Tax Talk

The Monthly Service Tax Bulletin

Vol : 2 - Issue 6

September 2013

Editorial

Comptroller and Auditor General of India laid Report on the performance audit of levy and collection of service tax on import of services for the year ended March 2012 before the Parliament. The report contended that a good tax administration system strives to minimize the tax gap between the collectible tax and the tax collected by the Government.

C&AG came out with several observations and submitted that out of the 14 Commissionerate selected for audit coverage, only Chennai Service Tax Commissionerate had initiated action by addressing the RBI in connection with remittances to service providers outside India. The report concluded with recommendations that the department should take reasonable and various corrective measures to encourage importers of service to get themselves registered and duly comply with all the formalities. Surprisingly, the issue raised by the Kolkata High Court about the power of C&AG, to visit premises of those assessees which is not an undertaking of Central or State Government, has not been discussed.

Dear fellow professionals, in a recent judgment, the ITAT, Agra Bench, recommended a disciplinary action against the Chartered Accountant acting as the counsel for the assessee, against charges of concealing the relevant and material fact deliberately from the Tribunal since that amounted to professional misconduct on the part of the CA. This is high time for all the professionals to be more careful before representing the clients and they must acquire full knowledge about client's activities.

In a stern warning to service tax defaulters, Finance Minister P. Chidambaram asked the defaulters to take advantage of the voluntary compliance scheme stating 'come clean or face punishment'. He further added, "One person has been arrested in Kolkata. It seems the message is not going to people. You cannot collect money which is Government's and keep it with yourself as if it was some kind of working capital for you". In continuation to first arrest in Kolkata and the second held in Mumbai for dues of Rs 1.96 crore, the 3rd arrest for alleged non-payment of tax levy to the tune of Rs. 9 crore, was undertaken by the department in New Delhi on 30th August 2013.

Moreover, the concerned authorities of the VCES are busy in creating awareness about the scheme by holding meetings with trade associations, opening Help Desks and asking designated authorities to assist assessees, who are seeking clarifications under this scheme. The result of this is yet to be seen.

On the other hand, a difficult time is being faced by the Indian economy hit by currency crisis and poor growth. Approaching IMF for assistance has been ruled out, saying that the economic situation has not reached a point where outside help is warranted and the RBI's forex reserves are adequate to manage the difficult situation. Lets now just hope that the price rises are regulated and our mobility does not get affected by the steep rise in fuel rates consequent to the consistently hitting record depreciation of the Rupee against Dollar. Also, the assent of the Food Security Bill in the Lok Sabha is expected to affect stock markets adversely.

We by this newsletter aim to benefit all section of professionals and business entities. If you wish us to cover certain issue, we endeavor to solve your queries in the subsequent issues. If any of your friends and well wishers wants to receive this newsletter, please feel free to contact us at servicetaxgoyal@gmail.com.

CA Sushil Kr Goyal

DUE DATES

CASE	Form	Due Date
Payment of Month ending August, 2013 (assessee other than individual, proprietorship firm, partnership firm and LLP)	Cash/Cheque	5th Sept. 2013
	E-Payment	6th Sept. 2013
Return for the period October 2012 to March 2013 (All Assessees)	ST-3	10th Sept. 2013
Above Return (with a late fees of Rs 500/-)	ST-3	25th Sept. 2013

18

Service Tax Obligation Table

SERVICE TAX RATES

Period	Basic Rate	EC	SHEC	Effective Rate
01/07/1994 to 13/05/2003	5%	Nil	Nil	5%
14/05/2003 to 09/09/2004	8%	Nil	Nil	8%
10/09/2004 to 17/04/2006	10%	2%	Nil	10.2%
18/04/2006 to 10/05/2007	12%	2%	Nil	12.24%
11/05/2007 to 23/02/2009	12%	2%	1%	12.36%
24/02/2009 to 31/03/2012	10%	2%	1%	10.30%
01/04/2012 to DATE	12%	2%	1%	12.36%

RATE OF INTEREST

Rates applicable during the Period	Interest Rate
01st July 1994 to 15th July 2001	1.5% per month or part thereof
16th July 2001 to 15th Aug 2002	24% per annum
16th Aug 2002 to 09th Sept 2004	15% per annum
10th Sept 2004 to 31st March 2011	13% per annum
01st April 2011 onward	
• Value of taxable services less than 60 lakh in the preceding year	15% per annum
• Others	18% per annum

REGISTRATION

Obligations	Time Limit	Prescribed Form
Application for Registration	Within 30 days from the date on which tax is levied or business is commenced	**ST- 1**
Certificate of Registration	Within 7 days of application	**ST- 2**
Amendment in Registration	Within 30 days from the date of any change	**Amend ST- 1**

RETURN

Obligations	Frequency	Time Limit	Form
Service Tax Return (for all assesses)	Half - yearly	Within 25 days of end of each half year.	**ST-3**
Service Tax Return for Input Service Distributors.	Half-yearly	Within 1 month of end of each half year.	**ST-3**
Revised Service Tax Return	If required	Within 90 days of filing of original return	**ST-3**

PAYMENT

Obligations	Frequency	Time Limit
Payment for all assessees other than individual, proprietorship firm, partnership firm & LLP	Monthly	By 5th (6th, for e-payment) of the following month For the month of March, by 31st March.
Payment for individual, proprietorship firm, partnership firm & LLP	Quarterly	By 5th (6th, for e-payment) of the following month of the quarter ended For March quarter by 31st, March.

SERVICE TAX RETURN DUE DATE CHART YEAR 2012-13

April 2012 to June 2012	25th Nov 2012
July 2012 to Sept 2012	30th April 2013
Oct 2012 to March 2013	10th Sept 2013

CLAIMING OF REBATE/EXEMPTION BY EXPORTER OF GOODS W.E.F. 01.07.2012

Objective	Obligations	Frequency	Time Limit	Form
For claiming rebate / refund of specified services as per Notification No. 41/2012	File declaration	After export shipment	Within one year from the date of export	**A1**
	Obtaining service tax code	Once, if required	Before claiming refund	**A2**
Exemption on services received from a Goods Transport Agency (Notification No. 31/2012)	Inform Jurisdictional AC/DC the intention to avail the exemption	Once	Before availing the exemption	**EXP1**
	Filing of return by the exporter of goods for availing exemption	Half-yearly	Within 15 days of the end of each half year	**EXP2**
Exemption on services received from a Commission agent from non taxable territory (Notification No. 42/2012)	Inform Jurisdictional AC/DC the intention to avail the exemption	Once	Before availing the exemption	**EXP3**
	Filing of return by the exporter of goods for availing exemption	Half-yearly	Within 15 days of the end of each half year	**EXP4**

Reverse or Joint Charge Mechanism at a Glance

SL. No.	Description of service provided	RCM w.e.f.	Service Provider (%)	Service Receiver (%)	Service Provider	Service Receiver
1.	Insurance agency Service	13.11.2001	Nil	100%(12.36%)	Any	Insurance Company
2.	Goods Transport Agency Service	01.01.2005	Nil	100%(3.09%)	Any	**Note–1**
3.	Sponsorship Service	01.05.2006	Nil	100%(12.36%)	Any	Body Corporate or Partnership Firm
4.	Service of Arbitral Tribunal	01.07.2012	Nil	100%(12.36%)	Arbitral Tribunal	Business Entity
5.	Legal Service (Advocate)	01.07.2012	Nil	100%(12.36%)	Individual or Firm	Business Entity
5A.	Director Service	07.08.2012	Nil	100%(12.36%)	Individual	Company
6.	Government Support Services *excluding See Note-2*	01.07.2012	Nil	100%(12.36%)	Government /Local Authority	Business Entity
7.	Rent-a-cab not in similar line of business - On Abated Value - On Non Abated Value	01.07.2012	 Nil 60%(7.416%)	 100%(4.944%) 40%(4.944%)	Individual / HUF / Partnership firm AOP / LLP	Business Entity registered as body corporate
8.	Supply of Manpower	01.07.2012	25%(3.09%)	75%(9.27%)		
8.	Security Services	07.08.2012	25%(3.09%)	75%(9.27%)		
9.	Service portion on execution of Works Contract - Value of Service excluding material (Taxable **100%)** - Original work (Taxable **40%)** - Repairs and Maintenance of any goods (Taxable **70%)** - Maintenance Repairing completion finishing of immovable property (Taxable **60%)**	01.07.2012	 50%(6.18%) 50%(2.472%) 50%(4.326%) 50%(3.708%)	 50%(6.18%) 50%(2.472%) 50%(4.326%) 50%(3.708%)		
10.	Import of Service	19.04.2006	Nil	100%(12.36%)	Any Person	Any Person

Note – 1:

Where the person liable to pay freight is,—

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

(b) 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;

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

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

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

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

Note – 2:

(1) Renting of Immovable Property, and

(2) Services by Department of Post by way of Speed Post, Express Parcel Post, Life Insurance and Agency Services;

(3) Services in relation to aircraft or a vessel, inside or outside the precincts of a port or an airport;

(4) Transportation of goods or passengers.

'Small Service Provider' exemption upto Rs. 10 lakh is not available to recipient of service. Kindly refer Negative List & Exemption Notification No.25/2012 along with this chart to determine tax liability.

FAQ

Q. **I am a contractor undertaking works related to construction and I am planning to opt for the VCES 2013 as announced on 10th August, 2013. I had paid a certain amount of service tax in cash on 29.03.2013. Can the said payment be utilized against the tax dues to be paid off by me taking the benefit of the scheme?**

A. As per the FAQ released by the CBEC and Circular No. 170/5/2013-ST dated 8th August, 2013, a declarant who has paid any part of the tax dues before the enactment of the Voluntary Encouragement Compliance Scheme, 2013 shall not be eligible to claim the benefit of the scheme.

It may also be noted that the scheme was announced in the budget for the year 2013-14. Also, the definition of "tax dues" for the purpose of this scheme states it to be the service tax and cess due or payable for the period from 1st October, 2007 to 31st December, 2012, but not paid as on the 1st day of March, 2013. So, it was conferred that if such dues are paid off after 1st March, 2013, the benefit of the scheme could be availed. However, the scheme has come into effect from 10th May, 2013. As per the above referred circulars and FAQs of the Board, the tax payments before 10th May, 2013 shall not be eligible for benefit under the scheme.

Now, the question arises what is the option available with the assessee under the given situation?

It is advisable to use such payment against liabilities in the current period i.e liability w.e.f 1st January 2013 of the declarant and make fresh payment for the amount declared in VCES so as to avail the benefit of the scheme, saving any kind of disputes.

New Order

In exercise of the powers conferred by sub-rule(4) of rule 7 of the Service Tax Rules, 1994, the Central Board of Excise & Customs hereby extends the date of submission of the Form ST-3 for the period from 1st October 2012 to 31st March 2013, from 31st August, 2013 to 10th September, 2013.

The circumstances of a special nature, which have given rise to this extension of time, are as follows:

"Difficulties have been faced by assessees in uploading the offline utilities".

(Order No. 04/2013-ST dated 30.08.2013)

BOOK POST

If undelivered, please return to :

Tax Talk
Stephen House
Room No. 64, 4th Floor
4, B.B.D. Bag (East) Kolkata - 700 001