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Dt. 03.07.2012

**MINUTES OF THE MEETING OF THE REGIONAL ADVISORY COMMITTEE,
HYDERABAD ZONE HELD ON 22.06.2012**

A meeting of the Regional Advisory Committee (RAC), of Hyderabad Zone was held on 22.06.2012 at 15.30 hrs., at Hyderabad, which was presided over by Shri Shashi Bhushan Singh, Chief Commissioner of Customs, Central Excise & Service Tax, Hyderabad Zone, Hyderabad and was attended by following members:-

1. Shri S.Thirumalai, The Federation of A.P.Chambers of Commerce & Industry (FAPCCI)
2. Shri M.Seha Sai, The Andhra Pradesh, Small Industries Association.
3. Shri V.Anil Reddy, Andhra Pradesh Plastics Manufacturers Association & FAPCCI.
4. Shri K.Radha Krishna Murthy, Representative of Bulk Drug Manufacturers Association.
5. Shri C.S.Narendar, President, Customs House Agents Association.
6. Shri K.K.Rao, Representative of The Institute of Cost Accounts of India.
7. Shri Lalit Mohan Chandna, Representative of The Institute of Company Secretaries of India.
8. Shri K.T.Sudhakar, Joint Director, Industries Dept, Representative of Govt. of Andhra Pradesh.

2. Following Departmental officers were also present:-

1. Shri S.N.Saha, Commissioner, Hyderabad-I Commissionerate
2. Shri P.N.Rao, Commissioner, Hyderabad-II Commissionerate
3. Shri J.S.Chandrashekar, Commissioner, Hyderabad-III Commissionerate
4. Shri G.V.Krishna Rao, Hyderabad-IV Commissionerate
5. Shri R.S.Maheshwari, Additional Commissioner (CCO)& Ex-Officio Member Secretary of the RAC.

3. The Chief Commissioner, welcomed all the Members of the RAC. He informed that RAC has been constituted at the Zonal level in order to facilitate greater participation of the representatives of the trade and industry, to raise the quality of the deliberations in the forum, and also to ensure uniformity of action and expeditious implementation of the decisions taken. Thereafter, following Agenda points were then taken up for discussion:-

3.1. Point raised by a Member of FAPCCI, Hyderabad.

We are the manufacturers of cement and selling, cement from factory and thru company depots.

- a. *Whether the individual builders carrying construction activity can be considered as industrial consumer for the purpose of supplying cement at concessional rate of duty as per the notification No.04/2006-CE dt.01.03.2006 as amended.*

REPLY:

As per Rule 3 of the Legal Metrology (Packaged Commodities) Rules 2011, the maximum retail price is not required to be printed on packaged commodities meant

for industrial consumers or institutional consumers. The institutional consumer has been defined to mean the institutional consumer like transportation, airways, railways, hotels, hospitals or any other service institution who buy packaged commodities directly from the manufacturer for use by that institution.

Following judgements relevant to this issue

1. M/s.Sagar Cements Ltd., [2010 (256) ELT 616 Trib-Bang]
2. M/s Mysore Cements Ltd., [2010 (259) ELT 30 (KAR)]

were brought to the notice of the Members for guidance.

- b. *Whether cement packed in Non MRP bags meant for industrial consumers/institutional consumers can be sold from depots.*

REPLY:

Chief Commissioner clarified that in the case of goods stock transferred to the depot, the duty is required to be paid at the factory gate on the basis of the price of such goods prevailing at the depot, at the same time of removal. As the depot is meant for retail sale, the value in respect of stock transfer of goods will have to be determined under Section 4A of the Act.

3.2. Point raised by a member of FAPCCI, Hyderabad.

We manufacture Diesel Shunting locomotives, Battery locomotives and other Rail based equipments. We obtain orders some times, the cost of the equipment inclusive of Insurance & Freight charges. These two will be indicated separately in the order for F.O.R destination transactions.

Recently Central Excise Audit party has visited our factory. They are demanding the Duty on F.O.R. destination prices. i.e., on Freight & Insurance.

Our Query is "is it necessary to pay Excise duty on Freight & Insurance?"

REPLY:

Chief Commissioner informed that legal position on this issue has been settled by the Apex Court in the case of Escorts JCB Ltd., and also Associated Strips Ltd., & India Carbon Ltd. The aforesaid settled legal position has also been clarified by the Board vide Section 37B Order No. 59/1/2003-CX., dated 3.03.2003. It would be essential in each case of removal of excisable goods to determine the point of sale which will depend on the terms or condition of contract of the sale. Chief Commissioner requested the members to take up any specific case with the jurisdictional Commissioner in the light of said Circular.

3.3. Point raised by a member of FAPCCI, Hyderabad.

- i) *As yet there is no notification effecting the changes in notification No. 12/2012-customs S.No. 202(1)(d) on import of Mono Potassium Phosphate.*

Pl. let us know what rate we should apply, if no clarification is provided.

REPLY:

Chief Commissioner informed that a corrigendum to Notification No.12/2012 dated 17.03.2012 has been issued on 30.05.2012 wherein a duty of 2.5% has been prescribed in respect of Mono potassium Phosphate.

ii) **Service Tax:** *Under Section 66D (d) of Finance Act, 2012 in respect of inclusion of services relating to agriculture under 'negative list' following related agriculture services should also find place:*

- a. *Soil testing, leaf analysis*
- b. *Green belt project as mandated by Pollution Control Board. At present it is not under taxable purview. It is not finding place in the negative list.*

- c. *Membership fee of farmers for providing agriculture related services. At present it is exempted under 'Club or Associate Membership service'*

REPLY: Chief Commissioner informed that the Government vide Notfn 25/2012 dated 20.06.2012 has notified 39 categories of service under negative list. Chief Commissioner requested the members to give full justification for the incorporation of above services in the negative list.

iii) Project Imports:

In the current Finance Act 2012, the import of capital goods for fertilizer industry has been granted exemptions from levy of Basic Custom Duty under project imports. This may not be feasible for the fertilizer industry to follow as the procedure as laid down under project import is time consuming process. Fertilizer industry can't wait to avail exemption under project import for import of spares and machineries for upkeep of it's plant.

Hence there should be blanket exemptions rather than under project imports for capital goods.

REPLY: Chief Commissioner informed that the procedure as laid down under project import has been prescribed as a safeguard.

4. It was agreed that the next meeting of RAC will be held on 25.09.2012.
5. Chief Commissioner further urged all the Members to encourage all members of their respective trade associations to use the CPGRAMS Portal to redress the grievances.
6. The meeting concluded with vote of thanks by the Additional Commissioner (CCO) Hyderabad Zone, Hyderabad.
7. This issues with the approval of the Chief Commissioner.


16.07.12

(R.S. MAHESWARI)
ADDITIONAL COMMISSIONER (CCO)
EX-OFFICIO MEMBER SECRETARY

To
All the RAC Members.

Copy to :
The Commissioner, Customs, Central Excise & Service Tax,
Hyderabad - I, II, III & IV Commissionerates, Hyderabad with a request to
give wide publicity.

