



**OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS,
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DATE: 25.03.2014

**MINUTES OF THE MEETING OF THE REGIONAL ADVISORY COMMITTEE,
HYDERABAD ZONE HELD ON 21.03.2014**

A meeting of the Regional Advisory Committee (RAC) of Hyderabad Zone was held on 21.03.2014 at 15.30 hrs, at Hyderabad, which was presided over by Shri B.B.Prasad, Chief Commissioner of Customs, Central Excise & Service Tax, Hyderabad Zone, Hyderabad and was attended by the following members :-

1. Shri S.Thirumalai, Representative of the Federation of A.P.Chambers of Commerce & Industry (FAPCCI).
 2. Shri M.V.S.S.Krishna, Medak Small Scale Entrepreneurs Association,
 3. Shri J.Nageswara Rao, Federataion of Andhra Pradesh Small Industries Association,
 4. Shri Ashok Surana, All India Manufacturers Organization,
 5. Shri V.Anil Reddy, Andhra Pradesh Plastic Manufacturers Association,
 6. Shri Ch.S.S.V.R.Sanyasi Rao, Representative of Bulk Drug manufacturers Association,
 7. Shri Anish Guptha, Representative of Cigarette Manufacturers,
 8. Shri K.K.Rao, Representative of the Institute of Cost Accountants of India,
 9. Shri Lalith Mohan Chandna, Representative of the Institute of Company Secratries of India,
 10. Shri V.S. Sudheer, Representative of the Andhra Pradesh Tax Bar Association and
 11. Shri R.Chalapathi Rao & Shri Ashok Swaminathan, Representatives from Andhra Pradesh Real Estate Developers Association.
2. Following Departmental Officers were also present:-
1. Shri.S.N.Saha, Commissioner, Hyderabad-I Commissionerate,
 2. Shri. M.K.Singh, Commissioner, Hyderabad-II Commissionerate,
 3. Shri.B.Ravichandran, Commissioner,Hyderabad-III Commissionerate,

4. Shri. G.V.Krishna Rao, Commissioner, Hyderabad-IV Commissionerate and
5. Shri V.R.Eliza, Joint Commissioner, Chief Commissioner's Office, Hyderabad.

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 Andhra Pradesh Plastic Manufacturers association:

1. Please inform latest Central Excise Exemption limit for SSI for the year 2014-15, further kindly inform validity of present notification no. 8/2007 dt.01.03.07 and latest notification number and exemption limit.
2. Since online filing is in place all the forms then why should we submit hard copy. This was done to reduce the paper work and to avoid visiting the Excise Office.

COMMENTS OF THE DEPARTMENT:

1. In accordance with Notification No.8/2003-CE dated 01.03.03 as amended from time to time:
 - i. First clearances up to an aggregate value not exceeding one hundred and fifty lakh rupees made on or after the first day of April in any financial year,
 - ii. The manufacture should not avail the credit of duty on inputs and capital goods under rule 3 or rule 11 of Cenvat Credit Rules, 2002 to avail this exemption.
 - iii. The aggregate value of clearances of all excisable goods for home consumption by the manufacturer from one or more factories, or from a factory by one or more manufacturers does not exceed rupees four hundred lakhs in the preceding financial year.
2. There is no requirement for submission of hard copy of statutory returns. The Commissioners will issue necessary instructions to the field officers for strict compliance

3.2 Points raised by All India Manufacturers' Organisation:

1. During previous RAC meeting it was announced that 24x7 clearance is available at Air Cargo. However it is noticed that non availability of assessing officers (having passwords) at their desks is the major constraint in the speedy clearance of imports (more frequently) and exports (occasionally). The non availability of password possessing officers at their desks is attributable to either meetings at head quarters or availment of leaves. It is requested that the following steps be implemented to remove unnecessary delay in getting Let Export/ Out of Charge orders:

- Meeting at Head quarters requiring the presence of such of above officers be scheduled out of office hours or any non working day.
- Multiple desks at every clearance stage be set up so as to make sure that at least one desk at every stage of clearance is manned at any given point of time between 11 AM and 7 PM or 12 Noon and 8 PM whatever may be the convenient 8 hour stretch of work timings chosen by the officers and same may be displayed on the department website along with the phone number of a monitoring official who may be contacted in times of non availability of concerned officers.

2. Is any custom duty payable and at what rate, when goods sent out to a job worker located outside the country are brought back after getting them processed at the job worker's factory. Is there any time limit for the return of the processed goods?

COMMENTS OF THE DEPARTMENT:

1. It is to clarify that 24*7 customs clearance at Air Cargo is only available for facilitation of Bills of Entry where no assessment or examination is required and for export covered by free Shipping Bills and factory stuffed containers. For this purpose, the required Customs Officers at Air Cargo Complex are available round the clock. However, as the shortage of staff is there we cannot engage officers on 24X7 basis for other purposes. The Commissioner,

Hyderabad-II holds periodical Trade facilitation meeting. Problems, if any, are resolved in such meetings.

2. With regard to the goods that are to be sent out to a job worker located outside the country and brought back after getting them processed at the job worker's factory, the procedure to be followed and other details are available in Notification No.43/96-Cus, dated 23.07.1996 (Gen. Exemption No.128). Rate of duty on re-imported goods is governed by exemption Notification 94/96-Cus dt.16.12.96 as amended.

3.3 Points raised by The Federation of Andhra Pradesh Chamber of Commerce & Industry:

1. M/s Starlite Spintech Limited - Non Refund of Service Tax, Interest and Penalty paid under protest.

Ref: -1. Appeal Order No.66/2012 (H-II) Dated : 27-09-2012 passed by Dr.S.L. Meena, Commissioner (Appeals - II) - S.T, Dated : 27-09-2012.

2. Order-in-Original No.06/2012-S.Tax Dated: 06-01-2012 passed by Additional Commissioner of Service Tax, Hyd-II Commissionerate, Hyderabad.

We wish to submit that the above appeal was disposed of with certain directions / modifications by the Commissioner (Appeals - II) on 27-09-2012, since then we have made many representations to the concerned authorities and have requested them to pass Modification Order in compliance of the directions of the Appeal Order and to allow us the refund of the excess Service Tax, interest and Penalties etc. paid by us to the department under protest with interest thereon.

We have not yet received any refund or any modification order as per the guidelines of the Commissioner (Appeals - II), Order No.66/2012 (H-II) Dated: 27-09-2012.

Hence we request you to kindly help us to solve the above issue as early as possible. Non Refund of Service Tax, Interest and Penalty paid under protest.

COMMENTS OF THE DEPARTMENT:

The issue raised is of M/s. Starlite Spintech Limited wherein they have not received any refund or any modification order as per the guidelines of the Commissioner (Appeals-II) Order No.66/2012 (H-II) dated 27.09.2012.

As per Order-in-Appeal No.66/2012 (H-II) ST dated 27.09.2012, the Commissioner (Appeals) has directed the authority concerned, to verify the issues discussed in Paras 7, 9 & 10 of the order. The adjudication is pending with the Additional Commissioner of Service Tax, Hyderabad-II Commissionerate. M/s Starlite Spintech Limited can file refund claim after the de-novo proceedings (in consequence of the directions of the Commissioner (Appeals) vide OIA mentioned above) are completed. The proceedings will be completed within 15 to 20 days. As regards refund of penalty amount, the same will also be settled within a fortnight.

The Chairman observed that it would have been better if the individual issue had been brought to the notice of the Commissioner, Hyderabad-I. If the matter had remained unresolved, it could have been brought up in RAC meeting.

3.4 Points raise by the Bulk Drug Manufacturers' Association:

Some of our members are manufacturing Drug products which are listed under Notification No.12/2012 dated 17.03.2012, which are exempted from payment of Central Excise Duty. One cannot avail the Cenvat Credit on raw materials used in manufacture of exempted final products cleared for Domestic Markets except when they are cleared to EOU, SEZ and other parties covered under Notification No.108/95 CE i.e. projects financed by World Bank and other international organizations.

Question: However it is also not clear as to what is correct procedure to claim the excise duties paid on input raw materials when the final exempted product is exported. Please advise our members and the correct procedure to get back the duties paid in input raw materials used in the manufacture of exempted product meant for exports.

COMMENTS OF THE DEPARTMENT:

As already discussed in the earlier meeting, the exporters can consider the option of claiming rebate of duty paid on excisable goods used in the

manufacture or processing of goods exported to any country except Bhutan under Rule 18 of Central Excise Rules, 2002 read with Notification no. 21/2004-C.E.(N.T), dated 06.09.2004 as amended.

3.5 Points raised by the Institute of Company Secretaries of India:

1. Many manufacturers - exporters are complaining that Divisional Assistant / Deputy Commissioners are insisting on several documents at the time of Renewal of Letter of Undertaking (LUT) which are legally not required to be given. For example, the proof of export is being demanded for CT1 exports where Merchant Exporter is the exporter and not the manufacturer. Secondly, department is insisting on Bank Realization Certificate (BRC) for renewal of LUT. Submission of BRCs are not mentioned anywhere in the Rules or Instructions or CBEC circular. In fact, for claiming rebate also the department is insisting for BRC which are not required to be submitted. The industry desires that a Trade Notice may be issued giving checklist of documents required for renewal of LUT, so that there is one uniform procedure followed in all the four Commissionerates.
2. Department is having a view that a manufacturer - exporter cannot execute a B1 General Bond and has to execute LUT only. According to department B1 bond can only be executed by a Merchant Exporter. Industry view is that LUT is optional and if a manufacturer exporter can also execute B1 Bond. The advantage of B1 Bond is that it does not require renewal every 12 months, as in the case of LUT. The department may confirm that a manufacturer-exporter can also execute B1 Bond by complying with requirements associated with such execution.
3. Many manufacturers are subject to two audits almost at the same time. First Excise Audit will be done which will cover areas of Excise, Customs & Service Tax etc. After few months a notice is received that 'Service Tax' department is coming for audit. The industry wants to know whether service tax is also done for a manufacturer who is merely a Service Recipient and not providing any taxable service.

4. An SSI unit is eligible for exemption up to Rs.150 lakhs for one financial year. If he crosses Rs.150 lakhs during a financial year, he takes registration and starts paying duty thereafter. However, his total turnover for that financial year does not exceed Rs.4 crores. Therefore, for the subsequent year also he is eligible for exemption of first Rs.150 lakh clearances. In such a case, from April next year onwards, he claims exemption and since he is claiming exemption, he should not be required to file any monthly or quarterly return. But since had taken registration during the previous year, department is insisting that he should file 'Nil' return even though he is not paying duty. Industry requests that he should be exempt from filing returns during the period of exemption, and department should not insist on filing of 'Nil' return.

5. Department is not accepting cancellation of registration of a factory, if a case is pending. In one case of Sujan Automatics, located at Mehdipatnam, the unit was closed and it was shifted to another bigger location. New registration was taken for the new factory. The first unit was rented one and vacated and some other person occupied the premises. No stocks were there. The unit, as stated above, was shifted to a new location and registration taken. The assessee applied for cancellation of registration but department declined on the ground that a case is pending. The assessee also suggested that he can give an Undertaking / Bond etc as company is not closed but only shifted. But department made the unit to file NIL returns for 2 years. Till date registration has not been cancelled.

COMMENTS OF THE DEPARTMENT:

1. Renewal of LUT may not be rejected as it will stop the exports. However, if conditions of the earlier LUT are not fulfilled, necessary recovery action may be initiated simultaneously.
2. The Commissioners will issue Trade facilities with regard to check list for acceptance of LUT as well as B1 Bond.
3. Central Excise & Service Tax Audit of a unit is generally conducted simultaneously at single point of time to avoid multiple visits, wherever the registration of Service Tax as well as Central Excise fall in the same

Commissionerate. Whenever Central Excise Registration is falling under one Commissionerate and Centralized Service Tax Registration is under other Commissionerate, this situation may arise. However, this problem will be addressed effectively when new Audit Commissionerates are formed in the ensuing reorganization.

4. In terms of the provision of Rule 12 of the Central Excise Rules, 2002, the assessee eligible to avail exemption under a Notification, based on the value of the clearances in a financial year, shall file quarterly returns in the form specified, furnishing details of production and removal of goods and other relevant particulars within ten days from the close of the quarter to which the return relates. Hence, as long as he is registered and claiming exemption under SSI Notification, he has to file the returns quarterly.
5. As the issue is resolved no comments are offered.

3.6 Additional Point raised by the representatives in the meeting:

Audit Reports are not being received by the assesseees after completion of the Audit.

COMMENTS OF THE DEPARTMENT:

Final Audit Reports are to be invariably sent to the assesseees. The Commissioners are advised to discuss and minute this in MMCs.

4. A suggestion was made by the trade to make available all the points of RAC meeting to the Members before conducting the meeting. The Chief Commissioner advised that the members of RAC may endorse/email the points to other members. The email ids of all the members will be circulated by the department among all the members.
5. The meeting concluded with thanks to the Chair.


25/3/14
(V.R. ELIZA)

JOINT COMMISSIONER

To

All the RAC Members by E-mail along with e-mail ids of the members.

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