

**Section 73(3) of the Finance Act, 1994 for avoiding penalty and non-issuance of Show cause notice.**

- *In cases of delay /short payment / erroneous refund of service tax, wherein the payment of service tax is made along with interest by the assessee, provision are incorporated in section 73(3) to not to issue Show Cause Notice for penalty provided the assessee intimates to the department about such delayed payment of service tax.*
- *The said provisions are not applicable to payment of service tax wherein demand arises on account of fraud, suppression, etc.*
- ***Earlier there was no format of intimation to be submitted to the department for such cases.***
- *The Hyderabad Commissionerate has issued trade notice wherein a format has been prescribed. The said format is reproduced **below***

**FORMAT**

**Sub:** Letter under Section 73(3) of the Finance Act, 1994 for avoiding penalty and non-issuance of SCN-Reg.

1. I/We M/s. \_\_\_\_\_ falling under the jurisdiction of \_\_\_\_\_ Range and \_\_\_\_\_ Division state and request as under:
2. Whereas in terms of Section 73(3) of the Act, where any Service Tax has not been levied or paid or has been short levied or short paid or erroneously refunded, the person, chargeable with Service Tax, may pay the amount of Service Tax before service of notice on him under sub-section(1) in respect of Service Tax and inform the Central Excise officer in writing who, on receipt of such information shall not serve any notice under the sub-section(1) in respect of the Service Tax so paid;
3. Whereas during the course of verification of our records returns, by the Range/Division/Audit/Anti-Evasion of the Headquarters office of \_\_\_\_\_ Commissionerate, it is observed that there is short payment/ non-levy/ nonpayment of Service Tax / Wrong availment of Cenvat Credit an account of issue/issues mentioned as per the Annexure. We having agreed to the points raised during verification/ scrutiny have paid the said amounts of Service Tax/ reversed the Cenvat Credit of Rs. \_\_\_\_\_ vide TR-6/Cenvat Register No. \_\_\_\_\_ dated \_\_\_\_\_ along with the interest of Rs. \_\_\_\_\_ vide TR-6 Cenvat Register No. \_\_\_\_\_ dated \_\_\_\_\_ voluntarily.
4. Now, therefore, in terms of the provisions of Section 73(3) of the Finance Act, 1994, we requests that a SCN may not be issued to us in this case and no penalty may be imposed on us as the above short levy/ short payment /nonlevy/ non- payment/wrong availment of credit are not intentional on our part. We request that the above issue may be treated as closed with this letter since we have complied with the above provisions of Service Tax Law. We do not intend to file any appeal in the matter. We will also not be claiming refund of Service Tax paid as mentioned in the preceding paragraph.

Yours faithfully

(Authorized Signatory)