

Summary of Notifications, Circulars from 16th February, 2017 to 15th March, 2017

SERVICE TAX

1. **Waiver of recovery on services provided by Common Effluent Treatment Plant and Admission to a Museum**

Services provided by a Common Effluent Treatment Plant Operator for treatment of effluent is exempt from Service Tax. w.e.f. 1.4.2015 vide an entry in Mega Exemption Notification. Prior to that such services were exempt vide *Notification No.42/2011-ST dated 25.07.2011* which was rescinded in 2012. This implies that service tax was leviable on these services in the period commencing on and from the 1st of July 2012 and ending with the 31st of March, 2015. However, no service tax was paid on the said services due to prevalent practice.

Accordingly, Central Government vide *Notification No. 08/2017-Service Tax, Dated: February 20, 2017* has provided that service tax payable on services provided by a Common Effluent Treatment Plant Operator during the period 1st July 2012 to 31st March 2015 is not required to be paid.

[Notification No. 08/2017-Service Tax, Dated: February 20, 2017]

2. **Waiver of recovery on services provided by way of Admission to a Museum**

Central Government vide *Notification No. 09/2017-Service Tax, Dated: February 28, 2017* has provided that service tax payable on services provided by way of Admission to a Museum during the period 1st July 2012 to 31st March 2015 is not required to be paid.

This implies that service tax was leviable on these services in the period commencing on and from the 1st of July 2012 and ending with the 31st of March, 2015. However, as no service tax was paid on the said services due to prevalent practice it will not be required to be paid as per the aforesaid notification.

[Notification No. 09/2017-Service Tax, Dated: February 28, 2017]

3. **Amendments regarding Educational Institutions under Mega Exemption Notification No 25/2012-Service Tax**

Clause 9(b) of Mega Exemption *Notification No. 25/2012 – Service Tax dated 20.06.2012* provides exemption from service tax to services provided to an educational institution, by way of, -

- i. Transportation of students, faculty and staff;
- ii. Catering, including any mid-day meals scheme sponsored by the Government;
- iii. Security or cleaning or house-keeping services performed in such educational institution
- iv. Services relating to admission to, or conduct of examination by, such institution

Educational Institutions has been defined in Mega Exemption Notification as follows:

"educational institution" means an institution providing services by way of:

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of an approved vocational education course.

In this regard, Central Government vide *Notification No. 10/2017-Service Tax, dated: March 08, 2017* has amended the clause 9(b) of Mega Exemption *Notification No. 25/2012 – Service Tax* to provide that, w.e.f 1st April 2017, exemptions provided therein are applicable only to the institutions providing services by way of pre-school education and education up to higher secondary school or equivalent. Thus, institutions other than above will not be entitled to exemption.

[Notification No. 10/2017-Service Tax, Dated: March 08, 2017]

4. Service tax not to be levied on the services by way of transportation of goods by a vessel from a place outside India to the customs station in India w.r.t. goods intended for transshipment to any country outside India

Presently, goods landing at Indian ports which are destined for any other country are allowed to be transhipped through Indian territory without payment of Customs duty in India provided such goods are mentioned in the import manifest or the import report for transshipment to any place outside India.

Also, as per rule 10 of the Place of Provision of Services Rules, 2012, the place of provision of services of transportation of goods by air/sea, other than by mail or courier, is the destination of the goods.

Thus, considering the above provisions, Central Government vide *Circular No. 204/2/2017-Service Tax, Dated: February 16, 2017* has provided that with respect to aforesaid goods services by way of transportation of goods by a vessel from a place outside India to the customs station in India are not taxable in India as the destination of such goods is a country other than India.

[Circular No. 204/2/2017-Service Tax, Dated: February 16, 2017]

EXCISE

5. Periodicity of CAS-4 certificates

Central Government vide *Circular No. 692/08/2003-CX dated 13th February, 2003* clarified that cost of production of captively consumed goods shall be done strictly in accordance with CAS-4.

In this regard, considering the concerns raised during C &AG audit for assesseees not preparing CAS-4 certificates in a time bound manner resulting in difficulties in calculating the differential duty amount, Central Government vide *Instruction F. NO. 206/01/2017-CX 6 Dated: February 16, 2017* has directed that assesseees are required to issue the CAS-4 certificate of the financial year ending on 31st March by 31st December of the next financial year. For example, for the Financial Year 2016-17, CAS-4 certificate should be issued by 31.12.2017.

[Instruction F. NO. 206/01/2017-CX 6 Dated: February 16, 2017]

6. Master Circular on Show Cause Notice, Adjudication and Recovery

Central Government vide *Circular No. 1053/02/2017-CX dated March 10, 2017* has issued the Master Circular to provide the clarity and uniformity on the issues raised by the trade and field formations regarding the Show Cause Notice, Adjudication Proceedings, Recovery of duty and other miscellaneous issues. This master circular compiles relevant legal and statutory provisions, circulars of the past and rescinds circulars (89 circulars rescinded) which have lost relevance.

The master circular is divided into four parts. Part I deals with Show Cause Notice related issues, Part II deals with issues related to Adjudication proceedings, Part III deals with closure of

proceedings and recovery of duty and Part IV deals with miscellaneous issues. The provisions of the Master Circular will have an overriding effect on the CBEC's Excise Manual of Supplementary Instructions to the extent they are in conflict.

[Circular No. 1053/02/2017-CX dated March 10, 2017]

CUSTOMS

7. Revdanda Port, Maharashtra now notified for loading/ unloading of export/ imported goods

CBEC vide *Notification No. 15/2017-Customs (NT), Dated: March 2, 2017* has declared the following as Inland Container Depot in State of Haryana for the purpose mentioned against it:

S. No.	Place	Purpose
1.	(viii) Revdanda Port, Maharashtra	Unloading of imported goods and loading of export goods or any class of such goods

[Notification No. 15/2017-Customs (NT), Dated: March 2, 2017]

8. Expansion of 24x7 Customs clearance and clarification of levy of MOT charges in CFSs attached to 24x7 ports

Previously, Central Government vide *Circular No. 19/2014-Customs* allowed the facility of 24x7 customs clearance for goods covered by facilitated Bills of Entry and specified exports i.e. factory stuffed containers and goods shipped under free shipping bills on permanent basis at the designated 18 Sea Ports. Now expanding this clearance facility, Central Government vide *Circular No. 4/2017-Customs, Dated: February 16, 2017* has extended 24x7 customs clearance to all bills of entry and not just facilitated bills of entry.

Further, Customs (Fees for Rendering Services by the Customs Officers) Regulations, 1998 have also been amended to provide that at 24x7 customs ports and airports, no fee i.e. merchant overtime fee (MOT) will be collected in lieu of the services rendered by the customs officers. Thus, no MOT charges are required to be collected in respect of the services provided by the customs officers at 24x7 customs ports and airports.

Also, to bring the MOT collection norms at par with the situation on the air side which cover all shipping bills free or otherwise, it has further been clarified that no MOT charges would be collected at CFSs attached exclusively to 24x7 ports in lieu of services rendered within the CFS.

[Circular No. 4/2017-Customs, Dated: February 16, 2017]

9. Exemption from drawal of samples for grant of drawback to the AEO certificate holders

Central Government vide *Circular No. 5/2017-Customs, Dated: February 28, 2017* has exempted those exporters who have been accorded Authorized Economic Operator (AEO) certificate (Tier II & Tier III) in terms of *Circular No. 33/2016-Customs dated 22.07.2016* from the requirements of drawl of samples for the purpose of grant of drawback, except in case of any specific information or intelligence.

[Circular No. 5/2017-Customs, Dated: February 28, 2017]

10. Acceptance of e-BRC of DGFT towards proof of realization of sale proceeds for exports with LEO date upto 31.03.2014 under drawback scheme

Central Government vide *Circular No. 5/2009-Customs dated 2.2.2009* prescribed Bank Realization Certificate (BRC) as one of the documents that may be submitted to Customs by the exporters as proof of realization of sale proceeds for exports. Further, for exports with LEO date from 01.04.2014 onwards, an electronic system of reconciliation of sale proceeds (RBI-BRC module) is made functional by DG (Systems) in coordination with Reserve Bank of India (RBI). However, it has been observed that for exports with LEO from 12.08.2012 onwards till 31.03.2014, DGFT's e-BRC (which is also verifiable from DGFT website) is not being accepted and negative statement from statutory auditor or AD bank is insisted which adds to transaction cost. DGFT's e-BRC is not accepted due to fact that it contains "realized value" details but does not contain details of commission, freight, insurance etc. which are often relevant for drawback purpose.

Thus, in order to put rest to the aforesaid difficulties, Central Government vide *Circular No. 6/2017-Customs, Dated: February 28, 2017* has provided that for exports with LEO from 12.08.2012 onwards till 31.03.2014, DGFT's e-BRC would be accepted, except in case of specific intelligence or information of misuse subject to appropriate declaration in prescribed format by the exporter on back of DGFT e-BRC.

[Circular No. 6/2017-Customs, Dated: February 28, 2017]

11. Revised guidelines for launching of prosecution in Customs cases

Presently, prosecution guidelines in relation to offences punishable under Customs Act, 1962 have been provided vide *Circular No. 27/2015-Customs dated 23.10.2015* (further amended vide *Circular No. 46/2016-Customs dated 04.10.2016*). However, it has been observed that despite the guidelines launching of prosecution / completion of prosecution proceedings gets delayed in several cases which has also been pointed out by the Comptroller & Auditor General of India in its report recently.

One of the factors leading to delays in launching of prosecution is lack of clarity regarding the role of Directorate General of Revenue Intelligence (DGRI) vis-à-vis Customs field formations as to who should submit the investigation report and who should launch prosecution. Accordingly, for the sake of clearly defining the role of DGRI vis-à-vis Customs field formations so that any delay on this account may be prevented, Central Government vide *Circular No. 07/2017-Customs, Dated: March 6, 2017* has revised the existing prosecution guidelines by substituting certain paragraphs of the existing guidelines.

The details of substituted paragraphs is available at www.cbec.gov.in.

[Circular No. 07/2017-Customs, Dated: March 6, 2017]