



सीमा शुल्क (निवारक) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
COMMISSIONERATE

55-17-3 , सी -14 , 2 तल , औद्योगिक एस्टेट, ऑटो नगर , विजयवाड़ा – 520 007

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C.No. Legal/Misc./2016

Dated :

30.06.2016

PUBLIC NOTICE – 14 /2016 (Legal)

Subject : Customs – Introduction of ‘Indirect Tax Dispute Resolution Scheme, 2016 – Regarding.

Attention of all Exporters, Importers, Customs Brokers, Members of Trade and Stake Holders is invited to ‘Indirect Tax Dispute Resolution Scheme, 2016’ introduced by the Government of India under Chapter XI of the Finance Act, 2016 (28 of 2016). The Indirect Tax Dispute Resolution Scheme Rules, 2016 are also notified by the Government vide Notification No. 29/2016-CE(NT) dated 31.05.2016. Both the Scheme and the Rules came into effect from 01.06.2016. The Objective and silent features of the Scheme are detailed hereunder:

A. Objective of the Scheme:

- 1) The Objective is to resolve ‘Indirect Tax Disputes’ pending at the appellate stage of the Commissionerate (Appeals).
- 2) The Scheme allows the party to pay tax due along with the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent of the penalty imposed in the Impugned Order {i.e. the Order which is under Challenge before the Commissioner (Appeals)} to seek the immunity as provided under the Scheme.
- 3) Subject to the provisions specified there under, the Scheme Provides immunity to the applicant **from all proceedings under the Act** in respect of the indirect tax dispute for which the declaration has been made under this Scheme and the **appeal pending before Commissioner (Appeals) stand disposed of.**
- 4) The declaration made by the applicant under this Scheme shall become conclusive upon the issuance of an order by the ‘Designated authority’ and **no matter relating to impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.**

B. Eligibility Criteria: Disputes which are pending before the Commissioner (Appeals) as an appeal against the impugned order as on **1st day of March, 2016** are only eligible.

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C. Silent Features of the Scheme:

a) **Procedure for making declaration:**

- 1) Subject to the provisions of this Scheme, a person may make a declaration to the **designated authority** on or before the 31st day of December, 2016 in the "**Form-1**" (Attached as *Annexure-I*) prescribed under the scheme .
- 2) The designated authority shall acknowledge the declaration and shall give the acknowledgement about the receipt of declaration in "**Form-2**" (Attached as *Annexure-II*) .

Once such an acknowledgement has been given by the designated authority, *the proceedings before the Commissioner (Appeals) shall remain suspended for sixty days, and the Commissioner will not proceed any further with the appeal till expiry of said sixty days.*

- 3) The declarant shall pay tax due along with the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent of the penalty imposed in the impugned order, within **fifteen (15) days** of the receipt of the acknowledgement and intimate in "**Form-3**" (Attached as *Annexure-III*) to the designated authority within **seven (7) days** of making such payment giving the details of payment made along with the proof thereof.
- 4) On receipt of the proof of payment of tax, interest and penalty from the declarant, the designated authority shall, within fifteen (15) days of the receipt of such proof, pass an order of discharge of dues in **Form-4** ((Attached as *Annexure-IV*) in respect of the case before Commissioner (Appeals) for which the declaration has been made in **Form-1**.
- 5) Commissioner will on receipt of the order in **Form-4** from the declarant shall match the same with the copy received directly from the designated authority and shall remove the appeal from his pendency as being disposed off.
- 6) Since the Commissioner (Appeals) has not decided on the issues raised in appeal, said disposal of appeal shall have no binding precedent value.

D. Certain cases to which Scheme is not applicable:

The Provisions of 'the Indirect Tax Dispute Resolution Scheme, 2016' shall not apply, if –

- i) The impugned order is in respect of search and seizure proceeding; or
- ii) Prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or
- iii) The impugned order is in respect of narcotic drugs or other prohibited goods; or

- iv) Impugned order is in respect of any offence punishable under the Indian Penal Code (45 of 1860), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) or the Prevention of Corruption Act, 1988 (49 of 1988); or
- v) Any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974 (52 of 1974)

E. Consequences of Order made under Scheme:

- 1) Any amount paid in pursuance of a declaration made under the provisions of scheme shall not be refunded
- 2) An order passed by the designated authority under the provisions of the scheme shall not be deemed to be an order on merits and has no binding effect.

The explanation provided under Section 217 of the Scheme mentions that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under Section 216 of the Scheme.

2. This is to further inform that Shri D. Satish, Deputy Commissioner (Legal), Hqrs. Office, Customs Preventive Commissionerate is nominated as 'Designated Authority' under the 'Indirect Tax Dispute Resolution Scheme, 2016 in respect of Customs Preventive Commissionerate, Vijayawada.

3. All the members of Exporters, Importers, Customs Broker, Members of Trade and Stake Holders are hereby informed with by this Public Notice.

Encl: As above


7.6.16
(S.K.RAHMAN)
COMMISSIONER

To

As per Mailing List.

A ready Reference for

Due dates or cut-off dates under the Indirect Tax Dispute Resolution Scheme, 2016

For Eligibility Criteria:	:	Cases pending at Commissioner (Appeals) as on 01.03.2016
Effective dates for opting / availing the benefits	:	31.12.2016
a) Starting Date	:	01.06.2016
b) Last Date	:	31.12.2016
For Declarants:		
a) Filing of declarations in Form-I to the 'Designated Authority' .	:	From 01.06.2016 to 31.12.2016
b) Depositing or making payment of the amounts by the declarant.	:	Fifteen (15) days from the <u>date of receipt of acknowledgement from Designated Authority.</u>
c) Intimation in Form-3 to the Designated Authority about the deposits or payments made	:	Within Seven (7) days of <u>making the deposit / payments</u>
d) Intimation to Commr (Appeals) about Declaration in Form-I and acknowledgement of Designated Authority in Form-2	:	Within Fifteen (15) days from the date of receipt of acknowledgement from the Designated Authority.
e) Intimation to Commr(Appeals) about the Order of discharge of dues issued by Designated Authority	:	Before the expiry of suspension period of Sixty (60) days prescribed under the scheme/Rules.
For Designated Authority:		
a) Issuance of 'acknowledgement' in Form-2 to the Declarant .	:	Seven (7) days from the <u>date of receipt of declaration</u>
b) Issuance of Order of discharge of dues in Form-4 to the Declarant	:	Within Fifteen (15) days of <u>receipt of information / intimation (in Form-3) about the deposits.</u>
c) Forwarding a copy of Order of discharge of dues in Form-4 to Commissioner (Appeals)	:	No time limit. However, immediate.
For Commissioner (Appeals):		
a) Suspension of proceedings or not to proceed with the appeal	:	Sixty (60) days from the date of receipt of information about declaration in Form-I and acknowledgment in Form-2 by the Commissioner (Appeals).
a) Intimation to the Declarant about removal of appeal from the list of pending appeals with Commr (Appeals)	:	Within Seven (7) days of receipt of information from the declarant about Order of Designated Authority.