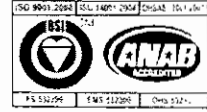




**CENTRAL WAREHOUSING CORPORATION**  
**(A GOVT. OF INDIA UNDERTAKING)**



No. CWC/FD-Taxation/ST (Gen.)/12-13

Date: 17.12.2013

**Service Tax Circular # 76**

**Subject: Chargeability and Deposit of Service Tax on Storage and Cargo Handling of Rice w.e.f 1.07.2012**

1. Please refer Corporate Office circular No. 63 having ref.no. CWC/FD-Taxation/ST(CO)/12-13 dated 11.10.2012 wherein it was advised that pending receipt of clarification from the Administrative Ministry and Ministry of Finance, the Corporation would continue to treat the Rice stored by Food Corporation of India (FCI) or any other Central or State Government Agency or the Department as an 'Agricultural Produce' and thus exempt from the levy of Service Tax both on its Storage as well as Cargo Handling .
2. It has now been clarified by the Ministry of Finance vide its letter dated 08.11.2013 and the Administrative Ministry on 27.11.2013 that the Rice is not covered in the definition of Agricultural Produce as found in Section 65B(5) of Finance Act and cannot be exempted from the preview of service tax. As a result, the Storage and Cargo Handling Charges on Rice are subject to Service Tax w.e.f 1.07.2012 for all the depositors including FCI and other such depositors as mentioned in Para 1 above.
3. All the Regional Offices are therefore advised to charge the service tax to the concerned depositors to whom the service tax has not been charged earlier on storage and cargo handling charges (handling and transport of cargo) of Rice and deposit the same with the service tax department before 27.12.2013 as advised below:

**3.01.Charge of Service tax on storage charges**

- (a) *Storage on general warehousing basis:* With respect to Rice stored on general warehousing basis, the Service Tax is to be charged on the storage charges payable based on actual quantity of stocks stored and the period of storage.

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C.O.: 4/1, Siri Institutional Area, August KrantiMarg, HauzKhas, New Delhi-110016.

Tel. 011-26515148 Fax. 011-26564296, 26518675 E-mail : [grover.cwhc@nic.in](mailto:grover.cwhc@nic.in)

- (b) *Storage on reservation basis*: Where the reservation of space has been given by a depositor for a specified commodity, service tax shall be levied if the commodity stored is not an agricultural produce like Rice. However, where the reservation given by the depositor is for food-grains without mentioning the specific commodity which will be stored like reservation given by FCI under PEG scheme, the levy of service tax will depend on the commodity stored and the service tax is to be charged as under:
- (i) If the commodity stored during the month in a warehouse in the reserved space is agricultural produce only e.g. wheat or Paddy, no Service Tax is to be charged for the capacity reserved.
  - (ii) If the commodity stored during the month in the warehouse in the reserved space is non- agricultural produce only e.g. Rice, the Service Tax is to be charged on the storage charges payable for the capacity reserved.
  - (iii) Where the commodities stored during the month in a warehouse in the reserved space are Mix of both the agricultural (e.g. wheat/paddy) as well as non-agricultural produce (e.g. rice), the Service Tax is to be charged only on storage charges attributable to actual quantity stored of non-agricultural produce and value of its storage charges and service tax thereon shall be stated in the bill separately, also stating the value of storage charges which are non-taxable, total storage charges. The service tax on non-agricultural produce shall be charged on the storage charges computed based on average stock of non-agricultural produce stored during the month taking closing stock for each day during the month. For computation of taxable storage charges on average stocks of non-agricultural produce during the month and service tax thereon, the format as per Annex-I may be used.
  - (iv) If there were no stocks stored during the month in the reserved space whether of agricultural or non-agricultural produce, and the space was reserved by the depositor for storage of food grains and the commodity to be stored is not mentioned as normally happens in case reservation of space by FCI, the space reserved shall be considered to be used for agricultural produce only and no service tax is to be charged on the storage charges for space reserved. However, where the depositor had reserved the space specifically for non- agricultural produce e.g. Rice or the depositor had been storing only the non-agricultural produce in the past and space was lying unutilised during the month, it will be deemed that reservation was for non-agricultural produce and service tax shall be levied on the storage charges payable for the full reserved space.

**3.02. Charge of Service Tax on cargo handling charges i.e. loading, unloading, stacking, de-stacking and transportation of foodgrains.**

The Service Tax is to be charged to the depositors on Cargo Handling charges-i.e. H & T/Market Facilitation charges on non-agricultural produce e.g. Rice w.e.f 01.07.2012. The service tax is not to be levied on H & T/Market Facilitation charges on an agriculture produce e.g. Wheat. As we are charging to FCI the actual H & T charges payable to the contractor plus % of supervision charge and we have been providing this service as a principal and not as an agent of FCI, the total amount of charges billed to FCI for the handling and transportation of non-agricultural produce shall be subject to service tax.

- 3.03. For charging service tax to the depositor for the past period i.e. from 1.07.2012 to 30.11.2013, the supplementary bills may be raised on all the concerned depositors by the warehouse or Regional Office, as the case may be, before 24.12.2013.

**3.04. Deposit of service tax**

***(a) Service Tax for the period from 01.07.2012 to 31.12.2012:***

Under the Service Tax Voluntary Compliance Encouragement Scheme (VCES) 2013, the interest and penalty shall not be levied by the service tax department if permission to deposit the arrears of service tax is obtained from them in the prescribed form and service tax amount is deposited before 31.12.2013. Therefore, it is advised to complete the billing of arrear of service tax by 24.12.2013 and deposit the service tax with the service tax department by 27.12.2013 positively.

***(b) Service Tax for the period from 01.01.2013 to 30.11.2013:***

The service tax for this period is to be deposited by 27.12.2013 with simple interest @ 18% per annum to avoid any penalty. The interest amount paid to service tax department is to be charged to depositor by way of a separate supplementary invoice, enclosing therewith the calculations of interest and proof of payment. The Supplementary bills for interest amount paid can be raised in the month of January, 2014 after the payment of arrears of service tax and interest thereon to the service tax department. For this purpose, a separate format is enclosed as per Annex-II. The detail of interest payable for delay in payment of service tax be made depositor wise for each warehouse for the period 1.1.2013 to 30.11.2013.

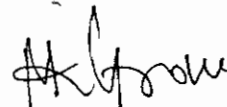
**(c) Service Tax for the period from 01.12.2013 and onwards:** The service tax may be deposited for each month on due date i.e. By 5<sup>th</sup> day of the succeeding month.

- 3.05. In view of the changed scenario, the bills for reservation charges to the depositors shall henceforth be raised at the end of the month as per instructions in Para 3.01 above and not in the beginning of the month as was done in past.
4. To avail the benefit of deposit of service tax without payment of interest and penalty for the period 1.07.2012 to 31.12.2012 under the Voluntary Compliance Encouragement Scheme (VCES), 2013, a declaration is to be filed by the Regional Office with the Service Tax Department in form VCES-I showing the total tax dues along with the calculation sheet showing the Service Tax dues. This form is to be filed with the service tax authorities before the date of deposit of the service tax and acknowledgment is to be obtained from the service tax department in form VCES-II. The calculation of Service Tax liability is to be enclosed with form VCES-I using calculation sheet as per Part B of ST-3 form copy of which also enclosed. After deposit of the service tax with the service tax department, the proof of payment is to be given to concerned Excise Office and an acknowledgment of discharge is to be obtained from them in form VCES-III for the period 01.07.2011 to 31.12.2012. The copies of forms VCES-I, II and III are enclosed for your reference, however the same can also be downloaded from the website of the department i.e. [servicetax.gov.in](http://servicetax.gov.in). The assistance of expert/consultant in Service Tax matters may also be availed by the Regional Office if considered necessary. In case of any difficulty please do not hesitate to contact the undersigned or Mr. A.S. Gopalan, DGM (F&A) or Mr. Vijay Kumar Garg, SAM (ST) or Mr. Gaurav Dutt, Acctt. (ST).
5. Please instruct all the warehouse managers and concerned officials in RO to comply with these guidelines. The confirmation of compliance for the period upto 30.11.2013 be sent to CO by 27.12.2013, duly intimating the amount of service tax and the interest deposited may be intimated by 31.1.2014. Please note that this is a time bound exercise and is to be completed with by all means to avoid further interest and penalty. All concerned may be advised to work late or on holidays, if required. The funds requirement, if any, for deposit of service tax may also be

intimated to CO on estimated basis for remitting the same to you in time.

The guidelines for charging service tax in case of reservation of space are provisional as same is being referred to Department of Central Excise for its confirmation to these guidelines.

This issues with the approval of the Competent Authority.



**(N.K. Grover)**  
**GM (F&A)**

**Distribution to:**

1. All Regional Managers of CWC.
2. All Executive Engineers in-charge of all the Construction Cells of CWC.
3. All AGMs/Managers/(Sr.) Asstt. Managers in-charge of the Finance, Accounts & Internal Audit Wings of all ROs & CCs of CWC.
4. DGM (Fin.), CWC, CO, New Delhi.

**Copies for information to:**

1. All HODs at CWC, Corporate Office, New Delhi.
2. All DGMs/AGMs/Managers/(Sr.) Asstt. Managers/Accountants in Finance, Accounts & Internal Audit Cadre at CWC, Corporate Office, New Delhi.
3. PS to Managing Director, CWC, CO, New Delhi.
4. PS to Director (Pers.)/Direction (MCP)/Director (Fin.), CWC, CO, New Delhi.
5. PS to CVO/GM(F&A)s, CWC, Corp. Office, New Delhi.
6. PS to GM (Systems), CWC, CO, New Delhi with a request to place this Circular on CWC's Website.
7. Manager (Rajbhasha), CWC, CO, New Delhi with a request to arrange Hindi Version of this Circular.

FORM VCES-1

[In duplicate]

Declaration under sub section (1) of section 107 of the Act.

[See rule 4]

(Please read the instructions carefully before filling the form)

1. Name of the declarant

Grid for name of the declarant

2. Address of the declarant

Grid for address of the declarant

Grid for address of the declarant

3. Telephone No.

Grid for telephone number

4. E-mail id

Grid for e-mail id

5. Service Tax Code (STC No.)

Grid for service tax code

6. Details of tax dues\*

A. Service tax

Grid for service tax amount

B. Education cess

Grid for education cess amount

C. Secondary & Higher Education Cess

Grid for secondary & higher education cess amount

D. Amount under section 73A of the Finance Act, 1994

Grid for amount under section 73A

<b>E</b>	<b>Total Tax dues* [A+B+C+D]</b>	₹																	
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\*Furnish a calculation sheet separately [for the purposes of calculation of tax dues, the manner of calculation as prescribed in S. No. 3F (I), or as the case may be, the Part 'B' of Form ST-3, as existed during relevant period may be used and calculation of tax dues may be furnished tax return period wise, and service wise if the tax dues relates to more than one service.]

**VERIFICATION**

I.....(name in block letters) son/daughter of Shri..... solemnly declare that I have read and understood the Service Tax Voluntary Compliance Encouragement Scheme as contained in Chapter VI of the Finance Act 2013, and to the best of my knowledge and belief -

- (a) the information given in this declaration and the enclosures accompanying it are correct and complete and the amount of tax dues and other particulars shown therein are truly stated;
- (b) the tax dues declared above do not attract the provisions of sub-section (1), including the provisos thereto, of section 106 of the Act;
- (c) no inquiry, investigation or audit is pending against the declarant as on the 1<sup>st</sup> day of March 2013 as envisaged in sub-section (2) of section 106 of the Act;

I further declare that I am authorised to make this declaration and verify it on behalf of the declarant in the capacity as .....

**Enclosures:**

S. No.	Details of enclosure/statement annexed
1	Calculation sheet in respect of tax dues (refer S. No. 6 above and the instructions)
2	Any other documents (please specify)

**Signature of the declarant/authorised person with stamp**  
**Place:** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Declaration No.</b>		<b>Date</b>	
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*(To be assigned by the department)*

**Instructions:**

1. The Scheme has been prescribed in the Chapter VI of the Act. The provisions contained therein may please be read carefully (refer [www.cbec.gov.in](http://www.cbec.gov.in)).
2. This Form shall be submitted to the Central Excise Officer notified as designated authority under section 105(c) of the Act.
3. The tax dues may be computed separately for each service if the tax dues relates to more than one service during the period of declaration.
4. For calculation of tax dues, the manner as prescribed at S. No. 3F (I), or as the case may be the Part 'B' of the Form ST-3, as existed during the relevant period, may be used and calculation of tax dues may be furnished tax return period wise
5. Calculation sheet showing the tax dues calculation may please be enclosed with this declaration.
6. Obtain an acknowledgment from the designated authority in form VCES -2.
7. The declarant may approach the designated authority for any clarification.

[Acknowledgment of declaration issued under sub-section (2) of section 107 of the Act]. [See rule 5]

No.

Receipt of a declaration filed under sub-section (1) of section 107 of the Act, as per the details below, is acknowledged.

1 Declaration No.                     Date

2. Name of the declarant

3 Address of the declarant

4 STC No.

5 Tax dues declared ₹

6 Schedule for payment of tax dues

A Minimum amount to be paid on or before the 31<sup>st</sup> Dec, 2013 (50% of the tax dues) ₹

B Remaining tax dues to be paid on or before the 30<sup>th</sup> June, 2014 [Amount at S. No. 5(-) Amount at S. No. 6A] ₹



C

Any tax dues remaining unpaid as on 1<sup>st</sup> day of July,2014 shall be paid before the 31<sup>st</sup> December,2014 along with interest, as prescribed under section 75 or as the case may be, section 73B of the Finance Act, 1994 for the period of delay starting from the 1<sup>st</sup> day of July,2014.

Signature, name and seal of designated authority

Place:

Date:

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**Instructions:**

1. This acknowledgment has been issued on the basis of declaration furnished by the declarant and it does not certify the correctness of the declaration made. This declaration does not certify payment of any tax dues.
2. Certificate of discharge in form VCES -3 shall be issued only upon full payment of tax dues along with interest if any, as per the details at S. No. 6 above.
3. If any amount declared as tax dues under the Scheme remain unpaid as on 1.1.2015, the same shall be recoverable under section 87 of the Finance Act, 1994.
4. For any clarification, the declarant may get in touch with the designated authority



**D**

**Interest paid under section 107 (4) on amount mentioned at '6C'**

₹ 

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**E**

**Total amount paid (A+B+C+D)**

₹ 

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**7**

**Details of challan(s)**

Challan No(s)(CIN)

Amount

Signature, name and seal of designated authority  
Place:                      Date:

## Calculation Sheet of Service Tax liability Declared under VCES-1

PART - B	VALUE OF TAXABLE SERVICE AND SERVICE TAX PAYABLE (TO BE DISPLAYED SERVICE-WISE)							
<b>B1 FOR SERVICE PROVIDER</b>								
Sl.No	Month/Quarter	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Total
B1.1	Gross Amount (excluding amounts received in advance, amounts taxable on receipt basis, for which bills/invoices/challans or any other document may not have been issued) for which bills/invoices/challans or any other documents are issued relating to service provided or to be provided (including export of service and exempted service)							
B1.2	Amount received in advance for services for which bills/invoices/challans or any other documents have not been issued							
B1.3	Amount taxable on receipt basis under third proviso to Rule 6(1) of Service Tax Rules, 1994 for which bills/invoices/challans or any other documents have not been issued							
B1.4	Amount taxable for services provided for which bills/invoices/challans or any other documents have not been issued							
B1.5	Money equivalent of other considerations charged, if any, in a form other than money							
B1.6	Amount on which Service Tax is payable under partial reverse charge							
B1.7	<b>Gross Taxable Amount</b> <b>B1.7=(B1.1+B1.2+B1.3+B1.4+B1.5+B1.6)</b>							
B1.8	Amount charged against export of service provided or to be provided							
B1.9	Amount charged for exempted service provided or to be provided (other than export of service given at B1.8 and above)							
B1.10	Amount charged as Pure Agent							
B1.11	Amount claimed as abatement							
B1.12	Any other amount claimed as deduction, please specify	0						
B1.13	<b>Total Amount claimed as Deduction</b> <b>B1.13=(B1.8+B1.9+B1.10+B1.11+B1.12)</b>							
B1.14	<b>Net Taxable Value</b> <b>B1.14=(B1.7-B1.13)</b>							
B1.15	Service Tax Rate-wise breakup of NET TAXABLE VALUE(B1.14): Advalorem Rate							

Sl.No	Taxable Rate			Taxable Value						
	Tax Rate%	Education Cess Rate%	Secondary And Higher Education Cess Rate%	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Total
(1)										

**CIRCULAR-170/5/2013**

The Central Board of Excise and Customs has issued circular no 170/05/2013- ST dated 08.08.2013 to provide further clarification on various issues under the Voluntary Compliance Encouragement Scheme, 2013 (VCES) and will be effective from 10.08.2010. For ready reference, issues and clarification, the extract of circular has been reproduced below.

S.No.	Issues	Clarification
1	Whether the communications, wherein department has sought information of roving nature from potential taxpayer regarding their business activities without seeking any documents from such person or calling for his presence, while quoting the authority of section 14 of the Central Excise Act, 1944, would attract the provision of section 106 (2) (a)?	<p>Attention is invited to clarification issued at S. No. 4 of the circular No. 169/4/2013-ST, dated 13.5.2013, as regards the scope of section 106 (2) (a) of the Finance Act, 2013, wherein it has been clarified that the provision of section 106 (2)(a)(iii) shall be attracted only in such cases where accounts, documents or other evidence are requisitioned by the authorized officer from the declarant under the authority of a statutory provision.</p> <p>A communication of the nature as mentioned in the previous column would not attract the provision of section 106 (2)(a) even though the authority of section 14 of the Central Excise Act may have been quoted therein.</p>
2	An assessee has two units at two different locations, say Mumbai and Ahmedabad. Both are separately registered. The Mumbai unit has received a Show Cause Notice for non-payment of tax on a revenue stream but the Ahmedabad unit has not. Whether the Ahmedabad unit is eligible for VCES?	Two separate service tax registrations are two distinct assessees for the purposes of service tax levy. Therefore, eligibility for availing of the Scheme is to be determined accordingly. The unit that has not been issued a show cause notice shall be eligible to make a declaration under the Scheme.
3	Whether a declaration can be made under the Scheme in respect of CENVAT credit wrongly utilized for payment of service tax?	Any service tax that has been paid utilizing the irregular credit, amounts to non-payment of service tax. Therefore such service tax amount is covered under the definition of "tax dues".
4	Whether a party, against whom an inquiry, investigation or audit has been initiated after 1.3.2013 (the cutoff date) can make a declaration under the Scheme?	Yes. There is no bar from filing of declaration in such cases.

5	<p>There was a default and a Show Cause Notice was issued for the period prior to the period covered by the Scheme, i.e. before Oct 2007. Whether declaration can be filed for default on the same issue for the subsequent period?</p>	<p>In the context of the Scheme, the relevant period is from Oct 2007 to Dec 2012. Therefore, the 2nd proviso to section 106 (1) shall be attracted only in such cases where a show cause notice or order of determination has been issued for the period from Oct 2007 to Dec 2012. Accordingly, issuance of a show cause notice or order of determination for any period prior to Oct 2007, on an issue, would not make a person ineligible to make a declaration under the Scheme on the same issue for the period covered by the Scheme. Therefore, declaration can be made under VCES.</p>
6	<p>In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES 2013?</p>	<p>Yes, declarant can declare the "tax dues" concerning an issue which is not a part of the audit para.</p>
7	<p>Whether a person, who has paid service tax for a particular period but failed to file return, can take the benefit of VCES Scheme so as to avoid payment of penalty for non-filing of return?</p>	<p>Under VCES a declaration can be made only in respect of "tax dues". A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme. However, rule 7C of the Service Tax Rules provides for waiver of penalty in deserving cases where return has not been filed and, in such cases, the assessee may seek relief under rule 7C.</p>
8	<p>A person has made part payment of his 'tax dues' on any issue before the scheme was notified and makes the declaration under VCES for the remaining part of the tax dues. Will he be entitled to the benefit of non-payment of interest/penalty on the tax dues paid by him outside the VCES, i.e., (amount paid prior to VCES)?</p>	<p>No. The immunity from interest and penalty is only for "tax dues" declared under VCES.</p> <p>If any "tax dues" have been paid prior to the enactment of the scheme, any liability of interest or penalty thereon shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and paid accordingly.</p>

9	Whether an assessee, who, during a part of the period covered by the Scheme, is in dispute on an issue with the department under an erstwhile provision of law, can declare his liability under the amended provisions, while continuing to litigate the outstanding liability under the erstwhile provision on the issue?	In terms of the second proviso to section 106 (1), where a notice or order of determination has been issued to a person in respect of any issue, no declaration shall be made by such person in respect of "tax dues" on the same issue for subsequent period. Therefore, if an issue is being litigated for a part of the period covered by the Scheme, i.e., Oct, 2007 to Dec 2012, no declaration can be filed under VCES in terms of the said proviso on the same issue for the subsequent period.
10	Whether upon filing a declaration a declarant realizes that the declaration filed by him was incorrect by mistake? Can he file an amended declaration?	The declarant is expected to declare his tax dues correctly. In case the mistake is discovered suo-moto by the declarant himself, he may approach the designated authority, who, after taking into account the overall facts of the case may allow amendments to be made in the declaration, provided that the amended declaration is furnished by declarant before the cut off date for filing of declaration, i.e., 31.12.2013.
11	What is the consequence if the designated authority does not issue an acknowledgement within seven working days of filing of declaration? Whether the declarant can start making payment of the tax dues even if acknowledgement is not issued?	Department would ensure that the acknowledgement is issued in seven working days from the date of filing of the declaration. It may however be noted that payment of tax dues under the Scheme is not linked to the issuance of an acknowledgement. The declarant can pay tax dues even before the acknowledgement is issued by the department.
12	Whether declarant will be given an opportunity to be heard and explain his cases before the rejection of a declaration under section 106(2) by the designated authority?	Yes. In terms of section 106 (2) of the Finance Act, 2013, the designated authority shall, by an order, and for reasons to be recorded in writing, reject a declaration if any inquiry/investigation or audit was pending against the declarant as on the cutoff date, i.e., 1.3.2013. An order under this section shall be passed following the principles of natural justice. To allay any apprehension of undue delays and uncertainty, it is clarified that the designated authority, if he has reasons to believe that the declaration

		<p>is covered by section 106 (2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. For declarations already filed, the said period of 30 days would apply from the date of this circular.</p> <p>The declarant shall be given an opportunity to be heard before any order is passed by the designated authority.</p>
13	What is the appeal mechanism against the order of the designated authority whereby he rejects the declaration under section 106 (2) of the Finance Act, 2013?	The Scheme does not have a statutory provision for filing of appeal against the order for rejection of declaration under section 106 (2) by the designated authority.
14	A declarant pays a certain amount under the Scheme and subsequently his declaration is rejected. Would the amount so paid by him be adjusted against his liability that may be determined by the department?	The amount so paid can be adjusted against the liability that is determined by the department.
15	Section 111 prescribes that where the Commissioner of Central Excise has reasons to believe that the declaration made by the declarant was 'substantially false', he may serve a notice on the declarant in respect of such declaration. However, what constitutes a 'substantially false' declaration has not been specified.	<p>The Commissioner would, in the overall facts of the case, taking into account the reasons he has to believe, take a judicious view as to whether a declaration is 'substantially false'. It is not feasible to define the term "substantially false" in precise terms. The proceeding under section 111 would be initiated in accordance with the principles of natural justice.</p> <p>To illustrate, a declarant has declared his "tax dues" as Rs 25 lakh. However, Commissioner has specific information that declaration has been made only for part liability, and the actual "tax dues" are Rs 50 lakh. This declaration would fall in the category of "substantially false".</p> <p>This example is only illustrative.</p>
16	What is the consequence if a declarant fails to pay atleast 50% of declared amount of tax dues by the 31st Dec 2013?	One of the conditions of the Scheme section 107 (3) is that the declarant shall pay atleast an amount equal to 50% of the declared tax dues under the Scheme, on or before the 31.12.2013. Therefore, if the



		<p>declarant fails to pay atleast 50% of the declared tax dues by 31st Dec, 2013, he would not be eligible to avail of the benefit of the scheme.</p>
17	<p>Whether the CENVAT credit is admissible on the inputs/input services used for provision of output service in respect of which declaration has been made under VCES for payment of any tax liability outside the VCES?</p>	<p>The VCES Rules 2013 prescribe that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Accordingly the "tax dues" under the Scheme shall be paid in cash.</p> <p>The admissibility of CENVAT credit on any inputs and input services used for provision of output service in respect of which declaration has been made shall continue to be governed by the provisions of the Cenvat Credit Rules, 2004.</p>
18	<p>(a) Whether the tax dues amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice?</p> <p>(b) Whether cenvat credit would be admissible to the person who pays tax dues under VCES as service recipient under reverse charge mechanism?</p>	<p>Rule 6(2) of the Service Tax Voluntary Compliance Encouragement Rules, 2013, prescribes that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Except this condition, all issues relating to admissibility of CENVAT credit are to be determined in terms of the provisions of the Cenvat Credit Rules.</p> <p>As regards admissibility of CENVAT credit in situations covered under part (a) and (b), attention is invited to rule 9(1)(bb) and 9(1)(e) respectively of the Cenvat Credit Rules.</p>
19	<p>In terms of section 106 (2)(b), if a declaration made by a person against whom an audit has been initiated and where such audit is pending, then the designated authority shall by an order and for reasons to be recorded in writing, reject such declaration. As the audit process may involve several stages, it may be indicated as to what event would constitute,-</p> <p>(i) initiation of audit; and</p> <p>(ii) culmination of audit.</p>	<p>Initiation of audit: For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would be taken as the date of initiation of audit. A register is maintained of all visits for audit purposes.</p> <p>Culmination of audit: The audit process may culminate in any of the following manner.-</p> <p>(i) Closure of audit file if no discrepancy is found in audit;</p> <p>(ii) Closure of audit para by the Monitoring Committee Meeting (MCM);</p> <p>(iii) Approval of audit para by MCM and payment of amount involved</p>

therein by the party in terms of the provisions of the Finance Act, 1994;  
(iv) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised.

The audit culminates at a point when the audit paras raised are settled in any manner as stated above.

The pendency of audit as on 1.3.2013 means an audit that has been initiated before 1.3.2013 but has not culminated as on 1.3.2013.

**Example of Computation of Service Tax on Storage on Reservation basis where storage is mix of Agricultural Produce and Non-Agricultural Produce**

Name of Warehouse \_\_\_\_\_

Name of Depositor \_\_\_\_\_

Month :

Reservation : 500 MT (10000 bags to be stored)

Nov' 2013

Days of Month	Stock(bags) at the end of day		Reservation (in bags)
	Rice	Wheat/Paddy	
	Taxable	Non-Taxable	
(I)	(II)	(III)	(IV)
1	0	4000	10000
2	0	2000	10000
3	7000	1000	10000
4	8000	1000	10000
5	9000	1000	10000
6	10000	0	10000
7	5000	3000	10000
8	2000	3000	10000
9	1000	3000	10000
10	5000	3000	10000
11	5000	4000	10000
12	5000	4000	10000
13	2000	4000	10000
14	2000	4000	10000
15	0	4000	10000
16	0	4000	10000
17	0	4000	10000
18	3000	5000	10000
19	4000	5000	10000
20	5000	5000	10000
21	5500	4000	10000
22	6000	4000	10000
23	7000	2500	10000
24	7500	2500	10000
25	7000	2000	10000
26	6500	2000	10000
27	5000	2000	10000
28	6500	2000	10000
29	0	2000	10000
30	0	2000	10000
<b>Grand Total</b>	<b>124000</b>	<b>89000</b>	<b>300000</b>

Average stock of Rice =	Total Stock(bags) of Rice as per coloum II = <u>124000</u>	=	<b>4133</b>
(in bags)	No. of days in a month	<u>30</u>	(No. of bags)
A Storage Charges of Non-taxable services (10000-4133)* Rs. 2.92 per bag/month) = Rs.			<b>17131</b>
B Storage Charges of taxable services (4133 * Rs. 2.92 per bag/month) = Rs.			<b>12069</b>
C (i) Service Tax on taxable services (12069*12%)		= Rs.	<b>1448</b>
(ii) Education Cess (12069*.24%)		= Rs.	<b>29</b>
(iii)Secondary And Higher Education Cess (12069*.12%)		= Rs.	<b>14</b>
<b>Total Service Tax C(i+ii+iii)</b>		<b>=Rs.</b>	<b>1492</b>

Note : This is to be enclosed with bill

**Computation of Service Tax on Storage on Reservation basis where storage is mix of Agricultural Produce and Non-Agricultural Produce**

Name of Warehouse \_\_\_\_\_

Name of Depositor \_\_\_\_\_

Reservation : \_\_\_\_\_ MT

Month : \_\_\_\_\_

Days of Month	Stock(bags) at the end of day		Reservation (in bags)
	Rice	Wheat/Paddy	
	Taxable	Non-Taxable	
(I)	(II)	(III)	(IV)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
Grand Total			

Average stock of Rice  
(in  
bags)

Total Stock of Rice bags as per coloum II =  
No. of days in a month

Z No. of bags

A) Storage Charges of Non-taxable services = (total reservation in bags minus avg. stock of Rice) X Rate per bag/month = Rs.

B) Storage Charges of taxable services = 'Z' X Rate per bag/month) = Rs.

C) (i) Service Tax on taxable services ( B \* 12%) = Rs.

(ii) add: Education Cess (B \* .24%) = Rs.

(iii) add: Secondary And Higher Education Cess (SHES) (B \* .12%) = Rs.

Total =C(i+ii+iii)

Rs.

Note : This annexure is to be enclosed with bill

<b>Computation of Interest on late payment of Service Tax on Storage of Rice during the period from January' 2013 to November' 2013</b>					
<b>Month</b>	<b>Service Tax due for storage of Rice</b>	<b>Delay in Service Tax payment (in days)</b>	<b>Rate of interest</b>	<b>effective Rate of interest upto 31 Dec' 2013</b>	<b>Amount of interest</b>
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E= D*C/12</b>	<b>F=B*E</b>
<b>January , 2013</b>		<b>329</b>	<b>18% p.a.</b>	<b>16.23%</b>	
<b>February, 2013</b>		<b>301</b>	<b>18% p.a.</b>	<b>14.85%</b>	
<b>March, 2013</b>		<b>270</b>	<b>18% p.a.</b>	<b>13.32%</b>	
<b>April, 2013</b>		<b>240</b>	<b>18% p.a.</b>	<b>11.84%</b>	
<b>May, 2013</b>		<b>209</b>	<b>18% p.a.</b>	<b>10.31%</b>	
<b>June, 2013</b>		<b>179</b>	<b>18% p.a.</b>	<b>8.83%</b>	
<b>July, 2013</b>		<b>148</b>	<b>18% p.a.</b>	<b>7.30%</b>	
<b>August, 2013</b>		<b>117</b>	<b>18% p.a.</b>	<b>5.77%</b>	
<b>September, 2013</b>		<b>87</b>	<b>18% p.a.</b>	<b>4.29%</b>	
<b>October, 2013</b>		<b>56</b>	<b>18% p.a.</b>	<b>2.76%</b>	
<b>November, 2013</b>		<b>26</b>	<b>18% p.a.</b>	<b>1.29%</b>	

**Circular No.174/9/2013 – ST**

F.No.B1/19/2013-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs  
(Tax Research Unit)

North Block  
New Delhi, 25<sup>th</sup> November, 2013

To,  
Chief Commissioners of Central Excise and Customs (All),  
Director General (Service Tax), Director General (Central Excise  
Intelligence), Director General (Audit),  
Commissioners of Service Tax (All)  
Commissioners of Central Excise (All),  
Commissioners of Central Excise and Customs (All).

Madam/Sir,

**Sub: The Service Tax Voluntary Compliance Encouragement Scheme - reg.**

The Service Tax Voluntary Compliance Encouragement Scheme (VCES) has come into effect from 10.5.2013. Most of the issues raised with reference to the Scheme have been clarified by the Board vide circular Nos. 169/4/2013-ST, dated 13.5.2013 and No. 170/5/2013-ST, dated 8.8.2013. These clarifications have also been released in the form of FAQs. Attention is also invited to letter F. No. 137/50/2013-ST, dated 22.8.2013 as regards the action to be taken by the field formations for effective implementation of the Scheme. A number of interactive sessions have also been held at various places to ascertain and address the concerns of trade on any aspect of the Scheme.

2. In the recently held interactive sessions at Chennai, Delhi and Mumbai, which were chaired by the Hon'ble Finance Minister, the trade had raised certain queries and also expressed some apprehensions. Most of these issues have already been clarified in the aforementioned circulars/FAQs. Certain issues raised in these interactive sessions, which have not been specifically clarified hitherto or clarified adequately, are discussed and clarified as below.

S.No.	Issue raised	Clarification
1	An instance was brought to notice wherein a declaration was returned probably on the ground that it was incomplete.	As has already been directed by the Board, vide the said letter dated 22.8.2013 (para 2.4 of the letter), the designated authority shall ensure that no declaration is returned. In all cases, declaration should be promptly received and duly acknowledged. Request for clarification should be dealt with promptly. Defects in the application, if any, should be explained to the declarant and possible assistance be provided in rectifying these defects. The effort must be to accept a declaration, as far as possible, and recover the arrears of tax.
2	An apprehension was raised that declarations are being	Section 106(2) prescribes four conditions that would lead to rejection of declaration, namely,

	<p>considered for rejection under section 106 (2) of the Finance Act, 2013, even though the "tax dues" pertain to an issue or a period which is different from the issue or the period for which inquiry /investigation or audit was pending as on 1.3.2013.</p>	<p>(a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or short-paid has been initiated by way of,-</p> <p>(i) search of premises under section 82 of the Finance Act,1994 ; or</p> <p>(ii) issuance of summons under section 14 of the Central Excise Act, 1944; or</p> <p>(iii) requiring production of accounts, documents or other evidence under the Finance Act, 1994 or the rules made there under; or</p> <p>(b) an audit has been initiated,</p> <p>and such inquiry, investigation or audit was pending as on the 1st day of March, 2013.</p> <p>These conditions may be construed strictly and narrowly. The concerned Commissioner may ensure that no declaration is rejected on frivolous grounds or by taking a wider interpretation of the conditions enumerated in section 106(2). If the issue or the period of inquiry, investigation or audit is identifiable from summons or any other document, the declaration in respect of such period or issue <u>alone</u> will be liable for rejection under the said provision.</p> <p>Examples:</p> <p>(1) If an inquiry, investigation or audit, pending as on 1.3.2013 was being carried out for the period from 2008-2011, benefit of VCES would be eligible in respect of 'tax dues' for the year 2012, i.e., period not covered by the inquiry, investigation or audit.</p> <p>(2) If an inquiry or investigation, pending as on 1.3.2013 was in respect of a specific issue, say renting of immovable property, benefit of VCES would be eligible in respect of 'tax dues' concerning any other issue in respect of which no inquiry or investigation was pending as on 1.3.2013.</p> <p>It is also reiterated that the designated authority, if he has reasons to believe that the declaration is covered by section 106(2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating such reasons to reject the declaration. Commissioners should ensure that this time line is followed scrupulously.</p>
3	<p>Whether benefit of VCES would be available in cases where documents like balance sheet, profit and loss account etc. are called for by department in the inquiries of roving nature, while quoting</p>	<p>The designated authority/ Commissioner concerned may take a view <u>on merit</u>, taking into account the facts and circumstances of each case as to whether the inquiry is of roving nature or whether the provisions of section 106 (2) are attracted in such cases.</p>

	authority of section 14 of the Central Excise Act in a routine manner.	
4	Whether the benefit of the Scheme shall be admissible in respect of any amount covered under the definition of 'taxes dues', as defined in the Scheme, if paid by an assessee after the date of the Scheme coming into effect, (i.e., 10.5.2013), but before a declaration is filed	Yes, benefit of the Scheme would be available if such amount is declared under the Scheme subsequently, along with the remaining tax dues, if any, provided that Cenvat credit has not been utilized for payment of such amount.  Example: A person has tax dues of Rs 10 lakh. He makes a payment of Rs 2 lakh on 15.5.2013, without making a declaration under VCES. He does not utilize Cenvat credit for paying this amount. Subsequently, he makes declaration under VCES on 1.7.2013. He may declare his tax dues as Rs 10 lakh. Rs 2 lakh paid before making the declaration will be considered as payment under VCES.
5	Whether declaration can be made in such case where service tax pertaining to the period covered by the Scheme along with interest has already been paid by the parties, before the Scheme came into effect, so as to get waiver from penalty and other proceedings?	As no "tax dues" is pending in such case, declaration cannot be filed under VCES. However, there may be a case for taking a lenient view on the issue of penalties under the provision of the Finance Act, 1994. In this regard attention is invited to section 73 (3) and section 80 of the Finance Act, 1994.

3. Trade Notice/Public Notice may be issued to the field formations and tax payers. Please acknowledge receipt of this Circular. Hindi version follows.

Yours sincerely,

(S. Jayaprahasam)

Technical Officer, TRU

Tel: 011-2309 2037