

INDIRECT TAXES UPDATE - 61

SERVICE TAX

Sub-contractors providing WCS to the main contractor rendering WCS for infrastructure projects are exempt from service tax - Clarification by CBEC

The services provided by Work Contract Service Providers in respect of projects involving construction of roads, airports, railways, transport terminals, bridges, tunnels, dams etc. are specifically excluded from the definition of taxable works contract service and are thus, not liable to service tax under section 65(zzzza) of the Finance Act, 1994.

Circular No. 138/07/2011 – ST dated 06.05.2011 had clarified that while the main contractor providing works contract services in respect of such infrastructure projects is exempt from service tax, the services provided by its subcontractors would be distinctly classifiable under the respective sub-clauses of section 65(105) of the Finance Act, as per their description and taxed accordingly. It was explained that the sub-contractors providing services to the main contractor would not be automatically exempt from service tax by virtue of providing services to the main contractor who is providing WCS service in respect of projects involving construction of roads, airports, railways, transport terminals, bridges, tunnels, dams etc.

CBEC has now further clarified that though the services provided by the sub-contractors to the main contractor are independently classifiable under WCS, they too will get the benefit of exemption if they are in relation to the infrastructure projects mentioned above.

[Circular No. 147/16/2011 ST dated 21.10.2011]

S.K. Goel appointed as new Chairman, CBEC

Shri Satish Kumar Goel has been appointed as the new Chairman of Central Board of Excise and Customs with effect from 1st Nov ,2011. He has taken over the charge from Shri Sumit Dutt Majumdar on his retirement on 31st October, 2011.

Draft Circular issued for streamlining the process for refund of credit on export of services

The CBEC has issued a draft clarificatory circular on determination of the input services, which are eligible for refund under *Notification No. 05/2006 ST*. Suggestions can be sent to the Board by 30.11.2011 at d.aron@nic.in . The issue of eligibility of input services to refund under *Notification No. 05/2006* has been addressed in *Circular No. 120/01/2010-ST dated 19.01.2010* which mentions the Procedural/legal impediments causing delay in

refund and clarifications for quick disposal of refund claims.

[Draft Circular on Refund of Service Tax dated 28.10.2011]

EXCISE

Power of Adjudication Revised for Additional Commissioners

CBEC has revised the monetary limit for adjudication for Additional Commissioners under section 11A and section 33 of the Central Excise Act, 1944. They can now adjudicate the cases with a monetary limit from above Rs. 5 Lac and upto Rs. 50 Lac. Earlier the limit was above Rs.20 Lac and upto Rs.50 Lac. As a result of this amendment a uniform monetary limit i.e., above Rs. 5 Lac & upto Rs. 50 Lac has been fixed for both Additional Commissioners and the Joint Commissioners.

[Circular No. 957/18/2011-CX-3 dated 25.10.2011]

CUSTOMS

All India Rates of Drawback – Board clarifies the amendments

All Industry Rates (AIR) of Duty Drawback 2011-12 were notified vide *Notification No. 68/2011-Cus. (N.T.) dated 22.09.2011*. These rates have come into effect on 01.10.2011. Subsequently, on receiving representations on the Drawback Schedule 2011-12 from Export Promotion Councils, Trade associations and individual segments of industry with respect to classification of items (mainly erstwhile DEPB items) in the Schedule, duty drawback rates, value caps and other miscellaneous matters., amendments/ changes, wherever required, were made vide *Notification No. 75/ 2011-Cus. (N.T.) dated 28.10.2011*. *Circular No.48/11 dated 31.10.11* has now been issued by CBEC to explain the amendments/ changes made by the said notification.

[Circular No. 48/11 Cus. dated 31.10.2011]

On Site Post-Clearance Audit – Clarification issued by CBEC

CBEC has introduced the scheme of 'On Site Post Clearance Audit' or OSPCA at premises of importers and exporters' vide *Notification No. 72/2011-Cus. (NT) dated 4.10.2011*. This scheme complements the legislative change resulting in self-assessment of import / export duties by importers / exporters vide the Finance Act, 2011.

OSPCA is a trade facilitation measure aimed at expediting clearances while safeguarding the interest of revenue.

[Circular No.47/2011 Cus. dated 21.10.2011]

Source: www.cbec.gov.in and www.taxindiaonline.com

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