



## INDIRECT TAXES UPDATE - 10

### SERVICE TAX

#### Monetary limits for adjudication of penalty under service tax revised

Central Board of Excise and Customs has revised the monetary limits for adjudication of penalty by Central Excise Officers by amending *Notification No. 30/2005-ST dated 10.08.2005* in the following manner:

Sr. No.	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under Section 83A
(1)	Superintendent of Central Excise	Up to Rs.1,00,000 (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation)
(2)	Assistant/Deputy Commissioner of Central Excise	Up to Rs.5,00,000 (except cases where Superintendents are empowered to adjudicate.)
(3)	Joint Commissioner of Central Excise	Rs.5,00,000 to Rs.50,00,000
(4)	Additional Commissioner of Central Excise	Rs.20,00,000 to Rs.50,00,000
(5)	Commissioner of Central Excise	Without limit.

[Notification No. 48/2010 ST dated 08.09.2010]

### CLEAN ENERGY CESS

#### Due date for filing of Clean Energy Cess Return aligned with date of payment

Following clarifications have been made in respect of Clean Energy Cess vide a Circular:

(i) Rule 11 of the Clean Energy Cess Rules has been modified vide *Notification No. 7/2010 - Clean energy Cess dated 08.09.10* to the effect that now the return for the said cess will be due by the 10th day of the second month, following the month in which removals are made. For example, the return for the month of July 2010 shall be due by the 10th of September, 2010.

(ii) In order to integrate the monthly return form, FORM-I, of the clean energy cess with systems

format, the same has been changed as suggested by the Directorate of Systems, vide the above-mentioned Notification.

(iii) Pending opening of new Head of Account, the cess being deposited by assesseees may be accounted for under Sub-Head/Minor Head of Accounts "Receipt Awaiting Transfer to other Minor Head etc" under the Major Head 0038-Union Excise Duty. The reduced accounting code to be quoted for depositing "Clean Energy Cess" is 00380086 (U.E.D).

(iv) An applicant seeking registration as a "producer" shall register through ACES by selecting the category of registration as a "manufacturer".

*[CEC Circular F.No.354/72/2010-TRU dated 08.09.2010]*

## **EXCISE DUTY**

### **Goods cleared from an EOU for sale in DTA, when actual sale transaction does not take place at the time of clearance but on a subsequent date, to be valued by sequential application of Rules 3 to 9 of the Customs Valuation Rules (Determination of Price of Imported Goods), 2007**

The value of goods cleared from an 100% Export Oriented Undertaking to a depot from where the sale thereof to Domestic Tariff Area is effected through consignment agents will have to be determined by sequential application of Rules 3 to 9 of the Customs Valuation Rules (Determination of Price of Imported Goods), 2007.

The same view has been expressed by the CESTAT in following cases

(a) Endress Hauser Flowtec (I) Pvt Ltd. [2009 (237) ELT 598 (T)]

(b) Morarjee Brembana Ltd. [2003 (154) ELT 500 (T)]

(c) Uniworth Textile Ltd. [2009 (244) ELT 401 (T)]

The earlier clarification issued vide *Circular No 268/85-CX.8 dated 29.09.1994* clarifying that valuation of goods in such situations will have to be done in accordance with the Rule 8 of the Customs Valuation Rule (Determination of Price of Imported Goods), 1988 as it existed then has been withdrawn.

*[Circular No. 933/23/2010 CX dated 16.08.2010]*

*The complete text of above notification and circulars are available at [www.cbec.gov.in](http://www.cbec.gov.in)*

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