

## **CALL "TAXI" and grant refund!**

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Any exemption from payment of any tax is granted, only with certain avowed objectives. The so called "public interest" behind such exemptions have to be really met, in the interest of the society, economy and the overall growth of the country. Here is a case, where the "public interest" behind an exemption is observed more in breach.

With a motive to promote Tourism in India, an exemption has been provided under S.No. 208 (ii) of Notification No.6/2002 in respect of the vehicles, which are registered as "Taxis". This exemption is given in the form of refund of the duty paid by the manufacturer of cars. This benefit has stood its test of time and finds place even in the recent Budget, presented by the Hon'ble Finance Minister on 28.02.2006 (S.No. 34 (ii) of Notification 6/2006). Lets us make introspection into this exemption to find out whether the intention of the Government is being fulfilled or floated.

For more than a decade, the refund of the duty paid on motor cars which are subsequently registered as 'taxi' is in vogue. The procedure for claiming the refund had been laid down in the notification itself. However, the procedures for claiming the refund have been substantially modified, during 2003. Prior to 2003, the manufacturers of the motor cars, at the first place, were required to file a refund application within six months from the date of payment of duty; the motor car was required to be registered as 'taxi' with the concerned authorities within three months from the date of clearance from the factory; a certificate has to be obtained from the State Transport Authority to the effect that the said vehicle has been registered as 'taxi'; and above all, a declaration evidencing the re-payment of the said duty by the manufacturer to the dealer and in turn to the ultimate customer, has to be furnished. Once all these procedures were complied, the manufacturer would be entitled to obtain the refund from the department.

In the post 2003 scenario, the manufacturers are given the freedom to avail the credit of the excess duty paid and then file the refund claim which would undergo only post mortem by the department.

With due credit to the drafting of such procedures, imposing of the conditions, and the intention of the Government, it would be interesting to note that there is no restriction on the category of persons eligible for the said refund. This has given rise to gross misuse of the benefit. If one happens to see the claims filed by the manufacturers, it would be astonishing to note that software companies, hospitals, doctors, departmental stores and so on and so forth have enjoyed the benefit of this refund claim. The reason behind such misuse would be nothing but to fulfill the ultimate desire to own a car 'at any cost'. It is a million dollar question as to how these categories of persons would be operating "taxis". It is further astonishing as to how the department is processing such claims and is a mute spectator to such claims. Is not the Government being taken for a ride?

Adding salt to the wound, it is also not out of place to foresee a situation where a person, with an ultimate motive to unduly enjoy the benefit of 8%, would register the motor car as a taxi, obtain the refund and subsequently re-register it as a private car. This would have an enormous jolt, if a Mercedes Benz is registered as a taxi initially and after obtaining the refund, the same is re-registered as a private vehicle. The simple 8% would cost the exchequer dearly and there is no mechanism to check such misuse.

It may be interesting to note that the services of 'Rent-a-cab' operator are liable to service tax now. Initially this service was defined only to include those who were licenced under 'Rent-a-Cab Scheme, 1989' formed under Motor Vehicles Act, 1988. The licence under said scheme is granted only to a person who maintains not less than 50 motor cabs having tourist permits. Subsequently, this was extended to include any person engaged in the business of car rental, irrespective of whether registered or not and whether or not holder of the licence under the above said scheme. **With the introduction of service tax on persons operating taxis, would it not be more pertinent to insist on service tax registration from those applying for refund of excise duty as mentioned above? Or at least a certificate from the department that the taxi operator claiming the refund is exempted from payment of service tax, since his turnover is less than Rs.4 lakhs?**

### **Before parting**

In the recent Budget-2006, the Hon'ble Finance Minister had showered his sympathies by reducing the rate of duty to 16% for small cars. It is no doubt a welcome gesture, but unfortunately, most of the taxis running on road are only lower end cars like TATA Indica, etc. The refund of duty is available only for the duty paid in excess of 16%. Consequent to the change in the Budget, whereby the rate of duty for such small cars itself has been reduced to 16 %, this exemption is nothing but an illusion for such small cars. But, the ordeal of taking credit and getting post facto approval has been done away with for them!