

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE  
NO.1 WILLIAMS ROAD, CANTONMENT, TRICHIRAPPALLI-620 001.

Trade Notice No.21/2005 S Tax

Dated : 23-8-2005.

Subject: Service Tax - Power of Adjudication of Central Excise  
Officer in cases related to service cases -regarding.

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Ministry's Service Tax Circular No. 80/1/2005 ST dtd 10-8-05, issued under F.No. 341 / 31 / 2005 -TRU on the above subject is communicated for information, guidance and necessary action.

The contents of this Trade Notice may be brought to the knowledge of all constituent members of the Trade Associations and Chamber of Commerce.

(Issued from C.No.IV/16/905/2005 S.Tax)

Attested

SUPERINTENDENT,  
SERVICE TAX CELL (HQ).

Sd/-  
(C.ANANDAN)  
ASSISTANT COMMISSIONER (T).

To  
The Mailing list I / II / III

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Copy of the Ministry's Circular No.80/1/2005-ST dtd 10-8-2005 issued under  
F.No.341/31/2005-TRU is reproduced below:

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Attention is invited to Board's Circular No. 75/5/2004-ST dated 03.03.2004 which specifies that only Assistant Commissioner or Deputy Commissioner of Central Excise is empowered to issue a demand notice and adjudicate such notice under section 73 of the Finance Act, 1994 (hereinafter referred to as the said Act).

2.1 With the objective of enabling expeditious adjudication of service tax cases, section 73 of the said Act was amended vide Finance Act, 2005, whereby the words "Assistant/Deputy Commissioner of Central Excise" were substituted by the words "Central Excise Officer". Section 83A was also inserted in the said Act for the purpose of conferring powers on the Central Excise Officer for adjudging a penalty under the provisions of the said Act or the rules made thereunder. The above provisions came into force with the enactment of Finance Bill, 2005 on 13<sup>th</sup> May, 2005. Board has specified monetary limits for adjudication of cases under section 83A of the said Act vide notification No. 30/2005- Service Tax dated 10<sup>th</sup> August, 2005. The monetary limits are as follows:

Table I

| <b>S.No</b> | <b>Central Excise Officer</b>   | <b>Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under section 83A</b> |
|-------------|---|---|
| (1)         | (2)   | (3)   |
| (1).        | Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise | Not exceeding Rs. 5 lakhs   |
| (2).        | Joint Commissioner of Central Excise  | Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs  |
| (3).        | Additional Commissioner of Central Excise   | Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs   |
| (4).        | Commissioner of Central Excise  | Without limit.  |

2.2 It has also been decided by the Board to have uniform monetary limits for the purposes of adjudication under section 73 and section 83A of the said Act. The monetary limits for the purpose of adjudication under section 73 are as specified in the Table below:

Table II

| <b>S.No</b> | <b>Central Excise Officer</b>   | <b>Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication</b> |
|-------------|---|---|
| (1)         | (2)   | (3)   |
| (1).        | Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise | Not exceeding Rs. 5 lakh  |
| (2).        | Joint Commissioner of Central Excise  | Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs  |
| (3).        | Additional Commissioner of Central Excise   | Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs   |
| (4).        | Commissioner of Central Excise  | Without limit   |

2.3 In addition to the above, the Board has decided that-

- (i) the monetary limits specified in the above Tables for adjudication of service tax cases shall be irrespective of whether or not such cases involve fraud, collusion, willful mis-statement, suppression of facts or contravention of any of the provisions of the said Act or

the rules made thereunder with an intent to evade payment of service tax and whether or not extended period has been invoked.

(ii) those cases where there is no alleged failure to pay or evasion/avoidance of service tax or utilization of CENVAT credit shall be adjudicated by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.

(iii) Henceforth, a notice to show cause under the provisions of the said Act or the rules made thereunder shall be approved in writing and signed by the Central Excise Officer who is competent to adjudicate the said notice.

(iv) Where simultaneously different cases involving the same issue are due to be adjudicated in a Commissionerate, all such cases may be adjudicated by the Central Excise Officer competent to decide the case where the service tax or CENVAT credit involved is of the highest amount.

(v) For cases where the appellate authority remands the case for de-novo adjudication specifically mentioning the authority that has to adjudicate the case, then such authority specified in the said appellate order should adjudicate such cases. Where the appellate authority does not specifically mention the authority who has to adjudicate the case, then it should be decided by the authority who passed the said remanded order. The above specified monetary limits will not be applicable in such cases.

(vi) All pending notices to show cause shall be disposed of in terms of this Circular. However, in those cases where the personal hearing has been completed, orders will be passed by the adjudicating authority before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

3 With the issuance of this circular, Circular No. 75/5/2004-ST dated 03.03.2004 is hereby rescinded.

F.No 341/31/2005-TRU

(Arvind Madhavan)  
Technical Officer (TRU)  
Tel: 011-23092037  
Fax: 011-23093037

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