

MINUTES OF THE REGIONAL ADVISORY COMMITTEE MEETING HELD ON 20.09.2016

The Regional Advisory Committee (RAC) meeting of Central Excise Mumbai Zone-II was held on 20th September 2016 at 4.30 p.m. in the Conference Hall of Mumbai-II Commissionerate, 9th Floor, Piramal Chambers, Jijibhoys Lane, Lalbaug, Mumbai-400 012.

The meeting was attended by the following officials and nominated members of the Trade/Industry:-

TRADE REPRESENTATIVES:-

Sr.No.	Name of the Member (Shri/S)	Trade/Association Represented
1.	O.C. Fernandes	All India Association of Industries
2.	Sandeep Parikh,	Thane Small Scale Industries Association , Thane

DEPARTMENTAL OFFICERS :

Sr.No.	Name of the Member (S/Shri)	Department Officers
1	Gyan Sarvar	Addl. Commissioner, CCO MCX-II.
2	Milind Lanjewar	Addl. Commissioner, Central Excise, Mumbai-III
3	S.S. Vikal	Superintendent, CCO, MCX-II.
4	M.D. Patankar	Superintendent, CCO, MCX-II.
5	Lissy Vincent	Superintendent, CCO, MCX-II.
6	Vasu Bhatia	Superintendent, CCO, MCX-II.
7	S.H. Bhasgauri	Inspector, CCO, MCX-II.

The Chairman welcomed the representative of the Trade/Industry Associations and the officers present. The minutes of the last RAC meeting held on 28.06.2016 were confirmed and approved unanimously.

The Committee thereafter took up the points sponsored by the following Representatives for discussion:-

(I) POINTS SPONSORED BY THANE SMALL SCALE INDUSTRIES ASSOCIATION

Point No.1:

Notice for not filing ER7 for years 2013/2015 which was brought about during recent Audit. Immediately SFR paid 20000 penalties as was noticed for administrative lapse for 2014/15. However there was no such provision for penalty for this lapse for 2013/2014 and hence they declined to refund penalty.. now a SCN is forced.

COMMENTS:- Prior to 01.03.2015, for non-filing or late filing of ER-7 return, general penalty, upto Five Thousand rupees was imposable under Rule 27 of CER 2002. Vide Notification No. 8/2015-CE(NT) dated 01.03.2015. Rule 12(6) is introduced in Central Excise Rules, 2002, vide which specific penalty at the rate of One Hundred rupees per day, subject to a maximum of twenty thousand rupees, is provided for non-filing of any return.

Point No. 2:-

A second stage dealer is involved in a case with first stage who is claimed by the department as a bogus supplier.

However the dealer has died as a proprietor. Also the department has confirmed that assessee has received material for sure with full proper evidences as required and have taken legitimate Cenvat.

Even after bringing this to notice to the department, Assistant Commissioner has given SCN and confirmed 100% penalty both on assessee and 2nd stage dealer.

COMMENTS:- The point raised is not clear. The Association may give specific information so that the same may be commented upon. Further, as the matter is now sub-judice, no comments can be offered at this stage.

Point No 3:-

Waiver of penalty in the matter of late filing of ST Return for Nil duty payable. One of the Assesses our member filed late ST Return on 09/07/2016 (before the Auditor group IV could point out the lapse to file ST Return), Auditor Group IV Mumbai II was verbally asked assessee to pay penalty of Rs. 20000/- which not accepted by assessee but later paid under protest.

Under Rule 7C of Service Tax Rules, 1994, Powers is granted to Superintendent that can reduce the amount of penalty in case of NIL return but only on satisfaction of genuine reasons.

Hence, we request on behalf of assessee that the penalty in the matter of genuine assess be waived off.

COMMENTS:- The Rule, 7C of Service Tax Rules, 1994, does not provide for reduction or waiver of penalty by the Central Excise Officer, where the gross amount of Service Tax payable is Nil. However, each case has to be looked into separately for deciding the same.

Several queries about the Model Goods and Service Tax Law were raised by Shri Sandeep Parikh with the permission of the Chair, which are as under:

1. Whether the balance in Cenvat would be carried forward.
2. If the GST is not applicable on the 5 Petroleum Products, what about the input credit on those products used.
3. Whether IGST will have to be paid on the inter-state stock transfer.
4. Whether GST applicable on goods send for job work.
5. Even after the roll out of GST, whether RAC meetings would be held.

Informal discussions on the above points were made as the same were not sponsored points.

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

(Gyan Sarvar)
Additional Commissioner
Chief Commissioner's Office,
Central Excise: Mumbai Zone – II

F. No. IV/16-33/CCO-II/MCX/2015
Mumbai, the October, 2016.

To,

All members of the Regional Advisory Committee (RAC) of Central Excise,
Mumbai Zone-II.

Copy to:-

- (1) The Chief Commissioner, Central Excise, Mumbai Zone-I.
- (2) The Commissioners, Central Excise, Mumbai -II / III / Belapur/ Raigad / Audit Commissionerates.
- (3) The Commissioner of Central Excise (Appeals), Mumbai Zone II,
- (4) The Commissioners, Central Excise, Mumbai - I / IV / Thane-I & Thane-II of Mumbai Zone-I.
- (5) The Principal Additional Director General, DGTS, New Custom House, Ballard Estate, 1st Floor, Room No. 138 & 139, Mumbai.
- (6) The Directorate General of Taxpayer's Services, CR Building, IP Estate, New Delhi-110109, w.r.t. letter F.No. DTSP/05/2015 dt. 08.02.2016.
- (7) The Superintendent (Review & Legal), C. Ex. CCO, Mumbai Zone-II to put up the list of proposed withdrawals / withdrawn cases of CESTAT & High Court below the threshold limit on the website/public domain.