

INDIRECT TAXES UPDATE – 141

CENTRAL EXCISE & SERVICE TAX

Clarification regarding utilization of credit of Education Cess for payment of Service Tax

CBEC vide *Notification No. 22/2015-Central Excise (N.T.), Dated: October 29, 2015* has amended Rule 3 sub-rule 7 of CENVAT Credit Rules, 2004 to allow utilization of the credit of Education Cess (EC) and Secondary and Higher Education Cess (SHEC):

- Paid on inputs or capital goods received in the premises of the provider of output service on or after the 1st day of June, 2015;
- Paid on capital goods received in the premises of the provider of output service in the financial year 2014-15 (50% balance of EC & SHEC paid);
- Paid on input service in respect of which the invoice, bill, challan etc. as referred to in rule 9, is received by the provider of output service on or after the 1st day of June, 2015;

for payment of service tax on any output service.

However, CBEC is yet to provide a clarification on following issues:

- a) Treatment of old unutilized/ accumulated credit of EC & SHEC of Excise duty with the assessee as on 28th February 2015.
- b) Treatment of old unutilized/ accumulated credit of EC & SHEC of Service Tax with the assessee as on 31st May 2015.

[*Notification No. 22/2015-Central Excise (N.T.), Dated: October 29, 2015*]

Amendment in Mega Exemption Notification 25/2012 - Service Tax

CBEC vide *Notification No. 20/2015-ST, Dated: October 21, 2015* has amended Mega Exemption Notification No. 25/2012 –ST, *Dated: June 20, 2012* as follows:

- Clause 29
(g) Services provided by **business facilitator or a business correspondent or intermediaries to business facilitator or business correspondents to a banking company** with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar

seeding.

Services provided by business facilitator or a business correspondent to an insurance company in a rural area remain exempted as earlier.

Prior to this amendment any service provided by business facilitator or business correspondents (excluding intermediaries) to any banking company in rural area were exempted irrespective of the type of account and nature of activities.

- Clause 34
(b) Charitable activities provided by entities registered under 12AA of the Income Tax Act, 1961 to include advancement of **yoga**.

[Notification No. 20/2015-ST, Dated: October 21, 2015]

[Guidelines for launching of Prosecution & revised monetary limits for arrest under Central Excise & Service Tax](#)

CBEC vide *Circular Nos. 1009/16/2015-CX dated 23.10.2015 and 1010/17/2015-CX dated 23.10.2015* has provided guidelines for launching of prosecution under the Central Excise Act, 1944 and the Finance Act, 1994. Further, CBEC has directed its officers not to exercise their powers for launching prosecution unless evasion of Central Excise duty or Service Tax, or misuse of CENVAT Credit in relation to offences specified under sub-section (1) of Section 9 of the Central Excise Act, 1944 or sub-section (1) of section 89 of the Finance Act, 1994 is equal to **or more than Rs. One Crore.**

However, it is important to note here that though there is no change in monetary limit (Rs. 50 lakh) mentioned under sub-section (1) of Section 9 of the Central Excise Act, 1944 and sub-section (1) of section 89 of the Finance Act, 1994, these directions are issued to optimally utilize limited resources.

Further, prosecution can be launched disregarding the monetary limits in the case of a company/assessee habitually evading tax/duty or misusing Cenvat Credit facility. Habitual evaders means a company/assessee who is evading tax/duty or misusing CENVAT Credit facility, if it has been involved in three or more cases of confirmed demand (at the first appellate level or above) of Central Excise duty or Service Tax or misuse of CENVAT Credit involving fraud, suppression of facts etc. in past five years from the date of the decision such that the total duty or tax evaded or total credit misused is equal to or more than Rs. One Crore.

For detailed guidelines please visit: <http://www.cbec.gov.in/Excise-Circulars-Instructions>

[Circular Nos. 1009/16/2015-CX dated 23.10.2015 and 1010/17/2015-CX dated 23.10.2015]

CUSTOMS

Use of digital signature for submission of documents

CBEC vide Circular No. 10/2015-Customs, dated 31.03.2015 had provided that importers registered under Accredited Client Programme (ACP) were required to mandatorily file Bills of Entry with digital signature with effect from 01.05.2015.

Now in order to increase coverage of digitally signed documents and subsequent phasing out of physical /manual submission of documents; CBEC vide Circular No. 26/2015-Customs, Dated: October 23, 2015 has provided that all importers/ exporters using services of Customs Brokers for formalities under Customs Act, 1962, shipping lines and air lines shall file customs documents under **digital signature certificates mandatorily with effect from 01.01.2016**. The importers/ exporters desirous of filing Bill of Entry or Shipping Bill individually will have the option of filing declarations/ documents without using digital signature. Further, wherever the customs process documents are digitally signed, the Customs will not insist on the user to physically sign the said documents.

[Circular No. 26/2015- Customs, Dated: October 23, 2015]

Source: www.cbec.gov.in

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