Works Contract

Feel the fusion

Avoid Confusion

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What Constitution says ??

Article 366(29A)

Deemed Sales

6 cases :

I. Sale without contract
II. Works Contract
III. Hire Purchase
IV. Transfer of Right to Use Goods(Lease)
V. Sale of unincorporated association to its members
VI. Supply of food or drink etc. by way of any service

Article 366 (29A) - 'Tax on the sale or purchase of goods includes' -

(b) a tax on the transfer of the property in goods (whether as goods or in some other form) involved in the execution of a works contract;

Taxation of Works contract in Service Tax

Section 66E : Declared Services

What they includes : Section 66E(h) : Service portion in execution to a works contract

They also defines : Definition of Works contract u/s 65B(54)

Definition : "works contract" means a contract

- **wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods**

and

- **such contract is for the purpose of carrying out**
    - i. construction,
    - ii. erection,
    - iii. commissioning,
    - iv. installation,
    - v. completion,
    - vi. fitting out,
    - vii. repair,
    - viii. maintenance,
    - ix. renovation,
    - x. alteration

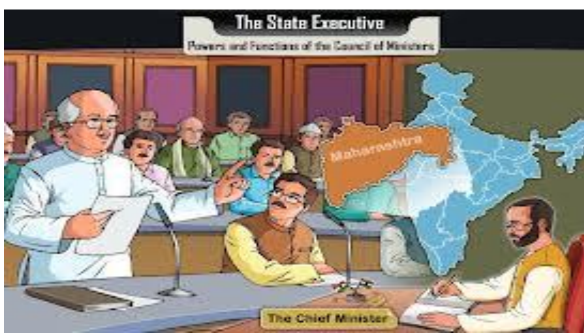
any movable or immovable property **or for carrying out any other similar activity or a part thereof in relation to such property**

Who will suffer ????

Central Govt.

The ultimate customer

State Government



Double Taxation

<u>What Customers says</u> : **Chalao na TAX ke ye baan re , Jaan lelo na jaan re..**

Lets Have A Brief

Service tax Valuation Rules 2006

Came after BSNL Case 2006

Rule 2A (Valuation of Works Contract)

Divisible

Indivisible

Definition of works contract under 65B(54)

(Explained earlier)

Be yourself spare … Time to Share the Bare…….

What Rule 2A(i) says :

The Value of Service Portion in execution to works contract is the GROSS AMOUNT CHARED for works contract less value of transfer of property in goods involved in execution to said works contract

Gross Amount Charged

Includes :

1. **Amount paid to Sub-Contractor for labour and services**
2. **Charges for planning ,designing & architect's fees**
3. **Charges for obtaining hire or otherwise machinery & tools used for execution of works contract**
4. **Cost of consumables such as water , electricity ,fuel used in execution of works contract.**
5. **Cost of establishment of the contractor relatable to supply of labour & services & other similar expense for supply of labour & services .**
6. **Profit earned by service provider relatable to supply of labour & services**

Excludes :

1. Value Added Tax or Sales Tax paid or payable if any on transfer of property in goods involved in execution of the said works contract

Rule 2A(ii) :

Where Value has not been determined under clause (i) :

Feel The Fusion….

Where Works Contract is for ..	
(A) Execution of Original works*	40% of **the total amount charged** for the works contract
(B)Maintenance or repair or reconditioning or restoration or servicing of any goods	70% of the total amount charged for works contract
(C)In case of other works contracts, not included in serial no.(A) & (B) above, including contracts for maintenance ,repair, completion & finishing services such as glazing , plastering , floor & wall tiling , installation of electrical fittings.	60% of the total amount charged for the works contract

Total Amount charged includes :

- ✓ Gross Amount Charged
- ✓ FMV of all goods & services supplied in or in relation to the execution of works contract .

Deduct :

1. Amount charged for such goods & services
2. Value added tax or sales tax if any levied thereon

Explanation 1.- For the purposes of this rule,-

(a) "original works" means-

(i) all new constructions;

(ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;

(iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

Relationship of Service Tax & Works Contract

Service Tax – Seva Kar

Shloka : Ati Seva Karibyam tav meva milibhyam

Means: As more you do seva (Money) more contracts you receive

Various methods of valuation under DVAT

Feel the Crunch , That's a state levy

Definition of Works Contract under DVAT

<u>DVAT Act 2004</u> :

Section 2(zo) : "works contract includes any agreement for carrying out for cash or for deferred payment or for…

1. valuable consideration ,
2. the building construction ,
3. manufacture ,
4. processing,
5. fabrication,
6. erection,
7. installation,
8. fitting out,
9. improvement,
10. repair or
11. commissioning of

any movable or immovable property .

Method 1: Actual Method / General Scheme

Separable

- Applicable where actual value of labour and service charges are known to the contractor
- **<u>Value</u>: Total Amount Charged** – Actual value of labour & services [Section 5(2) r/w Rule 3]
- **<u>Rate of DVAT</u>: Taxable Value @ 12.5%** [Section 4(1)(d)]
- **<u>ITC</u>**: Input credit of VAT paid on inputs is available [Section 9]

Method 2: Percentage reduction/ Ad-hoc method

Non- Separable

- Value: **Actual Amount not ascertainable –the amount of such charges shall be calculated at the specified percentages (Rule 3)**
- For eg.
  - in DVAT prescribed percentage for civil works contractor - 25%
  - Contracts not covered in the list – 20%
- **Rate of DVAT**: VAT is charged @ 12.5% on the taxable amount. However, declared goods supplied would be taxable @ 5% [Section 4(1)(d)]
- **ITC**: Input credit of VAT paid on inputs is available [Section 9].

Method 3: New Composition scheme

New composition scheme is issued vide NOTIFICATION No.3(13)/Fin.(Rev-I)/2012-13/dsvi/180/ Dated 28th February, 2013

Type of dealer	Composition rate (Scheme A)	Composition rate (Scheme B)
Every registered dealer engaged in execution of works contracts of the following categories: (A) Civil Contracts, (B) Repair & maintenance of any moveable property, including vehicles, annual maintenance contracts (AMCs) and other similar contracts. (C) All other types of works contracts, including those involving moveable goods, not specified elsewhere in this notification.	3%	6%

***Certain Restrictions to avail these schemes**

Let share the Schemes

Scheme A: Particular conditions

- **A registered dealer opting to pay composition tax under this Scheme shall:**
- **(i) no goods from outside Delhi**
- **(ii) no sale or supply outside Delhi**
- **However, he may procure his own Plant & Machinery and Equipments from outside Delhi, meant exclusively for use in execution of the works contract by him.**

Scheme B: Particular conditions

- **Purchase of Goods against Statutory Forms whether from other states or import solely for the purposes of utilizing the same in the execution of works contract in Delhi only,:**
- **Provided the dealer shall use the material/ goods imported or procured from outside Delhi strictly for use in execution of the works contract transactions.**

Ease for some dealers!!!

Composition Scheme - Printing

Type of dealer	Composition rate (Scheme A)	Composition rate (Scheme B)
Every registered dealer engaged in (i) Printing and/or book-binding. (ii) Textile processing such as dying, fabrication, tailoring, embroidery and other similar activities. (iii) Electro plating, electro galvanizing, anodizing, powder coating and other similar activities. (iv) Re-treading of old Tyres	2%	3%

Composition Scheme - Bullion

Type of dealer	Composition rate
Every registered dealer engaged exclusively in trading of bullion.	**0.1% of aggregate of sales of bullion made within Delhi.**

Time to solve 1 more confusion

Works Contract Tax

<u>Who is liable to deduct Works Contract Tax ???</u>

<u>Contractee</u> : Every person, not being an individual or a HUF , who is responsible for making payment to any contractor for discharging of any liability on account of valuable consideration payable for transfer of property in goods in pursuance to works contract

<u>When to Deduct WCT TDS ??</u>

<u>Contractee</u> : At the time of credit of such sum to the account of contractor or at the time of payment thereof in cash or by any other mode , whichever is earlier , on account of valuable consideration payable for transfer of property in goods in pursuance to works contract

Simplify the TAX & Take Relax

From Team IDT