

Minutes of the RAC Meeting for Organized, SSI and Service Tax Sectors held on 23.06.2005 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 23.06.2005 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.

Sl.No.	NAME OF THE RAC MEMBER S/SHRI.	ASSOCIATION REPRESENTED
01.	R.M.BHAIRAVAN	KARAIKAL INDUSTRIES FORUM
02.	V.ALAGAPPAN	ICAI
03.	R.K. ELANGO	INSTITUTE OF INSURANCE SURVEYORS & ADJUSTERS

In addition, the following assesseees also attended the meeting.

01	S.SITAKANTA PRUST	GRASIM INDUSTRIES LTD.
02	V.KRISHNAKUMAR	THE SCIENTIFIC FERTILIZERS CO., LTD.

Shri. M.Sivakannan, representing Karur Textile Manufacturers Association, Shri. C. Basker, representing Karur Industrial Estate Entrepreneurs Association and A. Venkataraman, representing I.C.W.A.I *informed their inability to attend the meeting.*

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) M.G. Thamizhvalavan, Joint Commissioner, Headquarters, Trichy
- 4) C. Anandan, Assistant Commissioner (Tech.), Headquarters, Trichy.
- 5) A. Rajendran, Assistant Commissioner, Trichy – I Division.
- 6) V.P.Veluswamy, Assistant Commissioner, Trichy-II Division.

At the outset, the Chairman welcomed all the Members of the Regional Advisory Committee and emphasized the need for all the members to attend even if they had not sponsored any points. He also informed the members that a HELP CENTRE to provide free guidance to small tax payers in matters relating to Central Excise, Customs and Service Tax will function from 01.07.2005 at the District Chamber of Commerce Building, 167, Madurai Road, Trichy-8. (Phone No. 2700440)

The following points relating to Central Excise and Service Tax were raised and replies were given.

CENTRAL EXCISE:-

Points raised by M/s. Grasim Industries Ltd.,

Point 1 : The recent Notification No. 27/2005 on sale of capital goods as waste and scrap specifies that duty is payable on the transaction value. However when Capital goods are disposed off as “used capital goods” either to outsiders or to other divisions or group Companies, whether duty has to be paid on transaction value or on original purchase value? If the Cenvat credit has not been taken at the time of purchase, whether the duty has still to be charged on such disposal / transfer?

Reply :- In terms of the provisions contained in sub-rule 4 of Rule 3 of Cenvat Credit Rules, when the capital goods are removed as “Capital goods” whether before use or after use the manufacturer shall pay an amount equal to the credit availed in respect of such capital goods. If the manufacturer has not taken cenvat credit at the time of purchase, then the question of payment of any amount does not arise.

Point 2 : Whether interest is payable even after suo moto reversal of Cenvat credit taken earlier?

Reply :- For any wrong Credit taken interest has to be paid even if the amount is reversed suo moto as per the provisions contained in Rule 14 of Cenvat Credit Rules 2004

Point 3 : Whether duty has to be paid on scrap generated out of fabrication / erection activities of plant & machinery even if Cenvat credit on the same has not been availed?

Reply :- Fabrication of plant and machinery is a manufacturing activity and therefore scrap generated has to be cleared on payment of duty as waste and scrap generated falls under Chapter 7204. The duty has to be paid even if Cenvat credit has not been availed.

Point 4 : When some of the damaged plant & machinery / spares are scrapped and disposed off to outsiders or to other divisions / sister units after reconditioning, what would be the basis of the duty payable? Whether it is on transaction value or on original purchase value? What happens if Cenvat was not taken at the time of purchase?

Reply :- After reconditioning the damaged Capital goods attain the original status and therefore these are cleared in good working condition only. Therefore the amount equivalent to the credit taken already has to be paid in terms of Sub rule 4 of Rule 3, if credit has been taken on receipt of the items in the factory. If no credit is taken no duty need to be paid so long as the re-conditioning work does not amount to manufacture.

In respect of capital goods cleared as scrap, duty has to be paid on Transaction Value as per Notification No. 27/2005 – CE (N.T) dated 16.05.2005.

SERVICE TAX

POINTS RAISED BY THE SCIENTIFIC FERTILISER COMPANY (P) LTD ,TRICHY

POINT NO.1: The assessee M/s SFL, Trichy is availing Notification 32/2004 and 34/2004 both dated 03.12.2004 which give abatement of 75% of freight charges and exempt Service Tax if freight is less than Rs.750/-. The assessee wants to know whether the exemption Notifications availed by them is correct.

Reply: 1. The abatement of 75% under Notfn.32/2004 dated 03.12.2004 is available on the gross amount charged by the GTA from the customer, subject to the fulfillment of conditions stipulated in the proviso to the notification. The main condition is that the transporter should not have availed credit of excise duty on capital goods and inputs used for providing the service. The person paying tax may take declaration from the transporter to that effect especially if the transporter is in the organized sector.

2. The assessee can avail exemption under notfn.34/2004 dated 03.12.2004, since this exemption is available to transport agencies or consignor or consignee under the category of GTA.

POINT NO: 2 There are many broker transporters who do not have valid Lorry Receipt and they engage local vehicles for transport of our materials and we settle the freight with the transporters directly. In these cases we are not able to get proper LR and we are paying on the support of the receipts issued by the driver of the vehicle on our voucher. We require your guidance in this matter also.

Reply: If the service tax is being paid by the assessee as stated by M/s. SFL, Trichy, the assessee can take credit based on TR-6 challan evidencing payment as per Notification 28/2005 dated 7-6-2005 including the service GTA in rule 9 (1)(e) of CENVAT Credit Rules 2004.

POINT NO: 3 The Assessee sought clarification whether they can utilize the Service Tax for clearing the goods based on TR.6 challan every Month?

Reply: Credit can be taken for services utilised only up to the place of removal. Credit cannot be availed on tax paid on freight from the place of removal..

POINT NO. 4 Whether service tax credit paid on Courier, Telephone and Maintenance services etc., can be utilized while clearing their goods?

Reply: If the assessee, manufacturer in this case, is not engaged in manufacturing of exempted goods he can avail 100% Credit. Similar is the case when the service provider is not providing and exempted service. Otherwise the manufacturer shall maintain separate book of accounts of input service meant for use in the manufacture / Output service in respect of dutiable and exempted goods or taxable and exempted services, as the case may be. If, no separate accounts maintained and if the exempted goods not covered under Rule 6 (3)(a) the assessee shall pay the amount equal to 10% of the total price of the exempted final product.

In respect of service tax paid on Courier and Telephone services, it is not possible to maintain the accounts separately. Therefore, the assessee cannot avail Credit. In respect of Annual Maintenance Contract for Machinery, if this machinery is used for manufacture of both dutiable and exempted goods, the assessee can avail 100% Credit as per sub-rule 5 of rule 6 of CENVAT Credit Rules 2004.

Points raised by Shri. R.M Bhiravan, President of Karaikal Industrail Forum.

POINT NO. 5 Whether the Service Tax Credit can be availed by the manufacturer who is availing SSI exemption upto One Crore.

Reply : The manufacturer under the exemption limit cannot avail the Service Tax credit. On crossing the exemption limit the assessee can avail the credit on input services received after they start paying duty.

The Chairman also informed the members that the next RAC meeting will be held in the third week of September 2005.

Finally, the Chairman thanked the gathering.

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

//ATTESTED//

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

SUPERINTENDENT (TECH.)

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

TRADE NOTICE : **28/2005**

Dated : 27.06.2005.

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.