source (**"TDS"**) from the bills of NECL but has not paid the same to the Government and accordingly confirmed demand of TDS of Rs. 92,98,03,154/- along with interest in terms of Section 22(2) read with Section 22(4) of the Andhra Pradesh Value Added Tax Act, 2005 (**"AP VAT Act"**).

Being aggrieved, the Petitioner filed a Writ Petition before the Hon'ble High Court of Andhra Pradesh submitting that by virtue of the conditions in the Agreement, the Government of Andhra Pradesh undertook to forego revenue streams from the project, such as exemption from Sales tax on all the Inputs required for project construction and that the KPCL had not recovered any tax from the Contractor which can be verified from the records and the running account bills.

The Hon'ble High Court of Andhra Pradesh held as under:

- NECL was liable to pay tax under the AP VAT Act for execution of the Works contract of construction of the Port. Further, KPCL was statutorily obligated, under Section 22(3) of the AP VAT Act, to deduct TDS from the running account bills of NECL, and remit the deducted tax amount to the Government;

- The fact that NECL could seek refund of the tax paid as per the State Government Order G.O.Ms. No. 609 dated May 29, 2006, issued in terms of Section 15(1) of the AP VAT Act, will not absolve KPCL of their statutory obligation to deduct TDS;

- Section 15(1) of the AP VAT Act merely enables the State Government, if it is necessary to do so in the public interest, to provide by way of Notification, for grant of refund of the tax paid to any person on the purchases effected by him and specified in the said Notification. Even on a notification being issued under Section 15(1) of the AP VAT Act, the contractee is statutorily obligated, under Section 22(3) thereof, to deduct TDS from the running account bills of the contractor, and the contractor is entitled, thereafter, to claim refund;

- Hence, if a statute has conferred a power to do an act, and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any manner other than the one prescribed;

- The AP VAT Act does not empower the Government to grant exemption but only enables it to grant refund, the doctrine of promissory estoppel cannot be invoked to compel the Government of Andhra Pradesh to carry out a promise contrary to the provisions of the AP VAT Act;

- The Petitioner suppressed the fact that KPCL having deducted tax at source from the running account bills of NECL, have made false statements on oath before the Court that there is no deduction of TDS from NECL. Further, KPCL by resorting to such dishonest means, secured interim stay of all further proceedings and have thereby avoided remitting the TDS deducted from the running account bills of NECL, to the Government. The undeserved benefit and advantage obtained by KPCL, by abusing the judicial process, must be neutralized;

- The Petitioner abused the process of the Court by making a false statements on oath, hence is liable to pay exemplary costs of Rs. 75,000/- to the Commissioner, Commercial Taxes within three weeks from the date of receipt of a copy of the Order of the Court, failing which the Commissioner can recover the same in accordance with law.

The Hon'ble High Court dismissed the

appeal in favour of the Department and held that the fact NECL could seek refund of the tax paid did not absolve KPCL of their statutory obligation to deduct TDS on Works contract.

FOREIGN TRADE POLICY

NOTIFICATIONS/CIRCULARS

- **Removal of Minimum Export Price on export of Potato**

In exercise of the powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, the Central Government vide **Notification No. 112 (RE-2013)/2009-2014dated February 20, 2015**, has removed the Minimum Export Price (**"MEP"**) on export of Potatoes (fresh or chilled). Now from February 20, 2015, the said goods can be export freely without any restriction of MEP.

- **Cancellation of Multiple IECs against single PAN**

The Directorate General of Foreign Trade (**"the DGFT"**) has issued **Public Notice No. 87 (RE-2013)/2009-2014 dated February 17, 2015**, has amended Para 2.9(b) of the Handbook of Procedure (HBP-Vol. I) (2009-2014) in the following manner:

"Only one IEC shall be issued against a single PAN. Multiple IECs issued against a single PAN will be deactivated suo-moto after 31.03.2015."

Accordingly, all importers/ exporters having multiple IECs against a single PAN have the option of retaining any one IEC and surrender all other IECs to the concerned Authorities by March 31, 2015 for cancellation.

- **Revision in Appendix 37 A of Handbook of Procedure - Volume I**

The Director General of Foreign Trade ("**the DGFT**") vide **Public Notice No. 86 (RE- 2013)/2009-2014 dated February 16, 2015("the Notice")**, has notified amendment to Product description and ITC HS codes of certain items mentioned in Appendix 37A, Vishesh Krishi Gram Udyog Yojana (**"VKGUY"**) Table 2 of the Handbook of Procedure- Volume-I.

The benefits of VKGUY on exports made between February 25, 2014 and February 16, 2015, for these items shall be admissible on the basis of product description alone, irrespective of ITC (HS) Code mentioned in the shipping bill.

FOREIGN EXCHANGE MANAGEMENT ACT

NOTIFICATIONS/CIRCULARS

- **Guidelines on Import of Gold by Nominated Banks / Agencies**

Under the 20:80 Scheme introduced in August 2013, at least one fifth, i.e., 20%, of every lot of gold imported into the country was to be exclusively made available for the purpose of exports and the balance for domestic use.

In November 2014 vide A.P.(DIR Series) Circular No.42 dated November 28, 2014, the Government decided to withdraw the 20:80 scheme and restrictions placed on import of gold. Now, the Reserve Bank of India (**"the RBI"**) has issued **A.P. (DIR Series) Circular No. 79 dated February 18, 2015,** to provide clarification on the operational aspects of the guidelines on import of gold upon the withdrawal of 20:80 scheme.

Accordingly, in consultation with the Government, RBI has issued the following clarifications:

- The obligation to export gold under the 20:80 scheme shall continue to apply in respect of unutilised gold imported before November 28, 2014, i.e., the date of abolition of the 20:80 scheme;
- Nominated banks can import gold on consignment basis. All sale of gold domestically will, however, be against upfront payments. Banks are free to grant gold metal loans;
- Star and Premier Trading Houses (STH/PTH) can import gold on DP basis as per entitlement without any end use restriction;
- While the import of gold coins and medallions will no longer be prohibited, pending further review, the restrictions on banks in selling gold coins and medallions are not being removed.

COMPANY LAWS

NOTIFICATIONS/CIRCULARS

➢ **Government notifies Rules for new Indian Accounting Standards**

The Ministry of Corporate Affairs vide **Notification dated February 16, 2015** has issued the **Companies (Indian Accounting Standards) Rules, 2015,** thereby notifying Roadmap for applicability of Indian Accounting Standards (Ind AS) for compliance by the class of companies specified in the said Rules.

Following companies shall comply with the Ind AS for the accounting periods beginning on or after April 1, 2016, with the comparatives for the periods ending on March 31, 2016, or thereafter:

- Companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of Rs. 500 crore or more;
- Companies other than those covered above and having net worth of Rs. 500 crore or more;
- Holding, subsidiary, joint venture or associate companies of above companies

These norms which are converged with the International Financial Reporting Standards (IFRS), shall be applicable on a voluntary basis for period starting April 1, 2015 and would become mandatory from April 1, 2017, for companies whose equity

and/ or debt securities are listed or are in the process of being listed within India or outside, having a net worth of less than Rs. 500 crore.

Other companies that are unlisted and having a net worth of Rs. 250 crore or more but less than Rs. 500 crore also would have to start implementing Ind AS from April 1, 2017.

Companies not required to follow Ind AS shall continue to comply with Accounting Standards as prescribed in Companies (Accounting Standards) Rules, 2006.

NEWS FLASH

- **Must roll out GST this Budget: Automakers**

The beleaguered Automotive Sector is looking at the Government for a committed roll out of the Goods and Services Tax (GST) in the coming financial year which many hope will reduce and simplify taxes as well as cut its several layers.

As per industry expectations there will be a upfront reduction in cost for automobiles between 7% to 17%. Mid-size sedans and luxury cars which are the most taxed vehicles will reap the biggest benefit of the GST. Moreover, fully imported cars will also become cheaper as Custom duty in lieu of CVD and the Special Additional Duty will be subsumed in GST.

In the present scenario automobiles manufactured and sold in India are liable to Excise duty (along with NCCD & applicable cess) ranging from 14% to 32% and VAT ranging from 13% to 15%, resulting in total Indirect tax cost of approximately 27% to 47% of the assessable value of cars. In the proposed dual GST structure, if in line with the current propositions the CGST and SGST range from 20% to 30%, there will be a upfront reduction in cost for automobiles from 7% to 17%.

GST will help the auto sector in opening avenues for more efficient availment of input credits and thereby removing the current inefficiencies in the supply chain. The proposed dual structure of GST will result in simplified and reduced level of statutory compliances, and will create a level playing field with international markets on account of reduction in prices.

- **GST rollout to boost growth by 2 percent: Godrej**

The Government must roll out Goods & Services tax (GST) from next fiscal as it is likely to boost economic growth by 2 per cent, Godrej Group Chairman Adi Godrej said. "Other things being equal the implementation of GST (from April 2016) will add 2 per cent to the GDP growth rate. This will also benefit manufacturing and exports," Godrej said.

Besides, Godrej said the Minimum Alternate Tax (MAT) rate, which currently stands at 18.5 per cent, must be halved. "This will enable companies to take greater advantage of the benefits of the incentives and invest more in manufacturing. This will also increase growth in GDP," he added. Godrej pitched for more incentives for the manufacturing sector in the upcoming budget. "This is a very good time to increase incentives to the manufacturing sector which will aid growth. This will also encourage investments from Indian and foreign companies. Future disinvestments and lower subsidies in the next year will help control the fiscal deficit to a large extent," he said.

- **ICAI to help Government in implementation of GST**

The Institute of Chartered Accountants of India (ICAI) would help the Union Government in implementing GST effectively. The ICAI would also launch new curriculum incorporating new system of education and training for CA students from next year.

These views were expressed by newly-elected president of ICAI for 2015-16, CA Manoj Fadnis, who hails from Indore. Fadnis said that ICAI is helping the Government in implementing it effectively. We helped the Government through concept and advisory papers. We will share our wisdom with the Government. And in the process, we will also like to increase the knowledge base of our fraternity and we are not restricting sharing of our knowledge with CAs only.

Sharing views on introduction of International Financial Reporting Standards (IFRS) in Indian Companies, the president of ICAI said that New Accounting reporting system is going to applicable in a phased manner to all the listed companies and all the companies that have net worth of Rs 500 cr.

This is the roadmap finalised by National Advisory Committee for Accounting Standard and is notified. So, all listed companies having net worth of more than Rs 500 cr, the new standard will be mandatory from April 1, 2016 for 2 years.

- **Government mulls hike in Service tax rate in upcoming Budget**

The Government is planning to hike Service tax rate in the upcoming Budget. The move towards GST may prompt the Government to hike the service tax rate. The Government intends to roll out GST by April 1, 2016. The Government is keen on a gradual hike of Service tax to cushion customers. A two percent Service tax rate hike could yield over Rs 30,000 crore to the cash-starved Government. A Service tax rate change will need amendment in the Finance Act. States will have the power to levy Service tax under GST. The Government may prune exemptions on Service tax to broaden the tax base and tweak the negative list and mega exemption list on Service tax. The Government had tweaked Service tax exemptions in the negative list in the July Budget as well. As of now, 39 services are completely exempt from Service tax.

- **Budget sops likely for Modi's pet schemes - A Swachh Bharat cess at .05%**

on all services under Service tax regime may be on the cards

Union Finance Minister Arun Jaitley's 2015-16 Budget, less than two weeks away, is likely to announce incentives to boost Prime Minister Narendra Modi's flagship schemes, such as Make in India, Swachh Bharat and Smart Cities.

The steps could include a Swachh Bharat cess of 0.05 per cent on all items covered under the Service tax, including phone bills, restaurant bills, information technology (IT) and IT-enabled services bills, Business Standard has learnt from several sources.

The Budget is also likely to reduce rates of Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT) for Special Economic Zones (SEZs), and rationalise duties to promote local manufacturing. It might also see Jaitley announcing the four-five cities where local bodies would be allowed to issue municipal bonds to finance infrastructure under the Smart Cities initiative.

Though the Swachh Bharat cess is not large, officials said it would still bring in additional revenue for the programme once implemented. They added the Centre planned to keep the funding for Swachh Bharat at Rs. 80,000 crore for three-four years.

The Service tax target for 2014-15 has been set at Rs. 2.15 lakh crore. Considering the target for the next financial year could be close to Rs. 2.4 lakh crore with the additional cess, Swachh Bharat could get an additional revenue of Rs. 150 crore.

- **Finance Ministry sets unfeasible revenue targets: TARC report**

The Tax Administration Reform Commission (TARC) submitted its fourth and final report to the Government, pointing out a tendency to fix unrealistic revenue targets by the Finance Ministry.

The commission set up by the previous UPA Government and headed by Parthasarathi Shome gave recommendations on revenue forecasting, predictive analysis and research for tax governance. "It was generally felt during the TARC's interaction with the CBDT and CBEC that revenue targets are being unrealistically fixed by the Ministry of Finance," the report said.

The mandate of the commission was to review tax laws and policies in the context of global best practices and recommend appropriate reforms measures. "When revenue targets are not met, expenditure programmes can get undermined, which leaves the Government with two options — either to contain fiscal expenditures or to allow the budget deficit to expand by the amount of revenue shortfall," the TARC has said calling for need for better revenue forecasting.

This situation has played out in recent years wherein revenue has fallen short of estimates, forcing sharp spending cuts towards the end of the year. The commission has laid out the framework for Tax Policy and Legislation in the Central Board of Direct Taxes and Tax Research Unit in the Central Board of Excise and Customs can follow in forecasting.

- **SC refers to larger bench pleas against Company Law provisions**

The Hon'ble Supreme Court questioned some provisions of the Companies Act, 2013 relating to setting up of National Company Law Tribunal (NCLT) and sent a batch of petitions challenging its constitutional validity to a larger bench. A three-judge bench headed by Justice T S Thakur questioned certain provisions of the newly-promulgated Act which gives power to the Centre to suspend and sack members and Chairpersons of NCLT and National Company Law Appellate Tribunal (NCLAT).

"You (Centre) are taking away the power from the High Courts and giving them to the tribunals whose members or chairman can be suspended by you." The fact that they can be suspended raises questions as to how they will be able to function independently while dealing with matters involving the Centre.

AG Mukul Rohatgi, appearing for the Centre, defended the provisions saying the members and Chairpersons can only be removed with concurrence of the Chief Justice of India and "if CJI cannot uphold the principal of natural justice, then who will?

The bench is hearing several pleas including one filed by Madras Bar Association challenging certain provisions of Chapter XXVII of the Companies Act, 2013 that deal with the constitution of the NCLT and NCLAT.

During the hearing, it referred to the verdict of a five -judge bench which had declared the National Tax Tribunal, set up to decide tax-related cases, as unconstitutional on the ground that the Act encroached on the "exclusive domain" of superior courts.

- **EU keen to restart FTA negotiations with India**

The European Union (EU) has said it wanted to restart negotiations on a proposed Free Trade Agreement (FTA) with India, even as it awaited the release of a new Foreign Trade Policy to understand India's stand.

India and the EU have been negotiating a trade pact, also known as the Broad-based Trade and Investment Agreement (BTIA), for about eight years. However, this couldn't be finalised because the EU has demanded a substantial tariff cut and the elimination of duties on European vehicles, auto components and wines & spirits.

"Unfortunately, we are not in a very different position from where we were a year ago. There had been no negotiations (on the BTIA) and we are waiting for the Government to release the new Foreign Trade Policy, in terms of the direction and the Government's intent… We hope under the new Government, circumstances exist to push it through. We are ready to talk," said Joao Cravinho, EU Ambassador to India.

There have been sharp differences over the EU insisting on a stricter intellectual property regime. The European Commission has also been negotiating a trade deal with the US, through which a lot of emphasis is being given on product and data protection standards.Apart from the EU, Canada, the Netherlands, Australia and Israel have also urged the Government to restart negotiations or finalise bilateral trade deals.

- **Exporters wish for tax sops in Union Budget-2015**

At a time when global competition is becoming serious and orders are being lost on razor thin margins the exporters of the country are wishing for some rebate in various taxes including upcoming GST, Service tax and on the Direct tax front in the forthcoming Union Budget 2015-16, said an apex exporter's body, Federation of Indian Export organization (FIEO).

Speaking about wish-list for upcoming Union Budget-2015, the Director General, FIEO, Ajay Sahay said, "We are looking at a road map for GST, which may come in 2016 or 2017. But we want that at least a milestone should be decided for now and we should move towards those rates, which we want to achieve. And from export sector we want that all the State taxes may be brought under the State GST so that there is complete rebating for exports otherwise at the moment the draft, which have been circulated, does not cover all the taxes for example the electricity duty, the Sales tax on diesel and petroleum products these are not covered under the State GST".

Secondly on Service tax, he said, "We want that lot of Service taxes, which exporters takes in the form of banding of its product or testing of its product abroad they are now charged under the reverse charge mechanism, which is not rebated also to the exporters. So we want that for those activities there should be exemptions for exports. Otherwise it will hit at the product. People will not be going for testing and also the branding is very much required."

He said that exports should be exempted from Service Tax. First paying the Service Tax and then applying for refund of it increases transaction cost and time. Many times small exporters do not apply for refund as it takes lot of documentation and time.

In their detailed wish-list, FIEO also urged for bringing Export under Priority Sector Lending, marketing support fund, induction of safe Harbour Rules for contract manufacturing, incentivising manufacturing firms in exports and excise duty should be exempted on purchase of capital goods from indigenous manufacturers under EPCG Scheme.

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