

TVR/COAI/174
December 10, 2004

The Joint Secretary (TRU)
Central Board of Excise & Customs,
North Block,
New Delhi –110 001.

Dear Sir,

Sub : **Inclusion of Base Transceiver Station Towers under the definition of Capital Goods under Rule 2(a) of Cenvat Credit Rules, 2004**

1. The Government has integrated Service Tax Credit Rules, 2002 and CENVAT Credit Rules, 2002 and the new CENVAT Credit Rules, 2004 has been notified with effect from **10th Sept 2004**. Under these credit rules, credit is available of excise duty paid on Capital goods & inputs and service tax paid on input services, to both manufacturers and service providers. This has put a stop to the cascading effect of taxation as intended by the Central Government.
2. The importance of Telecommunication facilities as an essential infrastructure has been well recognized by the Government and periodical fiscal incentives have been extended to this sector.
3. Provision of wireless telecommunication services require Base Transceiver Stations (BTS) to be put up all over the country. The essential part of the BTS is the antenna which receives and transmits signals. These antennae have to be placed only at a particular height in every place depending on various factors like
 - (i) near end obstruction (height of structures nearby),
 - (ii) desired span of coverage.

Usually the antennae are situated at a height of 40 to 60 meters from the ground. Wireless Telecommunication services cannot be provided unless the antennae are situated at that height. To station the antennae at that height, a tower is required on which the antenna is placed. This tower is called Base Transceiver Station tower.

4. The towers are made of galvanized steel angles, etc. Lightning arrestors are installed at the top of the tower to avoid any damage to tower, antenna and electronics, in the event of lightning strike. The BTS towers are integral part of the Base Transceiver Stations for providing wireless telecommunication services. Cost of these towers and excise duty paid thereon form a substantial part of investment by telecommunication service providers.
5. Base Transceiver Station Towers are classified under Tariff Heading 7308.20. This tariff heading is not covered under the "capital goods" definition given in the Cenvat Credit Rules, 2004. Consequently, telecommunication service providers are not eligible for Cenvat credit under the Cenvat Credit Rules, 2004 while discharging Service Tax liability on telephone services provided by them.
6. In manufacturing sectors, provisions have been made for allowing credit on tubes, pipes, storage tanks, moulds, dyes, jigs & fixtures, etc. in addition to all goods falling under Chapter 82, Chapter 84, Chapter 85 and Chapter 90, as these items are integral to manufacturing processes.

BTS Tower is one of the essential equipments required for providing wireless telephone services. The essentiality can be gauged from the

fact that without installation of towers, wireless telephone services cannot be provided.

7. Considering the essentiality of installing towers similar to the requirement of pipes & tubes, moulds & dyes, jigs & fixtures, etc. to the manufacturing processes, we request for inclusion of “Base Transceiver Station towers” under the definition of Capital Goods so that Telecom service providers can avail Cenvat Credit paid on towers under Cenvat Credit Rules, 2004 for discharging Service Tax liability on telecom services.
8. We shall be grateful for the early consideration in the matter.

Thanking you,

Sincerely,

T.V. Ramachandran
Director General