

R.K. Jain's Service Tax Review

A Fortnightly Journal on Service Tax

Vol. 18 : Part 2

15th April, 2010

Highlights

- ◆ Service tax on rail freight postponed to 1st July, 2010. S4, J60
- ◆ Invoice date v. date of payment — New rule may require payment of
Service tax on the date of invoice. J59
- ◆ GST & Constitutional amendments — Centre seeks Supreme Court advice J64
- ◆ Construction services — Changes proposed in Finance Bill, 2010 not cover
Works Contract service J52
- ◆ Realty sector & Service tax — News & views. J62, J33
- ◆ Training provided in branches of science using software not covered
under computer software training 165
- ◆ Unjust enrichment not applicable to export of services 173
- ◆ Refund on services used in export of goods not deniable when relevant
information separately provided subsequently 209
- ◆ Refund on services used in export of goods not deniable by reviewing
assessment at service recipient's end 214
- ◆ Cenvat credit of Service tax admissible on garden maintenance as garden
related to manufacture 177
- ◆ Cenvat credit of Service tax paid without availing exemption by job worker
admissible to service recipient 149
- ◆ Cenvat credit of Service tax admissible on Airport service received by
manufacturer for aircraft used for business activity. 150
- ◆ Cenvat credit of Service tax on GTA service admissible on invoice issued
by consignor J51
- ◆ E-payment of tax & e-filing of returns — Procedures prescribed C13
- ◆ Exempt rural marketing from Service tax — Industry pleads J64
- ◆ Demand on services rendered to other units of HUF, not sustainable 157
- ◆ Penalty not imposable for delay in Service tax payment when situation
revenue neutral due to credit availability to recipient 212



CENTAX
PUBLICATIONS PVT. LTD.



FREIGHT FORWARDING — AN AERIAL VIEW

By

L. Camilus P. Rayen

ASST. MANAGER, CHAKIAT AGENCIES PVT. LTD.



L. Camilus P. Rayen

In shipping industry, freight forwarding activity is having major role. Freight forwarding is buying freight rate from main line operator and selling to exporter with margin. As per Service Tax Rules, Service tax is to be charged on the gross bill amount. In general for sea freight there is no Service tax. While selling the freight rate to shipper with profit there is no Service tax. And they are dealing only in US Dollar and not in Indian Rupee as per their invoice. There is no separate provision in Finance Act, 1994 for this service.

Service providers who are doing business of forwarding activity registered under Clearing & Forwarding Agent are filing half yearly return without tax liability while some of the service providers are paying service tax for the margin on sea freight. This activity is also termed "Freight Broker" (Not referred in Finance Act, 1994).

The key source for the business is based on steamer agents. All freight forwarders (freight brokers) depend on steamer agent to get good freight/competitive rate and selling to shipper/exporter with good margin. The reason for growth in this business is credit period. In general all steamer agents are not giving credit business. In some cases credit period does not exceed a week. But these types of brokers involved in the business get competitive rates from steamer agents on cash business and they sell the rates with good margin for credit business. These types of freight forwarders are not having own BL & NVOCC operations. They just release BL from steamer agent and hand over the same BL to exporter with profit margin. In general these types of activities may be called as finance providers to shippers by the way of selling freight with higher rates with credit periods.

Secondly, Cenvat credit is available only on terminal handling charges and documentation charges which they paid to steamer agent on behalf of shipper. Billing/invoicing will be same amount which is reflected in steamer agent bill except sea freight portion.

The other view of freight forwarding business means buying and selling concept of slot (booking container in the vessel). This is classified under trading business and there is no service provider and service recipient. What they earn under this head of freight broking will reflect in the profit & loss account. For the net profit portion they have to pay Income tax. There is no technical term of "service provider" and "service recipient" and they are called buyer and seller. What shipper receives from freight forwarder will be treated as selling rate and what freight forwarder pays to steamer agent will be treated as purchase rate.

In the view of Custom House they are not legally bound by Customs Act. Freight forwarders neither come under Steamer Agent service nor Custom House Agent service. They have more accountability to Income Tax Department.