

**MINUTES OF THE 2nd MEETING OF REGIONAL ADVISORY COMMITTEE,
CUSTOMS, C. EXCISE & SERVICE TAX : BHOPAL ZONE HELD ON 10.12.2015**

The 2nd meeting of Regional Advisory Committee (RAC) for the year 2015-16 was held on 10.12.2015 at 11.00 hrs. in the Conference Hall, 2nd Floor, Customs, Central Excise & Service Tax Hqrs., 48 Administrative Area, Arera Hills, Bhopal which was presided over by Shri Hemant A. Bhat, Chief Commissioner of Customs, Central Excise & Service Tax, Bhopal Zone. It was attended by following the members:-

- (i) **Shri Dinesh Agarwal**, Director, Hira Group, S/3, Samarpan, Near Palajani Hospital, Anupam Nagar, Raipur and representing the CII, Raipur.
- (ii) **Shri Uday Kothari**, Sr. Manager, Finance, Sun Pharma and nominee of the Association of Industries, Dewas.
- (iii) **Shri Vivek Vijayvargiya**, M/s H.R Johnson (India) Ltd. and nominee of the Association of Industries, Dewas (2nd member nominated).

2. The following officials were also present in the meeting;-

- (i) **Shri R.S. Maheshwari**, Additional Commissioner (CCO), Customs, Central Excise & Service Tax, Bhopal Zone and Member Secretary of RAC.
- (ii) **Shri Sameer Pandey**, Deputy Commissioner (CCO), Customs, Central Excise & Service Tax, Bhopal Zone.
- (iii) **Shri Mahesh Yadav**, Deputy Commissioner (Tech,Hqrs) Customs, Central Excise & Service Tax, Bhopal.
- (iv) **Shri Akash Singhai**, Deputy Commissioner, Customs, Central Excise & Service Tax, Division-II, Bhopal
- (v) **Shri S.C. Pandey**, Assistant Commissioner, Customs, Central Excise & Service Tax, Division-I, Bhopal
- (vi) **Shri M.M. Gupta**, Assistant Commissioner (P&V), Hqrs, Customs, Central Excise & Service Tax, Bhopal.
- (vii) **Shri A.K. Dixit**, Commissioner (Prev) Hqrs., Customs, Central Excise & Service Tax, Bhopal.

3. The chairman welcomed all the members. The Chairman gave stress on better co-ordination and inter-action between the department and the assessee for getting better outcomes. He also expressed concern about the inadequate presence of RAC members in the meeting and particularly as no intimation of non-attendance was forwarded by them. To overcome the problem of possible gap of communication in receipt of confirmation of meeting by the members, it was informed that henceforth such record of intimation will be displayed on the website of the Chief Commissioner, Bhopal Zone, Bhopal. No outstanding issues of earlier meetings remains for discussion in the instant meeting.

4. Some agenda points were sponsored by URLA Industries Association, Raipur which were discussed comprehensively during the meeting by Shri Dinesh Agarwal, representative of CII, Raipur & Director M/s Hira Group, Raipur.

Point No 1.- Provision for Excise Duty exemption to procure raw material without payment of excise duty against supply of materials to indigenous Excise Duty Exempted project namely Indian Railways, Rail Vikas Nigam Limited, Dedicated Freight Corridor Corporation of India, Power Plant etc. So make provision for SSI units to get Raw material without payment of Excise Duty for such projects.

Comment:- In this regard, the Chairman informed that this is purely a policy matter which can be decided by the Board/ Ministry.

Point No 2.- Guidelines/ Circular/ Notification to be issued regarding adjustment of CENVAT Credit balance of Education Cess and Higher Education Cess. Balances remaining as on 28th February, 2015.

Comment:- The Chairman expressed the earlier view that this being a policy matter, only the Board/ Ministry can take a decision on this matter.

Point No 3. Some issues which have already been decided in favour of assessee are continuously being raised by the Excise Audit Team e.g. Cenvat Credit on Welding Electrode and Oxygen Gas, Iron Ore Fines. Some guidelines to be issued in this regard.

Comment:- On being asked for specific instance by the Chairman, Shri Dinesh Agarwal, Director, Hira Group stated that there is no specific complaint on the issue and point was raised on general perception. That he will discuss the matter with URLA trade, if they have any specific instance to quote or not.

Point No 4. Excise audit should be conducted for the complete financial year either one or two complete financial year. Audit should not be done for any incomplete or part of the financial year.

Comment : In this regard, the Chairman said that the audit is being conducted financial year wise only. There may be exceptional cases, e.g. where assessee himself requests for (Departmental) audit to be so (part year-wise) conducted, where audit has not been done for long period (years) of time (not audited yearly), and to safeguard revenue interests in case of time limitation factor.

Point No 5. Normally Excise team disallows CENVAT Credit on TMT, Plates, MS Round etc. considering it as it has been used in supporting structure without enquiring and verifying its actual use. It should be instructed as they are physically present in the factory during audit to physically verify the actual use of above items so that litigation cost of the assessee can be saved.

Comment : The Chairman informed that whenever there is dispute regarding eligibility of CENVAT credit for capital goods/ inputs, the audit team invariably inspects the utilization of the same before issuing spot memos to the assessee, raising such objections. However, any specific instance of deviation may be brought to the notice of the Department for necessary action in the matter.

Point No. 6- Online Portal of Central Excise i.e., www.aces.gov.in is not working in full fledged manner it should be properly rectified so that letter of restart of the Kiln Shut down and other intimation can be given by the assessee, promptly.

Comment : It was informed by the Chairman that the matter will be referred to the D.G Systems, New Delhi by jurisdictional Commissioner for rectification of the fault as pointed out. However, Commissioner, Raipur is directed to resolve the issue of intimation of shut down of Kiln urgently and inform the action taken in this regard to RAC.

Point No. 7- Compulsory pre-deposit of 7.5% for filing first appeal and 10% for filing the second appeal should be waived off. It cause financial hardship to the assessee.

Comment : Chairman intimated that this is a policy issue and it will require change of law which can only be done by the Government.

Point No. 8- Some Govt. Department like Railway requires assessee to submit Excise Return after duly attested by the Superintendent. On the first page and on the last page. In this regard, you are requested to please issue necessary instruction to the Superintendent to co-operate with the assessee.

Comment : Chairman suggested to intimate Railway department that they are filing online returns and it doesn't require any signature/attestation on the Return. In case of doubt Railway department can request jurisdictional Central Excise authorities for verification, if any.

Point No. 9- Service Tax credit on Railway Freight should be allowed on the basis of the self attested photocopy of the RR itself instead of on certificate issued by the Railway Department.

Comment : Chairman informed that Cenvat credit is allowable on original copy of invoice/bill/challan as the case may be, mentioned under Rule 9 of Cenvat Credit Rules, 2004 and photocopy of RR is not an eligible document in general. However, w.e.f 27.8.2014 vide Notification no. 26/2014 CE (NT) Rule 9 (fa) has been inserted to provide that a service tax credit for transportation of goods by Rail (here in referred to as STTG certificate) issued by the Indian Railways, alongwith the photocopies of the Railway receipts mentioned in the STTG certificate, is also an eligible document for availing cenvat credit.

5. Some points were also placed before RAC by Shri Dinesh Agarwal, RAC member which are as below:-

Point No. (a) The Central Board of Excise and Customs in general regarding introduction and overview of the department, has issued supplementary instructions in length under Central Excise manual of supplementary instruction, 2005 which are also available online at www.cbec.gov.in.

Comment - Chairman informed that if, particular need arises, then scheduling of workshops at Commissionerates may be requested to facilitate trade & industry.

Point No. (b) A journal covering updates at the level of Commissionerate will keep the professionals & small assessee updated and will result in more compliance.

Point No. (a) The Central Board of Excise and Customs in general regarding introduction and overview of the department, has issued supplementary instructions in length under Central Excise manual of supplementary instruction, 2005 which are also available online at www.cbec.gov.in.

Comment - All the informations are available on the website of the Department www.cbec.gov.in.

Point No. (c) Initiation of avoidable litigation by revenue authorities.

Comment— Since no specific grievance was reported, it is found not feasible to comment upon generally. However, no such instances have come to the notice of the department in the RAC.

Point No. (d) Adjudication. Briefly, that SCNs are being issued improperly and indiscriminately invoking the extended period.

Comment - The Chairman advised the RAC member to bring specific cases (if any) to notice where there is violation of principals of natural justice by the adjudicating authority. The adjudication is done on the basis of the facts of the case & law by the adjudicating authority. Chairman informed that direction in terms of the Boards instructions have recently been issued that orders passed by adjudicating authorities should be fair. The Chairman (RAC) and Chief Commissioner (BZ) has also issued instruction to the field formation that adjudicating authorities to hand over the record of personal hearing (sheet) to the noticee after completion of hearing without being specifically requested by the noticees.

Point No. (e) All demand notices invoke extended period of limitation.

Comment - Adjudication is a quasi-judicial matter and the adjudicating authority should not be impressed externally.

Point No. (f) Suppression, willful mis-statement, fraud, collusion & intend to evade duty.

Comment - As above refers.

Point No. (g) Delayed refunds by revenue authorities.

Comment- As per the statutory provisions, refund is to be sanctioned within the time limit of 90 days of its filing and wherever refund is sanctioned beyond time limit interest is payable. However, the reduction in time limit of 90 days for refund is a policy matter and cannot be dealt with this forum.

6. Some agenda points sponsored by Mahakaushal Chamber & Industry, Jabalpur which were also discussed comprehensively during the meeting in absence of said RAC member.

Point No. 1- It was raised by Shri Ravi Gupta, RAC Member regarding exemption from central excise duty on notebook/ registers like exemption on printed books for studies.

Comment:- In this regard the Chairman said that this is a policy matter. The Board/ Ministry may be approached by the trade for this purpose.

Point No. 2- For issuance of CT-2 form for procuring goods (parts of vehicle used for Army) without payment of duty like CT-2 being issued for motor parts used in same vehicle.

Comment - In this regard the chairman stated that from 1.6.2015, Ordinance factories have been brought under Central Excise net by the Government of India and hence non duty paid inputs/ goods for manufacture of their final product will not be a requirement. Cenvat Credit is available on all inputs to the Ordinance factories as per rules.

Point No. 3- Another point was raised regarding possible enactment of Goods & Service Tax (GST) with effect from 1.4.2016 and hence there is a need to extend awareness through information/ books by the department to assessees.

Comment:- Chairman informed that as soon as the GST law is enacted information, guidance and literature would be made available online.

Point No. 4- Point was raised regarding Service Tax, threshold limit of Rs. 10 lacs which has been given to small industries and service providers. Firstly it is to be increased and secondly the deduction by Government agencies from Service payments upto 50% of service tax and interest from S.Tax providers working under threshold limit, appears not proper.

It is also proposed that in case of such service providers no department should ask for service tax in general.

Comment:- Regarding increase in threshold limit of Rs. 10 lacs, it was intimated that this is a policy matter and cannot be dealt at this forum. Other issues are not related to service tax department as the department only levies and collect service tax from eligible service providers and cannot direct other agencies in this regard.

7. Some agenda points were also sponsored through email by CII, Madhya Pradesh during the meeting.

Point No. 1- CII, Madhya Pradesh raised the issue regarding provision of Digital Signature for Excise Invoice.

Comment:- In this regard the Chairman informed that the required provision has been made available by the Board through notification no. 18/2015-C. Excise (N.T.) dated 6th July, 2015 & accordingly assessee may take up the issue with jurisdictional authority for doing the needful.

Point No. 2- Provision for digital signature for issuance of "C" forms.

Comment:- The Chairman intimated that the matter pertains to the State Government.

8. Shri Dinesh Agarwal, RAC member submitted that for the sake of coordination and to resolve issues, there should be a meeting of officers with CII Raipur.

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Point No. 2- Provision for digital signature for issuance of "C" forms.

Comment:- Chairman informed that departmental officers are always available for meeting in office to resolve difficulties and also towards 'ease of doing business'.

9. The Chairman informed the members about functioning of the institution of the Indirect Tax Ombudsman located at Lucknow and informed that the trade and industry (and assesseees) were free to refer issues/ grievances to him through e-mail/ telephone/ by post. Chairman also informed that public notices no. 01/2015 dated 16.12.2015 has been issued by the Chief Commissioner (BZ) (and displayed on CC's website) w.r.t. functioning of Ombudsman. Jurisdictional Commissionerates have also accorded wide publicity through advertisements (bilingual) within their jurisdiction.

Copies of public notice regarding functioning of Ombudsman were also handed over to RAC members Shri Dinesh Agarwal, Director, Hira Group and Shri Uday Kothari (M/s Sun Pharma). Chairman thanked all the members present.

10. The meeting ended with the vote of thanks to the Chair.

11. This issues with the approval of the Chief Commissioner, Customs, Central Excise and Service Tax, Bhopal Zone.

12. Hindi version follows.

H.K. Sharma

(H.K. Sharma)

Additional Commissioner (CCO)

Copy to:-1. All Members of RAC, Bhopal Zone (as per mailing list).

2. Web-master, CCO, BZ, Bhopal for putting on website.

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