**F.No.137/314/2012-Service Tax**
**Government of India**
**Ministry of Finance**
**Department of Revenue**
**Central Board of Excise and Customs**
**Service Tax Wing**
****

New Delhi, dated 30th June, 2015

To

All Principal Chief Commissioners of Central Excise
All Chief Commissioners of Central Excise/ Service Tax
Principal Directors General of Service Tax/Central Excise Intelligence/Systems
Director General of Audit
All Principal Commissioners of Central Excise/Service Tax
All Commissioners of Central Excise/Service Tax
All Principal Commissioners/Commissioners LTU

**Subject: Detailed Manual Scrutiny of Service Tax Returns**

**Madam/Sir**

1.1 In the era of self-assessment, the need for a strong compliance verification mechanism cannot be over emphasized. Such a mechanism has three important prongs – audit, anti-evasion and return scrutiny. In order to put in place a strong 'return scrutiny' system, a two-part system of return scrutiny was envisaged– a preliminary scrutiny which would be online covering all the returns; and a detailed manual scrutiny of select returns, identified on the basis of risk parameters, to be done by the Division/ Range offices.

1.2 The Board vide Circular No. 113/07/2009-ST dated 23-4-2009 had laid down the procedure for carrying out detailed scrutiny of returns and had circulated a Return Scrutiny Manual for Service Tax. However, with the introduction of the Point of Taxation Rules, 2011, which shifted the liability of payment of service tax from receipt basis to accrual basis, and the advent of negative list-based comprehensive taxation of services in 2012, it was felt that the guidelines for detailed scrutiny of returns needed a revision. In this background, it has been decided that detailed scrutiny of ST-3 returns, with effect from **01.08.2015,** should be carried out in the manner outlined below:-

## 2.0 PRELIMINARY ONLINE SCRUTINY

2.1 The purpose of preliminary scrutiny of returns includes ensuring the completeness of the information furnished in the return, arithmetic correctness of the amount computed as tax and its timely payment, timely submission of the return and identification of non-filers and stop-filers. On the basis of the validation checks incorporated in ACES by the Directorate General of Systems & Data Management (DGS&DM), preliminary scrutiny of all returns is done online in ACES and the returns having certain errors are marked for Review and Correction (RnC). These have to be processed accordingly by the Range Officers.

## 3.0 SCOPE OF DETAILED MANUAL SCRUTINY

3.1 The purpose of detailed manual scrutiny of returns is to ensure the correctness of the assessment made by the assessee. This includes checking the taxability of the service, the correctness of the value of taxable services in terms of Section 67 of the Finance Act, 1994, read with the Service Tax (Determination of Value) Rules, 2006 and the effective rate of tax after taking into account the admissibility of an exemption notification, abatement, or exports, if any; ensuring the correct availment/utilization of CENVAT Credit on inputs, capital goods, and input services in terms of the CENVAT Credit Rules, 2004, etc. In doing this, the proper officer must rely mainly on assessment-related documents like agreements/contracts and invoices. Detailed financial records should not be called for in a routine manner.

3.2 A detailed scrutiny programme typically supplements the audit programme. The scope of audit, on the other hand, is to inspect the financial records of a company for a complete financial year in order to identify non-compliance issues and to evaluate the assessee's internal control system. The two processes of audit and scrutiny are, in fact, complementary to each other.

## 4.0 SELECTION OF RETURNS FOR DETAILED SCRUTINY

4.1 The detailed manual scrutiny programme must replicate some of the best practices in audit. A Return Scrutiny Cell should be created in the Commissionerate's Headquarters. The Return Scrutiny Cell shall maintain the records of the assessees and the returns which are selected for detailed scrutiny and also the results thereof.

4.2 The focus of detailed manual scrutiny of the returns would be on the returns of those assessees which are not being audited. The detailed return scrutiny would be conducted in respect of such assessees whose total tax paid (Cash + CENVAT) for the FY 2014-15 is below Rs 50 lakhs. Each Commissionerate has to select equal number of assessees for carrying out returns' scrutiny from each of the these three total tax paid bands (Cash+CENVAT) viz., Rs 0 to Rs 10 lakhs, Rs 10-25 lakhs and Rs 25-50 lakhs for the financial year 2014-15.

4.3 The risk parameters and the risk tools which would govern the selection of the returns for detailed manual scrutiny have been developed. The risk scores for the Service Tax returns for the financial year 2014-15 have been calculated. The data has been segregated on the basis of Zone/Commissionerate/Division/Range. The data resides with DGS&DM which will be shared with the Service Tax & Central Excise field formations through secure data exchange in the following manner:-

4.3.1 The risk score files will be placed on a server. Chief Commissioners of Service Tax & Central Excise Zones are required to nominate a 'Zonal Nodal Officer' who shall access these data and distribute the same to the Zonal Commissionerates dealing with Service Tax. The said officer should preferably be of the rank of Additional/Joint Commissioner and should necessarily have an official email id (ICEGATE or NIC email).

4.3.2 The nomination of Zonal Nodal Officers should be informed to the Service Tax Wing, CBEC by email addressed to [illegible] alongwith attaching a scanned copy of the nomination letter. The said communication should contain the nomination by the Chief

Commissioner along with the designation, email id, telephone numbers (mobile & land line numbers) of the nominated Nodal Officer.

4.3.3 An email will be sent by DGS&DM to the Zonal Nodal Officer. These Zonal Nodal Officers would need to copy and paste on the internet browser the 'weblink' of the page hosting the folders. They would need to login using the username and password which would be shared with them through a separate email sent on their official email id. They would then need to click on the folder bearing the respective Zone name (available on the left panel) to access the files placed there.

4.3.4 The Return Scrutiny Cell, through an officer authorized by the Commissioner, shall collect the Risk Score data for the Commissionerate from the Zonal Nodal Officer.

4.3.5 The list of returns to be taken up for detailed scrutiny would be finalized by the Additional/Joint Commissioner in-charge of Division (or in his absence by the Commissioner) as per the risk score in conjunction with the total tax paid by the assessee, local risk parameters (including sensitive and evasion prone sectors), past compliance record of the assessee and manpower availability. The list of the assessees selected will be sent to the respective Divisions.

4.3.6 The assessees who have been selected for audit or have been audited recently (in the past three years) should not be taken up for detailed scrutiny. However, the Chief Commissioner, may direct detailed manual scrutiny of an assessee's return who has paid service tax (Cash + CENVAT) more than Rs 50 lakhs in certain specific cases. In no event should an assessee be subjected to both audit and detailed manual scrutiny.

**4.3.7 All the officers should maintain strict confidentiality regarding the Risk Score data including the original score, further selection by the Commissionerate, etc. Under no circumstances it is to be shared with the assessee or any other authority since this is information available in a fiduciary relationship, pertaining to a third party, and which may entail further investigation.**

## 5.0 METHODOLOGY

5.1 Detailed scrutiny of returns must be conducted by the Service Tax Range headed by the Superintendent and assisted by a complement of Inspectors. However, the Divisional DC/AC shall be responsible for the overall supervision of this business process in respect of his/her division. Before return scrutiny is initiated, the assessee must be given prior intimation of at least fifteen days and the purpose of the exercise must be spelt out in an **Intimation Letter** in a format given as **Annexure I**. Once an assessee's returns are taken up for detailed scrutiny, the Range should compile the **Assessee Master Information** to facilitate trend analysis in a format given as **Annexure II**. Since this information is based on the returns, it can be obtained from the returns filed in ACES without making any reference to the assessee. Returns scrutiny must be done for a complete financial year by looking at two half-yearly returns in conjunction. Before scrutinizing the return for evaluating the correctness of assessment, the information available in the assessee master should be carefully studied by the Divisional DC/AC and discussed with his officers, much like Desk Review in Audit. To begin with, the returns for the financial year **2013-2014** should be taken up for detailed scrutiny.

5.2 One of the important objectives of return scrutiny is to ensure validation of the information furnished in the self-assessed ST-3 return. The validation exercise would require reconciling information furnished in the ST-3 return with ITR Form Nos. 4, 5, 6 and 26AS and any third party information made available. In addition to this, the scrutiny exercise must

also look at the correctness of self-assessment with respect to taxability, admissibility of abatement and eligibility for exemption, valuation and CENVAT credit availed/utilized.

5.3 A **Checklist** has been prepared for carrying out detailed manual scrutiny of selected ST-3 returns **(Annexure III)**. For achieving the stated objectives, the checks have been categorized as follows:

- Reconciliation for validation of the information furnished in the ST-3 return;
- Taxability in respect of services which may have escaped assessment;
- Classification (for the purposes of due availment of abatement/exemption benefit);
- Valuation; and
- CENVAT credit availment/utilization.

5.4 In case any additional details are required, the same may be obtained from the assessee through requisition rather than through a visit. Calling of such additional documents must be done with the approval of the jurisdictional DC/AC so as to obviate the complaint of administrative intrusion.

5.5 Based on the experience of some Zones/Commissionerates, it is seen that in a month an Inspector will be able to perform detailed manual scrutiny of a minimum of three assessees. While some cases may take time, the scrutiny process of an assessee should be completed in a period not exceeding three months.

## 6.0 DOCUMENTATION OF FINDINGS

6.1 In order to ensure transparency of the scrutiny process, it is important to document the findings flowing from the scrutiny effort. For this purpose, an **Observation Sheet** should be prepared. The format of the observation sheet, enclosed as **Annexure IV**, bears a one-to-one co-relation with the checklist. The scrutiny officer must record his findings under each of the subject of the checklist namely, reconciliation, taxability, classification, valuation and CENVAT credit. Under each of these heads, the officer should record any action that needs to be taken by the Range. The findings should clearly outline the process of scrutiny that led to the outcome. It is also possible that the officer may come across some issues which may have to be referred to audit or anti-evasion. These should also be noted in the relevant column given in the observation sheet. In cases where detailed scrutiny of returns results in detection of defaults in service tax payment and it appears that the proviso to section 73(1) of the Finance Act, 1994 is invokable, the ST-3 returns of the past periods should also be verified and the results of such verification should be recorded.

6.2 All scrutiny findings in a month must be discussed in a **Monthly Scrutiny Monitoring Committee Meeting** headed by the Additional/Joint Commissioner in-charge of the Division (or in his absence by the Commissioner) where each Range should present their scrutiny findings in the form of a **'Scrutiny Report'** given as **Annexure V**. The meeting should be attended by all the Range Inspectors, Superintendents and DC/ACs of the Divisions whose supervisory control is with the said ADC/JC. This would provide an opportunity to the officers from other Ranges to respond to the findings and also share best practices. The views of the committee on the return scrutiny findings must be documented and follow up action taken. Important issues may be put up to the Commissioner for information. The minutes of the meeting and the decisions including detection and recovery of service tax dues should be properly recorded and maintained by the Scrutiny Cell of the Commissionerate.

6.3 Zonal Chief Commissioners are requested to submit monthly reports in the format given in **Annexure VI** to the Directorate General of Service Tax till facilities are developed to enable the Commissionerates to upload the data in the MIS of CBEC.

6.4 Based on the past experiences in performing detailed manual scrutiny, a few Templates/Case studies have been prepared and are enclosed as **Annexures VII and VIII**. These Case Studies will help and guide the officers who are not conversant with the process of Detailed Scrutiny.

6.5 The timelines to be followed for starting detailed manual scrutiny as per the above detailed process are as below:

6.5.1 Forwarding of official mail ids of the Zonal Nodal Officers by **06.07.2015**

6.5.2 Forwarding of data by DGS&DM by **08.07.2015**

6.5.3 Finalization of the list of the returns of the assessees selected for detailed manual scrutiny and dispatch of the Intimation Letter by **15.07.2015**

6.5.4 Commencement of detailed manual scrutiny of selected returns by **01.08.2015**.

6.6 Even after the introduction of GST, it may be appreciated that the basic principles of scrutiny of returns and reconciliation of records would remain the same.

Yours faithfully,

30/6/2015

(Himani Bhayana)
Under Secretary (Service Tax)

**ANNEXURE I**

## INTIMATION LETTER

**OFFICE OF THE DEPUTY/ASSISTANT COMMISSIONER OF SERVICE TAX/CENTRAL EXCISE**

**Division ..... .....**

**Phone: ..... Email: .....**

**F. No.** Dated: . . 2015

To

M/s _____

(STC : _____)

_____

Sir/Madam,

**Sub: Intimation for conducting detailed scrutiny of ST-3 returns–**

This is to inform you that the CBEC has issued revised guidelines for conducting detailed manual scrutiny of ST-3 returns. Scrutiny of returns forms one of the three prongs of compliance verification- the other two being audit and anti-evasion. The principal role of detailed manual scrutiny is to check the correctness of self-assessment which implies checking the correctness of valuation, effective rate of tax and CENVAT credit availment/utilization. These will be done by looking at assessment related documents and will be done in the Range Office.

2. In addition, it is also proposed to do a broad reconciliation with respect to the income tax return. The scrutiny of returns will be done on a yearly basis by combining two half-yearly returns so that reconciliation with the income tax return can be done. You are requested to kindly cooperate in this task.

Yours faithfully,

( )

**Deputy/Assistant Commissioner**

**ANNEXURE II**

## ASSESSEE MASTER INFORMATION

1. Details of the assessee

| | | |
|---|---|---|
| 1. | Name of the assessee | |
| 2 | 15 digit STC | |
| 3 | Details of Unit/Organization | |
| 4 | Details of services provided | |

2. Details of ST-3 returns filed

| Period | | Due date for filing return | Return filed on | Number of days of delay | Penalty payable for late filing of return | Penalty paid |
|---|---|---|---|---|---|---|
| From | To | | | | | |
| April'13 | Sep '13 | | | | | |
| Oct'13 | Mar '14 | | | | | |
| Apr'14 | Sep'14 | | | | | |

3. Service tax payable as disclosed in ST-3 returns

(Rs in lakhs)

| Period | | Value of services | | | | Total Service Tax payable |
|---|---|---|---|---|---|---|
| From | To | Taxable | Exempted | Total | Received | |
| April'12 | Mar '13 | | | | | |
| Apr'13 | Mar '14 | | | | | |
| Apr'14 | Mar'15 | | | | | |

4. Total Service tax paid

| Period | | Service Tax | | | | | | |
|---|---|---|---|---|---|---|---|---|
| From | To | Payable | Paid | | | Short-paid | Ratio of payment | |
| | | | Cash | CENVAT credit | Total | | Cash | CENVAT credit |
| | | 1 | 1a | 1b | 2 | 3(2-1) | 4a | 4b |
| April'12 | Mar '13 | | | | | | | |
| Apr'13 | Mar '14 | | | | | | | |
| Apr'14 | Mar'15 | | | | | | | |

5. Interest/penalty payable and paid

(Rs in lakhs)

| Period | | Interest | | | Penalty | | |
|---|---|---|---|---|---|---|---|
| From | To | Payable | Paid | Short-paid | Payable | Paid | Short-paid |
| | | | | | | | |
| | | | | | | | |
| April'12 | Mar '13 | | | | | | |
| Apr'13 | Mar '14 | | | | | | |
| Apr'14 | Mar'15 | | | | | | |

6. Details of the Service Tax paid under reverse charge

(Rs in lakhs)

| Period | | Service Tax Payable | Service Tax Paid | | | Service Tax short-paid |
|---|---|---|---|---|---|---|
| From | To | | Cash | CENVAT | Total | |
| April'12 | Mar '13 | | | | | |
| Apr'13 | Mar '14 | | | | | |
| Apr'14 | Mar'15 | | | | | |

7. Brief details of Service-wise taxes paid for the last three years (For Major Services)

a) Name of Service:

(Rs in lakhs)

| Year | Taxable Value | Total Service Tax payable | Total Service Tax Paid | Short-paid, if any |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

b) Name of Service :

| Year | Taxable Value | Total Service Tax payable | Total Service Tax Paid | Short-paid, if any |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

8. Brief details of Service-wise exports, exempted services turnover for the last three years:

( Rs in lakhs)

| Year | Classification of Service | Value of Exports | Value of exempted/non-taxable services | Details of exemption Notification and conditions attached to them |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

9. Brief details of service-wise abatements claimed for the last three years:

(Rs in lakhs)

| Year | Classification of Service | Taxable Value | Amount of Abatement claimed | % of Abatement claimed to the total gross amount |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

10. Brief details of service-wise pure agent benefit claimed for the last three years:

( Rs in lakhs)

| Year | Classification of Service | Taxable Value | Amount claimed as Pure Agent | % of Pure agent amount claimed to total gross amount |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

11. In case the unit is registered as ISD also, give the details of credit availed and distributed :

( Rs in lakhs)

| Year | Credit taken | Credit not eligible for distribution | Credit distributed | Closing Balance of credit |
|---|---|---|---|---|
| 2012-13 | | | | |
| 2013-14 | | | | |
| 2014-15 | | | | |

12. CENVAT credit analysis:

| | Year (1) | Year (2) | Year (3) |
|---|---|---|---|
| Credit availed on Input | | | |
| Credit availed on Capital Goods | | | |
| Credit availed on Input services | | | |
| Total credit availed | | | |
| % of Input credit | | | |
| % of capital goods credit | | | |
| % of Input services credit | | | |

13. Comparison of income as per ITR 4,5,6/Form 26AS and ST-3 returns:

| Income Stream | 2013-14 | | | 2014-15 | | |
|---|---|---|---|---|---|---|
| | ST-3 | ITR 4,5,6 | 26AS | ST-3 | ITR 4,5,6 | 26AS |
| | | | | | | |
| | | | | | | |

**ANNEXURE III**

## CHECKLIST

### A. REVENUE RECONCILIATION

### A.1 : OUTPUT TAX RECONCILIATION :

METHODOLOGY:-

The verification may be done using the ITR 4 /5/ 6/26AS depending on the nature of the Company. Under the Head of Credits to the 'Profit and Loss Account', there is an entry which reads "Duties, taxes and cess received or receivable in respect of goods and services sold or supplied".

In respect of Service Tax, item B(ii) reads as 'total service tax paid or payable'. Match this figure with the total service tax paid amount indicated in the ST-3 return. Examine entry at item 36 titled 'Rates and taxes paid or payable to the government or any local body (excluding taxes on income) for service tax. Ideally it should match with the figure indicated against item B(ii) of the specific ITR.

### A.2 : CENVAT CREDIT RECONCILIATION

METHODOLOGY:-

Under the head of 'Credits to the Profit and Loss Account', there is an entry titled "Duties and taxes paid or payable in respect of goods and services purchased". In respect of Service Tax against item 7(v), there is an entry which reads as 'total service tax paid or payable on services purchased'. Match it with the total service tax availed as per the ST-3 return.

### B. ISSUES OF TAXABILITY / CLASSFICATION

### B.1 :VERIFICATION TO EXAMINE WHETHER SERVICES CLAIMED AS NON-TAXABLE ARE IN FACT NON- TAXABLE.

METHODOLOGY: -The correctness may be checked in conjunction with sample sales invoices, agreements / contracts. From the appropriate ITRs, find out total service Income and compare it with Taxable value shown in ST-3.

Under: "Credits to the Profit and Loss Account" the following information is furnished:-

| | | |
|---|---|---|
| (a) | Sales/Gross receipts of business or profession (Service Income) | |
| (b) | Rent | |
| (c) | Commission | |
| **(a)+(b)+(c) =A** | **TOTAL** | |
| **(d)** | Abatements | |
| **(e)** | Value of Exempted Services | |
| **(f)** | Value of export services on which no tax was paid | |
| **(d)+(e)+(f) = B** | **TOTAL** | |
| **A – B** | This represents the value on which no tax has been paid = Non taxable services | |

Note: Income from House Property (which is not taxable for Service Tax) can be estimated from details given at Schedule HP of the ITR namely
***"Details of Income from House Property".***

The value of non-taxable service income needs to he verified with respect to statutory provisions in the Act. To verify the claim of the assessee, invoices, agreements may be called for to check whether the transaction is in the nature of service or not. In case, it is a service, then check whether it is covered in a negative list or otherwise.

**B.2 : CLASSIFICATION OF SERVICES (issues relating to appropriate rate of tax)**

METHODOLOGY:-

To verify the correctness of the Service Tax category which may have relevance for payment of Service Tax on reverse charge basis or applicability of the Place of Provision of Services Rules, 2012, the minor code given in the GAR challan may be cross checked with the TDS deduction certificate given in Form No. 26AS. This is an annual statement given by the Income Tax Department under 203AA of the Income Tax Act to the service provider. Part A, interalia, contains the following details:

- Name of the Deductor (the Service Tax recipient)
- TAN of the Deductor
- Section under which the deduction is made
- TDS deducted
- TDS deposited

The section under which the deduction is made would indicate the taxable service tax category. The list of the various Income Tax provisions under which various taxable issues are categorized for purposes of TDS deduction, is given below:-

| Sr.No. | Nature of payment where TDS is deducted. | Relevant Section of IT Act | Corresponding Taxable service |
|---|---|---|---|
| 1. | Payment made to Contractors / Sub-Contractors | **194C** | (i) Works Contract Service;<br>(ii) Construction of Commercial Complex;<br>(iii) Construction of Residential Complex;<br>(iv) Repair and Maintenance Service;<br>(v) Erection, Commissioning and Installation service<br>(vi) Site Preparation Service;<br>(vii) Mining Service;<br>(viii) Survey and exploration;<br>(ix) Cleaning Services;<br>(x) Transport Services<br>(xi) Advertising Services;<br>(xii) Broadcasting Service;<br>(xiii) Business Auxiliary Services;<br>(xiv) Business Support Services;<br>(xv) Courier Services; and<br>(xvi) C & F Agent Services.<br>(xvii) |

| | | | |
|---|---|---|---|
| 2. | Insurance Commission | **194D** | (i) Insurance Auxiliary Services (General Insurance)<br>(ii) Insurance Auxiliary Services (Life Insurance). |
| 3. | Payments to Non-resident Sportsmen / Sports Associations | **194E** | (i) Sponsorship Services<br>(ii) Business Auxiliary Services |
| 4. | Commission on sale of Lottery tickets | **194G** | Business Auxiliary Service |
| 5. | Commission on brokerage | **194H** | (i) Business Auxiliary Service<br>(ii) Banking and other financial services. |
| 6. | Rent | **194I** | Renting on Immovable Property |
| 7. | Fees for professional or technical services | **194J** | (i) Consulting Engineer Services<br>(ii) Architect Service<br>(iii) Practicing CAs / Cost Accountant.<br>(iv) IPR Services (Royalty)<br>(v) Scientific & Technical Consultancy<br>(vi) Management Consultancy<br>(vii) IT Services<br>(viii) Business Auxiliary Services. |

From the section indicated in the TDS certificate, the service tax category indicated by the service tax provider to the Income Tax Department can be cross checked with the declaration given to the department in the ST-3return.

It is also possible to verify whether all Services provided as indicated in the TDS certificate issued by the Income Tax Department to the Service provider have been exhaustively declared in the ST-3 return. This would be a useful reconciliation of the service tax categories declared by the assessee.

## B.3 : VERIFICATION OF SERVICE CLAIMED TO SPECIFICALLY EXEMPTED IN THE ST 3 RETURN.

METHODOLOGY:-

Verify the eligibility of such exemption with respect to the conditions specified in the exempted notification. Sample copies of invoices may be examined. The contract / agreement entered into by the service provider can be studied to verify whether the conditions of the notifications have been satisfied.

**B.4 : VFRIFICATION OE SERVICFS CLAIMED TO BF FXPORTED BY THE ASSESSFE.**

METHODOLOGY:-

The correctness of the claim has to be verified with respect to the Place of Provision Rules, 2012 read with Rule 6A of the Service Tax Rules, 1994. The determination of actual exports can be made with respect to the declarations in the export documents and export details given. For determining the place of provision of service, it is required to know the description of the service that has been provided or to be provided and apply the Rule that is most appropriate. It may noted that to get the benefit of exports, in addition to getting the consideration in convertible foreign currency, the Place of Provision of Service should be outside India.

**B.5 : ELIGIBILITY OF ABATEMENT EROM THIF VALUE EOR THF PURPOSE OF APPLYING THE APPROPRIATE RATE OF TAX.**

METHODOLOGY:-

Check the correctness with reference to the conditions specified in the abatement notification especially whether the condition regarding non-availment of CENVAT credit is satisfied. Check whether the conditions of Rule 6(3) of the CENVAT credit Rules has been properly followed.

**B.6 : IN CASE THE ASSESSFF IS CLAIMING ANY DEDUCTIONS FROM THE GROSS VALUE CHARGES (REEFR B1.12 OE THE RETURN), THFN CALL EOR REASONS EOR SUCH DEDUCTIONS AND SUPPORTING DOCUMENTS LIKE INVOICES/BILLS ETC.**

**C. ISSUFS RFLATING TO VALUATION**

**C.1 : Issues relating to non-inclusion of Cost and Expenditure in the taxable value on the grounds that these are reimbursable and are incurred by pure agents.**

METHODOLOGY:-

Check whether the claim of benefit to pure agent is correct. Call for agreement/ invoices/debit Notes to verify the correctness. Look at the definition of pure agents in the Service Tax Rules. Are the reimbursements billed in the invoice or whether any debit/credit note have been issued for this purpose? Call for the bills/invoices raised by the third party against the assessee. In case the claim of the assessee is correct, then the assessee should not take credit against those invoices raised by the third party.

**C.2 : Non inclusion of any cost / expenditure in the taxable value while providing taxable service.**

METHODOLOGY:

Check some sample debit notes and corresponding invoices to see whether such cost / expenditure have been included in the taxable value.

## D. ISSUES RELATING TO CENVAT CREDIT

### D.1 : ELIGIBILITY OE THE ASSESSEE TO AVAIL CENVAT CREDIT ON INPUTS/INPUT SERVICES/CAPITAL GOODS.

METHODOLOGY:-

Eligibility of inputs/input services to CENVAT credit would have to be determined with respect to rule 2(k) and rule 2(l) of the CENVAT Credit Rules, 2004 which has to be read in conjunction with Section 37(2) of the Central Excise Act, 1944 under which the CENVAT Credit Rules notification is issued. Eligibility requires determination as to whether the input services have been used "in or in relation to the manufacture of the final product and clearance of final products upto the place of removal" (for input services used by a manufacturer).

### D.2 : USE OE COMMON INPUT FOR BOTH TAXABLE AND EXEMPTED SERVICES.

METHODOLOGY:-

Check whether the procedure given in rule 6(3A) of CCR'04 has been followed to determine whether reversal of CENVAT credit is warranted. As per this Rule, the assessee is expected to give a statement at the end of the year indicating the amount of credit attributable to exempted goods or exempted services and payment thereof. Verify the correctness of the ratio for of reversal of CENVAT credit.

### D.3 : AVAILMENT OF CENVAT CREDIT USED IN EXCLUSIVELY EXEMPTED SERVICES.

METHODOLOGY:-

If it is determined that input services are used in exempted output services then CENVAT credit has to be reversed.

## E . MISCELLAENOUS ISSUES

### E.1 : ADJUSTMENT OF CREDIT UNDER RULE 6(3) OF THE SERVICE TAX RULES :

These items are given at Sl No D4, E4, F4 of the ST-3. To verify this claim, call for credit notes issued by the assessee to thc client with regard to the corrections pertaining to re-negotiation of the invoice already raised.

### E.2 : ADJUSTMENT OF CREDIT UNDER RULE 6(4A) OF THE SERVICE TAX RULES, 1994 :

These items are given at Sl No D5, E5 and F5 of the ST-3 returns. To verify the claim, call for calculation of excess payment made earlier.

### E.3 : PAYMENT OF TAX ON ADVANCES :

As per the Point of Taxation Rules,2011, service tax is payable on advance received for the services agreed to be provided. As per the Accounting norms, such advances received shall appear as liability in the Balance Sheet. This item is declared at " Sources of Funds" in the ITR.

**E.4 : REVERSE CHARGE ON IMPORT OF SERVICES :**

Service Tax is payable by the receiver of the Services as per Sec 68(2) of the Finance Act, 1994 read with notification No. 30/2012-ST dated 20.06.2012 and Place of Provision of Rules, 2012, on import of services. Basically, they are the expenses incurred by the services receiver. Some of them are available in the ITR at " Debits to Profit Loss Account" at Sl. Nos 22(i), 23(i) and 24(i).

**E.5 : REVERSE CHARGE OTHER THAN IMPORTS :**

Service Tax is payable by the receiver of the Services as per Sec 68(2) of the Finance Act, 1994 read with notification No. 30/2012-ST dated 20.06.2012 on these services (other than imports). Basically, they are the expenses incurred by the services receiver. Some of them are available in the ITR at "Debits to Profit Loss Account" at Sl No. 8 (Freight). Other important services on which reverse charge is applicable are: Manpower supply, Security services, Sponsorships, Legal etc subject to fulfilment of conditions mentioned in the said notification.

**SECTOR SPECIFIC ISSUES FOR VERIFICATION DURING DETAILED RETURN SCRUTINY:-**

1. **MANPOWER SUPPLY, SECURITY:-**

Non inclusion of Employee / Employer's contribution to provident fund in the Gross Taxable Value. : The Employee and Employers contribution to the Provident Fund of the Manpower supplied by them is done by the assessee and client respectively. As per the provision of Section 67 of the Finance Act, 1994 the taxable value shall be the gross amount charged by the Service Provider for provision of service. Thus, the value of such contributions are required to be included in the gross taxable value while discharging the Service Tax liability. Is the assessee following the correct practice?

2. **BANKING AND FINANCIAL SERVICES:-**

Banking and Other Financial Services: Is the assessee collecting pre-closure/fore-closure charges, Reset Charges, Commitment Charges from their clients? (Refer F.No.345/6/2008-TRU, dated 11$^{th}$ June, 2008)

3. **CONSTRUCTION SERVICES:-**

If the service falls under Construction of complex service / Commercial Industrial Construction / Works Contract Service, check whether the assessee is receiving any free material / inputs from the client. If so, details may be called for. Also ascertain if the value of such free material is being added in the taxable value. If not, determine the reasons for such non-inclusion.

## ANNEXURE IV

## OBSERVATION SHEET FOR DOCUMENTING SCRUTINY FINDINGS

(To be filled by the Superintendent and countersigned by the DC/AC)

Reasons for selection of S.T.3 Returns of M/s..... ..... ..... (STC : ) for detailed scrutiny for the period to .....:

The method adopted and the details of documents that have been seen may be indicated under "Documents Perused" and "Observation" Columns. The results achieved in the form of revenue and non-revenue paras are to be reported in the scrutiny paras as given at Annexure V. A cross reference of these paras is to be mentioned under Observation column given below. As far as possible, a descriptive form may be used while filling this observation column.

Business Model and Services provided:

| Issue as given at Annexure III | Documents Perused | Observation |
|---|---|---|
| A.1 –Output Tax Reconciliation | | |
| A.2 – CENVAT Credit Reconciliation | | |
| B.1 – Claim of Non-Taxable Services | | |
| B.2 – Classification of Services | | |
| B.3 – Exempted Services | | |
| B.4 – Export of Services | | |
| B.5 – Abatements | | |
| B.6 – Any other deductions | | |
| C.1 – Pure Agent | | |
| C.2 – Re-imbursements | | |
| D.1 – Eligibility to CENVAT credit | | |
| D.2 –Common Credit under Rule 6(3) | | |
| D.3 – Credit pertaining to | | |

| | | |
|---|---|---|
| exempted services | | |
| E.1 – Adjustment under Rule 6(3) of STR | | |
| E.2 – Adjustment under Rule 6(4A) of STR | | |
| E.3 – Payment of tax on Advances received | | |
| E.4 – Reverse charge –Imports | | |
| E.5 – Reverse Charge – other than Imports | | |
| Any other issue | | |

**ANNEXURE V**

## SCRUTINY REPORT

| | | |
|---|---|---|
| 1. | Name & Address of the Taxpayer | M/s. ABC |
| 2. | Nature of the taxpayer | |
| 3. | STC No. and date of issue | |
| 4. | Name of taxable services provided | |
| 5. | Name of taxable services received (Reverse Charge) | |
| 6. | Date of last Scrutiny and Final Scrutiny Report (FSR) No. and period covered | |
| 7. | Period for which current detailed manual scrutiny was undertaken | |
| 8. | Total Revenue involved in scrutiny paras | |
| 9. | Tax, Interest and penalty paid during the current Scrutiny period (Spot Recovery), with details of GAR-7 challan No., date or CENVAT credit account debit entry ( number and date) | |
| 10. | No. of Revenue paras | |
| 11. | No. of Procedural paras | |
| 12. | Gist of Objection (Reproduce relevant Section/Rule if required) and revenue involved | |
| 13. | Taxpayer's Agreement/Reasons for Disagreement | |
| 14. | Department's Conclusion with Remarks/Recommendation<br>Note : Repeat point 9,10 and 11 if more than one para is involved | |
| 15. | Minor paras (if any) | |
| 16. | Suggestions to improve tax compliance | |

(Inspector) (Superintendent) (Deputy/Assistant Commissioner)

**ANNEXURE VI**

MIS Report for the month of .....

Table I:

| Opening Balance of number of assessees whose scrutiny is pending | No. of assessees taken up for detailed scrutiny | | No. of assessees whose detailed scrutiny is completed | | Closing Balance of number of assessees whose scrutiny was taken up but not completed | Out of (4), number of assessees whose scrutiny is pending for more than 3 months |
|---|---|---|---|---|---|---|
| | In the month | Upto the month | In the month | Upto the month | | |
| (1) | (2A) | (2B) | (3A) | (3B) | (4)=(1)+(2)-(3A) | (5) |
| | | | | | | |

Table II:

| Opening Balance of no. of paras pending | No. of paras raised | | Amount detected | | Amount Recovered | | No. of SCNs Issued | | Amount demanded in the SCNs | | No. of paras closed | | Closing Balance of no. of paras pending |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | In the month | Upto the month | In the month | Upto the month | In the month | Upto the month | In the month | Upto the month | In the month | Upto the month | In the month | Upto the month | |
| (6) | (7A) | (7B) | (8A) | (8B) | (9A) | (9B) | (10A) | (10B) | (11A) | (11B) | (12A) | (12B) | (13) |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |

**ANNEXURE VII**

**OBSERVATION SHEET FOR DOCUMENTING SCRUTINY FINDINDS**

(To be filled by the Superintendent and countersigned by the AC/DC)

Reasons for selection of ST-3 Returns of M/s (STC No. ) for detailed scrutiny for the period **2011-12 to 2013-14:**

The method adopted and the details of documents that have been seen may be indicated under "Documents Perused" and "Observation" Columns. The results achieved in the form of revenue and non-revenue paras are to be reported in the Scrutiny Paras as given at Annexure V. A cross reference of these paras are to be mentioned under Observation column given below. As far as possible, a descriptive form may be used while filling this observation column.

Business Model and Services provided: **Partnership; Renting of Immovable Property Service**

| Issue as given at Annexure III | Documents Perused | Observation |
|---|---|---|
| A.1 – Output Tax reconciliation | Balance Sheet, P&L A/c, ST-3 returns | Taxable value as per Balance Sheet:<br>2011-12 – Rs.71,97,240/-<br>2012-13 – Rs.71,91,240/-<br>2013-14 – Rs.71,97,240/-<br>Taxable value as per ST-3 Return:<br>2011-12 – Rs.71,97,240/-<br>2012-13 – Rs.71,91,240/-<br>2013-14 – Rs.71,97,240/-<br>No differences noticed. |
| A.2 – CENVAT Credit reconciliation | Not availing CENVAT Credit | NA |
| B.1 – Claim of Non-taxable services | Nil | NA |
| B.2 – Classification of Service | Renting of Immovable Property Services. | Assessee has correctly classified the service under the category of 'Renting of Immovable Property Service' under Section 65(105)(zzzz) of Finance Act, 1994. |
| B.3 – Exempted Services | Nil | NA |
| B.4 – Export of Services | Nil | NA |
| B.5 – Abatements | Nil | NA |
| B.6 – Any other deductions | Nil | NA |
| C.1 – Pure Agent | NA | NA |
| C.2 – Re-imbursements | NA | NA |
| D.1 – Eligibility to Cenvat | NA since not availing CENVAT | NA |
| D.2 – Common Credit Rule 6(3) | NA | NA |
| D.3 – Credit pertaining to exempted services | NA | NA |

| | | |
|---|---|---|
| E.1 – Adjustment under Rule 6(3) of STR | No | NA |
| E.2 – Adjustment under Rule 6(4A) of STR | No | NA |
| E.3 – Payment of tax on Advances received | No | NA |
| E.4 – Reverse Charge – imports | No | NA |
| E.5 – Reverse Charge – other than imports | Yes | The assessee is availing transport services. Being receiver of the said services, the assessee has paid full service tax to the provider of the service as verified from the statement and the samples invoices submitted by the assessee. However, in some cases of GTA, the transporter is not a registered service provider. Accordingly, assessee was asked to pay the Service Tax liability on bills received from such transporter. The total duty liability worked out to Rs.6934/-.<br>The assessee have paid the said Service Tax liability total amounting to Rs.6934/- along with interest of Rs.3351/- and Penalty under Section 76 of the Finance Act, 1994 amounting to Rs.3469/- (Total Rs.14,000/-) vide Challan No.889 Rs.5000/-, Challan No.945 Rs.5270/- and Challan No.967 Rs.3730/- all dated 06.05.2015. |
| E.6 – R & D Cess paid | NA | NA |

**ANNEXURE VIII**

**DRAFT SCRUTINY REPORT NO. /2015**

| | | |
|---|---|---|
| 1. | Name & address of the Taxpayer | M/s |
| 2. | Nature of the taxpayer (individual, partnership, etc) | Partnership |
| 3. | STC No. (Registration) and date of issue | |
| 4. | Name of taxable services provided | Renting of Immovable Property |
| 5. | Name of taxable services received (Reverse Charge) | GTA |
| 6. | Date of last scrutiny and Final Scrutiny Report (FSR) No. and period covered | -- |
| 7. | Period for which current detailed manual scrutiny was undertaken | 2011-12, 2012-13 & 2013-14 |
| 8. | Total Revenue involved in scrutiny paras | |
| 9. | Tax, interest and penalty paid during the current scrutiny period (Spot recovery), with details of GAR-7 challan No., Date, CENVAT Debit Entry No. and date | Total Service Tax amounting to Rs.6934/- along with interest of Rs.3351/- and Penalty of Rs.3469/- under Section 76 of the Finance Act, 1994 paid vide Challan No.889 Rs.5000/-, Challan No.945 Rs.5270/- and Challan No.967 Rs.3730/- all dated 06.05.2015. |
| 10. | No. of revenue paras | One |
| 11. | No. of procedural paras | Nil |
| 12. | Gist of Objection (Reproduce relevant Section/Rule if required):<br>The assessee is availing transport services. Though being receiver of the said services, the assessee has paid full service tax to the provider of the service as verified from the statement and the samples invoices submitted by the assessee. However, in some cases of GTA, the transporter is not a registered service provider. Accordingly, assessee was asked to pay the Service Tax liability on bills received from such transporter. The total duty liability worked is Rs.6934/- plus interest and penalty under section 76. | |
| 13. | Taxpayer's agreement/reasons for disagreement:<br>The assessee have paid the said Service Tax liability amounting to Rs.6934/- along with interest of Rs.3351/- and Penalty of Rs.3469/-under Section 76 of the Finance Act, 1994 vide Challan No.889 Rs.5000/-, Challan No.945 Rs.5270/- and Challan No.967 Rs.3730/- all dated 06.05.2015 (total Rs.14,000/-) | |
| 14. | Department's contention with remarks/recommendation:<br>Since the assessee has paid the service tax liability along with interest and penalty under Section 76 of the Finance Act, 1994, the para may be closed. | |
| 15. | Minor Paras (if any) | NIL |

| | | |
|---|---|---|
| 16. | Suggestions to improve tax compliance | Assessee has been directed to hence forth to pay Service Tax on Goods Transport by Road under Reverse Charge Mechanism only in terms of Notification No. 30/2012-ST dated 20.06.2012 issued under sub-section (2) of Section 68 of the Finance Act, 1994. |

(Inspector) (Superintendent) (Deputy/Assistant Commissioner)