

SERVICE TAX

Clarification on the issues in VCES

CBEC has issued a *Circular No. 174/9/2013- ST dated 25.11.2013* to clarify various issues in regard to Voluntary Compliance Encouragement Scheme (VCES). Following issues have been clarified by the circular :

- ❖ If an inquiry, investigation or audit, pending as on 1.3.2013 was being carried out for the part period i.e. 2008-2011, benefit of VCES **would be eligible** in respect of 'tax dues' for the **period not covered by the inquiry, investigation or audit i.e. for the year 2012.**
- ❖ If an inquiry or investigation, pending as on 1.3.2013 was in respect of a specific issue, say renting of immovable property, benefit of VCES **would be eligible** in respect of 'tax dues' concerning **any other issue** in respect of which no inquiry or investigation was pending as on 1.3.2013.
- ❖ In case designated authority has reasons to believe that the declaration filed by declarant is covered by section 106(2), a **notice** of intention to reject the declaration will be given to the declarant within **30 days** from the date of filing of declaration stating reasons of rejection to give so as an opportunity of being heard before the rejection.
- ❖ The designated authority may take a view on **merit** on the basis of facts and circumstances of each case as to whether the inquiry is of roving nature or whether the provisions of section 106 (2) are to be attracted.
- ❖ Benefit of scheme **would be** available for payment of tax made after 10.05.2013 even though the declaration under the scheme has been made later on.
- ❖ Benefit of scheme would **not** be available for waiver from penalty and other proceedings where service tax pertaining to the scheme along with interest has already been paid by the assessee.

[Circular No. 174/9/2013- ST dated 25.11.2013]

Mandatory electronic payment in case of service tax payment of Rs.1 Lacs

CBEC vide *Notification No. 16/2013 dated 22.11.2013* provides that where an assessee has paid a total service tax of Rs.1 Lac or more including the amount paid by utilisation of CENVAT Credit, in the preceding financial year, he shall deposit the service tax electronically through internet banking.

[Notification No. 16/2013 ST dated 22.11.2013]

**Time limit for filing of Form A-3 by SEZ Unit / SEZ Developer to avail ab initio exemption on specified services**

*Notification 12/2013 dated 1.07.2013* required SEZ Unit or the Developer to furnish a quarterly statement, in Form A-3, to the jurisdictional Superintendent of Central Excise providing the details of specified services received by it without payment of service tax to avail ab initio exemption on the specified services received and used exclusively for authorised operations.

The aforesaid mentioned Notification has been amended by *Notification No. 15/2013- ST dated 21.11.2013* to provide that such quarterly statement has to be filed by 30th of the month following the particular quarter.

Further, the Notification states that Form A-3 pertaining to the period July, 2013 to September 2013 shall be furnished by December 15, 2013.

*[Notification No. 15/2013- ST dated 21.11.2013]*

**EXCISE**

**Mandatory electronic payment in case of Excise payment of Rs.1 Lacs**

CBEC vide *Notification No. 15/2013 -CX dated 22.11.2013* provides that an assessee who has paid total **duty of Rs.1 Lac** or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year shall thereafter, deposit the duty electronically through internet banking.

*[Notification No. 15/2013 -CX dated 22.11.2013]*

**Amendment of Rule 8,9 and 10 of the Central Excise Valuation Rules, 2000**

CBEC vide *Notification No. 14/2013- CX(NT) dated 22.11.2013* has amended Rules 8, 9 and 10 of the Central Excise Valuation Rules, 2000 dealing with determination of assessable value in case of captive consumption and sale to related person.

These rules have been amended to provide that irrespective of whether the whole or a part of the clearances of manufactured goods are covered by the circumstances given in these rules, each clearance is required to be assessed according to section 4(1)(a) of the Central excise Valuation Rules, 2000 or the relevant rule dealing with the circumstances of clearance of the goods, as the case may be.

For example, if an assessee clears his goods in such a way that first removal of goods is to an independent buyers, some goods are captively consumed, second removal is to

such a related person who is covered under rule 9 and third removal is to a person who is covered under rule 10, then the first removal should be assessed under section 4(1)(a), captively consumed goods should be assessed under rule 8, second removal should be assessed under rule 9 and third removal should be assessed under rule 10 of these rules. It may be noted that Central Excise Valuation Rules, 2000 are not required to be followed sequentially. Each of these rules provide for arriving at the assessable value of goods under different contingencies as noted by Hon'ble Supreme Court at paragraph 70 in case of Commissioner of Hon'ble Supreme Court at paragraph 70 in case of Commissioner of Central Excise, Mumbai vs M/s FIAT India Pvt Ltd [2012 (283) ELT 161 or 2012-TIOL-58-SC-CX].

*[Notification No. 14/2013 -CX dated 22.11.2013 and Circular No. 975/09/2013-CX dated 25.11.2013]*

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