c/c

INDIAN DRUG MANUFACTURERS' ASSOCIATION

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PARTNERS IN GLOBAL HEALTHCARE

26 December 2013

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The Technical Officer (TRU)
Tax Research Unit
Department of Revenue
Central Board of Excise and Customs
Ministry of Finance
New Delhi

Kind Attn.: Shri S. Jayaprahasam

Sub: Draft CENVAT Credit Amendment Rules, on simplification of provisions relating to distribution of input service credit by Input Service Distributor – reg.

Ref: F.No.354/246/2012-TRU dated 17-12-2013

Dear Sir,

We are the Indian Drug Manufacturers' Association (IDMA) since our inception in 1961, representing large, medium and small scale, manufacturers located all over the country. In regards to the Central Excise Draft Circular as above wherein you have requested for views, comments and suggestions, we wish to put forward following suggestions/recommendations.

The current draft circular is definitely welcome for simplifying the methodology of applying previous year and previous quarter as applicable for the purpose of transfer ratio working; however it still do not address the basic problem faced by the Industry at large and specially pharmaceutical industry.

We have on all earlier submissions and meetings, such as the Budget proposals, TRU meetings, Transaction Cost representations and direct meetings with Ministry of Pharmaceuticals pressed on the contentious problem faced by Pharmaceuticals Industry of the **HUGE CENVAT ACCUMULATIONS**. The basic problem of rate anomaly in the Excise duty on input vs. output and high rate of service tax on input services has not been addressed and further to that the amendments of restrictive transfer mechanism in revised Rule 7 effective 1/4/12, have aggravated the issue and CENVAT accumulation.

The problem is impacting the competitiveness of the Industry in the international market. The Transaction Cost committee has also been advised on the subject of additional cost of capital blockage companies are facing due to CENVAT accumulations.

Based on the feedback from our members and the industry, we propose that:

1. Provisions prescribed in Rule 7 of CCR 2004 as existed prior to 1st April 2012, which allowed transfer of credit to the location as per the choice and need of the distributor need to be restored.

2. Common Service Tax credit emanating out of **paid** service tax should not have any restriction of usage and location.

Further suggestions on operational and practical difficulties not addressed in the proposed draft circular are:

a) Treatment for turnover of goods manufactured at Job Work premises/basis.

b) Turnover value to be considered as per the Assessable value or as per Annual report.

Both are different as Turnover as per excise rules will also include stock transfers to other units, free goods etc.

c) Apart from Direct & Common there is also a 3rd category which is services meant for more than one unit but not pertaining to all the units. For eg. Services linked to Exports and where only some units cater to export sales of goods. The

Notification should allow distribution of service tax of above on the turnover of the respective units only and not the total turnover. This will also be important where company manufactures both exempted goods and excisable goods and both are catered by different units.

d) Usage of previous year as ratio for transfer of ISD Credit – Due to the said proposed amendment Credit emanating out of current year transactions if distributed within the year would be transferred on Previous year basis. This would not be fair as company would adopt the transactions such as sales promotions and distribution based on the sales strategy and product mix of the current year and which could have an total changes turnover mix and appropriate utilsations. We suggest that usage of Previous quarter in all respects would be an ideal allocation basis.

e) Turnover of Export of Services (exempt) made from a non manufacturing location (Head Office). Exempted Export of services from a non-manufacturing location should be excluded from the Total Turnover.

We shall be glad to provide any further inputs and clarifications if desired.

Thanking you,

Yours Sincerely,

Daara B Patel
Secretary-General