

Minutes of RAC Meeting for Organised, SSI and Service Tax Sectors held on 23.03.04 at 11.00 AM at the Office of the Commissioner of Central Excise, Head Quarters, Trichy-1.

The Regional Advisory Committee meeting of Trichy Central Excise Commissionerate for Organised, SSI and Service Tax Sectors was held on 23.03.04 at 11.00 AM at Head Quarters Office, Trichy. **Shri. MATHEW JOHN, Commissioner of Central Excise, Trichy** presided over the meeting.

The following members of the Trade attended the meeting.

S.NO	NAME OF THE RAC MEMBER SHRI.	REPRESENTING ASSOCIATION
1.	D.S.MOGHAN	Chamber of Commerce, Kumbakonam.
2.	R.M. Bairavan	Karaikal Industries Forum Karaikal.
3.	M.Sivakannan	Karur Exporters Association, Karur.
4.	A.Venkataraman	Trichy Chapter of ICWA.
5.	S. Gopinath	India Cements, Dalavoi.
6.	N.Rajan	CII, Trichy.
7.	S.Subramanian	SSI Sector- M/S Veasons Energy Systems, Trichy.
8.	M.K.Jegannathan	Service Tax Sector, Karur District Kalyana mandap Owners' Assn.
9.	R.K.Elango	Service Tax sector, The Institute of Insurance Surveyors and Adjusters, Tamil Nadu Chapter.
10.	V.Alagappan	Service Tax Sector., Trichy Branch of Southern India Regional Council of the Institute of C.A.

Shri. S.Rajadurai, representing Organised Sector, Senior GM, Thiru Arooran Sugar Mills Ltd,

Shri. V.N.C.Bhasker, representing Karur Industrial Estate Entrepreneurs Assn.,

-both members expressed their inability to attend the meeting.

The following Departmental Officers attended the Meeting.

S/Shri.

- 1. PAPPU ILANGO, Additional Commissioner (P & V)**
- 2. D.P.NAIDU, Joint Commissioner (AE)**
- 3. V.JAYARAMAN, Joint Commissioner (Tech)**
- 4. C.ANANDAN, Assistant Commissioner (Tech)**
- 5. V.P.VELUSWAMY, Assistant Commissioner (Legal)**
- 6. A.RAJENDRAN, Assistant Commissioner, I Division.**

At the outset, the Chairman welcomed all the Members of newly constituted Regional Advisory Committee and the following points were taken up for discussion.

Points Sponsored by Shri.Bhairawan, Karaikal Industries Forum:-

Many SSI units supplying finished products or part of export products to export agencies would like to get the benefit of export as a principal supplier. The request is to clarify :

- (i) the benefits available to such supplier
- (ii) the exact formalities to be complied by the supplier as well as by the exporter.
- (iii) Whether it is possible to get the status of “ Deemed Export” for goods supplied to the Principal Supplier and
- (iv) The procedure to get Central Excise Exemption for goods supplied to Merchant Exporter.

Reply :-

Normally export benefits are given to the actual Exporters, either Manufacturer Exporter or Merchant Exporter. Export benefits are mostly given through Import Export Policy administered by the Ministry of Commerce read with relevant Customs Notification. They accrue through Export Promotion Schemes. Viz. DEEC, EPCG, DFRC,DEPB etc. The Exporters are eligible for Duty Drawback and also Rebate on goods exported on payment of duty. The important Export benefits to Manufacturers who supply goods to actual exporters under Central Excise are as follows:-

- (i) Goods can be cleared without payment of duty vide Notification No.43/2001 CE (NT) dated 26.06.2001 as amended.
- (ii) Intermediate goods can be removed without payment of duty for manufacture and export vide Notification No.44/2001 CE (NT) dated 26.06.2001 as amended.
- (iii) Goods can be removed without payment of duty to 100% EOUs etc vide Notification No.22/2003 CE dated 31.03.2003. Such Clearances enjoy Deemed export benefits under Import and Export Policy through Ministry of Commerce read with Customs Notifications.

It was also informed that the Exports are governed in Central Excise Under Rule 18 and 19 of Central Excise Rules 2002 and the Notifications 41/2001 to 45/2001 CE all dated 26.06.2001 and the same may be referred in this regard. After going through the Notifications if further clarifications are required they may come for personal discussion with Commissioner.

POINTS SPONSORED BY Shri. R.Elango, Chairman , THE INSTITUTE OF INSURANCE SURVEYORS AND ADJUSTERS, TAMIL NADU CHAPTER, TRICHY.

(i) Insurance Agents come under Insurance Auxiliary Service as per Sec 65 (72) (ZL). But Service Tax is not collected from them. Are they exempted by any special rule ?

Reply: As per rule 2 (1) (iv) of Service Tax Rules 1994, the person liable for paying Service Tax in relation to insurance auxiliary service by an insurance agent is any person carrying on the general insurance business, or the life insurance business, as the case may be. Thus tax is collected on the service rendered by Agents. But it is collected in the hands of the Companies giving Insurance.

(ii) The Name, designation & Phone No. of the Officer-in-charge for respective Jurisdiction should be made available at reception of the Commissioner Office.

Reply :- This will be done.

(iii) Whether the department will take action against those who are not paying Service Tax to the service provider.

Reply: There is no provision in Service Tax Rules 1994 or Chapter V of Finance Act, 1994 to initiate action against any person for not paying Service Tax to the service provider who is liable to collect such tax and pay to the Govt.. As

per section 68 every person providing taxable service to any person shall pay service tax at the rate specified in section 66. Provisions of Contract Laws will help the service provider to recover money from the Consumer of the Service.

After discussion of the above points, the members were asked to raise any relevant points for clarification.

(iv) Shri. Sivakannan, representing Karur Exporters Association represented that some of the association members have sought permission from the Commissioner to move the goods from the vendors or producers premises to the premises of the Exporter for inspection, packing and export. The Exporter would like to submit the Proof of Export himself rather than through the Vendors.

Reply :- It was clarified to him that as per the existing instructions goods have to be exported from the Vendors' / producers' premises and proof of export has to be produced only by the vendors who is exporting. The other option is that the manufacturer Exporter may export goods in such a manner that the identity of goods cleared from the vendor is easily established at the time of export. It was also informed to him that the representations in this regard is being processed and final decision will be communicated shortly.

v) Shri.N.Rajan, representing CII, Trichy raised a point whether the presentation of Cheque for discharge of duty for the month of March 2004 on 31st March 2004 can be taken as payment of duty.

Reply :- It was clarified that as per the existing instructions date of presentation of Cheque in the bank will be taken as date of payment of duty provided the cheque is honoured.

vi) Shri Rajan also requested that a short write up the action points and due dates relating to Central Excise levy requiring the attention of top management of Companies should be prepared and given for the benefit of senior functionaries in Companies.

REPLY : This work will be done in about three months' time.

Vii) Shri.V.Alagappan, representing Service Tax Sector, has sought for clarification about the impact of Notification No.6/2001 ST dated 9.07.2001 amended by Notification No.13/2001 ST dated 27.12.2001 for the intermediate period from 09.07.2001 to 27.12.2001.

Reply :- It was clarified that as per the Notifn No.6/2001 ST dated 9.7.2001 exemption is given to the taxable Service provided to a customer in relation to still photography by a photography studio or agency, **which is not registered under the law relating to Shops and Establishment or any other law of a State for the time being in force.** Amendment was made in the above Notification vide Notification No. 13/2001 ST dated 27.12.2001 where exemption has been given to taxable service provided to a customer in relation to still photography by a photography studio or agency **other than a Commerical concern .** The amendment made in the original Notification 6/2001 ST dated 9.7.2001 will have only prospective effect and for the intermediate period from 9.7.2001 to 27.12.2001 the original Notification 6/2001 S.T. dated 9.7.2001 holds good.

viii) Shri.RM.Bhairawan, Karaikal stated that M/S Real India Courier service are having so many retail outlets/franchises and charging Rs. 3.50 per packet and they are using stamps of their own and sought for clarification whether the retail outlet/franchisee has to register with the department individually.

ix) Shri.RM.Bhairawan, Karaikal also sought for clarification whether Cellular phone operators are having so many franchisees and whether those franchisees have to make Registration with the department.

Reply :- It was clarified that sub-rules 2,3,and 3A of Rule 4 of Service Tax Rules 1994 cover this type of situations. The billing pattern and accounting pattern of the service provider have to be verified for deciding the Registration criteria in respect of the situations referred above. Further it was clarified that the value of taxable services shall be the gross amount charged by the service provider for such service rendered by him. If the main agency declares all franchisees, pay Service Tax for the full value of Stamps and the franchisees do not collect any additional amount, there is no need for the franchisees to get registered .

x) Shri.R.K.Elango representing Service tax sector, has stated that many Corporates are acting as insurance agents in respect of private insurance companies and sought clarification whether these Corporates acting as agents have to take Registration under Service tax.

Reply :- It was clarified that as per Rule 2 (1) (iv) of Service Tax Rules 1994, the Insurance Agents are not responsible and only the Insurance Companies are responsible for paying service tax. Hence the Insurance Agents need not have to take registration with the Department.

Finally the Chairman thanked all the members who attended the meeting.

(Issued in file IV/16/202/2003.C.Ex.Pol)

Sd/xxx
(MATHEW JOHN)
COMMISSIONER

//ATTESTED//

(R. VIJENDRAN)
SUPERINTENDENT (T)

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE: TRICHY

Trade Notice No. 30 / 2004

Dated: 26.3.2004.

To
As per mailing list I, II, III

Copy to All Group A Officers/
Sections in Hqrs. Trichy.

Copy submitted to:
The Chief Commissioner of C.EX. Coimbatore.
The Under Secretary, CBEC, CX-9 section,
North Block, New Delhi.