केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर मुख्य आयुक्त का कार्यालय, कोचिन क्षेत्र,
OFFICE OF THE CHIEF COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, COCHIN ZONE,
केन्द्रीय राजस्व भवन, C.R. BUILDING,आई एस प्रेस रोड,I.S. PRESS ROAD,
कोचिन COCHIN – 682 018. ई मेल
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C.No.IV/16/118/2016-CC (KZ) IV-B Date :01.04. 2016

MINUTES OF THE REGIONAL ADVISORY COMMITTEE (FOR THE ORGANISED SECTOR/SSI & SERVICE SECTOR) MEETING HELD WITH REPRESENTATIVES OF TRADE & INDUSTRY

The meeting of the Regional Advisory Committee for the Ist quarter of calendar year 2016 was held at 15.00 Hrs. on 30.03.2016 at the Conference Hall, Central Revenue Buildings, I.S.Press Road, Cochin , which was presided over by Sri. M.Vinod Kumar, Chief Commissioner of Central Excise, Customs & Service Tax, Cochin Zone, Cochin.

The following members of the Regional Advisory Committee attended the meeting.

Sl.No.	Name of the representative S/Shri/Smt.	Company Name and Designation
1.	Abraham Tharakan E.G	Chief Manager(Tax Cell), S.B.T
2.	M.N.Menon	Regional Director, Export Promotion Council for EOU/SEZ
3.	Thomas Mathew	Managing Direcor, M/s.West Coast Polymers Pvt.Ltd
4.	K.R.Ramankutty	Represenative, M/s.Travancore Titanium Products Ltd.

The members, Shri.T.Vinayakumar , Sri.Mohammed Yasar & Sri.C.Mohan intimated their inability to attend the meeting.

The following officers also attended the meeting.

Sl.No.	Name of the officer S/Shri/Smt./Ms.	Designation
1.	M.Sreedhar Reddy	Commissioner, Calicut / Trivandrum
2.	Reshma Lakhani	Commissioner, Cochin
3.	Y.C.S. Swamy	Additional Commissioner, (CCO), Cochin
4.	S.P.Singh	Joint Commissioner,Calicut
5.	S.Nasser Khan	Joint Commissioner , Cochin
6.	Amarnath Kesari	Joint Commissioner, Cochin
7.	Biju Thomas	Deputy Commissioner, Preventive/Technical, Cochin
8.	S.V.Prakash	Asst.Commissioner, (CCO), Cochin.

At the outset Sri.Y.C.S.Swamy,Addl.Commissioner,CCO welcomed the members of the RAC and officers to the meeting. Thereafter, the following points received in

advance from the members were discussed. Decision taken against each is also indicated there below.

Point No. I:-Sponsored by Sri. Abraham Tharakan. E G , Chief Manager, Tax Cell State Bank of Travancore, Trivandrum

Query:-

Notification 13/2016 dated 1.03.2016 supersedes Notification 12/2014 which prescribed different rates of interest from 18% - 30 % from 1.10.2014 . The Notification prescribes two different rates of 24% and 15% as the case may be. But the supersession is subject to the condition "except as respects things done or omitted to be done before such supersession".

Please clarify whether the above expression would cover:

(i) Show Cause Notice issued but not adjudicated.

(ii) Show Cause adjudicated but pending filing of appeal

(iii) Investigation started/Audit completed but no show cause issued.

In case no Departmental Investigation /Enquiry/Audit initiated whether the assessee can adopt 15% interest for the past period also.

On this query, the Commissioner Trivandrum explained to the members that the phrase "*Except as respects things done or omitted to be done before such supersession*" suggests that there is an existing order and this order is superseded or replaced by new order to such an extent that where the replacing or new order is silent, the prevalent rules and process are to be followed.

It was clarified that in all the situation / cases mentioned in the query, the interest rate applicable would be the rates notified as per the Notifications which were in force during the respective periods. The new Interest rate as specified in Notfn.No.13/2016 takes effect only with effect from the date the Finance Bill, 2016 receives the assent of the President of India and the changes has only prospective effect.

Sri. K.R.Ramankutty requested the chair to clarify as to why such an expression is given in the Notification ,for which , the Chief Commissioner explained that it is a legal requirement for the transition and has only the meaning as explained by the Commissioner. The Commissioner, Trivandrum added that same wording can be seen in the earlier Notifications also.

Point No.-II – Sponsored by Sri.T.Vinayakumar, The Advertising Club, Kochi

Query:-

Please refer to Order-In-Appeal No.161/2015 (STA-II) dated 24.07.2015 issued by Commissioner of Service Tax (Appeals-II) , Chennai.

From the order, it is observed that the principle of service tax applicability is the actual income received from the receiver of the service and not any notional figure.

As per this, if we are getting only 2% commission (Even though the stipulated commission is 15%, in most of the cases after allowing discount to a client, we get only 2% or 3%), we are liable to pay Service Tax only for the actual commission we are receiving, that is 2%.

This information was shared by The Advertising Agencies Association of India (AAAI), Mumbai. Media buying is now a days the practice all over India.
We would like to advise our members the factual position.
Hope you will verify and give us a clear guidance.

The Commissioner, Cochin informed that there are divergent views on this matter and as already informed, the matter has been taken up with other Commissionerates for ascertaining the practice followed by them. The Chairman directed that the point would be clarified in due course by the Committee after ascertaining the position regarding the decision of Commissioner (Appeals), Chennai.

Thereafter the chairperson expressed willingness to discuss any points that require clarification in the meeting, even though not submitted in advance.

Sri.Ramankutty, authorized representative of M/s.Travancore Titanium Products Ltd. who attended the meeting, pointed out that with the amendments in the Rule 6 of Cenvat Credit Rules,2004 made by the Finance Bill, 2016 there is an ambiguity . The amendment made in sub Rule 6 (3) of Cenvat Credit Rules vide Notification No.13/2016-Central Excise (N.T) dated 1.03.2016 , reads as:-

"a provider of output service who provides two classes of services, namely:- (i) non-exempted services; (ii) exempted services, shall follow any one of the following options applicable to him, namely :-

(i) pay an amount equal to six per cent of value of the exempted goods and seven per cent. of value of the exempted services subject to a maximum of the total credit available in the account of the assessee at the end of the period to which the payment relates; or

(ii) pay an amount as determined under sub-rule (3A)"

The Member informed that they intend to refer the matter to the department for clarification so that the department can obtain a clarification from the Board.

The Chairman observed that the ~~ambiguity~~ doubt expressed is regarding the period over which the reversal has to been taken. The Chairman requested the member to give a detailed submission on the issue regarding the points to be clarified by explaining the facts of the issue so that the issue can be examined and clarified in detail.

The Chairman further informed the members that the Reserve Bank of India has issued instructions vide Notfn.No.RBI/2015-16/342 dated 17.03.2016 whereby it has been decided that all agency banks shall keep the counters of their designated branches conducting government business open for full day on March 30th and till 8.00 P.M on 2016

and that all electronic transactions would continue till midnight of March 31st 2016 .so that the assesses can make payment till that time. Chairman requested the members to give vide publicity to the same among their members and make best use of the facility.

The Commissioner, Cochin informed that the Commissionerate has surpassed the revenue target fixed in Service Tax but fell slightly short in Central Excise Duty collection. The Chief Commissioner added that overall revenue performance in the country in indirect tax is very good this year.

The Addl.Commissioner ,CCO sensitized the members attending the meeting to consider applying for QCI-BMO Accreditation with the Quality Council of India in the interest of promotion of MSME (Micro Small and Medium Enterprises) and informed that the details of the scheme are available on QCI website www.qcin.org (nabet.qci.org.in/BMO)

Chairman pointed out that this is the last meeting of the present Committee and informed that process of re-constitution of the RAC for the calendar years 2016 and 2017 has already been initiated and based on the nominations received from various Trade Associations etc. a new Committee is being constituted.

After a general discussion on the matters of interest, the meeting concluded. Chief Commissioner expressed thanks to all the members for their participation and making the meetings a success.

This is issued with the approval of the Chief Commissioner, Cochin Zone.

(Y.C.S. SWAMY)
JOINT COMMISSIONER (CCO)

Copy to :

1. All nominated members (As per list attached)
2. Under Secretary (CX.9), CBEC, Dept. of Revenue, New Delhi.
3. The Director General of Taxpayer Services, CR Buildings, IP Estate,New Delhi-110109
4. The Addl.Director General of Taxpayer Services, Banglore Zonal Unit, 4th Floor,TTMC Bldg, DOMLUR, Banglore-560071.
5. Commissioner of Central Excise, Customs & Service Tax, Cochin / Trivandrum / Calicut/Audit/Commissioner (Appeals)-I/II/III.