

CBEC clarifies many issues on Swachh Bharat Cess

November 13, 2015

In brief

The Central Board of Excise and Customs has issued notification nos. 23-25/2015-Service Tax dated 12 November, 2015 making amendments in service tax law for bringing clarity on provisions governing levy of Swachh Bharat Cess.

In detail

Key provisions of the amendments are as under:

- Notification no. 23/2015 provides for grant of abatement from levy of Swachh Bharat Cess equal to abatement available for service tax, i.e., where service tax is payable only on 30% of the value of taxable services, Swachh Bharat Cess will also be computed on 30% of the value of taxable services. The notification also clarifies that the value of the taxable services for calculation of Swachh Bharat Cess would be the value computed in terms of the Valuation Rules.
- Notification no. 24/2015 provides for levy of Swachh Bharat Cess under reverse charge mechanism for services, where the service recipient is liable to pay service tax (on full or part of the value) under reverse charge mechanism.
- Notification no. 25/2015 provides that in case of services provided by an air

travel agent, life insurer, person purchasing or selling foreign exchange or a distributor or selling agent of lottery, where the service tax rules provide for an alternate mechanism to compute service tax liability, such persons can compute and pay Swachh Bharat Cess as under:

$$\text{Amount payable as service tax} \times \frac{0.5}{14}$$

Further, as per the press release issued by the Finance Ministry dated 12th November, 2015, it is clarified that Swachh Bharat Cess would not be applicable in cases where:

- The invoice is issued and payment is received before 15th November, 2015 or
- Where payment is received before 15th November, 2015 and invoice for payment is issued within 14 days of receipt of payment.

The takeaways

These amendments will bring in clarity on levy of Swachh Bharat Cess. However, as per the news reports, it appears that CENVAT

credit of Swachh Bharat Cess will not be available. If that is indeed the case, this will increase the cost of services for both, service providers and manufacturers, and will result in cascading effect, which should be avoided. Hence, it is hoped that CENVAT credit of Swachh Bharat Cess may be allowed.

Additionally, the press release refers to point of taxation rules for clarifying the applicability of Swachh Bharat Cess. However, the point of taxation rules deal with change in rates and point of collection of existing levy, and not of new levy. It is hoped that this issue would also get clarified appropriately.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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