

Summary of Notifications, Circulars from 16th September, 2016 to 15th October, 2016

SERVICE TAX

1. Exemption to taxable services provided by State Govt. etc. by way of granting long term lease of industrial plots to industrial units

Central Government vide *Notification No. 41/2016-Service Tax, Dated: September 22, 2016* has extended exemption from service tax payable under section 66B of Finance Act 1994 to taxable services provided by State Government Industrial Development Corporations/ Undertakings to industrial units by way of granting long term (30 years, or more) lease of industrial plots. However, this exemption is restricted to service tax payable on the one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for such lease.

[Notification No. 41/2016-Service Tax, Dated: September 22, 2016]

2. Form ST 3 amended to include One Person Company, KKC etc.

The Central Government vide *Notification No. 43/2016-Service Tax; Dated: September 28, 2016* has amended Service Tax Rules, 1994 in turn amending Form ST-3 (Service Tax Return u/s 70 of the Finance Act, 1994 & Rule 7 of Service Tax Rules, 1994) to give effect to the following changes:

- Insertion of word One Person Company with words Individual/Proprietary
- Insertion of word "Limited Liability Partnership", with the word "Partnership"
- Insertion of columns and entries relating to Krishi Kalyan Cess at relevant places.

[Notification No. 43/2016-Service Tax; Dated: September 28, 2016]

3. Revision of Monetary limits for issuing Service tax notice by officers

Central Government vide *Notification No. 44/2016-Service Tax, Dated: September 28, 2016* has amended the adjudication power of officers. The revised limits are as under:

S. No.	Rank of the Central Excise Officer	Amount of service tax of CENVAT credit specified in a notice issued under the Finance Act 1994.	Amount of service tax of CENVAT credit specified in a notice issued under the Finance Act 1994.
		<i>w.e.f. 28th September 2016</i>	<i>Prior to 28th September 2016</i>
(1)	Superintendent	Not exceeding Rs. 10 lakhs (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation).	Not exceeding Rs. 1 lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)
(2)	Assistant Commissioner or Deputy Commissioner	Not exceeding Rs. 50 lakhs (except cases where Superintendents are empowered to adjudicate).	Not exceeding Rs. 5 lakhs (except cases where Superintendents are

			empowered to adjudicate.)
(3)	Joint Commissioner or Additional Commissioner	Rs. 50 lakhs and above but not exceeding Rs. 2 crores.	Above Rs. 5 lakhs but not exceeding Rs. 50 lakhs (JC) & Above Rs. 20 lakhs but not exceeding Rs. 50 Lakhs (AC)
(5)	Commissioner	Without limit."	Without limit."

[Notification No. 44/2016-Service Tax, Dated: September 28, 2016]

4. Guidelines for arrest in relation to offences punishable under the Finance Act, 1994 and Central Excise Act, 1944

Presently, the power of arrest in Service Tax is available only if a person collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond the period of 6 months from the date on which such payment becomes due and the amount exceeds Rs. 2 crores.

In furtherance to above, Central Government vide Circular No. 201/11/2016-Service Tax, Dated: September 30, 2016 has provided following factors which must invariably be kept in mind before arresting a person:

1. Conditions precedent- Legal - includes

- Collection of an amount exceeding Rs.2 Crore as service tax should be clear and self-evident from the invoices, bills, contracts, etc.
- The ST3 return filed by the assessee for the relevant period, showing the self-assessed value of taxable services and service tax paid should be available in file.
- Failure should be beyond the period of 6months from the date on which such payment becomes due.

2. Conditions precedent- Factual

- Is the alleged offender likely to hamper the course of further investigation by his unrestricted movement?
- Is the alleged offender likely to tamper with evidence or intimidate or influence witnesses?
- If the answer to both the questions is yes, then the decision to arrest can be made.
- If the alleged offender is assisting in the investigation and has deposited at least half of the evaded tax, then the need to arrest may not arise.

It is directed that henceforth arrest and prosecution of a person may be considered only in cases where evasion of Central Excise duty or misuse of CENVAT Credit is equal to or more than Rs. 2

crores as against earlier limit of Rs. 1 crore in order to maintain uniformity of practice in Central Excise and Service Tax.

It has further been reiterated that arrest and prosecution need not be resorted to in cases of technical nature i.e. where the additional demand of duty/tax is based totally on a difference of opinion regarding interpretation of law

[Circular No. 201/11/2016-Service Tax, Dated: September 30, 2016]

5. Exemption to Certain Services from levy of Service Tax

Central Government has exempted the following services from the levy of service tax:

S. No.	Services	Period of Exemption	Vide Notification
1.	Services provided by way of advancement of Yoga by entities registered under section 12AA of Income-tax Act, 1961 (Charitable or Religious Trusts and Institutions)	The period from 1st July 2012 to 20th October 2015	<i>Notification No. 42/2016-Service Tax, Dated: September 26, 2016</i>
2.	Transportation, by educational institutions to students, faculty and staff of such institutions	Period commencing on and from the 1st April, 2013 to 10th July, 2014.	<i>Notification No. 45/2016-ST dated September 30, 2016</i>

[Notification No. 42/2016-Service Tax, Dated: September 26, 2016 & Notification No. 45/2016-ST dated September 30, 2016]

CENTRAL EXCISE

6. Amendment in form A.R.E.-2 for claiming rebate on removal of goods for export

Central Government vide *Notification No. 44/2016-Central Excise (N.T.), Dated: September 16, 2016* has amended the conditions and procedure for rebate of duty on excisable goods used in manufacture/ processing of export goods (*Notification No. 21/2004- CE (N.T.) dated September 6, 2004*) thereby amending Form A.R.E 2. From now on there can be made a combined application for removal of goods for export under claim for rebate of duty paid on excisable materials used in the manufacture and packing of such goods and removal of dutiable excisable goods for export under claim for rebate of finished stage Central Excise Duty or under bond without payment of finished stage Central Excise Duty leviable on export goods.

[Notification No. 44/2016-Central Excise (N.T.), Dated: September 16, 2016]

7. Supply of goods from EOUs without payment of Duty against Advance Licence

Presently exemption from excise duty on inputs is denied in cases where goods cleared into DTA are either non-excisable or in case of imports attract nil rate of Customs duty and additional Customs duty, when goods manufactured by EOU are supplied to Advance Licence /Authorisation holder in DTA.

Central Government vide *Circular No. 1046/34/2016-CX, Dated: September 16, 2016* has clarified that manufactured goods supplied by EOU to an Advance Licence/Authorisation Holder would be exempt from Excise Duty.

Now, clearance from EOU or DTA unit to Advance Licence/Authorisation holder has been allowed without payment of Central Excise duty, as both the cases are of "Import substitution." In case of supply of goods to Advance Licence/Authorisation holder, the export obligation is cast upon person holding Advance Licence/Authorisation and in case of default in export obligation recovery from the person holding Advance Licence/Authorisation is provided for in law.

[Circular No. 1046/34/2016-CX, Dated: September 16, 2016]

8. Rebate of duties paid on raw materials used in manufacture or processing of export goods and admissibility of duty drawback

Assessee have been facing difficulty in simultaneously availing drawback of Customs portion and rebate of duties of excise on raw material used in the manufacture or processing of goods exported.

In this regard, Central Government vide *Circular No. 1047/35/2016-CX, Dated: September 16, 2016* has provided the following:

- i) Where in respect of exports, CENVAT credit is not availed on inputs but input stage rebate on excisable goods except diesel is availed under rule 18 of the Central Excise Rules, 2002, drawback of Customs portion, as per rates and caps specified in drawback schedule will be admissible;
- ii) Where in respect of exports, CENVAT credit is not availed on inputs but the inputs except diesel, are procured without payment of Central Excise duty under sub-rule (2) of rule 19 of Central Excise Rules, 2002, drawback of Customs portion, as per rates and caps specified in the drawback schedule will be admissible;
- iii) Where in respect of exports, input stage rebate on diesel under rule 18 of Central Excise Rules, 2002 is availed or diesel is procured without payment of Central Excise duty under sub-rule (2) of rule 19 of Central Excise Rules, 2002, no drawback under the drawback schedule will be admissible.
 - a) Divisional Assistant/Deputy Commissioner, Central Excise, while sanctioning the rebate claim should verify this aspect and in case of availment of any drawback, where input stage rebate on diesel under rule 18 of Central Excise Rules, 2002 is also availed will deny the claim of rebate involved on diesel out of the rebate claimed, for violation of the declaration (d) of the ARE 2.
 - b) In cases where diesel is procured without payment of Central Excise duty under sub-rule (2) of rule 19 of Central Excise Rules, 2002, and the goods are exported under claim of drawback the Central Excise duty involved on diesel will be recovered for violation of the declaration (d) of the ARE 2, while examining the proof of export.

[Circular No. 1047/35/2016-CX, Dated: September 16, 2016]

9. No Photocopies of Railway Receipts required to be submitted with STTG Certificate for Claiming CENVAT Credit

Central Government vide *Notification No. 45/2016-CE (N.T.) dated 20.09.2016* has amended Rule 9 of CENVAT Credit Rules, 2004 and provided that the requirement of enclosing photocopies of the railway receipts (RRs) with the STTG certificate, as a document for availing CENVAT credit has been done away with. Only a Service Tax Certificate for Transportation of goods by rail issued by the Indian Railways would suffice for claiming the credit.

Further, Central Government vide *Circular No. 1048/36/2016-CX, Dated: September 20, 2016* has prescribed the detailed procedure for availing CENVAT credit of service tax paid on transportation of goods by rail.

[Notification No. 45/2016-CE (N.T.) dated 20.09.2016 & Circular No. 1048/36/2016-CX, Dated: September 20, 2016]

10. Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016-Security Bond Again Permitted

AS per Rule 4(5) of the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, (*Notification No. 20/2016-CENT, dated 01.03.2016*), the applicant manufacturer was required to execute a general bond with surety or security. The words “or security” were later removed vide *Notification No. 22/2016-CENT, dated 15.03.2016* and only surety was required to execute a general bond.

Now, Central Government vide *Notification No. 46/2016-CE(NT) dated 26.09.2016* has again added the words “or security” getting the situation back to starting point i.e. the applicant manufacturer is required to execute a general bond with surety or security.

[Notification No. 46/2016-CE(NT) dated 26.09.2016]

11. Adjudication Powers vested to Audit Commissioners etc.

Central Government vide *Notification No. 47/2016-Central Excise (N.T.), Dated: September 28, 2016* has vested the specified Central Excise Audit Officers with powers of Central Excise Officers for the purpose of adjudication in addition to their existing powers for the purpose of Audit and issue of Show Cause Notices conferred vide *Notification No. 30/2014-CENT, dated 14.10.2014*.

[Notification No. 47/2016-Central Excise (N.T.), Dated: September 28, 2016]

12. Revised Monetary Limits for adjudication of Show Cause Notice in Central Excise and Service Tax

Central Government vide *Circular No. 1049/37/2016-CX, Dated: September 29, 2016* has suppressed specified circulars (8 in total) and revised the existing monetary limits for adjudication so as to allow a greater flexibility in allocation of cases amongst adjudicating authorities.

Henceforth, powers of adjudication both in Central Excise and Service Tax will be exercised, based on the following monetary limits of the duty/ tax/ credit involved in a case:

Sl. No.	Central Excise Officer	Monetary Limits of duty/ tax/credit demand for Central Excise and Service Tax
1.	Superintendent	Not exceeding Rs. 10 lakh
2.	Deputy/ Assistant Commissioner	Above 10 lakh but not exceeding Rs. 50 lakh
3.	Additional/ Joint Commissioner	Above Rs. 50 lakhs but not exceeding Rs. 2 Crores
4.	Commissioner	Without limit i.e. cases exceeding Rs. 2 Crores

However, cases involving taxability, classification, valuation and extended period of limitation will be kept out of the purview of adjudication by Superintendents. Such cases, upto Rs. 10 lakhs, will also be adjudicated by the Deputy Commissioner/ Assistant Commissioner in addition to the cases exceeding Rs. 10 lakhs but not exceeding Rs. 50 lakhs.

For special category cases following monetary limits have been prescribed:

- a) Cases of refund (including rebate) will be adjudicated by the Deputy Commissioner/ Assistant Commissioner without any monetary limit.
- b) Cases relating to appeals to the Appellate Tribunal regarding loss of goods,
 - where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another, or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse or
 - credit of any duty allowed to be utilised towards payment of excise duty on final products under the provisions of this Act or the rules made thereunder and such order is passed by the Commissioner (Appeals) on or after the date appointed under section 109 of the Finance Act, 1998

Sl. No.	Central Excise Officer	Monetary Limits for Central Excise
1.	Additional/Joint Commissioner	Exceeding Rs. 50 lakh.
2.	Deputy/Assistant Commissioner	Above Rs. 10 lakh but not exceeding Rs. 50 lakh
3.	Superintendent	Not exceeding Rs. 10 lakh

- c) In case different show cause notices have been issued on the same issue answerable to different adjudicating authorities, Show Cause Notices involving the same issue shall be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of duty.
- d) Every adjudicating authority of Central Excise and Service Tax in the field will endeavour to adjudicate 100 cases in a year.
- e) Further, in view of huge pendency of adjudication of Service Tax cases at the level of Commissioner, the Service Tax cases will be earmarked to Commissioners of Central Excise and Commissioners (Audit) of Central Excise also, depending upon the pendency level in the Zone
- f) In all cases where the personal hearing has been completed, orders will be passed by the adjudicating authority before which the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

- g) Cases which have been remanded back for *de novo* adjudication will be decided by an authority of the rank which passed the said remanded order.

The Chief Commissioners concerned are directed to ensure that once the Show Cause Notices pending for adjudication are re-distributed and re-assigned, the pending cases are to be disposed by March 31, 2017.

[Circular No. 1049/37/2016-CX, Dated: September 29, 2016]

CUSTOMS

13. Discontinuation of practice of making manual debits on physical copy of Advance Authorizations registered at EDI Customs port - CBEC Instruction

Presently for Advance Authorizations registered electronically at EDI Customs location i.e. where electronic ledger gets maintained, the physical authorizations are simultaneously issued and presented. These authorisations are endorsed by Customs with manual debits of usage and this practice is not uniformly followed at all EDI ports of registration. Such manual endorsements replicate work, cause delay, and at times also lead to errors, all of which impose transaction costs on trade.

In this regard, Central Government, as a measure of enhancing the ease of doing business for exporters, has provided that the practice of evidencing debits manually on physical copy of Advance Authorization will now be discontinued with respect to future authorizations electronically registered at Customs EDI locations. Henceforth, the officer examining the imported goods and/ or giving Out-of-Charge order will also re-check that the proper debit of the authorisation in the EDI system has been made.

Further, in case the Commissioner of Customs at port of EDI registration of advance authorization decides to permit clearance manually at the time of an EDI breakdown it may take suitable safeguard and also ensure subsequent entry of debits on EDI for proper accounting.

[Instruction F.No.605/30/2015-DBK Dated: 28.09.2016]

14. Gold Included for Immediate Prosecution

Detailed guidelines for launching of prosecution in relation to offences punishable under Customs Act, 1962 have been provided vide *Circular No. 27/2015-Customs dated 23.10.2015*.

Central Government vide *Circular No. 46/2016-Customs, Dated: October 04, 2016* has amended the aforesaid circular to include **Gold** among items in relation to which prosecution may preferably be launched immediately after issuance of show cause notice.

[Circular No. 46/2016-Customs, Dated: October 04, 2016]

15. Foreign Post Offices Notified As Customs Stations

Central Government vide *Notification No. 125/2016-Customs (N.T), Dated: October 13, 2016* has notified the Sub - Foreign Post offices at Vijayawada, Leh and Hyderabad as Land Customs Stations for the clearance of all goods or any class of goods imported or exported by land.

[Notification No. 125/2016-Customs (N.T), Dated: October 13, 2016]

16. Rationalization of procedures in handling exporters obligations under EPCG authorizations

At present the correctness of the installation certificates issued by Chartered Engineers are to be verified on random basis in at least 5% cases through the Central Excise Division. The Central Government has decided that this verification be restricted to 5% cases.

In the *Circular No. 5/2010-Cus., dated 16-3-2010* it was prescribed that first block EO (export obligation) should be verified in detail and if it has been found satisfactory then EODC issued at end of second block should be accepted without further verification.

Central Government has now provided that Customs authorities need not replicate the verification of export obligation of the first block that is being conducted by Regional Authorities and that the EODCs received under EPCG Scheme in terms of FTP/HBP 2004-09, 2009-14 and 2015-20 be normally accepted without further verification, except in 5% cases where they be verified in detail before acceptance.

Central Government has directed Commissioners to ensure transparent random selection criteria and selection for 5% check being made at least at Joint/Additional Commissioner level and the relevant exporter being invariably informed, on the date of selection itself, via official email communication that its case is selected for detailed checks. Credibility and transparency may be brought into the Bond cancellation process which may be made speedier. The exporter should not be asked to routinely produce information that can be sourced from the Customs EDI system.

[Instruction F.No.605/71/2015-DBK, dated: 14.10.2016]