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- CBEC Notification to increase Excise duty on wireless modem card.


- Service tax exemption has been provided to the certain institutions.

- CBEC clarified various issues related to the Krishi Kalyan Cess.

& more...

## EXCISE LAW

### Notifications and circulars

- Vide Notification No. 20/2016 C.E. dt. 05/05/2016, CBEC has amended Notification No. 1/2011 dt. 1/03/2011 through which an exemption was provided to the certain items to a certain extent. Entry 101 of that notification, providing exemption to Wireless data modem cards with PCMCIA or USB or PCI express ports, has been omitted and the now, these items are chargeable to excise duty @ 2% if no CENVAT is availed under CCR,2004 on inputs & input services.
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- Vide Notification No. 21/2016 C.E. dt. 05/05/2016, CBEC has amended Notification No. 2/2011 dt.1/03/2011 and now Wireless data modem cards with PCMCIA or USB or PCI express ports are chargeable to excise duty @ 6%, which is restricted upto @5% through the earlier notification.
  - Vide Notification No. 22/2016 C.E. dt. 05/05/2016, CBEC has amended Notification No. 12/2012 dt. 17/03/2012 and revised the rate of excise duty chargeable on certain goods.
    - ✓ Gold bars, other than tola bars now attract CE @ 9.35 in place of @9.5% ,
    - ✓ Populated printed circuit boards used to manufacture specified goods now attract CE @ 4% subject to the condition prescribed.
    - ✓ Parts & components used to manufacture populated printed circuit board of specified goods are now attract NIL rate of CE

- Vide Notification No. 23/2016 C.E. dt. 05/05/2016, CBEC has amended Notification No. 12/2012 dt. 17/03/2012 and exempted RBD Palm Stearin, Menthanol and sodium methoxide to manufacture bio-diesel from CE till 31/03/2017
- CBEC has issued a Notification no. 25/2016 C.E. (N.T.) and provided an abatement @ 20% on the retail sales price of the Routers for the assessment purpose.
- Vide Notification 26/2016 C.E. (N.T.) export rebate is now available on Infrastructure cess also.
- CBEC issued a Notification no. 28/2016 C.E. (N.T.) dt. 05/05/2016 and amended CCR-2004 and clarified that Cenvat credit of Krishi Kalyan Cess paid on input services shall be available and can be utilised to discharge the liability of Krishi Kalyan Cess only.
- CBEC, vide its Circular 1029/17/2016CX dt. 10/05/2016, has clarified that the segregation of impurities viz. iron, steel, rubber, plastic, dust etc from the honey grade brass scrap and cleared should not be treated as "removal of input" as such and can be cleared on the payment CE as applicable on that.
- CBEC, vide its Circular 1030/18/2016/CX dt. 18.05.2016, nominated the trade representatives in the Sub-Committee of the High Level Committee formed related to imposition of CE on jewellery.

### Judgements

- In the case of Subhir Kumar Tripathi Vs CCEST {69 taxmann.com 290 (SC),2016} it has been held by the Apex Court that if the summons are

issued to the assessee to appear “ in person” , assessee can not make appearance through authorised representative.

- It has been held by the Apex Court, in the case of CCE Raigad Vs Ispat Metallics Industries Ltd {69 taxmann.com 287 (SC),2016}, that where assessee along with its group companies were purchasing inputs according to the joint procurement policy with supplier, removal of goods between the assessee and group company should not be treated as Sale and it is mere transfer of inputs.
- In the case of CCE & ST, Raipur Vs. M/s. Mahamaya Steel Industries Ltd. ( Appeal No.50531/2015-EX(SM)) it has been held by the CESTAT New Delhi that CENVAT credit on various items used in the fabrication of capital goods can be availed.

## SERVICE TAX

### Notifications and circulars

- CBEC has issued a Notification no. 25/2016 S.T. dt. 17.5.2016 through which the services provided by the Kumaon Mandal Vikas Nigam & Haj & Umrah pilgrimage are now exempted from service tax retrospectively.



- Vide Notification no. 26/2016 S.T. dt. 20.5.2016. CBEC has amended earlier Notification No. 25/2012 dt. 20.6.2012 and clarify that exemption from service tax to services provided by Government or a local authority to a business entity having turnover up to Rs. 10 lacs in the preceding year financial year, shall not be applicable in case services specified in sub-

clauses (i), (ii) & (iii) of clause (a) of section 66D of Finance Act,1994 and renting of immovable property.

- CBEC issued a Notification no. 27/2016 S.T. dt. 26.5.2016 to enlarge the scope of Notification no. 30/2012 dt. 26.5.2016 and clarify that the Krishi Kalyan Cess is payable under the RCM also.
- Vide Notification no. 28/2016 S.T. dt. 26.5.2016, it has been clarified that Krishi Kalyan Cess shall not be applicable on the services either exempted from whole of service tax by a notification or otherwise. Also it has been clarified that abatement notifications shall be applicable for computing Krishi Kalyan Cess.
- CBEC issued a Notification no. 29/2016 S.T. dt.26.5.2012 and extend the scope of Notification No. 39/2012 dt. 20.06.2012 and provide that rebate of Krishi Kalyan cess is available payable on services exported in terms of Rule 6A of Service Tax Rules.
- Notification no. 12/2013 S.T. dt. 1.07.2013 has been amended vide Notification No. 30/2016 S.T. 26.5.2016 and allow refund of Krishi Kalyan Cess paid on specified services used in an SEZ.
- CBEC issued Circular No. 194/2016 S.T. 26.5.2016 and specified the Accounting code of Krishi Kalyan cess.

### Judgements

- In the case of M/s Machado & Sons Agents & Stevedors Pvt. Ltd. - 2016 (5) TMI 374, it has been held by the CESTAT Mumbai that charges collected from the client to pay the Government authorities towards

tax/fees should be treated as reimbursement of expenses under pure agent category and the service tax is not chargeable on that.

- It has been held by the Madras Tribunal that the input service paid against the repairs & maintenance of Helicopter used for transportation of Directors & Chairman of the company is eligible for CENVAT Credit. {2016-TIOL-1180-CESTAT-MAD}
- In the case of Commissioner of Service Tax, Mumbai-II Vs Evonik Energy Services, it has been held by the Mumbai Tribunal that authorities cannot reclassify services provided by the assessee in the processing of refund claim, filed by the assessee. {69 taxmann.com 178 (Mumbai - CESTAT)}
- It has been held by the Mumbai Tribunal , in the case of Rantworks Pvt. Ltd. Vs CC Ex {2016-TIOL-1199-CESTAT-MUM}, if an amount paid to an individual has been treated as salary by the Income Tax department and taxed, the same cannot be treated as amount paid as consultancy charges and demand service tax against that.

## CUSTOM

### Notifications and Circulars

- CBEC issued a Notification no. 30/2016 Customs dt. 5.5.2016 and exempted Components or parts of aircraft specified under certain heading, required for maintenance, repair and overhauling by the units approved by the Director General of Civil Aviation.



- CBEC issued a Notification No. 31/2016 Customs dt. 5.5.2016 and provide exemption from SAD to Charger or adapter, battery headsets and speaker of mobile handsets including cellular phones.
- Vide notification 33/2016 Customs dt. 17.5.2016 CBEC withdrew certain exemption provided through the Notification No. 39/96 dt. 23.07.1993.
- Vide Notification No. 35/2016, Customs dt. 26.05.2016, CBEC withdrew the exemption of export duty on Chromium.
- Private Warehouse Licensing Regulation, 2016 has been notified vide Notification No. 71/2016 Customs (N.T.), dt. 14.5.2016.

### Case laws

- It has been held by Delhi High Court that SCNs issued after 18 months from the date when Dy DGFT absolved the issues is nothing but harassment and an abuse of law.
- In the case of Premier Heavy Engineering Corporation Vs Commissioner of Central Excise it has been held by Gujarat high court that a demand cannot be confirmed against any assessee without issuing notice to the assessee. {69 taxmann.com 330}.

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