

**Minutes of the RAC Meeting for Organised, SSI and Service Tax Sectors held on 24.03.2005 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 24.03.2005 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 S/ SHRI.	ASSOCIATION REPRESENTED
01.	A.VENKATARAMAN	ICWAI, Trichy
02.	S. GOPINATH	INDIA CEMENTS LTD.
03.	S. SUBRAMANIAN	SSI SECTOR
04.	R.K. ELANGO	INSTITUTE OF INSURANCE SURVEYORS & ADJUSTERS

In addition, the following assesseees also attended the meeting.

01	S. PUNNIYAMOORTHY	CAUVERY ENGG. WORKS
02	S. ABDUL RASHIM	Secretary TIDITSSIA
03	K.G. MURALIDHARAN	Secretary BHELSSIA

The following Departmental Officers were present.

S/Shri.

- 1) Pappu Elango, Additional Commissioner (P & V), Headquarters, Trichy
- 2) V.Jayaraman, Joint Commissioner (Tech), Headquarters, Trichy
- 3) A. Rajendran, Assistant Commissioner, Trichy – I Division
- 4) C. Anandan, Assistant Commissioner (Tech.), Headquarters, Trichy.

At the outset, the Chairman welcomed all the Members of the Regional Advisory Committee and emphasized the need for all the members to attend.

Though no points had been sponsored in advance, the Chairman asked the members whether they wanted to take up any matter. The following points relating to Service Tax were raised and replies given on the spot.

**POINT NO. 1:** Applicability of Notification No. 6/2005 dated 1-3/2005 for Goods Transport Agency:

If a person liable to pay Service Tax for services rendered by Goods Transport Agency does not have turnover above Rs.4 lakhs in respect of that service, can he avail exemption under Notification No. 6/2005 – ST dated 01.03.2005?

**REPLY :** The exemption under Notification 6/2005 – ST dated 01.03.2005 is not applicable to a consignor or consignee who has to pay Service Tax for services rendered by a Goods Transport Agency. The second proviso to the notification may be seen in this regard.

The exemption will be available in cases where the Goods Transport Agency itself is paying tax that is in cases where the burden of the payment is not shifted under Section 68 (2) of the Finance Act, 1994 read with notifications issued in that behalf.

**POINT NO. 2 :** Tax liability on the processes of rolling and shearing :

If an ancillary unit of BHEL does rolling or shearing process on steel plates supplied by BHEL and return the material, is it necessary to pay any Service Tax on the Job Work charges received?

**REPLY :** Notification No. 8/2005 ST dtd 1-3-05 provides exemption from Service Tax in such cases. But the exemption is available only from 1-3-2005. Tax is payable in such case for the period 10.09.2004 to 28.02.2005.

**POINT NO. 3 :** Calculation of Service Tax on Goods Transport Operator

In case where the freight amount exceeds Rs. 750/- per individual consignment or Rs. 1,500/- for the full consignment in a vehicle, how is the tax liability to be calculated?

**REPLY :** Service Tax will have to be calculated at the rate of 10.2 percent for the full freight amount without deducting Rs. 750/- or Rs. 1,500/- as the case may be. However, the facility for paying 10.2 percent on 25 percent of the freight amount as provided in Notification No. 32/2004 dated 03.12.2004 is available if the conditions laid down in that Notification are satisfied. The main condition is that Cenvat credit on inputs and capital goods used for providing the service should not have been taken.

**POINT NO. 4** : Credit on Service Tax paid on freight in the case of job work.

In the case of job work done, if the supplier sends the raw material on freight paid basis, can the job worker take credit of the tax paid by the supplier?

**REPLY** : In this situation two approaches are possible. They are:-

- i) The freight charge for transport from principal manufacturer to the job worker and the freight for transport from the job worker back to the principal manufacturer are values for input service received by the principal manufacturer. Hence the principal manufacturer can take credit of tax paid on both the freight charges; or
- ii) The freight charge for transport from the principal manufacturer to the job worker is value of input service for the job worker and the freight charge for transport from the job worker to the principal manufacturer is value for input service for the principal manufacturer. That is to say the job worker can take credit of tax paid on the transport charges from principal manufacturer to the job worker and principal manufacturer can take credit of tax paid on the transport charges from the job worker to the principal manufacturer.

But it has to be ensured that on the same payment (especially tax paid on transport charges from the principal manufacturer to the job worker), both the parties do not take credit. There is some deficiency in Rule 9 of Cenvat Credit Rules in the matter of document to be relied upon in such situations. This matter is taken up with the Ministry for greater clarity in Rules. But in the meanwhile credit will not be denied so long as proof of freight amount and proof of tax payment is produced and it is ensured that on the same payment two parties do not take credit.

**POINT NO. 5** Applicability of 25% of freight charges to consignor or consignee:

In cases where a consignor or consignee has to pay Service Tax on the service rendered by a Good Transport Agency as per the provisions of Notification No. 36/2004 – ST dated 3.12.2004, is it possible to avail benefit of Notification No. 32/2004 – ST dated 03.12.2004 for payment of Tax on 25% of the freight charges?

**REPLY** : Yes. But it has to be ensured that the Goods Transport Agency has not taken credit on capital goods and inputs used by him for providing the service. The consignor or consignee can take CENVAT credit as usual in respect of his other manufacturing activity or service being rendered by him.

The Chairman also informed the members that specified branches of Indian Bank & State Bank of India have been nominated for collection of Central Excise Duty and Service Tax with effect from 15.04.2005 in this Commissionerate. The members welcomed the decision.

Finally, the Chairman thanked the gathering.

(Issued from the C.No.IV/16/193/2004 - C.Ex. Pol)

//ATTESTED//

Sd./xxxx  
(V. JAYARAMAN)  
JOINT COMMISSIONER (TECH)

SUPERINTENDENT (TECH.)

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,  
NO.1, WILLIAMS ROAD, CONTONMENT, TRICHY-620 001.

TRADE NOTICE : **18/2005**

Dated : 12.04.2005.

To

As per mailing list I,II & III.

Copy submitted to: The Chief Commissioner of Central Excise, Coimbatore.

Copy to:- The Under Secretary, CBEC, CX-9 section, North Block, New Delhi.