Service Tax

Circular / Instructions / Trade Notices

Charge of Service tax on services received from outside India under Section 66 A of the Finance Act, 1994 and admissibility, or otherwise, of CENVAT credit thereof under CENVAT Credit Rules, 2004 - Regarding

F.No.- 345 / 1 / 2008-TRU

Government of India

Ministry of Finance

Department of Revenue

Tax Research Unit

Room No. 146 G, North Block, New Delhi

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Subject : Charge of Service tax on services received from outside India under Section 66 A of the Finance Act, 1994 and admissibility, or otherwise, of CENVAT credit thereof under CENVAT Credit Rules, 2004 - Regarding.

Board vide para 4.2.13 of letter F.No B1/4/2006 dated 19.4.06 clarified the admissibility of CENVAT credit of service tax paid under Section 66A on the taxable services provided from outside India and received in India and used as input services for the taxable outputs, as follows:

"4.2.13 The treatment of the recipient of service, as the deemed service provider under Section 66A is only for the purpose of charging service tax on taxable services received from outside the country. Services provided from outside India and received in India , therefore, not treated as taxable service provided by the recipient for the purpose of CENVAT Credit Rules, 2004, However, where such service is used as an input for providing any taxable output, the service tax paid on such service can be taken as input credit."

2. It has been brought to the notice of the Board by trade and industry associations that a view contrary to the said explanation has been expressed by field formations in certain cases.

3. Section 66 is the charging section and provides for levy of service tax on taxable services referred to in sub-clauses of clause (105) of section 65. Services specified in clause (105) of section 65, provided by a person located in a country other than India and received by a person located in India, is treated as per Section 66A, as taxable services for the purpose of levy of service tax in India as if the recipient of the service had himself provided the said services in India extends all the provisions of Chapter V of the Finance Act 1994 on such services provided from a country other than India and received in India; and the recipient of such taxable service is required to be registered as a person liable to pay service tax.

4. The recipient of the service is required to pay service tax under Section 66A though the service is actually provided not by the recipient but by a person located in a country other than India . Such taxable services, not being actually provided by the person liable to pay service tax, are not treated as "output services" for the purpose of CENVAT Credit Rules, 2004. However, service tax paid under Section 66A is available as "input credit" under CENVAT Credit Rules, 2004 provided the said services are used as input services by the manufacturer or producer of final products or a provider of output taxable service.

5. The views communicated by the Board in para 4.2.13. of F.No B1/4/2006-TRU dated 19 th April, 2006 are reiterated,

6. Trade and field formations may be informed accordingly

(G.G.Pai)
Under Secretary (TRU)