

Finance Act 2005

Section 124 - Amendment of Act 23 of 2004

In the Finance (No. 2) Act, 2004,---

(a) in section 88, after sub-section (4), the following sub-sections shall be inserted, namely:--

"(5) Notwithstanding anything contained in sub-section (4), the following procedure shall be followed for the recovery of the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957) which has been availed but which would not have been availed if the amendment made by sub-section (1) was in force at all material times (hereinafter referred to in this section as the amount of credit), namely:--

(i) the Central Excise Officer shall, on or before the 25th day of May, 2005, serve notice on the person from whom the recovery is to be made (hereinafter referred to as the assessee), requiring the assessee to declare the amount of credit utilised by him on different dates for payment of duty of excise (hereinafter referred to as the CENVAT duty) leviable under the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);

(ii) the assessee shall furnish the declaration as required under clause (i) on or before the 31st day of May, 2005;

(iii) the Central Excise Officer shall, after considering the declaration made by the assessee under clause (ii), determine the amount of credit utilised on different dates for payment of CENVAT duty;

(iv) the Central Excise Officer shall separately determine the amount of interest on the amount of credit (hereinafter referred to as the amount of interest) utilised for paying the CENVAT duty, in accordance with the provisions of clause (v);

(v) the amount of interest on amount of credit utilised for paying the CENVAT duty shall be at a rate of thirteen per cent. per annum for the period beginning on and from the day when each time the amount of credit was so utilised and ending on the 10th day of September, 2004;

(vi) the Central Excise Officer shall, on or before the 15th day of June, 2005, inform the assessee, in writing, the amount of credit and the amount of interest so determined under clauses (iii) and (iv);

(vii) the assessee shall pay an amount equal to one-thirty sixth part of each of the amount determined under clauses (iii) and (iv) by the fifth day of every month, commencing from the month, following the month of receipt of information of the amount determined by the Central Excise Officer;

(viii) the assessee may make payment on his own towards the amount of credit or, as the case may be, the amount of interest, in excess of the amount required to be paid upto a particular month;

(ix) where the assessee pays the total amount of credit and the amount of interest so determined under clauses (iii) and (iv), respectively, the Central Excise Officer shall issue an order confirming the payment of credit and the amount of interest and discharging the assessee from any recovery of the amount of credit;

(x) for the purposes of this sub-section, it is hereby clarified that the amount of credit has been fully utilised first towards payment of the CENVAT duty before utilising the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957) paid on or after the 1st day of April, 2000 for payment of the CENVAT duty.

(6) Where the assessee fails to furnish the declaration as required under clause (i), or has furnished the declaration but failed to pay the amount by the day as specified in clause (vii), of sub-section (5), the provisions of sub-section (4) shall apply subject to the modification that the notice, requiring the assessee to show cause why he should not pay the amount specified in the notice, shall be served upon him within three months from the date of his such failure.";

(b) in section 94, in sub-section (1), clause (a) shall be re-lettered as clause (aa) thereof, and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:--

"(a) the additional duty referred to in sub-section (5) of section 3 of the Customs Tariff Act, 1975(51 of 1975);".

(c) In section 98, in the Table, with effect from the 1st day of June, 2005,--

(i) against Sl. No. 1, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(ii) against Sl. No. 2, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(iii) against Sl. No. 3, under column (3) relating to rate, for the figures and words "0.015 per cent.", the figures and words "0.02 percent." shall be substituted;

(iv) against Sl. No. 4, under column (3) relating to rate, for the figures and words "0.01 per cent.", the figures and words "0.0133 per cent." shall be substituted;

(v) against Sl. No. 5, under column (3) relating to rate, for the figures and words "0.15 per cent.", the figures and words "0.2 per cent." shall be substituted.

Declaration under the Provisional Collection of Taxes Act, 1931

It is hereby declared that it is expedient in the public interest that the provisions of clauses 72, 74, 85, 86, 119, 120 and 123(d) of this Act shall have immediate effect under the Provisional Collection of Taxes Act, 1931(16 of 1931).