

CHAPTER XIII: MINISTRY OF SCIENCE AND TECHNOLOGY

Council of Scientific and Industrial Research

13.1 Non recovery of Service Tax

Failure of National Institute of Oceanography, Goa to recover Service Tax from its clients in respect of the sponsored projects resulted in loss of Rs. 82.70 lakh as it had to ultimately make the payment of Service Tax to the tax authorities from its own funds.

Various scientific and technical institutions take up research and development projects for industry on payment of fee/charges. The Finance Act, 2001 brought rendering of science and technology (S&T) consultancy services under the purview of Service Tax. Consequently, Council of Scientific and Industrial Research (CSIR) issued instruction on 8 August 2001 requiring all the laboratories under its purview to collect Service Tax from their clients along with the consultancy charges and deposit the tax so collected with the Central Excise Authorities within 30 days.

Audit examination disclosed that notwithstanding the above provisions and circular issued by CSIR, National Institute of Oceanography, Goa (NIO), a unit of CSIR, failed to collect and pay the Service Tax on sponsored projects undertaken by it on behalf of various agencies on the ground that CSIR guidelines for technology transfer and utilisation of knowledgebase contemplated charging of Service Tax only in respect of consultancy services and there was no mention about the payment of such tax on the sponsored projects. The action of NIO was irregular as it should have obtained necessary clarification from CSIR if any doubt existed regarding levy and collection of Service Tax on sponsored projects undertaken by them.

Failure of NIO to collect and deposit tax timely led to the Commissioner of Customs and Central Excise, Panaji, Goa issuing a notice in August 2004 directing NIO to pay Service Tax along with interest in respect of all the projects undertaken by it. After receipt of the notice, CSIR directed NIO in January 2005 to recover the amount of Service Tax from the clients for whom the sponsored projects were executed, failing which, the amount be paid from the undistributed intellectual fee and/or unspent balance available from the projects for which Service Tax had to be paid. CSIR further advised that after exhausting these options, the Service Tax, if necessary, be paid from the laboratory reserve.

NIO accordingly paid Rs. 69.34 lakh in January 2005 towards Service Tax in respect of 165 sponsored projects undertaken during the period July 2001 to August 2004 and interest of Rs. 17.74 lakh towards delayed payment in January 2006. Out of this, NIO could recover only Rs. 4.38 lakh from 10 clients. While Rs. 27.74 lakh was paid from the undistributed intellectual fee and unspent balances of the projects, the remaining Rs. 54.96 lakh was paid from the laboratory reserve.

CSIR stated in January 2006 that the notice of payment of Service Tax on all the projects including sponsored projects was communicated only in August 2004 by Customs and Central Excise Department (CCED). Accordingly legal opinion was obtained which was in agreement with the views of CCED. Therefore, directions were issued to laboratory to settle the Service Tax dues.

Reply of the CSIR was not tenable as the notification dated 9 July 2001 clearly provided that Service Tax is payable on all scientific or technical consultancy services rendered in any manner to client and accordingly in August 2001 CSIR issued instructions to all the laboratories for collection of an additional component of Service Tax to and depositing the tax on collected in with central Excise Authorities within 30 days.

Thus, administrative lapse on the part of NIO led to non-recovery of Service Tax of Rs. 64.96 lakh from the concerned agencies. Consequently, NIO had to pay the amount of Rs. 64.96 lakh alongwith interest of Rs. 17.74 lakh from its laboratory reserve/undistributed intellectual fee and unspent project funds resulting in loss of Rs. 82.70 lakh.