Enabling provisions relating to ‘Krishi Kalyan Cess’ introduced

Background

The Government of India, during the Union Budget 2016, proposed to introduce ‘Krishi Kalyan Cess’ (KKC) to be levied with effect from 1 June 2016 on the value of all taxable services at the rate of 0.5 per cent.

With the receipt of the Presidential assent on 14 May 2016, the Chapter VI of the Finance Act 2016 (No. 28 of 2016) which deals with the provisions relating to levy of KKC has become effective. One of the key objectives to introduce KKC is to provide finance and promote initiatives relating to improvement in the agriculture sector.

Notifications and Circular

Pursuant to the introduction of the KKC, the Government issued several notifications\(^1\) on 26 May 2016 that deal with various aspects relating to the levy and collection of KKC. We have attempted to summarise below these notifications on key aspects like valuation, point of taxation, reverse charge and CENVAT credit:

- KKC cannot be levied on services that are fully exempt from service tax or those which are specified in the negative list of services or those which are otherwise not liable to service tax.
- The services that are liable to service tax in the hands of the service recipient as specified in Notification No. 30/2002-ST dated 20 June 2012 will also be liable to KKC under reverse charge mechanism.
- Rebate of KKC will be allowed on all input services used in providing services exported in terms of Rule 6A of the Service Tax Rules, 1994.
- Exemption from KKC extended to services received by a unit located in a Special Economic Zones (SEZ) or Developer of SEZ and used for the authorised operations.
- Value for levy of KKC
  - KKC will be calculated in the same manner as service tax; hence it will be levied on the same taxable value as that of service tax as determined under Service Tax (Determination of Value) Rules, 2006.
  - In case any abatement is granted to any taxable service, KKC would also be calculated on the abated value.

\(^1\) Notification Nos. 27/2016-Service Tax to 31/2016-Service Tax and Notification No. 28/2016-Central Excise (N.T.) dated 26 May 2016
- Air travel agents, life insurance companies, persons engaged in the purchase and sale of foreign currency and distributors/selling agents of lottery [who are covered under sub-rule (7), (7A), (7B) and (7C) of Rule 6 of the Service Tax Rules, 1994] shall have the option to pay KKC as per the following formula:

\[
\text{Service tax liability [calculated as per sub-rule (7), (7A), (7B) or (7C)]} \times 0.5 \text{ per cent}\n\]

\[
14 \text{ per cent}
\]

It is to be noted that this option upon exercise by an assessee shall apply uniformly for such services and shall not be changed during a financial year under any circumstances.

- **Accounting codes for payment of KKC**

  The KKC needs to be separately shown on the invoice and should be accounted for and paid separately. The following accounting codes should be used for payment of the KKC.

<table>
<thead>
<tr>
<th>KKC (minor head)</th>
<th>Tax collection</th>
<th>Other receipts (interest)</th>
<th>Deduct refunds</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>0044-00-507</td>
<td>00441509</td>
<td>00441510</td>
<td>00441511</td>
<td>00441512</td>
</tr>
</tbody>
</table>

- **Our comments**

Among the various amendments made to give effect to the levy of KKC, the provisions related to determination of point of taxation with respect to services provided before the introduction of levy is a challenging proposition for the industry. The amended Rule 5 of POT Rules results in a situation where assessee will be required to pay KKC on all outstanding payments for services already provided before 1 June 2016.

This could pose a significant challenge for the industry to implement both financially as well as procedurally. The government should provide more clarity and possibly grant exemption from levy of KKC to services rendered before the effective date i.e. 1 June 2016.

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2 Circular No. 194/04/2016-ST dated 26 May 2016 issued by the Central Board of Excise and Customs
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