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**Public Notice No. 21/2016-17**

**SUBJECT: INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016.**

Consequent to the enactment of "The Indirect Tax Dispute Resolution Scheme" in Chapter XI (Section 212 to 218), the Directorate General of Legal Affairs, Central Board of Excise and Customs, New Delhi vide letter F.No. 1080/06/DLA/DRS/2016/951 dated 02.06.2016 has issued instruction regarding the "Indirect Tax Dispute Resolution Scheme, 2016" as under:-

1. Chapter XI of the Finance Act, 2016 (28 of 2016) comprising of section 212 to 218, is in respect of the Indirect Tax Dispute Resolution Scheme, 2016. The said scheme allows the party in appeal before the Commissioner (Appeals) as on 1<sup>st</sup> March 2016, to file a declaration before the Designated Authority for the purpose of availing the benefit of the scheme. The details of Chapter XI of the Finance Act, 2016 (28 of 2016) comprising of section 212 to 218, is in respect of the Indirect Tax Dispute Resolution Scheme, 2016 is enumerated herein below :

**"CHAPTER XI OF THE INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016**

***Short title, application and commencement***

212. (1) This Scheme may be called the Indirect Tax Dispute Resolution Scheme, 2016.

(2) It shall be applicable to the declarations made up to the 31st day of December, 2016.

(3) It shall come into force on the 1st day of June, 2016.

***Definitions***

213. (1) In this Scheme, unless the context otherwise requires,—

(a) "Act" means the Customs Act, 1962 or the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994, as the case may be;

(b) "Assistant Commissioner" means the Assistant Commissioner of Customs or the Assistant Commissioner of Central Excise or the Assistant Commissioner of Service Tax, as the case may be;

(c) "Commissioner" means the Commissioner of Customs or the Commissioner of Central Excise or the Commissioner of Service Tax, as the case may be;

(d) "declarant" means any person who makes a declaration under sub-section (1) of section 214;

(e) "designated authority" means an officer not below the rank of Assistant Commissioner who is authorised to act as Assistant Commissioner by the Commissioner for the purposes of this Scheme;

(f) "impugned order" means any order which is under challenge before the Commissioner (Appeals);

Contd...2/-

(g) "indirect tax dispute" means a dispute in respect of any of the provisions of the Act which is pending before the Commissioner (Appeals) as an appeal against the impugned order as on the 1st day of March, 2016;

(h) "prescribed" means prescribed by rules made under this Scheme;

(i) "tax" includes duty or tax levied under the Act.

(2) Words and expressions used herein and not defined but defined in the Act or the rules made thereunder shall have the meanings respectively assigned to them in the Act or the rules made thereunder.

#### **Procedure for making declaration**

214. (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2016 in such form and manner as may be prescribed.

(2) The designated authority shall acknowledge the declaration in such form and manner as may be prescribed.

(3) The declarant shall pay tax due along with the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent. of the penalty imposed in the impugned order, within fifteen days of the receipt of acknowledgement under sub-section (2) and intimate the designated authority within seven days of making such payment giving the details of payment made along with the proof thereof.

(4) On receipt of the proof of payment of tax, interest and penalty under sub-section (3), the designated authority shall, within fifteen days of the receipt of such proof, pass an order of discharge of dues referred to in sub-section (3) in such form as may be prescribed.

#### **Scheme not to apply in certain cases**

215. The provisions of this Scheme shall not apply, if—

(a) the impugned order is in respect of search and seizure proceeding; or

(b) prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or

(c) the impugned order is in respect of narcotic drugs or other prohibited goods; or

(d) impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988; or

(e) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

Contd...3/

### **Immunity from other proceedings under Act**

216. (1) Notwithstanding anything contained in any provision of the Act, upon the passing of an order under sub-section (4) of section 214, the appeal pending before the Commissioner (Appeals) shall stand disposed of and the declarant shall get immunity from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme.

(2) A declaration made under sub-section (1) of section 214 shall become conclusive upon the issuance of an order under sub-section (4) of section 214 and no matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.

### **Consequences of order made under scheme**

217. (1) Any amount paid in pursuance of a declaration made under sub-section (1) of section 214 shall not be refunded.

(2) Any order passed under sub-section (4) of section 214 shall not be deemed to be an order on merits and has no binding effect.

*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 216.

### **Power to make rules**

218. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and the manner in which a declaration may be made under sub-section (1) of section 214;

(b) the form and the manner of acknowledging the declaration under sub-section (2) of section 214;

(c) the form and the manner of issuing an order of discharge under sub-section (4) of section 214;

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

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*aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."*

2. As per clause (e) to sub-section (1) to section 213 of the Finance Act, 2014 the "Designated Authority" means an officer not below the rank of Assistant Commissioner who is authorized to act as Deputy/Assistant Commissioner by the Principal Commissioner for the purposes of this Scheme. As per the said clause (e) the Principal Commissioner of Customs House, Kandla vide Public Notice No 16/2016 dated 15.06.2016, has authorized the Deputy Commissioner to function as Deputy/Assistant Commissioner, Designated Authority for the purpose of this scheme. The details of designated authority are as detailed below:

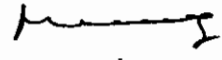
Shri M.S. Meena  
Deputy Commissioner of Custom House Kandla  
Designated Authority (ITDRS),  
Office of the Principal Commissioner of Customs,  
Custom House, Kandla Port, Kutch, Gujarat- 3702010

3. The Indirect Tax Dispute Resolution Scheme Rules, 2016 has been notified by Notification No. 29/2016-CE(NT) dated 31.05.2016. These rules provide for the forms to be used for making the scheme operational. Following forms have been prescribed by the said rules:-
  - (a) **Form 1** has been prescribed for making declaration under the scheme.
  - (b) **Form 2** is the form in which the designated authority shall give the acknowledgement about the receipt of declaration by him. Once such an acknowledgement has been given by the designated authority, the proceedings before the Commissioner (appeals) shall remain suspended for sixty days, and the Commissioner will not proceed any further with the appeal till expiry of said sixty days.
  - (c) **Form 3**, is the form to be filed by the declarant giving the details of the amounts deposited by him as required under the scheme. Declarant has to deposit the sums required to be deposited by him within fortnight of the receipt of the dated acknowledgement and report the details of deposit made within seven days of making the deposit to the designated authority.
  - (d) **Form 4**, is the form in which the said designated authority shall pass an order of discharge of dues in respect of the case before Commissioner (Appeals) for which the declaration has been made in Form 1.
4. Commissioner will on receipt of the order in Form 4 from the declarant shall match the same with the copy received directly from the designated authority and shall remove the appeal from his pendency as being disposed off. Since the Commissioner (Appeals) has not decided on the issues raised in appeal, said disposal of appeal shall have no binding precedent value.

Contd..5/-

5. The provisions of the Indirect Tax Resolution Scheme, 2016 as notified vide Notification No. 29/2016-CE(NT) dated 31.05.2016 along with the forms prescribed is enclosed herewith for the facility of the Trade and Industry.

Encl: As above.

  
(पी व्ही आर रेड्डी)  
(P. V. R. REDDY)

प्रधान आयुक्त /Principal Commissioner,

F.No. S/20--230/AG/2016 -17

Date- 9th August 2016

Copy to

1. The Chief Commissioner of Customs, Gujarat Zone, Ahmedabad.
2. The Additional Commissioner, Custom House, Kandla.
3. All DCs/ACs, Custom House Kandla/Bhuj.
4. Kandla Port Trust, All CFS.
5. CB Association, Kandla Customs Commissionerate.
6. Kandla Port Steamship Agents Association.
7. Kandla CFS Association, Kandla.
8. President, Gandhidham Chamber of Commerce, Gandhidham.
9. Notice Board.
10. EDI Section for uploading in Kandla Customs Commissionerate's website.

**Form 1**  
[See rule 3(1)]

**FORM OF DECLARATION UNDER SUB SECTION (1) OF SECTION 214 OF THE  
FINANCE ACT, 2016 (28 OF 2016), IN RESPECT OF INDIRECT TAX DISPUTE  
RESOLUTION SCHEME, 2016**

IN DUPLICATE

To,

The Designated Authority  
.....  
.....

Sir/Madam,

I hereby make a declaration under sub section (1) of section 214 of the Finance Act, 2016 (28 of 2016).

1	Name of the declarant (in block letters)	
2	Registration Number	
3	Address (as mentioned in order in original against which appeal has been filed before Commissioner (Appeals))	
4	Telephone number	
5	Order in original number	
6	Date of order in original	
7	Amounts demanded	Duty/ Tax
		Interest
		Penalty
8	Commissioner (Appeals) before whom appeal is pending	
9	Appeal No.	
10	Amounts deposited	Duty/ Tax
		Interest
		Penalty
11	Any other information	
<b>VERIFICATION</b>		
I, ..... (name in block letters) son/daughter/of Shri ..... solemnly declare that to the best of my knowledge and belief, -		
(a)	the information given in this declaration is correct and complete and amount due and other particulars shown therein are truly stated ;	

(b)	I am not disqualified in any manner from making a declaration under the Scheme with reference to the provisions of section 215 of Finance Act, 2016.		
(c)	I further declare that I am making this declaration in my capacity as ..... [[designation) (please specify if you are making a declaration on behalf of declarant)] and that I am competent to make this declaration and verify it.		
Place		Signature of person making declaration	
Date		Name of person making declaration	

#### Instructions for filling the Form

1. This Form should be submitted to the Commissioner of Customs or the Commissioner of Central Excise notified as designated authority under section 87(b)(ii) of the Finance (No. 2) Act, 1998.
2. Use separate Form for each appeal in respect of which declaration is being made.
3. No column shall be left blank. Wherever the entry is not relevant the column shall be filled in as 'Not applicable'.
4. In Row 2, registration number is to be filed only in respect of registered Central Excise and Service Tax Assessee. In respect of all others the row should be shown as "Not applicable".
5. In case of any deposits made in the matter against the amounts demanded please indicate the same in row 10.
6. Any other information relevant to the case may be briefly indicated under row 11.

Form 2  
[See rule 2(4)]

**FORM OF ACKNOWLEDGEMENT UNDER SUB SECTION (2) OF SECTION 214 OF  
THE FINANCE ACT, 2016 IN RESPECT OF INDIRECT TAX DISPUTE RESOLUTION  
SCHEME, 2016**

Reference No .....

To,  
.....  
.....  
.....

Sir/Madam,

Whereas Mr./Mrs./M/s. .... (hereinafter referred to as the declarant) has filed a declaration under sub-section (1) of section 214 of the Finance Act, 2016 (28 of 2016);

and the said declaration has been received on ..... in the office of the designated authority.

The designated authority hereby acknowledges the receipt of the declaration made and directs the declarant to pay the amounts due from him along with interest at the rate applicable and penalty equivalent to twenty-five percent of the penalty imposed on him by the order in original No ..... within fifteen days of the receipt of this acknowledgement.

The declarant shall within seven days of making the payment furnish to the designated authority as undersigned the intimation of making the payment in Form 3 along with the proof payment.

	Signature of the designated authority	.....
Place .....	Name of the designated authority	.....
Date .....	Official Seal of the designated authority	

Form 3  
[See rule 4(2)]

**FORM OF REPORTING THE PAYMENT UNDER SUB SECTION (3) OF SECTION 214 OF THE FINANCE ACT, 2016 (28 OF 2016) IN RESPECT OF INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016**

[IN DUPLICATE]

To,

The Designated Authority

.....  
.....

Sir/Madam,

Please refer to the declaration made by me in Form 1 dated .....,  
and the acknowledgement issued by you in Form 2, vide your Reference No  
..... dated .....

As required I have deposited the amounts as follows on .....

	Amount as per order in original	Amount deposited
Duty		
Interest		
Penalty		

Copy of the Challan dated ..... for making the payment as  
above are enclosed.

Place ..... Signature of person making declaration .....  
Date ..... Name of person making declaration .....

**Form 4**  
[See rule 5(1)]  
**FORM OF ORDER OF DISCHARGE OF DUES**  
**UNDER SUBSECTION (4) SECTION 214 OF THE FINANCE ACT, 2016 (28 of 2016).**

Reference No .....

Mr/ Mrs/ M/s ..... (Name and address of the declarant) (hereinafter referred to as declarant) had made a declaration under sub-section (1) of section 214 of the Finance Act, 2016 (28 of 2016) on .....; and

The designated authority by acknowledgement of even number in Form 2 dated ..... acknowledged the said declaration;

The Declarant has intimated as required under sub-section (3) of Section 214, the details of amount deposited by him against the said order in original in Form 3 dated .....

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 214 read with section 216 of the Finance Act, 2016, the designated authority hereby issues order of discharge of due the said declarant –

(a) certifying the receipt of payment from the declarant towards full and final settlement of the amounts due from the declarant in terms of order in original No ..... dated .....;

(b) granting immunity, from all from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme.

Signature of the designated authority .....

Place ..... Name of the designated authority .....

Date ..... Official Seal of the designated authority

**Copy To**

- (1) The declarant
- (2) Assessing/Adjudicating Officer
- (3) Commissioner of Customs/ Central Excise/ Service Tax
- (4) Concerned appellant authorities

F No 1080/06/DLA/IDRS/2016