

TAX FLASH NEWS

Draft guidelines for use of digital signature on records and invoices

Background

Pursuant to the Honourable Finance Minister's budget speech on the facility of maintenance of records in electronic form, and authentication of records by digital signature for central excise taxpayers, sub rule (4), (5) in Rule 10 and sub-rule (8), (9) in Rule 11 of Central Excise Rules, 2002 have been inserted vide Notification No. 8/2015-CE (N.T.) dated 1 March 2015 to initiate the implementation of the said facility.

The Central Board of Excise and Customs ('CBEC' or 'the Board') has been empowered by the above stated amendment to specify the conditions, safeguards and procedures to be followed by the taxpayers preserving digitally signed records.

Accordingly the board, vide Circular¹, has now proposed to notify the safeguards/conditions and prescribe the procedure for verification of digitally signed invoices and documents. A draft notification and circular has been issued in this regard by the board seeking feedback from the trade on the proposed procedure by 22 April 2015.

Highlights of the draft notification specifying the conditions and safeguards

- All taxpayers proposing to use a digital signature shall use class two or class three digital signature certificate duly issued by licenced Certifying Authority in India

- Taxpayers proposing to use a digital signature shall intimate the following details to the jurisdictional Deputy/Assistant Commissioner at least 15 days in advance with a copy to the jurisdictional Superintendent
- Taxpayers already using a digital signature shall intimate the above details within 15 days of issue of the notification
- Every assessee/taxpayer opting to maintain records in electronic form, who has more than one factory, shall maintain separate electronic records for each factory
- All assesses/taxpayers opting to maintain records in electronic form, on request by a central excise officer, shall produce the specified electronic records and invoices through email or on specified storage device in an electronically readable format for verification of the authenticity of the document. The request for records and invoices shall be specified in the letter or e-mail by the central excise officer
- A central excise officer, during an enquiry or investigation, may direct the taxpayer to furnish printouts of the electronic records and invoices during an investigation and may resume the documents and invoices under Section 14 of the Central Excise Act, 1944 after verifying the correctness of the same in an electronic format. The print outs of such electronic records shall be signed by the taxpayer or any other person authorised by the taxpayer in this regard, if so requested by the central excise officer

¹ F. No.224/44/2014-CX.6, dated 27 March 2015

- Every assessee/taxpayer opting to maintain records in an electronic form shall ensure that appropriate backup of electronic records is maintained and preserved.

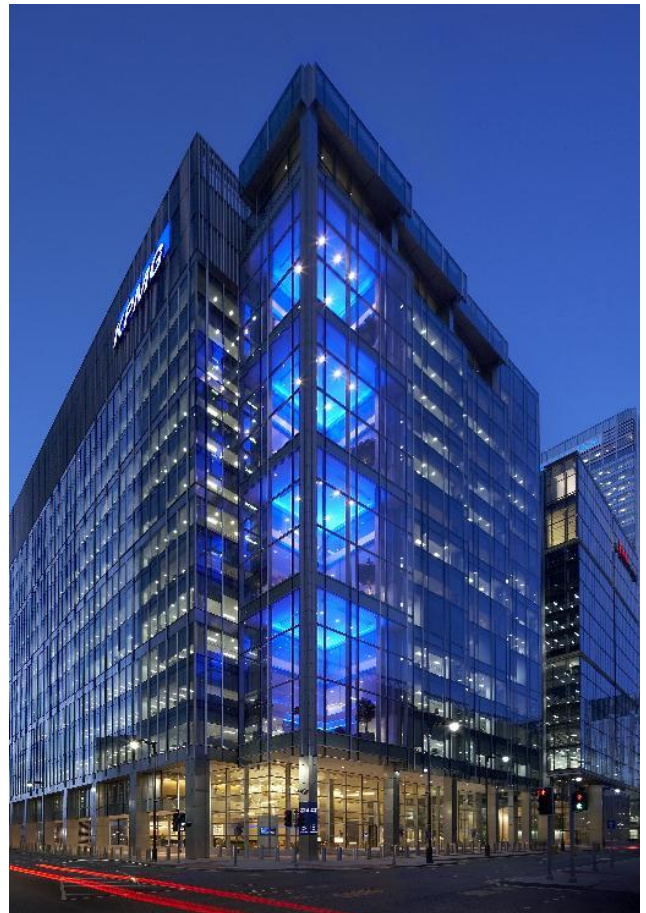
Highlights of the draft circular prescribing the procedure for verification of digitally signed invoices and documents

- The PDF format or hard copy of invoices and documents may contain a web link where the documents or invoices are stored by the taxpayer
- Taxpayer shall either provide access to the website of the company for verification or forward the digitally signed invoice or document on requisition by the central excise officer for verification
- The contents of a digitally signed document or invoice can be verified as follows:
 - **Automatic pop-up of message once a digitally signed invoice is opened for the first time:** This pop up will not appear where the sender creates only an image of the digital signature instead of digitally signing the invoice or document. Such an invoice or document will not be a valid digitally signed invoice or document
 - **Document modification history:** ‘Signature validation status’ window provides the information as to whether the document has been modified or not post signing of the document
 - **Access to key information from the signature panel and acceptance of signer post verification of necessary particulars:** ‘Show signers certificate’ option will provide key information about the signer, validity and authenticity of the digital signature certificate, etc. If satisfied with authenticity of documents post verification of the above information, the recipient of the invoice/document may add the certificate in question to its list of trusted certificates by clicking the ‘trust’ tab and the process of verification is thus complete.

Our comments

Though digitally signed documents were given legal recognition under the Information Technology Act, 2008 there was no enabling provision under the various Central Indirect Tax Laws which thus far have only prescribed the particulars of invoice and records to be maintained which were generally suitable for maintenance of records in physical form.

The draft notification and circular on digitising documents and the process of verification is a welcome move. Once effective, this could go a long way in reducing the compliance costs associated with maintenance and storage of physical invoices/documents.



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