**Instructions regarding Powers of adjudication of Central Excise Officers in Service Tax cases**

*Circular No. 130/12/2010-ST, dated 20-9-2010*

Attention is invited to Board's Circular No. 80/1/2005 – ST dated 10.05.2005 and No. 97/8/2007 dated 23.08.2007 (para12.2) which specifies uniform monetary limits for adjudication of cases under section 73 and section 83 A of the Finance Act, 1994. At present adjudication powers in Service Tax cases have been delegated upto the level of Assistant Commissioners and Superintendents were not vested with any authority to adjudicate cases. The Board has decided to confer the power of adjudication on Superintendents for cases involving service tax upto Rs. 1 lakh in a show cause notice, except in respect of issues relating to taxability of services, valuation of services and cases involving extended period. Accordingly the monetary limits for adjudication of cases has been revised vide Notification No. 48/2010 – Service Tax dated 8th September 2010.

2. The revised monetary limits are as follows:

**Table I**

| Sr. No. | Central Excise Officer | Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under Section 83A |
|---|---|---|
| (1) | (2) | (3) |
| (1) | Superintendent of Central Excise | Not exceeding Rs. one lakh **(excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)** |

| | | |
|---|---|---|
| (2) | Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise | Not exceeding Rs. five lakhs (except cases where Superintendents are empowered to adjudicate.) |
| (3) | Joint Commissioner of Central Excise | Above Rs. five lakhs but not exceeding Rs. fifty lakhs |
| (4) | Additional Commissioner of Central Excise | Above Rs. twenty lakhs but not exceeding Rs. fifty lakhs |
| (5) | Commissioner of Central Excise | Without limit. |

The revised monetary limits for the purpose of adjudication under section 73 are as specified as below,-

**Table – II**

| Sr. No. | Central Excise Officer | Amount of Service Tax or CENVAT credit specified in a notice for the purpose of adjudication. |
|---|---|---|
| (1) | (2) | (3) |
| (1) | Superintendent of Central Excise | Not exceeding Rs. one lakh **(excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)** |
| (2) | Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise | Not exceeding Rs. five lakhs (except cases where Superintendents are empowered to adjudicate.) |

| | | |
|---|---|---|
| (3) | Joint Commissioner of Central Excise | Above Rs. five lakhs but not exceeding Rs. fifty lakhs |
| (4) | Additional Commissioner of Central Excise | Above Rs. twenty lakhs but not exceeding Rs. fifty lakhs |
| (5) | Commissioner of Central Excise | Without limit. |

3. In respect of the above powers of adjudication conferred on the Superintendents, it is clarified as under,-

(i) The Superintendents would be competent to decide cases that involve Service Tax and / or CENVAT credit upto Rs. one lakh in individual show cause notices.

(ii) They would not be competent to decide cases that involve taxability of services, valuation of services, eligibility of exemption and cases involving suppression of facts, fraud, collusion, willful mis-statement etc.

(iii) They would be competent to decide cases involving wrong availment of CENVAT credit upto a monetary limit of Rs. one lakh.

(iv) The jurisdictional Commissioners of Central Excise may redistribute the pending cases in the Commissionerate based on above factors. It is further clarified that notwithstanding this revision, in all cases, where the personal hearing has already been completed, orders will be passed by the officer before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

(v) It may also be noted that the age-wise pendency of cases as shown in the Monthly Technical Report should be reported based on the date of issuance of show cause notice and not on the basis of transfer of cases to the new Adjudicating Authority. The jurisdictional Commissioners should ensure that the work of re-allocation of the pending cases, issuance of corrigendum to the Show Cause Notices, transfer of relevant files and records etc, should be completed in a time-bound manner at the most within a month. A compliance report in this regard should be sent to the Chief Commissioner by the Commissioner, who in turn, should submit the details to the DGST by 30th September 2010. DGST will consolidate and submit a report to the Board by 15.10.2010 to the effect that all the work regarding re-allocation of cases has been completed.

4. The contents of this circular may be suitably brought to the notice of the field formations and the Trade.