



**OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS,  
CENTRAL EXCISE & SERVICE TAX, HYDERABAD ZONE,  
L.B. STADIUM ROAD : BASHEERBAGH : HYDERABAD – 500 004.**  
Ph. (040) 23232028 Fax: 040-23230974, 23299206 (T/F)  
E-Mail: [ccchyd@gmail.com](mailto:ccchyd@gmail.com)

**C.No. IV/16/24/2014-CC-HZ-Tech(P.F-I)**

**DATE: 2.03.2015**

**MINUTES OF THE MEETING OF THE REGIONAL ADVISORY COMMITTEE,  
HYDERABAD ZONE HELD ON 09.02.2015**

A meeting of the Regional Advisory Committee (RAC) of Hyderabad Zone was held on 09.02.2015 at 15.00 hrs, at Hyderabad, which was presided over by Ms.R.Shakuntala, Chief Commissioner of Customs, Central Excise & Service Tax, Hyderabad Zone, Hyderabad and was attended by the following members :-

1. Shri. Lalith Mohan Chandna, representative of The Institute of Company Secretaries of India.
  2. Shri. V.Anil Reddy, Andhra Pradesh Plastics Manufacturers Associations & FAPCCI.
  3. J.Nageswara Rao, Federation of Andhra Pradesh Small Industries Association.
  4. Shri. Mohd.Nayeemuddin , Customs House Agents Association of Hyderabad.
  5. Shri.P.S.Raj Kumar,General Secretary, Customs House Agents Association of India.
2. Following Departmental Officers were also present:-
1. Shri. M. Srinivas , Commissioner, Hyderabad-I Commissionerate.
  2. Shri.B.Ravichandran,Commissioner,Hyderabad-III Commissionerate.
  3. Shri. A.R.S.Kumar, Commissioner, Hyderabad-IV Commissionerate.
  4. Shri.N.Sridhar, Commissioner, Hyderabad Customs Commissionerate.
  5. Shri. G.V.Krishna Rao, Commissioner, Hyderabad-Audit Commissionerate.
  5. Shri.M. Murali Krishna, Joint Commissioner, Hyderabad Customs Commissionerate.
3. The Chief Commissioner welcomed all the members of the RAC. Thereafter the following Agenda points were taken up for discussion:-
- 3.1 Points raised by Representative of The Institute of Company Secretaries of India, Hyderabad:

**Point No.1 – Credit on imported coal:**

Many manufacturers are importing steam coal on payment of duties. As per Customs Notification No.12/2012-Cus. They are availing concessional CVD @ 2%. Audit is of the view that since CVD has been paid @ 2% on imported coal, the credit under Cenvat Credit Rules, is not available. Audit is taking a view that CVD in lieu of Excise duty and if 2% duty has been paid on imports the credit is not admissible because a manufacturer who is procuring coal domestically where excise duty has been paid @ 2%, the credit is not available.

Board has issued a circular No.41/2013-Cus. Dated 21.10.2013 where it has been clarified that 2% of CVD is "general applied" rate and therefore it is industry's view that credit of CVD is available as per Rule 3(1)(vii) of Cenvat Credit Rules. Please clarify.

**Reply :**

Since the subject goods were levied to reduced rate of 2% CVD on their importation in terms of Section 3 of Customs Tariff Act, 1975 read with Notification issued therein i.e under Notification No. 12/2012-Cus. dated 17.03.2013 (and not under Notification no. 1/2011 CE) which was not excluded from the purview of Rule 3 of Cenvat Credit Rules, 2004, It appears that the Cenvat credit of CVD paid on imported coal (i.e. 2% adv.) under Notification No. 12/2012-Cus. dated 17.03.2013 is eligible for credit.

**Point No.2 – Execution of LUT for exports to Nepal:**

Recently, Assistant Commissioner, Hyderabad-M-Division, has asked one manufacturer exporter to execute B1 Bond (instead of LUT) for exports to Nepal. He is of the view that LUT cannot be executed for exports to Nepal. Our view is that after 01.03.2012, Export to Nepal is at par with other exports and therefore LUT should be accepted by the department. Please clarify.

**Reply:** In view of the amendment in Notification no. 42/2001-CE(NT) substituting for the words "except to Nepal and Bhutan" with the words "except Bhutan" vide notification no. 26/2011-CE (NT) dated 05.12.2011

the assessee has an option to execute Bond or LUT for the export of excisable goods to NEPAL . The Commissioner of Hyderabad IV Commissionerate has informed that the issue is since been resolved by the Assistant Commissioner ,Hyderabad M Division (now Balanagar Division). The member has also acknowledged the same.

**Point No.3 - Can Audit issue Spot Memo and insist for written reply immediately from the assessee.**

When an audit team from Central Excise / Service Tax visits a factory, is it necessary for them to issue a Spot Memo, to the company, giving therein the contents of their objections? Secondly, the audit is insisting on reply to spot memo immediately and sometimes they are asking to give in writing that assessee is willing to pay the duties etc. Please clarify whether audit can ask an assessee to give the reply immediately or there is any time limit fixed for submission of the required information. Please clarify.

**Reply:** As per point no. 12 under heading Procedure of Excise Audit 2000 in Chapter 15 of Supplementary Instructions issued by Board, it is important that the auditor informs the assessee about all the objections before preparing draft Audit Report. The assessee must have the opportunity to know the objections and to offer clarifications with supporting documents. This process will resolve potential disputes early and avoid unnecessary disputes. It is up to the assessee's convenience, they may take some time for proper compliance, but unnecessary delay will increase the amount of interest/penalty on duty unpaid.

The members then requested to give at least fifteen days time to furnish proper reply to Spot Memo as the assessee are required to study the points and come to a conclusion . Accordingly the Commissioner of Audit Commissionerate was directed to issue a circular to all the Audit groups to give fifteen days time for the assessee to furnish their replies to spot memo.

### **3.2 . Telangana and Andhra Plastic Manufacturers Association:**

**Point No.1:** SSI exemption limit of Excise to be increased to Rs.5 crores as the present limit of Rs.1.5 crores was implemented in the year 2002 and since then no changes has been made even though the prices of all the polymers have increased to almost 200% and above and in addition to this power cost, labour, has also gone up to almost 200%. SSI units cannot afford to sell their products by paying excise duty.

#### **Reply:**

**This is not the forum to discuss points on policy decisions. However the member is requested to address Boards office regarding their proposals on policy matters .**

**Point No. 2:** It has been observed that in almost all the laws the threshold limits ( e.g, Tax Audit, TDS Compliance, Advance Tax ) has increased. But in case of freight paid more than Rs.750/- we need to pay the service tax. Now a days a small transportation of the material will cost you more than Rs.750/-. So we request the Hon'ble Commissioner to propose to increase the service tax on freight from Rs.750/- to atleast Rs.1,500/-.

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### **3.3. Point No.6 of earlier meeting held on 26.09.2014:**

In the Minutes of the RAC meeting held on 21.03.2014, it was stated that respective Commissioners "will issue trade facilities, with regard to 'check list' for acceptance of LUT as well as for B1 Bond". It is observed that no such trade facility has been issued so far. In reply to which the Commissioners were directed to issue the said Trade Facility immediately under intimation to this office.

Reply: The Commissioners were directed to issue trade facility and accordingly Hyderabad IV Commissionerate has issued the same. However the other Commissioners opined that for the sake of uniformity the zonal office should issue the said trade facility in consultation with trade. Accordingly it was decided that the zone shall issue the said trade facility. The draft of the said checklist is circulated as an attachment to all the members of the RAC to offer their inputs within a weeks time. After receipt of their inputs the said trade facility will be issued by the zone.

**Point No.8 of earlier meeting dated 26.09.2014 :** One of the members raised a point that the department is insisting for submission of BRCs in respect of exports under Bond/LUT and at the time of renewal of LUT.

Reply: During discussion the members pointed that the Divisions and Ranges are insisting for BRC's even at the time of renewal of LUT also and requested to resolve the issue. In this connection, it was informed that the issue will be resolved in the next meeting.

At the end of the meeting it was requested that henceforth the members who are sponsoring the points to the department are also requested to communicate the same to all the other members of the RAC for their information.

The Convener informed that next RAC meeting i.e RAC meeting for the first quarter of 2015 will be held on 16.04.2015.

Encl: Draft of Trade Facility.

  
(M.UMA SHANKAR)  
JOINT COMMISSIONER 2/3/15

To

All the RAC members by e-mail with a request to submit their inputs in r/o point no. 3.3 (Draft of Trade facility on LUT/Bond).

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



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