

## Summary of Notifications, Circulars from 16<sup>th</sup> August 2015 to 15<sup>th</sup> September 2015

### SERVICE TAX

#### 1. Clarification regarding the provisions of Section 73, 76 and 78 of the Finance Act, 1994

##### a) Issuance of a Show Cause Notice (SCN)

Section 78 of Finance Act 1994 provides that person who has been served notice under the proviso to sub-section (1) of section 73 for non-payment of service tax due to fraud etc., then such person shall be liable to pay a penalty equal to 100% of the amount of such service tax along with the interest and service tax.

*However where service tax and interest is paid within a period of 30 days of the date of service of notice the penalty payable shall be 15% of such service tax.*

In this regard, CBEC vide *Instruction F. No. 137/46/2015-Service Tax dated August 18, 2015* has clarified the following:

- In a case involving fraud etc. if an assessee pays the tax/duty, interest and penalty equal to 15% of the tax/duty and makes a request in writing that a written SCN may not be issued to them, then in such cases the SCN can be oral and the representation against it can also be oral.
- An assessee can request for an informed waiver of a written SCN if short/non-payment of tax/duty are intimated to the assessee orally with its quantification and the assessee indicates in writing that he has been informed about such grounds and he accepts the grounds and the quantification.
- In case the assessee makes a written request for waiver of a written SCN, the thirty day period can be computed from the date of receipt of such a letter by the department.

##### b) Conclusion of Proceedings

Section 76 of Finance Act 1994 provides that person who has been served notice under the proviso to sub-section (1) of section 73 for non-payment of service tax due to reason other than fraud etc., then such person shall be liable to pay a penalty not exceeding 10% of the amount of such service tax along with the interest and service tax.

*However where service tax and interest is paid within a period of 30 days of the date of service of notice no penalty shall be payable and proceedings in respect of such service tax and interest shall be deemed to be concluded.*

In this regard, CBEC vide *Instruction F. No. 137/46/2015-Service Tax dated August 18, 2015* has clarified **the following**:

- In cases not involving fraud, suppression of facts, etc., if the assessee pays the tax along with interest either within 30 days of the date of service of SCN or before the issuance of SCN, then in such cases proceedings shall be deemed to be concluded.
- Conclusion of proceedings may be approved by an officer equal in rank to the officer who is competent to adjudicate such cases. The cases can be closed by officers of DGCEI/Executive Commissionerate/Audit Commissionerate, as the case may be.
- If multiple issues involving different monetary values arise from the same proceedings, then the sum total involved in all the issues arising from the same proceedings should be considered for conclusion of proceedings.
- The conclusion of proceedings should invariably be intimated to the assessee in writing and there should not be a need to issue an adjudication order or to undertake review of such conclusion of proceedings once intimated.

*[Instruction F.No.137/46/2015-Service Tax dated: August 18, 2015]*

## **CENTRAL EXCISE**

### **2. Creation of Directorate General of Tax Payers Services in CBEC**

CBEC vide *Order NO.02/Ad.IV/2015 Dated: August 27, 2015* has provided that the Office of Chief Commissioner Tax Arrears Recovery (CC TAR) along with its Zonal Units will be renamed as Directorate General of Tax Payer Services (DTPS) which would be a dedicated institution for the taxpayer services along with current functions and responsibilities of the CC TAR. It is important to note that:

- The DTPS will function under overall supervision of Member (Service Tax) CBEC.
- The Directorate of Publicity & Public Relations will get attached to the DTPS.
- The Chief Commissioner and Commissioner Tax Arrears Recovery shall be re-designated as Chief Commissioner and Commissioner Tax Payer Services respectively.
- The Directorate of Tax Payer Services will work as per prescribed terms of reference.

*[Order NO.02/Ad.IV/2015 Dated: August 27, 2015]*

## CUSTOMS

### 3. Amendment in Customs Baggage Declaration Regulations

CBEC vide *Notification No. 76/2015 - Customs (N.T.), Dated: August 18, 2015* has amended the Custom Baggage Declaration Rules to provide the following:

- a) Any person coming to India has to declare the following in Indian Customs Declaration Form:
  - Indian Currency exceeding Rs. 25, 000. Earlier the limit was Rs. 10, 000
  - Flat Panel (LCD/LED/Plasma) Television
- b) Passengers of Indian origin and foreigners of over 10 years of age residing in India other than from Nepal, Bhutan, Myanmar & China are allowed Duty Free Allowance upto Rs. 45, 000 as against Rs. 35, 000 earlier.
- c) All passengers are allowed Duty Free Allowance of Cigarettes: 100 numbers or Cigars upto 25 or Tobacco 125 grams as against earlier limit of 200 numbers or Cigars upto 50 or Tobacco 250 grams.

*[Notification No. 76/2015 - Customs (N.T.) Dated: August 18, 2015]*

### 4. Validity of AEO Certificates extended to 5 years

Presently, Authorized Economic Operator (AEO) Certificates issued under the Authorized Economic Operator (AEO) Programme have a validity of 3 years. Post the lapse of validity the fresh application for AEO and causing fresh verification as per laid down standards conditions takes place which poses as a hardship for AEO status holders who undergo periodical post certification review indicating their continued adherence to the laid down guidelines.

Thus, in order to reduce transaction cost and for ease of doing business, CBEC vide *Circular No. 21/2015, Dated: August 19, 2015* has provided that validity of AEO certificate will be for a period of five year or for further period as extended by DGICCE. This, however, would be subject to yearly review by AEO Programme Manager as it will obviate the necessity of filing fresh applications and causing fresh verifications after 3 years in respect of the AEO status holders.

*[Circular No. 21/2015, Dated: August 19, 2015]*

### 5. Furnishing reply to the Queries raised by the Department

In order to facilitate genuine trade, to reduce dwell time and to streamline the procedures at every stage of assessment till out of charge of goods is given by Proper

Officer of Customs, CBEC vide *Circular No. 22/2015-Customs, Dated: September 3, 2015* has provided that genuine clarifications sought by officers from importers/exporters would be raised in one go and not in a piece meal manner. Field formation would make a list of the queries frequently raised in course of assessment and disseminate them through Public Notice or sensitize trade about the same so that importers could take preventive action to avoid such queries or be better prepared to reply to such queries.

Further, the time taken after answering the queries would be curtailed and documents that are delayed would be accorded priority after receipt of satisfactory reply from importers.

*[Circular No. 22/2015-Customs, Dated: September 3, 2015]*

#### **6. Kathuwas and Mandhan Village declared as Inland Container Depots**

CBEC vide *Notification No. 85/2015-Customs (N.T.), Dated: September 04, 2015* has declared the following as Inland Container Depots in State of Rajasthan for the purpose mentioned against it:

<b>S. No.</b>	<b>Place</b>	<b>Purpose</b>
1.	Kathuwas and Mandhan Village, District Alwar	Unloading of imported goods and loading of export goods

*[Notification No. 85/2015-Customs (N.T.), Dated: September 04, 2015]*

## **VALUE ADDED TAX**

### **BIHAR VAT:**

#### **7. Taxable Limit has been increased from Rs.5 Lacs to Rs.10 Lacs for specified dealer.**

Bihar Government vide *Notification S.O. 211 Dated 8th September, 2015* has increased the taxable limit from Rs.5 Lacs from Rs.10 Lacs for all the dealers, other than dealers involved in Sale of imported goods (i.e. goods which are imported from Outside Bihar).

*[Bihar VAT (Amendment & Validation) Act 2015 and Notification S.O. 211 Dated 8th September, 2015]*

**8. Settlement of Taxation Disputes Act 2015 has been passed for Settlement of Disputes of Taxes.**

- Settlement of Taxation Disputes Act 2015 has been passed to settle the disputes till Financial Year 2010-2011 in the following Act:
  - Bihar VAT Act 2005
  - Central Sales Tax Act 1956
  - Bihar Taxation on Luxuries in Hotels Act 1988
  - Bihar Entertainment Act 1948
  - Bihar Electricity Duty Act 1948
  - Bihar Tax on Advertisement Act 2007
- The Act will be operative till 27.11.2015 i.e. 3 months from the date of its notification (28.08.2015) or as extended.
- Disputed amount for the said act means any Tax, Interest or penalty which is not admitted as payable by the assessee.
- Settlement Amount is as follows:

<i>Payment Made in the following period from the date of Notification</i>	<i>Non-Submission of Form till FY 2004-2005</i>	<i>Arrear Tax in Dispute till FY 2004-2005</i>	<i>Arrear Tax in Dispute from FY 2005-2006 till 2010-2011</i>	<i>Penalty or Interest</i>
Within 1 Month	10% of Disputed Amount	23% to 38% of Arrear Tax in Dispute	28% to 43% of Arrear Tax in Dispute	10% of Disputed Amount
After 1 Month but within 2 months	10% of Disputed Amount	24% to 39% of Arrear Tax in Dispute	29% to 44% of Arrear Tax in Dispute	10% of Disputed Amount
After 2 Months till Expiry	10% of Disputed Amount	25% to 40% of Arrear Tax in Dispute	30% to 45% of Arrear Tax in Dispute	10% of Disputed Amount

- Application for dispute settlement may be submitted from 28.08.2015 till 14.11.2015 or as extended in Form SET-I duly signed and verified by assessee with the following:

- Court Fee of Rs 100/-
  - Notice of Demand
  - Affidavit by assessee declaring facts True and Correct
  - Copies of Return
  - Proof of Tax Payment
  - Copy of Application of Appeal/Revision/Writ Petition/ Special Leave Petition.
- The Authority will verify the computation of disputed amount and make an order in Form SET-V settling the dispute.

*[Bihar Settlement of Taxation Disputes Act 2015, Dated 28/08/2015]*

### **CHHATTISGARH VAT:**

#### **9. Mode of Appeal and Revision is changed from Manual to Electronic.**

Chhattisgarh Government vide *Notification No. F-10-33/2015/CT/V (59) dated 22nd August, 2015*, has amended mode of appeal in Form 53 (i.e. in case where appeal is to be made against order of assessment or penalty) and mode of application for revision against order (i.e. against which revision application is to be filled) in Form 54 from manual to electronic.

Further such revision application is to be made within 6 months from the date of communication of order, as against the earlier clause which provided 6 months from the date of order.

*[Notification No. F-10-33/2015/CT/V(59) dated 22nd August, 2015]*

### **DELHI VAT:**

#### **10. Form T-2 is replaced with Delhi Sugam 2 (i.e. DS2).**

Delhi Government vide *Notification No. F.7(433)/Policy/VAT/2012/ PF/703-712 dated 10th September, 2015*, has introduced online Form Delhi Sugam 2 in place of Form T-2 for providing information about the goods purchased/ stock transfer/ consignment from outside Delhi by registered dealers in Delhi with effect from 15.09.2015.

*[Notification No. F.7(433)/Policy/VAT/2012/PF/703-712 dated 10th September, 2015]*

#### **11. Andhra Bank and State Bank of Travancore are notified as Appropriate Government Treasury.**

Delhi Government vide *Notification No. F.7(400)/Policy/VAT/2011/ PF/565-79, dated 17th August, 2015*, has notified Andhra Bank and State Bank of

Travancore which are located in Delhi as Appropriate Government Treasury for collection of Tax, Interest, Penalty or any other dues in E-payment mode only.

*[Notification No. F.7(400)/Policy/VAT/2011/PF/565-79, dated 17th August, 2015]*

**12. Matched Transaction of Buyer and Seller in Annexure 2A and 2B is not subject to change in Revised Return.**

Dealers are required to file Sale and Purchase details in the Annexure 2A and 2B of the Return whereas the system matches the Input Tax Credit Claimed with the other dealer records.

Delhi Government vide Circular No. 21 of 2015-16 No. F.3(566)/Policy/VAT/2015/640-46, dated 1st September, 2015, has declared that such matched transactions would not be allow to change after filling of return. It means such transactions would be unaffected during revision of return also.

In a case where buyer and seller both committed a mistake and transaction matches; then the buyer need to approach the Assessing Authority of his ward with a statement from the selling dealer admitting the mistake. The Assessing Authority will check, verify and allow both the dealers to revise such entries within a particular time period.

*[Circular No. 21 of 2015-16 No. F.3(566)/Policy/VAT/2015/640-46, dated 1st September, 2015]*

**13. Security deposit payable @ 0.1% of the prescribed turnover for specified dealers.**

Delhi Government vide Circular No. 23 of 205-16 F.3(556)/Policy/VAT/2015/689-695 dated 10th September, 2015, has provided that security deposit @ 0.1% of turnover is payable by the following dealers:

1. Who were registered after 31.03.2012 and
2. Whose taxable turnover (excluding Sale of Exempted Goods, Export, Sale to SEZ, Stock Transfer etc.) during last 3 years exceeds 10 Crore and
3. Who are paying tax under Composition Scheme and
4. Who have paid less than 0.1% of the Taxable turnover in any of past 3 years

*[Circular No. 23 of 2015-16 F.3(556)/Policy/VAT/2015/689-695 dated 10th September, 2015]*

## GOA VAT:

- 1. Assessment can be made beyond the time limit of 3 years in case of Refund due to the assessee on his application**

*Goa VAT (Eighth Amendment) Act 2015*, has inserted a proviso to Section 29(3) to provide that if a dealer is claiming refund in his return and he is not assessed within the time limit of assessment i.e. 3 years, then the Commissioner on an application made by dealer for refund may proceed / order to proceed for assessment of such dealer after giving an opportunity of being heard to dealer.

Further, Dealer is not allowed to file an appeal against the said assessment order.

*[Goa VAT (Eighth Amendment) Act 2015]*