



**OFFICE OF THE CHIEF COMMISSIONER OF CENTRAL EXCISE**  
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C.No.IV/16/01/2015 - CCO (Tech.1)

Date: 28.05.2015

**Minutes of the meeting of RAC held on 27<sup>th</sup> May 2015**

The Central Excise and Service Tax Zonal Regional Advisory Committee meeting was held under the Chairmanship of Shri.S.Ramesh, Chief Commissioner of Central Excise Zone and Service Tax Zone, on 27.05.2015 at 04.00 PM. The meeting was attended by the following members of RAC and the Officials from the Department.

S.No.	Name of the Member (S/Shri.)	Association represented
1	S. Santhanakrishnan	BHEL
2	G.K. Basha	TANSTIA, Guindy
3	K.S. Prabu Lingappa	Federation of Indian Export Organisation
4	T.G. Srinivasan	Andhra Chamber of Commerce
5	Ve.Thirumal	Pondicherry Chamber of Industries
6	George Kutty Abraham	Pondicherry Industries Association

1	Roopam Kapoor	Commissioner, Chennai-I
2	Rajesh Sodhi	Commissioner, Chennai -II / III
3	Manga Babu	Commissioner, Chennai IV
4	Sanjay Kumar Agarwal	Commissioner, Service Tax I/III
5	Ganta Ravindranath	Commissioner, Service Tax II
6	R.Jaganathan	Additional Commissioner, CCO
7	K.B. Raju	Joint Commissioner, Chennai III

2.0 Chairman welcomed all the members and thanked the Trade and Industry for their co-operation extended in achieving the target fixed for Central Excise and Service Tax in the preceding financial year and requested similar co-operation in the current fiscal also. He then sought their opinion about the need for having a separate RAC meeting for Service Tax Zone which came into effect from 15.10.2014. After a brief discussion, it was decided to have a combined RAC meeting for the time being as most of the Service Tax points are common to Central Excise and Service Tax assessees.

2.1. Then the Chairman enquired about the growth of the industry and difficulties faced by them in general. Shri. S. Santhanakrishnan informed that this year, the orders from power sector is less as private sector investments are not forth coming, but the position may improve from

next year onwards. Shri. G.K. Basha, TANSTIA appreciated the support extended by the Department whenever approached. However, he informed that MSMEs are facing trouble due to abnormal delay in receiving payments from their customers and there is no sustainable growth in the MSME sector resulting in most of the units falling sick or facing closure. Shri. V.E. Thirumal representing Puducherry Chamber of Industries expressed certain apprehension regarding the threshold limit under GST regime for which the Chairman replied that it is premature to comment on this point and once the Law comes into force, the position will be clear. It was also brought to the notice by one of the members that hard copy of returns are being insisted upon by the field Officers in Puducherry. The member also pointed out the difficulties faced by the Trade during the visit to Service Tax Range in Puducherry due to poor infrastructure facilities such as absence of power back up, inadequate number of fan, furniture etc. After brief discussion the Chairman assured the members that necessary instructions will be issued in this regard for redressal of the grievances of the Trade.

3. Then the Committee took up specific points sponsored by the members.

**Point No.1:** Whether Registered Manufacturers can apply for Registration as Registered Importer under Rule 9 of CE Rules with the same factory premises and issue Cenvatable invoices. In terms of Circular NO.1003/10/2015-CX dated 05.05.2015, it has been clarified to allow an additional facility for direct transport of goods from the manufacturer or importer to the consignee where the consignee avails the CENVAT credit on the basis of the Cenvat invoices issued by the Registered dealer /importer. This facility obviates the need for goods to be brought to the premises of the registered importer or dealer for subsequent transport of goods to the consignee. In this context a clarification was sought for by the assessee.

**Reply:** There is no bar for a manufacturer to obtain dealer registration for trading of imported goods. However, the premises registered for manufacturing activities should not be used for trading purposes and the provisions of Central Excise Rules, 2002 and Cenvat Credit Rules, 2004 should be followed in these cases.

**Point No.2:** Payment of Service Tax under Reverse Charge Mechanism utilizing CENVAT Credit: Clarification was sought whether balance available under CENVAT credit can be utilized for payment of Service Tax under Reverse Charge Mechanism as there is no bar on utilization of Cenvat Credit under Rule 3(4) for such payments. In support of their point, the High Court Decision in the case of Nahar Industrial Enterprises Ltd., Deepak Spinners Ltd., and Cheran Spinners Ltd., were cited.

**Reply:** The Chairman clarified that all these case laws pertain to the dispute for the period prior to 01.03.2008, and the dispute is pending before Supreme Court. He also informed that the decision in these cases are not applicable to the current period as with effect from 01.03.2008, the definition of Output service was amended to exclude GTA service and further as per explanation to Rule 3(4) of CENVAT Credit Rules, 2004 utilization of CENVAT credit for payment of Service Tax under Reverse Charge Mechanism is prohibited. Therefore presently, CENVAT credit cannot be utilized for payment of Service Tax under Reverse Charge Mechanism.

**Point No. 3 : Utilisation of Closing Balance of Credit of Education Cess/SHE Cess as on 01.03.2015**

**Reply:** As per Rule 3 (4) of Cenvat Credit Rules, 2004, Credit of Education Cess/She Cess can be utilized for payment of the above Cess only and there is no provision as on date to cross utilize the credit accrued upto 01.03.2015. The Chairman also pointed out the clarification given by the DG Audit vide letter F.No.381/23/2010/862 dated 30.03.2010 is with regard to the cross utilization of Credit of duty and service tax for payment of excise duty or Service Tax by a manufacturer who is also providing output service and therefore it is not applicable to the present issue. At this juncture, the member requested whether refund can be applied in such a situation for which the Chairman replied that there is no such provision.

**Regarding the Follow up on the points** raised in the previous RAC, regarding time limit of 6 months for availing CENVAT Credit and the Rate of Exchange for determination of value of taxable service, Commissioner Chennai III clarified that the assessee was already appraised of the issue and the Chairman informed that the Board's clarification is still awaited.

4. The meeting concluded with the vote of thanks to all the members present in the meeting.

This issues with the approval of the Chief Commissioner of Central Excise and Service Tax, Chennai Zone.

*R. Jagannathan*  
( R. JAGANNATHAN )  
ADDITIONAL COMMISSIONER(CCO)

- To
1. All Members of RAC.
  2. The Commissioner of Central Excise, Chennai I / II / III / IV /Puducherry/LTU .
  3. The Commissioner of Service Tax, Chennai I/II/III.
  4. Sr. P.S. to Chief Commissioner.



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