

**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1, WILLIAMS ROAD, TRICHIRAPALLI- 620 001.**

Minutes of the meeting of the RAC held on 19.03.2007.

TRADE NOTICE: 7 /2007

Dated: 26.03.2007

The Regional Advisory Committee meeting of Trichy Central Excise Commissionerate for Organised, SSI and Service Tax Sectors was held on 19.03.2007 at 15.00 hrs. at Head Quarters Office, Trichy. Shri Parminder Singh, Commissioner of Central Excise, Trichy presided over the meeting.

2. The following members of the Trade attended the meeting.

Sl.No.	NAME OF THE RAC MEMBER S/SHRI.	ASSOCIATION / UNIT REPRESENTED
01	R.M. Bhairavan	Karaikal Industrial Forum, Karaikal
02	M.Balraj	Handloom Export Cloth Manufacturers Association, Karur.
03	S. Sridharan	Trichy District Small & Tiny Industries Association
04	S.Punnamoorthy	BHEL Small Scale Industries Association, Trichy.
05	V. Parthiban	Tamil Nadu Chewing Tobacco Manufacturers Association
06	R. Rengarajan	Sanmar Foundries Ltd.
07.	C. Suresh	SreeVijaya Coaters

3. Shri. C. Basker, representing Karur Industrial Estate Entrepreneurs Association and Sivakkannan, representing Karur Textile Manufacturers Export Association sent intimation regarding their inability to attend the meeting.

4. The following Departmental Officers were present.

S/Shri.

- 1) Pappu Elango, Additional Commissioner (P & V), Headquarters, Trichy
- 2) M.G. Thamizhvalavan, Joint Commissioner (Tech), Headquarters, Trichy
- 3) A. Rajendran, Assistant Commissioner, Trichy-I Division.
- 4) C. Anandan, Assistant Commissioner (Tech), Headquarters, Trichy.
- 5) P.A.Vijay, Assistant Commissioner (Tech.), Headquarters, Trichy.

5. At the outset, the Chairman welcomed all the Members of the Regional Advisory Committee. The following points relating to Central Excise and Service Tax were raised by members and replies were given.

Central Excise:

Point 1 raised by Sanmar Foundries Limited, Foundry Division, Unit II, Viralimalai. (Trichy II Division)

We manufacture Iron and Steel Castings falling under Chapter 73 of CET. For our sales to our group companies we sell at not less than 110% of the cost by adopting a base price which is based on previous year average costs(+) additional costs of nickel and moly added to the assessable value. The prices of nickel and moly are taken from LME (London Metal Exchange prices) published in their Website everyday as these prices are highly volatile. This system ensures that we do not lose on account of the cost variations and it ensures that we sell at the minimum price of cost (+) 10% as per Rule 8 of Valuation Rules for sale to sister units.

However the Central Excise Internal Audit Party has raised an objection that the additional prices should not be added to the assessable value. If this is done, we will incur loss and could not ensure sale at 110% of cost. We have also filed Cost Construction Certificate signed by a Chartered Accountant for each grade indicating that our Selling Prices are higher than 110% of the cost. We feel that we are complying with Rule 8 and there is no loss of revenue to the Department. We would like a clarification in this matter.

Reply: Rule 8 of Central Excise Valuation Rules, 2000 requires an assessee to adopt 110% of the cost of production to determine the transaction value for duty purpose. Hence the assessee may adopt the price prevailing at the time of sale to pay C.Ex. Duty as long as the price of the final product is 110% of the cost.

Point 2 raised by Sanmar Foundries Limited, Foundry Division, Unit II, Viralimalai. (Trichy II Division)

We file rebate claims under Rule 18 for excise duty paid on exports and as per Board's Circular No.828/5/2006-CE dated 20.4.2006 we claim 80% of the rebate amount within 15 days of date of application and balance after audit. We would like confirmation of our stand.

Reply : In as much as rebate claims are also covered in the simplified procedure, 80% of the rebate claims are sanctioned subject to fulfillment of conditions laid down in Para (4) of the Circular referred.

Point 3 raised by Sanmar Foundries Limited, Foundry Division, Unit II, Viralimalai. (Trichy II Division)

We are manufacturing 1500 different products in various grades and we are selling on per Kg basis, alloys in grades. It is not possible for us to give product wise costing and CAS-4 is not applicable to our type of companies where we manufacture based on customer requirements and cater to various engineering industries mainly valve products.

Also, it is mentioned in our audited financial statements by our Statutory Auditors that Central Government has not prescribed maintenance of Cost records under clause (d) of sub section (1) of section 209 of the Companies Act, 1956. We request clarification.

Reply : As per Board's Circular No. 692/08/2003 CX dated 13.02.03, Cost of production of Captively consumed goods will be done in accordance with CAS-4. The practical difficulties would be taken up for consideration separately.

SERVICE TAX

Point No.1 sponsored by TIDITSSIA:

Shree Vijaya Coaters, Ariyamangalam, Trichy, are engaged in powder coating of industrial components and furniture. The above service provider is directly catering the requirement to industries like Cether vessels Pvt Ltd., Rane TRW system, Irizar TVS Ltd., and like other companies. The manufacturer ultimately sell the products powder coated and those are dutiable goods. We are also to some extent doing work for some furniture manufacturers, carpenters and those goods also dutiable in nature but perhaps they may be enjoying small-scale industries exemption.

The clarification sought by the above service provider is whether their services of power coating will attract service tax under the category of "Business Auxiliary service" and the date of leviability of tax.

Reply :

As per the provisions of section 65 of Chapter V of Finance Act,1994, any commercial concern who is providing services in relation to production or processing of goods for, or on behalf of the client excluding any activity that amounts to manufacture within the meaning of clause (f) of section 2 of the Central Excise Act,1944 (1 of 1944) is

liable to pay service tax w.e.f 10.09.2004 under the category of “ Business Auxiliary Service” and the value of taxable service is the gross amount charged by the service provider for providing such services.

ii) The service of powder coating provided by Vijaya Coaters to the requirement of industries like cethar vessels pvt ltd, Rane Trw system, Irizar TVS Ltd and like companies does attract service tax under the category of “Business Auxiliary Services” in as much as the said activity of Powder coating does not amount to manufacture within the scope of section 2(f) of Central Excise Act,1944. However, as per the Notfn No.8/2005-ST dated 1.3.2005 if the goods on completion of the job work returned back to the manufacturer of goods, which are dutiable, full exemption is available to such taxable service, from 1.3.2005.

iii) in respect of similar service provided to others, the same is liable for Service Tax.

iv) As regards, the query regarding the amendment dated 16.6.2005 (ie. Substitution of sub-clause (v) “*Production or processing of goods for, or on behalf of, the client*” it was clarified that the said amendment does not alter the status of this particular service provider as he was engaged in production of powder coated materials which does not amount to manufacture and in terms of section 65 of chapter V of Finance Act, 1994, it is a taxable service.

Point No.2 sponsored by Handloom Export Cloth Manufacturers Association, Karur:

Whether the Textile processing factory has to pay service tax for undertaking the job work of Yarn Dying under the category of “Business auxiliary service”:

Reply: As the point was raised in the meeting without proper intimation, a general reply was given stating that the above service is liable for service tax. However, as per the Notification No. 14/2004-ST dated 10.9.2004 as amended, full exemption on paying of Service Tax has been granted under category of “Exemption on specified services provided in specified sectors” ie. service rendered in relation to agriculture, printing, textile processing or education are exempted from the whole of service tax. Hence, the processing units falling under the Textile sector are wholly exempted from payment of service tax for the service rendered under the category of “Business Auxiliary Services”.

6.General:

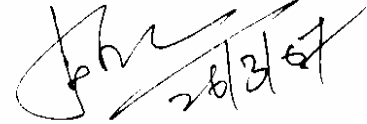
i) The Commissioner briefed the members about the implications of the change in rule regarding mandatory E-Payment of duty by assesses paying Central Excise duty of

more than Rs. 50 Lakhs and asked them to cooperate with the department in implementing the provisions of law.

ii) The Commissioner requested the members to deposit the duty / tax for the month of March on 27.3.2007 itself in view of the proposed strike by Bank employees from 28.3.2007 so as to avoid any difficulty in payment of duty / tax by 31.3. 2007.

7. The Chairman asked the members whether they had any other points for clarification and there were no points. Finally, the Chairman thanked the gathering.

(Issued from file C.No.IV/16/15/2006 - C.Ex. Pol (PF-1))



(M.G.THAMIZHVALAVAN)
JOINT COMMISSIONER (TECH)

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NO.1, WILLIAMS ROAD, CONTONMENT, TRICHY-620 001.**

TRADE NOTICE : /2007

Dated : .03.2007.

To

As per mailing list II & III.

Sanmar Foundries Ltd. Viralimalai.
Sree Vijaya Coaters, Trichy.

Copy submitted to: The Chief Commissioner of Central Excise, Coimbatore.
Copy to:- The Under Secretary, CBEC, CX-9 section, North Block, New Delhi.