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MONTHLY AUDIT BULLETIN – APRIL, 2014

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CENTRAL EXCISE

- (1) **GIST OF THE OBJECTION : Non payment of duty on obsolete semifinished/finished goods and non reversal of CENVAT Credit against obsolete raw material**
COMMISSIONERATE : Central Excise Commissionerate, Nasik
CONTRAVENTION OF PROVISION : Rule 3(5B) of the CENVAT Credit Rules, 2004 read with Circular No. 907/27/2009-CX, dated 07-12-2009

Assessee was engaged in manufacture of Vacuum Flasks ‘falling under Ch. 36 of CETA, 1985 and was availing CENVAT Credit on inputs, input services and capital goods. On going through the internal inventories report of the assessee’s unit dated 28.08.2011 it was observed that the assessee had made the provision of Rs.416.83 lakhs /- against the cumulative stock of non moving (i.e. obsolete goods) Raw material/ Semi finished and Finished goods.

The provisions of Rule 3(5B) with effect from 01.03.2011 read as under,

“(5B) *If the value of any,*

(i) input, or

(ii) capital goods before being put to use,

on which CENVAT Credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account, then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the CENVAT Credit taken in respect of the said input or capital goods:

Provided that if the said input or capital goods is subsequently used in the manufacture of final products or the provision of taxable services, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT Credit paid earlier subject to the other provisions of these rules.”

About such non moving/ obsolete semi finished/ finished goods, the Board vide Circular No. 907/27/2009-CX, dated 07-12-2009 has clarified that CENVAT Credit attributed to such goods should at least be reversed if assessee obtain the permission for remission of duty from appropriate authority under rule 21 of the Central Excise, Rules 2002. Further, in the said Circular

it has also been clarified that manufacturer has to pay Excise duty unless duty is remitted under Rule, 21 of the Central Excise Rules, 2002.

In the present case assessee did not apply for remission of duty under Rule, 21 and therefore Excise duty payable on the date of provisions made i.e. 30.06.2011, on semi finished/ finished goods needed to be recovered along with interest and penalty. The duty amount against the provisions related Semi finished/ Finished Goods of Rs. 396.25 (i.e. total provision of Rs. 416.83 lakhs Minus Provisions for Raw material i.e. Rs. 20.58 lakhs) was ascertained at prevailing rate of duty i.e. 10.30%. which came Rs.40.81 lakhs and Cenvat attributed against obsolete raw material was of Rs. 2.90 lakhs. This amount stands recoverable along with interest and penalty.

On pointing out this, the assessee agreed the lapse on his part and paid the Rs. 484805/- (BED Rs. 281653/- + Ed. Cess 5633/- + H.Ed. Cess Rs.2817/- + Interest and penalty. Rs.194702/-). - in r/o obsolete raw material. Balance amount need to be recovered from the assessee.

- (2) **GIST OF THE OBJECTION** : **Irregular availment of exemption under notification No.12/2012, CE dated 17/03/2012**
COMMISSIONERATE : **Central Excise Commissionerate, Bangalore-II**
CONTRAVENTION
OF PROVISION : **Rule 6 of the Central Excise Rules, 2002.**

During the course of verification of sales and ER-1 return records for the period of 09/2012 to 09/2013 it was noticed that the assessee had cleared 'pole shoe' to manufacturers of 'wind mill generators'. The assessee stated that the 'pole shoe' cleared by them was fitted in to rotor which is a part of wind mill generator. As per sl. No. 332 of Notification No.12/2012, dated 17/03/2012- 'non- conventional energy devices or systems specified in list 8' is charged to nil rate of duty. As per serial no. 13 of list 8, wind operated electricity generator, its components and parts thereof including rotor and wind turbine controller' were exempted. Further serial no. 21 of the list 8 of the said notification specified as '(21) parts consumed within factory of production of such parts for the manufacture of goods specified S. Nos. 1 to 20', were exempted.

As per HSN classification 'rotor' is a part of generator. The 'pole shoe' manufactured by the assessee were fitted in to the rotor, therefore the pole shoe is a part of rotor. As per 21 of list 8 of Notification No.12/20012, dated 17/03/2012 parts consumed within the factory of production of parts of generator i.e. rotor were exempted.

The assessee was not a manufacturer of rotor and clearing the pole shoe which was a part of rotor and therefore availing said exemption was irregular. During the period from September 2012 to September 2013, as per ER-1, the assessee had cleared the pole shoes valued Rs.15,01,43,772/- excluding the value of copper. During the said period the assessee had received 2,88,467 Kg copper valued Rs.13,54,38,935/- therefore the total assessable value of these parts was worked out to Rs.28,55,82,707/- involving duty payable as Rs.3,42,69,925/-, Ed Cess Rs.6,85,398/- & SHE Cess Rs.3,42,699/-.

- (3) **GIST OF THE OBJECTION : Wrong classification of prescription pads (Rx pads)(Code-CR01) resulting into short payment of duty**
COMMISSIONERATE : Central Excise Commissionerate, Bangalore-III
CONTRAVENTION OF PROVISION : Rule 6 of Central Excise Rules, 2002

During verification of records for the audit period, it was observed that the prescription pads supplied against orders to various pharmaceutical manufacturers had been cleared by the assessee, classifying those under Chapter 48173000 and discharging duty at rate of 2%. However, the specific entry under heading 4820 which reads as “---- *order books, receipts books, letter pads, memorandum pads, diaries and similar articles* ---” is more appropriate and applicable in the instant case attracting duty at 12%. This wrong classification resulted in short payment of duty. Further, in terms of rules of interpretation the heading which provides the most specific description should be adopted as against a general entry. In view of this, the prescription pads are rightly classifiable under sub-heading 48201090 attracting 12% duty, and hence the duty short paid amounting to Rs.12,21,638/- stands recoverable together with interest. On being pointed out the assessee paid Rs.1,59,668/ out of the total amount payable. The balance amount is recoverable from the assessee.

- (4) **GIST OF THE OBJECTION : Detection of non payment Of duty On Fly Ash By certain suppliers, from the records of the assessee**
COMMISSIONERATE : LTU Commissionerate, Chennai
CONTRAVENTION OF PROVISION : Rule 6 read with rule 8, 11, 12 of Central Excise Rules, 2002

During the course of audit, it was noticed that the assessee was procuring Fly Ash falling under CSH 26219000 from Mettur Thermal Power Plant and Tuticorin Thermal Power Plant. No invoice had been raised for the sale of Fly Ash by these suppliers. The documents for transportation of Fly Ash produced by the contractor engaged by the taxpayer also did not mention the duty payment details or payment of sales tax on Fly Ash. It may be pointed out that Fly Ash is a dutiable product with effect from 1.4.2011, as per Notifications No.1/2011 CE and 2/2011-CE both dated 1.3.2011. As such, it appeared that the suppliers were not discharging duty liability on Fly Ash as required.

Based on the ER4 returns filed by the assessee, the quantity of Fly Ash procured by the assessee and duty payable by the said suppliers was ascertained as detailed below.

For 2011-12: Rs. 10,29,282 [value @ Rs. 410 per MT and duty @ 1.03%] and

For 2012-13: Rs. 21,04,452 [value @ Rs. 410 per MT and duty @ 2.06%] ;

The same is liable to be recovered under Section 11 A of the Central Excise Act, 1944 along with interest and penalty from the suppliers.

- (5) **GIST OF THE OBJECTION : Non payment of interest on the price escalation allowed and supplementary invoices raised**
COMMISSIONERATE : Central Excise Commissionerate, Chennai-IV
CONTRAVENTION OF PROVISION : Section 11AA of the Central Excise Act, 1944

Assessee was engaged in the manufacture of Parts of Motor Vehicles namely Seat Belts falling under heading 87082100 of Central Excise Tariff Act 1985. In respect of one of the major customers of assessee there was price escalation for the clearances made to them during January 2012 to December 2012, and accordingly the assessee paid differential duty amount of Rs.37,18,870/- . However, for such differential duty paid, assessee was required to pay interest also. The total interest payable by the assessee was worked out to Rs.10,50,814/-. On being point out, the assessee accepted the audit point and paid the amount of Rs.10,50,814/- on the spot .

- (6) **GIST OF THE OBJECTION: Wrong availment of input service credit on dismantling and erection of structural items**

COMMISSIONERATE : Central Excise Commissionerate, Bhubaneswar-II
CONTRAVENTION
OF PROVISION : Rule 3 read with Rule 2 of the CENVAT Credit Rules, 2004

During the course of audit verification, it was noticed that the assessee availed CENVAT Credit of Rs.10.75 lakhs based on an invoice raised by a service provider who dismantled structure at a premises outside the factory premises and brought and erected the same inside the factory.

The audit pointed out that the services received were in relation to the execution of a work contract for erection of civil structures or their parts. Further, the dismantling of structural located outside the factory premises and carrying them to factory are not connected with manufacture and hence the services are beyond the scope of Rule 2 (1) of CENVAT Credit Rules, 2004 and credit availed thereon has to be reversed along with interest. On being pointed out, the assessee agreed to the objection and paid the amount.

(7) GIST OF THE OBJECTION: Short payment of duty on clearances of HSD due to adoption of wrong method for quantification

COMMISSIONERATE : Central Excise Commissionerate, Visakhapatnam II
CONTRAVENTION
OF PROVISION : Rule 6 of the Central Excise Rules, 2002

The assessee was engaged in manufacturer of HSD, LSD and crude etc. The audit verified the invoices of the assessee and noticed that assessee was paying Cenvat duty on HSD on quantities at 15 degrees C(KLS) and AED on quantities at 29.5 degrees C(KLN) besides showing natural temperature separately in the invoice. The audit pointed out that the assessee adopted different quantities at different temperature for payment of Cenvat duty and AED for their internal use. Since HSD is cleared at natural temperatures, the assessee should have adopted quantities at ambient temperatures for calculation of duty. The audit pointed out that duty of Rs.12.66 lakhs was short paid on account of quantities adopted at different temperatures for Cenvat and AED instead of quantities at ambient temperatures, which has to be paid along with interest and penalty.

(8) GIST OF THE OBJECTION: Non inclusion of 'after sales service' provided by the dealers on behalf of assessee includible in assessable value

COMMISSIONERATE : Central Excise Commissionerate, Kolkata-IV
CONTRAVENTION

OF PROVISION : Section 4 of the Central Excise Act, 1944 read with Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, read with Circular Nos.643/34/2002-CX dated 01.07.2002 and 936/26/2010-CX dated 27.10.2010

The assessee was engaged in manufacture of Motor vehicle and parts falling under Chapter 87 of the Central Excise Tariff Act, 1985. In the course of audit, it was observed that the assessee sold Motor vehicles through some dealers who had provided after sales service on behalf of the assessee. It was also revealed from available records that as per 'serve to win' scheme, their authorized distributors/ dealers provided free services within the warranty period of the sale of motor vehicle to the customers. Subsequently, the assessee issued 'credit notes' to them. As per Circular Nos.643/34/2002-CX dated 01.07.2002 and 936/26/2010-CX dated 27.10.2010 after sales service provided by the dealer on behalf of assessee is one of the considerations for sale of goods (motor vehicles) and Rule 6 of the Valuation Rules, 2000 will govern the valuation of the said goods. In such cases after sales service charges would be included into the assessable value. Statement submitted during audit as well as Profit & Loss A/c for the period 2011-12 & 2012-13 revealed that the assessee had reimbursed Rs. (42,36,800+35,68,000) = Rs.78,04,800/- to their authorized distributor / dealer who provided after sales services within the warranty period of the sale. Such extra consideration shall be included in the assessable value and duty has to be paid on it. On the above account, the assessee is required to pay Cenvat amounting to Rs.18,95,456/- +Rs. 78,048/-(NCCD) + Rs.59,205/-(Edn.Cess) &Rs. 9,756/-(A.Cess) along with interest at appropriate rate.

(9) GIST OF THE OBJECTION: Non - payment of amount equivalent to safeguard duty forgone at time of import, while clearing finished goods produced using such imported items as DTA sale.

COMMISSIONERATE : Central Excise Commissionerate, Kolkata-IV
CONTRAVENTION : Notification No. 71/2009-Cus. dated 19th June, 2009
OF PROVISION

The assessee, a 100 % EOU, was engaged in the manufacture of 'Aluminium Foil Container'(TSH 76151940 of the Central Excise tariff Act, 1985). In the course of audit and on scrutiny of records, it was observed by the auditors that they had imported Aluminium Foils falling under heading 7607, of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) from People's Republic of China. In terms of Notification No.71/2009-Cus., dated 19th June, 2009, safeguard duty of 30% ad valorem, from 23.03.2009 to 22.03. 2010 (both days inclusive);

and 25% ad valorem, from 23.3.2010 to 22.3.2011 (both days inclusive)] was leviable on import of Aluminium Foils falling under heading 7607, of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) from People's Republic of China as per Rules 12 and 14 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002. However, safeguard duty was not levied on such goods when imported by EOU. When the finished goods are not exported and are cleared into DTA, the purpose of non levy of safeguard duty gets defeated. Accordingly, an amount equal to safeguard duty foregone on the goods at the time of import was to be paid on the equivalent quantity of goods used for manufacture of finished goods which were cleared to DTA. Audit observed from records that the assessee had imported duty free Aluminium Foils falling under Heading 7607 from China and subsequently manufactured excisable goods (Ch- 76151940) out of that imported material and cleared the same to DTA without payment of safeguard duty foregone at the time of importation. Hence, the assessee is required to pay said duty amounting to Rs.21,42,922.00 along with interest.

- (10) **GIST OF THE OBJECTION: Detection of clandestine removal of Fly Ash Bricks from records of the assessee.**
COMMISSIONERATE : Central Excise Commissionerate, Jamshedpur
CONTRAVENTION
OF PROVISION : Rule 6 read with Rule 8, 11 and 12 of the Central Excise Rules, 2002

During the course of audit it was observed that the assessee, a manufacturer of goods falling under Chapter 72 was also engaged in the manufacture of fly ash bricks out of fly ash generated by their power plant from September “2010 and for the manufacture of the said bricks they had purchased a brick making machine and availed CENVAT Credit for Rs.1,78,190.00 on the above said brick making machine. It was also found that they were not reporting the production/ clearance of the said bricks in their monthly ER-1 Return and suppressing their activity of brick manufacturing from the department. On query, the assessee submitted that the said machine was being used for making bricks of the fly ash generated by their power plant and the bricks, so manufactured, were in turn used by them in constructing boundary walls, roads, resoling of roads and other structures without payment of C.E duty. The assessee was engaged in the manufacture of goods falling under chapter 72 and fly ash bricks fall under TSH 68159910 of the Central Excise Tariff Act, 1985. The assessee submitted that they had manufactured 3293155 nos. of Fly Ash Bricks during the period Sept’10 to March’13 and had cleared 4500 (four

thousand five hundred) fly ash bricks @ Rs 4/ per brick and paid duty, accordingly, during the month of March'13. Bricks of fly ash manufactured at the factory were mostly used in construction work within the factory itself. The assessee submitted that goods falling under Tariff heading 6815 manufactured at the site of construction for use in construction work at such site were exempted from whole of the duty leviable thereon vide Serial no. 10 of Notification no.5/2006-C.E. dated 01.03.2006, as amended, by Notification no.15/2009-C.E. dated 07.07.2009 and also vide Notification no.12/2012-C.E. dated 17.03.2012. The exemption provided under the said notifications was not available to the assessee as they were not making bricks by using red mud, press mud of blast furnace slag as envisaged under Notification No. 5/2006 – CE dated 01.03.2006. The terms discussed in Notification No. 12/CE dated 17-3-2012 to claim exemptions also were not fulfilled. Thus assessee was not entitled for the exemption under said notifications.

The duty payable on such bricks, used by the assessee in making of boundary wall, roads, resoling of roads and other structures was quantified based upon the value adopted by them on the similar goods when cleared outside the factory and it worked out to Rs.15,21,784/- (inclusive of cess).

In view of the above, entire amount of duty and cess of Rs. 15,21,784..00 involved, stands recoverable from the assessee along with interest.

SERVICE TAX

- (10) **GIST OF THE OBJECTION: Non - payment of Service Tax on import of services i.e. sales promotion expenses made in foreign currency**
COMMISSIONERATE : Central Excise Commissionerate, Nasik
CONTRAVENTION OF PROVISION : Section 66A of Chapter V of the Finance Act, 1994.

On perusal of Schedule to the Balance Sheet for the period 2012-13 pertaining to Expenditure in foreign currency and the sales promotion expenses ledgers, it was noticed that assessee had made payment in foreign currency on account of commission, exhibition and legal charges of Rs 10,55,750/- for the year 2012-13 and Rs.5,10,487/- for 2013-14 (up to Jan-2014). Further on perusal of ST-3 returns for the period from 2012-13 and 2013-14 , it was noticed that assessee had not made any Service Tax payments on the above transaction.

As per Rule 2(1)(d)(iv) of Service Tax Rules, 1944 (amended w.e.f. 19/4/2006), person liable for Service Tax means *–in relation to any taxable service provided or to be provided by any person from a country other than India and received by any person in India under section 66A of the Act, the recipient of such service.*

Thus, person receiving service in India is liable to pay Service Tax on reverse charge basis. In view of the above legal provisions, the assessee was liable to pay Service Tax along with interest and penalty. On being pointed out at the time of audit, the assessee agreed and paid the amount of Rs.2, 11,953/- (Rs. 1,93,587/- + int. Rs.18,366/-). Penalty applicable is under recovery process.

- (11) **GIST OF OBJECTION : Detection of Non payment of Service Tax on Cleaning Services on scrutiny of financial records.**
COMMISSIONERATE : Service Tax I Commissionerate, Mumbai
CONTRAVENTION OF PROVISION : Section 66 read with Section 68 of the Finance Act, 1994

On scrutiny of assessee's financial records for the period from 2008-09 to 2011-12 it was noticed that assessee had received income under the heads "Trade Refuse Removal Charges".

From the nature of above income, it appears that the same is received from activity of specialized cleaning services in respect of Industrial Waste / Biological Waste falling under the category of Trade Refuse. Hence, this income received by assessee falls under the category of 'Cleaning Services' as defined under Section 65(105)(zzzd) of the Finance Act, 1994 and liable to be taxed.

From the records provided during the audit, it was noticed that they had neither obtained registration nor filed ST3 returns or discharged the Service Tax liability for the period 2008-09 to 2011-12 on provision of said services.

Therefore, assessee was required to discharge the Service Tax liability amounting to Rs. 1,20,40,845/- alongwith interest on the above Cleaning Services.

- (12) GIST OF OBJECTION : Non - payment of Service Tax on amount due against services rendered under the pretext that matter is under litigation.**
COMMISSIONERAT : Service Tax Commissionerate, Chennai
CONTRAVENTION
OF PROVISION : Section 66 read with Section 68 of Finance Act, 1994

Assessee was engaged in providing Port Service to their clients.

On verification of Gross Revenue Share receivable by the assessee from Chettinad International Coal Terminal Private Limited (CICTPL), it was noticed that an amount of Rs.13,38,06,082/- on the total tonnage of coal handled by CICTPL during the financial year 2012-13, had not been recognized as Income for the Financial Year 2012-13. It was reported that in view of the arbitration case filed before the Arbitral Tribunal by CICTPL in the subject issue and due to uncertainty of the revenue receipt, the same had not been recognized as Income as per the accounting policy of the company.

It was observed that in the minutes of the 13th and 14th sitting of the Arbitral Tribunal held on 1st February 2014, The Chief Manager (Finance) of the assessee company had confirmed (based on the affidavit filed on 26-11-2013 and taken on record) that the current outstanding amount of revenue share on account of augmentation charges with held by CICTPL was approximately Rs.43 Crores as on 31-12-2013 after deducting the payment of Rs.6 Crores paid under orders of the Arbitral Tribunal.

As per the revenue share calculation statement for the period from September 2010 upto October 2013 filed along with the proof affidavit by The Chief Manager (Finance) of the assessee company as mentioned above, the outstanding amount of revenue share without interest for the period from 01-04-2012 to 28-02-2014 worked out to Rs. 32,72,87,504/- .

The total Service Tax due on the above amounts was ascertained as Rs.3,76,96,330/- as on 28-02-2014

On persuasion, the assessee has agreed to pay the entire Service Tax amount due immediately.

(13) GIST OF OBJECTION : Detection of Short Payment of Service Tax on comparison of financial records with statutory returns
COMMISSIONERAT : Central Excise Commissionerate , Trichy
CONTRAVENTION OF PROVISION : Section 66 read with Section 68 of the Finance Act, 1994

Assessee, a Financial Institution (Bank), was paying Service tax for Credit card related services. For that services, they have paid Service Tax on the value of Rs.19,17,41,122/- and Rs.13,70,82,335/- for the period 2012-13 and 2013-14 (Upto Sep 2013) respectively as a Service Provider. As a Service Receiver, they had paid Service Tax on the value of Rs.1,95,49,589/- and Rs.1,51,81,586/- for the period of 2012-13 and 2013-14 (Upto Sep 2013) respectively.

On comparison of data related to income as reflected in profit and Loss account with that reflected in ST-3 returns difference of Rs.50,53,90,811/- and Rs.31,29,41,398/- was found for the respective period. On this differential value, assessee is liable to pay Service Tax Rs.6,24,66,304/- and Rs.3,86,79,557/- respectively for the relevant period.

(14) GIST OF OBJECTION : Non - payment of Service Tax on construction of residential buildings for Army as sub-contractor
COMMISSIONERATE: Central Excise Commissionerate, Hyderabad II
CONTRAVENTION OF PROVISION : Section 66 read with Section 68 of the Finance Act, 1994

Assessee was providers of Works Contract Service and GTA services. During the course of audit, the agreement entered into by the assessee with a company for construction of residential buildings for the Indian Army at Faridkot was verified and it was noticed that assessee had not

paid Service Tax on the same claiming exemption from payment of Service Tax as the service was provided for the personal use of the army.

Verification of agreement revealed that the assessee did not render works contract services directly to the Army but to a Joint Venture company. The audit pointed out that as per the clarification given by the CBEC vide their letter F.No.332/16/2010-TRU dated 24.05.2010, if the service provider renders service through a sub-contractor, the sub-contractor would be liable to pay Service Tax. The assessee did not provide service to the Army directly but only through a Joint Venture Company and hence Service Tax of Rs.55.01 lakhs is liable to be paid on the transaction between the assessee and the said company along with interest.

**(15) GIST OF OBJECTION : Non-payment of Service Tax on Business Auxiliary services
COMMISSIONERAT : Central Excise Commissionerate, Visakhapatnam I
CONTRAVENTION
OF PROVISION : Section 66 read with Section 68 of the Finance Act, 1994.**

Assessee was providers of Custom House Agent services, Cargo Handling services, Port services etc. During the course of audit, it was noticed that the assessee received certain amounts from the Container Freight Stations as ‘discounts’. The audit pointed out that the said amounts were received as commission / incentive for giving business and it, therefore, amounted to providing Business Auxiliary service as defined under Section 65 (19) of the Finance Act,1994.

The assessee also received commissions from their customers for arranging the DEPB scrips, arranging vessels etc. Service Tax is leviable on the said income under ‘Business Auxiliary services’.

It was also noted that the ocean freight charged and collected from the shipper was more than the ocean freight amount paid to the shipping line. The amount charged / collected in excess in such a manner is to be treated as income. The said amount is the consideration for the services rendered on behalf of the principals and hence the assessee was liable to pay Service Tax on such income under Business Auxiliary Service. The audit pointed out that the assessee were liable to pay Service Tax of Rs. 15.40 lakhs on the above income under Business Auxiliary Service.

**(16) GIST OF OBJECTION : Availment of abatement without paying service tax on gross value.
COMMISSIONERATE : Service Tax Commissionerate , Kolkata
CONTRAVENTION**

OF PROVISION**: Notification no. 01/2006-ST dated 01/03/2006.**

On scrutiny of the balance sheet, trial balance and other documents for the period from 2008-2009 (October, 2008 to March, 2009) to 2012- 2013 submitted by the assessee (a Govt. organisation under Indian Railway), it was been observed that assessee had provided Outdoor Catering Service under Section 65(105)(zvt) of the Finance Act 1994, as amended in some listed express trains. Further scrutiny of the documents revealed that during the said period the assessee had provided cooked food, snacks such as cake, pastry, etc and packaged drinking water to the respective train passengers as Outdoor Catering Service. The assessee paid Service Tax on the value of cooked food only (till 30.6.2011) after availing abatement under notification no. 01/2006-ST dated 01/03/2006. Whereas during 1.7.2011 onwards the Service Tax was paid on the abated gross taxable value inclusive of snacks, packaged water also. As per the said notification, abatement is allowed to the assesseees when they pay Service Tax on the gross value inclusive of food along with service charge. In the instant case, the assessee had not included the value of snacks and rail neer alongwith the value of cooked food during the period 2008-09 to 30.6.2011 and as such they have violated the condition of the notification no. 1/2006-ST dated 1.3.2006. On the above account, the assee had short paid Service Tax to the tune of Rs. 17,86,275/- (inclusive of cess).