



## Inside this edition

- Changes in Excise Duty on Articles of Jewellery;
- Possibility of payment of Service Tax through non-electronic mode in deserving cases
- Exemption from Export Duty on Sugar under Advance Authorization Scheme

& more...

## EXCISE LAWS

### Notifications and circulars

- Notification No. 26/2016-CE, dated 26.07.2016 seeks to prescribe 1% excise duty (without input and capital goods credit) on parts of articles of jewellery falling under the heading 7113 of the Central Excise Tariff Act, 1985(5 of 1986) by seeking to amend Notification no 12/2012-Central Excise .
- Notification No. 27/2016-CE dated 26.07.2016 seeks to partially exempt Central Excise Duty on articles of jewellery manufactured by mounting of precious stones given by a retail customer and/or re-conversion of jewellery given by the retail customer.
- Vide Notification No. 28/2016-CE, dated 26.07.2016 CBEC seeks to amend Notification No. 8/2003-Central Excise dated 01.03.2003, so as to increase the SSI exemption limit and the SSI eligibility limit for parts or articles of jewellery falling under the heading 7113 of the Central Excise Tariff Act, 1985 (5 of 1986). CBEC also issued circular no. 1040/28/2016-CX giving clarification on the above-mentioned notification.
- Notification No. 36/2016-CENT dated 26.07.2016 seeks to amend the CENVAT Credit Rules, 2004 in relation to articles of jewellery or parts of articles of jewellery or both, falling under heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).



- Notification No. 37/2016-CENT dated 26.07.2016 seeks to provide a modified format for quarterly return, ER-8, for return of excisable goods cleared at the Central Excise duty rate of 1% [including articles of jewellery or parts of articles of jewellery or both, falling under heading 7113] or 2%.

### Judgements

- In the case of Commissioner of Central Excise, Cochin Vs Kitex Ltd, {72 taxmann.com 50 (SC)} it has been held by the Supreme Court that though rule 12B deems trader/principal as 'assessee' in respect of job-work got done on textiles, however, duty is payable by such principal on behalf of, and upto extent leviable on, job-worker; therefore, principal is liable to pay duty on 'raw material cost plus job-work charges' and not on sale price charged by principal. Furthermore, the court clarified that processes like cutting to short length, stitching ends, ironing, folding and packing carried out on 'processed grey fabric' to convert them into 'Dhotis' may in enhancement value of product, but, same do not amount to manufacture.
- The Supreme Court of India in the case of Satyam Technocast Vs Commissioner of Central Excise, Rajkot (Gujarat), {72 taxmann.com 49 (SC)} held that in view of assessee's submissions, impugned judgment of the tribunal was modified to state that in computing turnover limits for SSI-exemption purposes, clearances of dummy units/job-workers would be included and clearances by independent/genuine job-workers/units cannot be included

## SERVICE TAX

### Notifications and circulars

- CBEC issued a circular no. 196/06/2016 S.T. 27.07.2016 and gave instructions regarding the provisional attachment of property under Section 73C of the Finance Act, 1994 in lines with the judgement of the Honourable Allahabad High Court.
- CBEC issued an instruction on 22.07.2016 for File No. 137/08/2013-Service Tax asking the officers to allow payment of service tax through non-electronic mode in deserving cases in accordance with Rule 6(2) of the Service Tax Rules, 1994.

### Judgements

- In the case of North Star Shipping Service (P) Ltd. Vs. Commissioner of Service Tax, { 71 taxmann.com 171 (SC)} it has been held by the Hon'bl Supreme Court that while appealing against Tribunal order declining condonation of delay (CoD), assessee must enclose a copy of 'CoD application filed before Tribunal' in appeal papers before High Court; if that is not done, then, High Court may dismiss assessee's appeal for failure to file vital documents
- In the case of Commissioner Vs. Larsen and Tourbo Ltd., {71 taxmann.com 241 (Gujarat)} it has been held by the Hon'bl High Court of Gujrat that In view of SEZ Act and Rules, SEZ units and DTA units of same company are 'distinct entities'/'separate persons' for charge of service tax; however, if no consideration is charged for services provided by SEZ unit to DTA unit of same company, then, in absence of any value, no service tax can be charged.

- In the case of Magma HDI General Insurance Company Ltd. Vs Union of India, {71 taxmann.com 264 (Calcutta)}, it was held that as rule 5A(2) of Service Tax Rules, 1994 empowering demand of documents is declared ultra vires by the Hon'ble Division Bench of the Delhi High Court in Mega Cabs (P.) Ltd. vs. Union of India {[2016] 70 taxmann.com 51/56 GST 14 (Delhi)}, thereby gaining access to any premises under rule 5A(1) may not serve any purpose and further, rule 5A(1) is prima facie ultra vires section 82; therefore, department was restrained from taking recourse to rule 5A(1) or 5A(2), with liberty to proceed under section 82.

- In the case of D.P. Jain & Company Infrastructure (P) Ltd. Vs. UOI,{ 72 taxmann.com 81 (Bombay)} it has been held by the Hon'bl High Court of Bombay, that Airport runways are not 'roads'; hence, maintenance/repair thereof is liable to service tax under Management, Maintenance or Repair Services.



## CUSTOMS

### Notifications and Circulars

- Notification No. 41/2016-Cus dated 06.07.2016 provides exemption from export duty to sugar exported under Advance Authorization Scheme subject to specific conditions thereby amending Notification No. 12/2012 Customs, dated 01.03.2011.
- Notification No. 43/2016-Cus dated 26.07.16 seeks to further amend notification No. 27/2011-Customs, dated 01.03.2011 so as to provide exemption from export duty to Organic sugar up to 10,000 MT in a year beginning with October and ending with September subject to specified conditions. The exemption for the period ending with 30th September, 2016 shall be restricted to 2500 MT.
- Notification No. 34/2016-Cus (ADD) dated 14.07.16 imposes definitive anti-dumping of all imports of Plain Medium Density Fiber Board (MDF) having thickness of 6mm and above, originating in or exported from Indonesia and Vietnam.
- CBEC issued a Circular, Circular No. 35/2016-Customs clarifying the removal of mandatory warehousing requirements for EOUs, STPIs, EHTPs etc., as per the amendment to Notification No. 52/2003-Customs dated 31.03.2003.



### Judgements

- In the case of V.A. Ramash Vs. Assistant Commissioner of Customs, { 71 taxmann.com 292 (Madras)} it has been held by the High Court of Madras, that 'Defaulter', as defined under rule 2(6), means any person from whom Government dues are recoverable; therefore, recovery can be made only against defaulter viz. importer/assessee/company, thereby in case of imports made by a company, duty-demand is payable by company only and such demand can be recovered only from company; in absence of enabling provisions, personal properties of directors cannot be attached/used thereof.
- In the case of Infant Travels (P) Ltd. Vs. Customs & Excise Settlement Commission {72 taxmann.com 95 (Madras)} it has been held by the Madras High Court that in view of provisions of section 32F(5), Settlement Commission must grant an opportunity of being heard to assessee before relying on report of Jurisdictional Commissioner.
- In the case of Worldline Tradex (P) Ltd. Vs. Commissioner of Customs (Import) {72 taxmann.com 93 (Delhi)} it was held that detention can be made only if seizure is not practicable and seizure can be made only if there is reason to believe that goods are liable to confiscation; hence, in absence of any order recording reasons to believe that goods are liable for confiscation, Customs Department's action in withholding/detaining goods will be illegal and assessee cannot be asked to pay warehousing charges for illegal detention.

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