

# INDIRECT TAXES UPDATE – 136

## Central Excise

### Detailed Scrutiny of Central Excise Returns

#### **1. Guidelines for Detailed Scrutiny of Central Excise Returns prescribed**

Return scrutiny is the first line of verification carried out by the Department upon submission of tax return by the assessee. A returns scrutiny process consists of two parts viz. preliminary scrutiny and detailed scrutiny. While the preliminary scrutiny system covers all the returns filed online, detailed scrutiny system covers a few returns selected on the basis of identified risk parameters. CBEC vide *Circular No. 1004/11/2015-CX, Dated: July 21, 2015* has laid down the following guidelines for detailed scrutiny of Central Excise Returns:

- (a) Detailed scrutiny of a minimum of 2% and maximum of 5% of the total returns received in a month shall be mandatorily performed by the proper officers.
- (b) The assessee should be selected by the Commissionerates on the basis of **Risk Score** ascertained as per *letter F. No. 381/20/2015 dated 18.05.2015*.
- (c) An assessee who has been selected for audit in a given financial year shall **NOT** be selected for detailed scrutiny.
- (d) Once the return of an assessee has been selected for detailed scrutiny, the return of the assessee should **NOT** be selected again for the next 12 months for detailed scrutiny.
- (e) Most recent return filed by that assessee should be used for conducting the detailed scrutiny.
- (f) Ratio of returns for Service Tax & Central Excise to be scrutinised in a composite range will be the ratio of the number of assessee registered as Service Tax and Central Excise assessee respectively.

*[Circular No. 1004/11/2015-CX, Dated: July 21, 2015]*

#### **2. Guidelines for use of Digitally signed invoices/records in e-format**

CBEC vide *Notification No. 18/2015-Central Excise (N.T.), Dated: July 06, 2015* has prescribed the guidelines for issuing invoices, preserving records in electronic form and authentication of records and invoices by digital signatures. The notification specifies the conditions, safeguards and procedures for issue of invoices, preserving records in electronic form, authentication of records and invoices by digital signatures and the same is summarised as under :

- (i) Use of only Class 2 or Class 3 Digital Signature Certificate duly issued by the Certifying Authority in India;
- (ii) Intimating specified details like name, e-mail id etc., of the person authorised, name of

the Certifying Authority etc., to the jurisdictional Deputy Commissioner or Assistant Commissioner of Central Excise, at least 15 days in advance. In case of any change in the details already submitted, within 15 days of such change;

- (iii) Maintaining separate electronic records for each factory or each Service Tax Registration separately;
- (iv) Producing the specified records in electronic form and invoices through e-mail or on a specified storage device in an electronically readable format for verification, on request by the Central Excise Officer;
- (v) The Central Excise Officer, during an enquiry, investigation or audit may direct an assessee to furnish printouts of the records in electronic form and invoices and may resume printouts of such records and invoices after verification and after signing of print outs by the assessee, if so requested;
- (vi) Preservation of appropriate back up of records in electronic form for a period of 5 years.

The contents of digitally signed invoices may be verified as follows:

- a. Digitally signed invoices or documents either in PDF format or the hard copy of invoices and documents may contain a web link where the documents or invoices are stored by the assessee, which can be accessed using this web link for verification. Assessee shall either provide access to the web link of the company for verification or forward the digitally signed invoice or document by e-mail on requisition by the Central Excise Officer for verification;
- b. Automatic pop-up of message once a digitally signed invoice is opened for the first time;
- c. Document modification history;
- d. Access to key information from the signature panel and acceptance of signer post verification of necessary particulars.

[Notification No. 18/2015-Central Excise (N.T.), Dated: July 06, 2015; Instruction F. No. 224/44/2014-CX.6]

## *Service Tax*

### **3. Detailed Manual Scrutiny of Service Tax Returns**

CBEC vide *Circular No. 185/4/2015-ST, Dated: June 30, 2015* has revised the earlier prescribed procedure for carrying out detailed scrutiny of returns laid down vide *Circular No. 113/07/2009-ST dated 23-4-2009*. With the introduction of the Point of Taxation Rules, 2011, which shifted the liability of payment of service tax from receipt basis to accrual basis, and the advent of negative list-based comprehensive taxation of services in 2012, need for revision became persistent. Thus, with effect from 01.08.2015, detailed scrutiny of ST-3 returns would be carried out in the prescribed manner.

In order to put in place a strong 'return scrutiny' system, a two part system of return was

envisaged- a preliminary scrutiny which would be online covering all the returns; and a detailed manual scrutiny of scrutiny returns, identified on the basis of risk parameters, to be done by the Division/Range offices and should be carried out in the manner outlined in the Circular, illustrated as below:

(a) **Preliminary Online Scrutiny**

The purpose is to ensure the completeness of the information furnished in the return, arithmetic correctness of the amount computed as tax and its timely payment, timely submission of the return and identification of non-filers and stop-filers. On the basis of validation checks returns having certain errors are marked for Review and Correction (Rnc).

(b) **Detailed manual scrutiny**

The purpose is to ensure the correctness of the assessment made by the assessee and this includes checking the taxability of the service and the correctness of the value of taxable services. In doing this Proper Officer must rely mainly on assessment related documents like agreements/contracts and invoices.

(c) **Selection of returns for detailed scrutiny**

Core focus would be in respect of such assesseees whose total tax paid (Cash + CENVAT) for the FY 2014-15 is below Rs 50 Lakhs. Each Commissionerate has to select equal number of assesseees for carrying out returns scrutiny from each of the these three total tax paid bands (Cash + CENVAT) viz. Rs 0 to 10 lakhs, Rs 10-25 lakhs, Rs 25-50 lakhs for the financial year 2014-15.

(d) **Methodology**

Detailed scrutiny of returns must be conducted by the Service Tax Range headed by the Superintendent and assisted by a complement of inspectors. However, the Divisional DC/AC shall be responsible for the overall supervision of this business process in respect of his/her division. Before return scrutiny is initiated, the assessee must be given prior intimation of at least fifteen days and the purpose of the exercise must be spelt out in an intimation letter. To begin with, the returns for the financial year 2013-14 should be taken up for detailed scrutiny. One of the important objective of return scrutiny is to ensure validation of the information furnished in the self-assessed ST-3 return. The Validation exercise would require reconciling information furnished in the ST-3 return with ITR Form Nos. 4, 5, 6 and 26AA and any third party information made available.

(e) **Documentation of Findings / Checklist**

- Reconciliation for validation of the information furnished in the ST-3 return;
- Taxability in respect of services which may have escaped assessment;
- Classification (for the purposes of due availment of abatement/ exemption benefit);
- Valuation; and
- CENVAT Credit availment/utilization

Circular further provides for Proforma of Intimation Letter, Assessee Master Information,

Checklist, Observation sheet for documenting scrutiny findings, Scrutiny Report, Monthly MIS Report and Draft Scrutiny Report.

[Circular No. 185/4/2015-ST, Dated: June 30, 2015]

## VALUE ADDED TAX

### Tamil Nadu VAT

#### **4. Manual C and F Forms to be issued to dealers upto 30/09/2015**

Tamil Nadu Government vide *Circular No.24/2015,CC4/678/2014-Dated 20th June, 2015*, has provided that manual forms "C" and "F" may be issued to the dealers upto 30/09/2015 for all the missed out invoices and for any mistakes in the already generated online forms (both current and backlog period).

[Circular No.24/2015,CC4/678/2014-Dated 20th June, 2015]

### Odisha VAT

#### **5. Exemption from VAT on ATF when sold to International Flight**

Odisha Government vide *Notification No. 17764-FIN-CT1-TAX-0055-2012, Dated 23 June, 2015*, has exempted sale of Aviation Turbine Fuel (ATF) to international flights from payment of VAT provided International airlines gives a certificate to the selling dealer (Oil Company) of Aviation Turbine Fuel (ATF) after the purchase in the specific format provided in the said Notification about the detailed purchase of Aviation Turbine Fuel (ATF).

[Notification No. 17764-FIN-CT1-TAX-0055-2012, Dated 23 June, 2015]

### Andhra Pradesh VAT

#### **6. Invoice details of Purchase and sale to be filed along with monthly returns**

Andhra Pradesh Govt. vide *Circular No. CCTs Ref. No. AI(1)/26/2014, dated 17<sup>th</sup> June 2015*, has prescribed the guidelines for submission of details of invoice(s) of purchases and sales in Annexure I and II respectively, along with Monthly VAT Return. Details so provided will be reconciled with respective purchaser and seller returns.

[Circular No. CCTs Ref. No. AI(1)/26/2014, dated 17<sup>th</sup> June 2015]

#### **7. Refunds to be settled within 60 days; Suspension of Manual Systems.**

Andhra Pradesh Government vide *Circular 1,2 and 3 No. CCTs/Ref. No. CCW/CS(1)/128/2015*,

dated 19<sup>th</sup> June, 2015, has advised all the Deputy Commissioner(s) to settle and issue all the claims of Refunds within 60 days from the date of claim by the dealer as against the earlier period of 90 days.

It has also been advised to dispense all manual systems, enhance e-Registration and issue/approve Registration Certificates within 1 day from the date of filing the Application through APPT-e-Registration.

[Circular 1, 2 and 3 No. CCTs/Ref. No. CCW/CS(1)/128/2015, dated 19<sup>th</sup> June, 2015]

### Maharashtra VAT

#### **8. Communication to Department to be duly received by the Authority**

Maharashtra Government has advised all officers and authorities to accept the letters and correspondence addressed to them. If any authority refuses to do the same he will be dealt strictly and serious consideration will be given to complaint in this regards. For Cancellation of Assessment Orders u/s 23(11), it has been further advised to first receive the application and secondly the authority should decide whether to cancel such assessment or not.

[Circular No.8 of 2015 Dated 16th June, 2015]

#### **9. VAT to be levied on transfer of right to use of Intangible goods.**

With reference to Hon'ble Bombay High Court Judgment in case of Tata Sons Ltd., Maharashtra Government vide Circular No. 11 of 2015, Dated 7<sup>th</sup> July 2015 has clarified that in case of transfer of right to use goods of intangible nature i.e. trade mark, technical know-how, copy right etc. to multiple users, VAT would be levied.

[Circular No. 11 of 2015, Dated 7<sup>th</sup> July, 2015]

### Rajasthan VAT

#### **10. Authorities to issue Notice to cancel the registration of the dealer who has not filed return.**

Rajasthan Government vide Circular- No. 02/2015-16- No. F.16 (97)/Tax/CCT/14-15/5895 Dated 23<sup>rd</sup> June, 2015, has advised all Assessing Authorities to issue notices to all such dealers who have not filed return(s) for the year 2013-14 and 2014-15 for cancellation of their registration.

[CIRCULAR- No. 02/2015-16- No. F.16 (97)/Tax/CCT/14-15/5895 Dated 23<sup>rd</sup> June, 2015]

#### **11. Early refund procedure to Inter State Dealer.**

Rajasthan Government vide Circular No. 02/2015-2016, F. 16(95)/Tax/CCT/14-15/5937, Dated 23<sup>rd</sup> June 2015, has provided procedure for early refund to registered dealer whose turnover of interstate sales in the previous year was 50% of total turnover. Dealer is required to make an online application in Form VAT 20A on the web portal under the order dated 12.05.2015, after

submission of quarterly return in Form VAT-10 for the same. The dealer is also required to file certain details like period of refund, details of C Forms etc.

*[Circular No. 02/2015-2016, F. 16(95)/Tax/CCT/14-15/5937, Dated 23<sup>rd</sup> June 2015]*

**12. Physical Forms for CST and VAT to be received with online acknowledgement.**

Rajasthan Government vide *Circular- No. 03/2015-16- No. F.16 (97)/Tax/CCT/14-15/5903 Dated 23<sup>rd</sup> June, 2015*, has advised all Assessing Authorities to accept physical forms only through "Statutory Forms Details" functionality under which dealer shall submit details of CST and VAT statutory Forms as per the prescribed template and shall furnish physical forms along with copy of acknowledgement generated through web portal within three working days. Physical Forms will only be received with the acknowledgement of online submission of forms.

*[CIRCULAR- No. 03/2015-16- No. F.16 (97)/Tax/CCT/14-15/5903 Dated 23<sup>rd</sup> June, 2015]*

**13. Any Officer authorized by the commissioner can conduct audit.**

Rajasthan Government vide *Circular- No. 05/2015-16- No. F.16 (97)/Tax/CCT/14-15/5921 Dated 23<sup>rd</sup> June, 2015*, has clarified that the officer authorized by Commissioner may conduct the audit of the dealer for whom they have been appointed as an auditor even though they are not field officer and not have an official seal.

*[Circular- No. 05/2015-16- No. F.16 (97)/Tax/CCT/14-15/5921 Dated 23<sup>rd</sup> June, 2015]*

**14. No Tax to be levied on Sub-contractor if the contractor has made payment in lump sum in lieu of the tax on whole of the contract.**

Rajasthan Government vide *Circular- No. 06/2015-16- No. F.16 (97)/Tax/CCT/14-15/5929 Dated 23<sup>rd</sup> June, 2015*, has clarified that there will be no tax on sub-contractor if the contractor is developer, builder or work contractor who undertook construction of flat, dwelling or building etc. and he has made payment in lump sum lieu of the tax on whole of the contract.

*[CIRCULAR- No. 06/2015-16- No. F.16 (97)/Tax/CCT/14-15/5929 Dated 23<sup>rd</sup> June, 2015]*

**15. Launch of "RAJ VAT" app for Form VAT47A & VAT49A**

Rajasthan Government vide *Circular- No. 03/2015-16- No. F.16 (95)/Tax/CCT/14-15/5958 Dated 23<sup>rd</sup> June, 2015* has launched its android app named 'RAJ VAT' for Form VAT 47A and VAT 49A which can be downloaded from play store. The user can login with its credentials and may apply for the supra said forms.

*[CIRCULAR- No. 03/2015-16- No. F.16 (95)/Tax/CCT/14-15/5958 Dated 23<sup>rd</sup> June, 2015]*

### West Bengal VAT

#### **16. Facilities to furnish hard copy of Online Filed Returns**

West Bengal Government vide *Circular No. 12/2015, Dated 7<sup>th</sup> July 2015*, has facilitated the submission of hard copy of online filed returns with the help of facilitation center in case returns are not digitally signed. Such hard copy can be submitted either manually, by post or courier.

*[Circular No. 12/2015, Dated 7<sup>th</sup> July 2015]*

### Uttar Pradesh VAT

#### **17. Turnover limit extended for Option to apply for Form 38 either in physical or electronic mode**

Uttar Pradesh Government vide *Circular No. 492/1516023, Dated 3<sup>rd</sup> of July 2015*, has enhanced the turnover limit to provide an option given to the assessee to apply either in physical form or electronic form; Form 38 for Import and Form 21 for Transport, for turnover exceeding 50 Lakhs but less than 1 crore. *It may be noted that for turnover of 1 Crore or above, application only in electronic mode is allowed.*

*[Circular No. 492/1516023, dated July, 3, 2015]*

### Delhi VAT

#### **18. DP 1 is to be submitted before 31.08.2015**

Delhi Government vide *NOTIFICATION No. F.3(352)/Policy/VAT/2013/346-357 Dated 30th June, 2015*, has extended date for submission of DP 1 till 31.08.2015 as against the earlier prescribed date: 30.06.2015

*[Notification No. F.3(352)/Policy/VAT/2013/346-357 Dated 30th June, 2015]*

#### **19. Certain Amendments have been made by Delhi VAT Amendment Act 2015**

(a) No adjustment of Output Tax is required in case of post sales discount or incentive

Section 10 has been amended to provide for that while issuance of a credit note of a post-sale discount or incentive by a selling dealer, where no adjustment to output tax, as per the provisions of sub-sections (1) and (2) of section 8 has been made, no adjustment for reduction of input tax credit would be required by the respective buying registered dealer

(b) Time lime to demand security in case of refund has been increased

Section 38 has been amended to provide that commissioner may demand security as a condition of the payment of a refund within 45 days from the date of return or claim of refund made.

It may be noted that earlier period to demand security was 15 days.

(c) Reduction in Penalty under Section 86 of DVAT Act.

S.N	SECTION	Particular	Earlier Penalty	Revised Penalty
1	86(5)	Registered dealer who does not inform the commissioner within one month of selling or disposing off his business, or change in name of business	Rs.500 Per day	Rs.200 Per day
2	86(6)	Registered dealer who does not apply for cancellation of his registration when he ceases to carry his business	Rs.500 Per day	Rs.200 Per day
3	86(9)	Dealer who is required to furnish a return, does not furnish within due date.	Rs.500 Per day	Rs.200 Per day

### [Madhya Pradesh VAT](#)

#### **20. Deemed assessment for the notified registered dealers whose cases are pending for 2013-14.**

MP Government vide *Notification No. FA 3-20-2013-1-V(27), Dated 2<sup>nd</sup> of July* has provided that if any assessment is pending for a dealer for the year 2013-2014 having annual turnover upto Rs 20 crore (excluding certain persons such as one in whose case tax evasion has been deducted or notice has been issued, Exempted Industrial Units), may apply in Form A, B and C within 45 days from 2<sup>nd</sup> of July i.e. the date of Notification affixing a court fee stamp of Rs 5. Proof of payment of Tax, list of Sale and Purchase, Audit Report, declaration Forms are also required to be attached. The procedure for the same has been prescribed in the Notification.

*[Notification No. FA 3-20-2013-1-V(27), Dated 2<sup>nd</sup> of July]*



### [Karnataka VAT](#)

#### **21. Revision option made available while uploading the details of sales and purchase**

Karnataka Government vide *Circular No. 04 of 2015/16 No. CCW/CR-44/2013-14 Dated 27th June, 2015*, has clarified that the mistakes in details of purchase and sale may be rectified while filling details online as the revision option has been made available.

*[Circular No. 04 of 2015/16 No. CCW/CR-44/2013-14 Dated 27th June, 2015]*

### [Jharkhand VAT](#)

#### **22. Karsamadhan Scheme launched**

Jharkhand Government vide *Notification No. G.O. No 2262 Dated 26th June, 2015* has introduced Karsamadhan Scheme to allow partial waiver of arrears, penalty and interest payable upto the assessment years 2005-06. Conditions and procedures for the same have also been prescribed in the notification.

*[Notification No. G.O. No 2262 Dated 26th June, 2015]*

### [Assam VAT](#)

#### **23. Input Tax Credit is not allowed on purchase of goods manufactured by industrial unit under Assam Industries (Tax Exemption) Scheme in specified cases**

Assam Government vide *Notification No. FTX. 71/2014/93-Dated 3<sup>rd</sup> July 2015*, has clarified that registered dealer, who purchases goods manufactured by an industrial unit which is eligible under the Assam Industries (Tax Exemption) Scheme, 2015, and sells such goods in inter-state trade or export or branch transfer, shall not be entitled to input tax credit issued by the eligible industrial unit in respect of such sale or transfer.

*[Notification No. FTX. 71/2014/93-Dated 3<sup>rd</sup> July 2015]*

### [Bihar VAT](#)

#### **24. Road Permit Exempted upto 200000/-.**

Bihar Government vide *Notification No. BikriKar/Vividh-43/2011/3605, dated 10<sup>th</sup> of July 2015*, has exempted consignment of goods valued upto 2 Lakhs within the State of Bihar.

*[Notification No. BikriKar/Vividh-43/2011/3605, dated 10<sup>th</sup> of July 2015]*

Source: [www.cbec.gov.in](http://www.cbec.gov.in)

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