भारतसरकार *Government of India*
रेलमंत्रालय *Ministry of Railways*
रेलवेबोर्ड*(Railway Board)*

RBA NO. 09/2023

No. 2014/AC-II/1/3

New Delhi, date : 31.03.2023

Pr. Financial Advisor,
All Zonal Railways/Production Units

Sub:- Representation for accepting payments made through book adjustments as full and final settlement of Service Tax dues.

Ref:- 1. Board's letter no. 2006/AC-II/1/3/ dated 16.3.2011 (RBA No. 10/2011)(Ann-1)
2. Department of Revenue's letter No. CBIC-240137 /20 /2022 - ServiceTax Section-CBEC dt.21.03.2023 (Ann-2).

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Board, vide letter cited under reference (1) above, has issued instructions regarding settlement of Service Tax by Government Department through book adjustments. However, Service Tax authorities in many states have issued tax demands for payment of Service Tax through direct payment mode though the same has been settled through book adjustment. The matter was taken up with Department of Revenue for issue of suitable instruction to the Tax authorities to accept book adjustments as valid proof of discharge of tax liability by Railways.

Department of Revenue has considered the matter and vide ltter cited under reference (2) above, and directed CGST authorities to accept duty/tax paid by book adjustment in all cases pending adjudication in respect of Department of Posts and ministry of Railways, where the duty/tax has been demanded only on account of the fact that amount due as tax/duty has been settled by book adjustment (copy enclosed).

Kindly take necessary action accordingly in respect of cases pending on this account.

DA: As above

(Sanjeev Sharma)
OSD/Accounts
Railway Board

CBIC-240137/20/2022-SERVICE TAX SECTION-CBEC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(CX & ST Wing)

Room No 244-C, North Block,
New Delhi, 21st March, 2023

INSTRUCTIONS

To,

1. Pr. Chief Commissioner / Chief Commissioner, CGST & CX (All)
2. Pr. DG/ DG (All), DGGI
3. Pr. Commissioner/Commissioner, CGST&CX (All)
4. Webmaster@cbic.gov.in

Sir/ Madam,

Subject: Payment of Service Tax by Department of Posts and Ministry of Railways by way of book adjustment-reg.

Please refer to above subject.

As you are aware, Board had earlier noted that the practice of payment of Service tax by way of book adjustment adopted by the Department of Posts and the Ministry of Railways was leading to incorrect accounting and reporting as the tax payments could not be reconciled by the field units of CBIC. Book adjustment practice was also unable to provide a service wise, jurisdiction wise segregation of Service tax dues and was posing difficulties in conduct of audit.

2. Accordingly, the then Member (ST) vide DO letter F.No. 137/08/2013-Service Tax dated 21.04.2014 informed the Department of Posts and Ministry of Railways that the practice of payment of Service tax by way of book adjustment by both Ministries is contrary to the provisions of Finance Act, 1994 and Service Tax Rules and also to the Government Accounting Rules, 1990. Accordingly, it was requested to adhere to provisions of the Finance Act, 1994 by paying duty/tax electronically through the NSDL portal or ACES portal. The Controller General of Accounts was also requested to render necessary assistance to the Department of Post and Ministry of Railways for aligning their payment procedure accordingly.

3. Consequent to this and even prior to that, certain field formations under CBIC had raised objections to above practice of tax payment and have issued show cause notices demanding duty/tax, otherwise paid by way of book adjustment. Board has also noted that there are different practices in field in accepting book adjustment as a valid mode of payment. The show cause notices issued to demand the Service Tax/Central Excise duty by some field formations are at different levels of adjudication. A reference in this regard has also been received from the Ministry of Railways in which the demands have been confirmed.

4. Board has examined the issue. While there has been no change in the legal position of the method of duty payment, Board has taken note of the difficulties in reversal of book entries of the Service Tax paid

by way of book adjustment and re-payment through ACES/NSDL, as the Government accounts for legacy period are already finalised and laid in the Parliament. Board has also noted that it may not be appropriate to demand the duty once paid by book adjustment again and accordingly, Board has felt the necessity of reducing avoidable litigation where the only issue of contention is mode of payment of the tax/duty. Further, the issue is of non-recurring nature as in the GST regime, the tax is being paid through the Common Portal.

5. Reference is also invited to the order of Hon'ble CESTAT, Kolkata in the matter of FA & CAO, ECR Hajipur Vs Pr. Commissioner, Patna-II, Commissionerate {Final order number 75629/2021 dated 30.07.2021 in ST Appeal No. ST/75076/2020-DB} wherein the O-i-O confirming demand of duty paid by way of book adjustment has been set aside and the matter has been remanded back for the limited purpose of **reconciliation of demand and payment made through book adjustment**. The remand directions include that *"in the said remand proceedings, the authorities shall verify with regard to the quantification and supporting documents."* On similar lines, a few other judgements have also been passed by Tribunal.

6. Considering the above position in totality with a view to reduce litigation, Board directs that in all cases pending adjudication in respect of Department of Posts and Ministry of Railways, where the duty/tax has been demanded only on account of the fact that amount due as tax/ duty has not been paid as per the procedure laid down but by book adjustment, the adjudicating authority may focus on the reconciliation of duty/tax paid by book adjustment. The noticees may for this purpose, submit the reconciliation statement of duty/tax liability and the payment proof in appropriate head and account pertaining to the demand to the satisfaction of the adjudicating authority. A certificate to this effect from O/o CGA may also be provided by the noticees.

7. Board desires that pending adjudications in respect of legacy cases on this account may be disposed of expeditiously in the light of above instructions. Difficulties, if any, in implementing the above instructions may be brought to the notice of the Board.

8. Hindi version will follow.

Yours faithfully,

27/5/22

(Varun Kumar Singh)
Under Secretary to Government of India

भारत सरकार/ GOVERNMENT OF INDIA
रेल मंत्रालय/ MINISTRY OF RAILWAYS
(रेलवे बोर्ड/ RAILWAY BOARD)

आर.बी.ए. सं. 09/2023

सं. 2014/एसी-II/1/3 नई दिल्ली, दिनांक: 31.03.2023

प्रधान वित्त सलाहकार,
सभी क्षेत्रीय रेलें /उत्पादन इकाइयां,

विषय: सेवा कर देयराशियों के पूर्ण और अंतिम निपटान के रूप में बही-खाता समायोजनों के द्वारा किए गए भुगतानों को स्वीकार करने के लिए अभ्यावेदन।

संदर्भ: 1. बोर्ड का दिनांक 16.03.2011 का पत्र सं. 2006/एसी-II/3/(आरबीए सं. 10/2011) (अनुलग्नक-1)

2. राजस्व विभाग का दिनांक 16.3.2011 का पत्र सं. सीबीआईसी-240137/20/2022-सेवा कर अनुभाग-सीबीईसी (अनुलग्नक-2)

बोर्ड द्वारा उपर्युक्त संदर्भ (1) के तहत उद्धृत पत्र के अंतर्गत, बही-खाता समायोजनों द्वारा सरकारी विभाग से सेवा कर के निपटान के संबंध में अनुदेश जारी किए गए थे। बहरहाल, कई राज्यों में सेवा कर प्राधिकारियों ने प्रत्यक्ष भुगतान विधि के द्वारा सेवा कर के भुगतान के लिए कर मांगों को जारी किया है, हालांकि उनका निपटान बही-खाता द्वारा किया जा चुका है। रेलवे द्वारा कर देयता के निर्वहन के वैध प्रमाण के रूप में बही-खाता समायोजनों को स्वीकार

करने के लिए कर प्राधिकारियों को उपयुक्त अनुदेश जारी किए जाने हेतु इस मामले को राजस्व विभाग के समक्ष उठाया गया था।

राजस्व विभाग द्वारा इस मामले पर और उपरोक्त संदर्भ (2) के तहत उद्धृत पत्र के अंतर्गत विचार किया जा चुका है, जहां शुल्क/कर की मांग केवल इस तथ्य के आधार पर की गई थी कि कर/शुल्क के रूप में देय राशि का निपटान बही-खाता समायोजन द्वारा किया जा चुका है, वहां केंद्रीय माल और सेवा कर प्राधिकारियों को डाक विभाग और रेल मंत्रालय के संबंध में लंबित सभी मामलों में बही-खाता समायोजन द्वारा प्रदत्त शुल्क/ कर को स्वीकार करने का निदेश दिया जा चुका है (प्रतिलिपि संलग्न) ।

कृपया इस कारण से लंबित मामलों के संबंध में तदनुसार आवश्यक कार्रवाई करें ।

संलग्नक : यथोक्त

(संजीव शर्मा)
विशेष कार्याधिकारी/लेखा
रेलवे बोर्ड