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SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 36/2012- Service Tax

New Delhi, the 20th June , 2012

G.S.R. (E)- In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:—

1. (1) These rules may be called the Service Tax (Second Amendment) Rules, 2012.
(2) They shall come into force on the 1st day of July, 2012.
2. In the Service Tax Rules, 1994 (hereinafter referred to as the principal rules), in rule 2,-
 - (i) after sub-clause (b), the following three sub-clauses shall be inserted, namely:—

“(bb) “banking company” has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);

(bc) “body corporate” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);

(bd) “financial institution” has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);”
 - (ii) after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(c1a) “goods carriage” has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);”
 - (iii) after sub-clause (cb), the following sub-clause shall be inserted, namely:—

“(cba) “insurance agent” has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);”
 - (iv) after sub-clause (cc), the following sub-clauses shall be inserted, namely:—

“(cca) “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;

(ccb) “life insurance business” has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

(ccc) “non banking financial company” has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);’
 - (v) for sub-clause (d), the following shall be substituted, namely:-

“(d) “person liable for paying service tax”, -

(i) in respect of the taxable services notified under sub-section (2) of section 68 of the Act, means,-

(A) in relation to service provided or agreed to be provided by an insurance agent to any person carrying on the insurance business, the recipient of the service.

(B) in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—

(I) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);

(II) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;

(III) any co-operative society established by or under any law;

(IV) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;

(V) any body corporate established, by or under any law; or

(VI) any partnership firm whether registered or not under any law including association of persons;

any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage:

Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.

(C) in relation to service provided or agreed to be provided by way of sponsorship to anybody corporate or partnership firm located in the taxable territory, the recipient of such service;

(D) in relation to service provided or agreed to be provided by,-

(I) an arbitral tribunal, or

(II) an individual advocate or a firm of advocates by way of legal services, to any business entity located in the taxable territory, the recipient of such service;

(E) in relation to support services provided or agreed to be provided by Government or local authority except,-

(a) renting of immovable property, and

(b) services specified sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994,

to any business entity located in the taxable territory, the recipient of such service;

(F) in relation to services provided or agreed to be provided by way of :-

(a) renting of a motor vehicle designed to carry passengers, to any person who is not engaged in a similar business; or

(b) supply of manpower for any purpose; or

(c) service portion in execution of a works contract-

by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as a body corporate, located in the taxable territory, both the service provider and the service recipient to the extent notified under sub-section (2) of section 68 of the Act, for each respectively.

(G) in relation to any taxable service provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory, the recipient of such service;

(ii) in a case other than sub-clause (i), means the provider of service.”

(vi) after sub-clause (d), the following sub-clause shall be inserted, namely:—

‘(dd) “place of provision” shall be the place as determined by Place of Provision of Services Rules 2012;’

(vii) after sub-clause (e), the following sub-clauses shall be inserted, namely:—

‘(f) “renting of immovable property” means any service provided or agreed to be provided by renting of immovable property or any other service in relation to such renting.

(g) “supply of manpower” means supply of manpower, temporarily or otherwise, to another person to work under his superintendence or control.’

3. In the principal rules, in rule 4, in sub-rule (1), for the word and figures “section 66”, the word, figures and letter “section 66B” shall be substituted;

4. In the principal rules, in rule 4A,-

(A) in sub-rule (1),-

(i) for the words “provided or to be provided”, the words “provided or agreed to be provided” shall be substituted;

(ii) for clause (iii), the following shall be substituted, namely:-

“(iii) description and value of taxable service provided or agreed to be provided; and”,

(iii) for the first proviso, the following proviso shall be substituted, namely:-

“Provided that in case the provider of taxable service is a banking company or a financial institution including a non-banking financial company providing service to any person, an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered, and whether or not containing address of the person receiving taxable service but containing other information in such documents as required under this sub-rule :”;

(iv) for the fourth proviso, the following proviso shall be substituted, namely:-

“Provided also that in case the provider of taxable service is a banking company or a financial institution including a non-banking financial company providing service

to any person, the period within which the invoice, bill or challan, as the case may be, is to be issued, shall be forty-five days:” ;

(v) for the fifth proviso, the following proviso shall be substituted, namely:-

“Provided that in case the provider of taxable service is providing the service of transport of passenger, an invoice, a bill or as the case may be, challan shall include ticket in any form by whatever name called and whether or not containing registration number of the provider of service and address of the recipient of service but containing other information in such documents as required under this sub-rule”;

(B) in sub-rule (2), for the first proviso, the following proviso shall be substituted, namely:-

“Provided that in case the input service distributor is an office of a banking company or a financial institution including a non-banking financial company providing service to any person an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered but containing other information in such documents as required under this sub-rule:”;

5. In the principal rules, in rule 5, in sub-rule (2), in clause (i), for sub-clause (a), the following shall be substituted, namely:-

“(a) providing of any service;”

6. In the principal rules, rule 5B, shall be omitted;

7. In the principal rules, in rule 6,-

(1) in sub-rule (1),-

(i) the third proviso shall be omitted;

(ii) after the third proviso as so amended, in the fourth proviso, for the words “provided or to be provided”, the words “provided or agreed to be provided” shall be substituted;

(2) in sub-rule (4B), the word “classification,” shall be omitted;

(3) for sub-rule (4C), the following shall be substituted, namely:-

“(4C) Notwithstanding anything contained in sub-rules (4), (4A) and (4B), where the person liable to pay service tax in respect of service of renting of immovable property has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, on account of non-availment of deduction of property tax paid in terms of notification No. 29/2012-Service Tax , dated the 20th June, 2012, from the gross amount charged for renting of the immovable property for the said period at the time of payment of service tax, the assessee may adjust such excess amount paid by him against his service tax liability within one year from the date of payment of such property tax and the details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of fifteen days from the date of such adjustment.”;

(4) in sub-rule (7),-

(a) after the words “to the services”, the words “of booking of tickets for travel by air” shall be inserted;

(b) for the word and figures “section 66”, the word, figures and letter “section 66B” shall be substituted;

(5) in sub rule (7A), for the word and figures “section 66”, the word, figures and letter “section 66B” shall be substituted;

(6) in sub-rule (7B), for the portion beginning with the brackets, figure, letter and words, “(7B) The person liable to pay” and ending with the words and figures “Chapter V of the Act, namely :”, the following shall be substituted, namely:-

“(7B) The person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, shall have the option to pay an amount calculated at the following rate towards discharge of his service tax liability instead of paying service tax at the rate specified in section 66B of Chapter V of the Act, namely :”

(7) in the sub-rule (7C),-

(i) for the for the portion beginning with the brackets, figure, letter and words, “(7C) The distributor” and ending with the words, figures and letters “section 66 of Chapter V of the said Act:”, the following shall be substituted, namely:-

“(7C) The distributor or selling agent, liable to pay service tax for the taxable service of promotion, marketing, organising or in any other manner assisting in organising lottery, shall have the option to pay an amount at the rate specified in column (2) of the Table given below, subject to the conditions specified in the corresponding entry in column (3) of the said Table, instead of paying service tax at the rate specified in section 66B of Chapter V of the said Act :”

(ii) in the third proviso, for the words “service under the said sub-clause”, the words “such service” shall be substituted;

8. In the principal rules, after rule 6, the following rule shall be inserted, namely:—

“RULE 6A. Export of services.- (1) The provision of any service provided or agreed to be provided shall be treated as export of service when,-

(a) the provider of service is located in the taxable territory ,

(b) the recipient of service is located outside India,

(c) the service is not a service specified in the section 66D of the Act,

(d) the place of provision of the service is outside India,

(e) the payment for such service has been received by the provider of service in convertible foreign exchange, and

(f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 2 of clause (44) of section 65B of the Act

(2) Where any service is exported, the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs, as the case may be, used in providing such service and the rebate shall be allowed subject to such safeguards, conditions and limitations, as may be specified, by the Central Government, by notification.”

[F.No. 334 /01/2012- TRU]

(Raj Kumar Digvijay)
Under Secretary to the Government of India

Note.- The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* notification No. 2/94-ST, dated the 28th June, 1994 *vide* number G.S.R. 546(E), dated the 28th June, 1994 and was last amended by notification No. 3/2012-Service Tax, dated the 17th March, 2012 *vide* number G.S.R. 201 (E), dated the 17th March, 2012.