

INDIRECT TAXES UPDATE – 165

CENTRAL EXCISE

Common registration and return for First Stage Dealer and Importer

The Central Government vide *Notification No. 30/2016-Central Excise (N.T.), Dated: June 28, 2016* has provided that an assessee who is registered as a First Stage Dealer is exempt from taking registration as an importer and vice-versa. A single registration would suffice for both the activities.

It has also been clarified that assessee opting for a single registration for both activities need to file a single quarterly return giving details of transactions as a first stage dealer and an importer, one after the other in the same table of the return, viz., all transactions as first stage dealer during the return period will be followed by all transactions as an importer during the same return period.

It has further been provided that the facility of taking a single registration is optional and any assessee requiring separate registrations may do so and file separate returns accordingly.

[Notification No. 30/2016-Central Excise (N.T.), Dated: June 28, 2016 & Circular No. 1032/20/2016-CX, Dated: June 28, 2016]

Comment : To facilitate ease of doing business.

Time limit for taking Registration under Central Excise by Jewellers

The Central Government vide *Circular No. 1033/21/2016-CX dated July 1, 2016* has extended the time limit for taking central excise registration of an establishment by a jeweller upto 31st July 2016. Further, the central excise duty is liable to be paid from 1st March 2016, however jewellers may make the payment of excise duty for the months of March, 2016; April, 2016 and May, 2016 along with the payment of excise duty for the month of June, 2016 upto the extended date of July 31, 2016.

[Circular No. 1033/21/2016-CX dated July 1, 2016]

Procedure for supply of bunker fuels to Indian vessels carrying containerised cargo

Central Government vide *Circular No. 1034/22/2016-CX, Dated: July 01, 2016* has prescribed procedure for clearance of indigenous bunker fuels (i) IFO 180 CST (ii) IFO 380 CST without payment of Central Excise duty for use in ships or vessels from bonded stocks of bunker fuel being maintained by the Oil Manufacturing Companies (OMCs) at the ports located in the coastal areas where the specified ships/ vessels operate.

Procedures are prescribed for availing exemption, Submission of utilisation certificate, Reconciliation and recovery in the aforesaid clearance.

[Circular No. 1034/22/2016-CX, Dated: July 01, 2016]

Removal of bunker fuels for use in ships or vessels from factory to warehouse and warehouse to another warehouse without payment of duty

Central Government vide *Notification No. 31/2016-Central Excise (N.T.), Dated: July 4, 2016* has extended the facility of removal of specified excisable goods from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty to bunker fuels for use in ships or vessels. The existing warehousing and export warehousing procedures prescribed shall be followed mutatis mutandis for clearance of bunker fuel from refinery to the warehouses of the OMCs and for further supply to the eligible ships and vessels.

[Notification No. 31/2016-Central Excise (N.T.), Dated: July 4, 2016]

Recovery of confirmed demands during the pendency of stay application

Earlier the Central Government vide *Circular No. 967/1/2013-CX dated 01.01.2013* provided clarification on the issue of recovery of confirmed demands during the pendency of stay application filed by the assessee. However, Hon'ble High Court of Punjab and Haryana judgment in case of *M/s PML Industries Ltd. Vs Commissioner of Central Excise - 2013-TIOL-201-HC-P&H-CX* pronounced that during the pendency of stay, irrespective of the conduct of the assessee, no recovery could be made. SLP filed by the Department against this judgment has also been dismissed by the Hon'ble Supreme Court, thus upholding the decision of the Hon'ble High Court. Based on the decisions, *Circular No. 967/1/2013-CX dated 01.01.2013* has been rescinded by the Government.

Also, in cases where stay application is pending before Commissioner (Appeals) or CESTAT for periods prior to 06.08.2014, no recovery will be made during the pendency of the stay

application. For subsequent period i.e. from 06.08.2014 onwards, if the assessee has made the payment of stipulated amount as pre-deposit of 7.5% / 10%, and the copy of appeal memo is filed with the appellate authority to the jurisdictional authorities, no coercive measures for recovery of the balance amounts can be taken during the pendency of the appeal.

Further, as a measure of liberalization and to ensure uniformity of practice the Central Government has clarified that recovery proceeding in relation to an order of Hon'ble High Court or Tribunal confirming demand of duty, may be initiated only after a period of 60 days from the date of order of the Hon'ble Tribunal or Hon'ble High Court, where no stay has been granted by Hon'ble High Court or Hon'ble Supreme Court against the order of Hon'ble Tribunal or Hon'ble High Court, respectively.

[Circular No. 1035/23/2016-CX dated July 4, 2016]

Comment: This is a welcome and long awaited clarification from the Government that no recovery proceedings would be initiated against the assessee who has already paid the pre-deposit amount to the credit of the Government. This was also a suggestion of ICAI Pre Budget Memorandum.

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Secretary

Indirect Taxes Committee The Institute of Chartered Accountants of India

ICAI Bhawan A-29, Sector -62, NOIDA (U.P.) India

Website: www.idtc.icai.org