Service Tax applicability on the expenses incurred on the service availed abroad in respect of goods

Sec 66 B lays Service Tax shall be levied on all the services, other than the services specified in the negative list, provided or agree to be provided in the **taxable territory.**

Sec 64 provided this chapter extends to whole of India except J & K.

The essence of indirect taxation is that a service should be taxed in the jurisdiction of its consumption.

As service tax is consumption based tax hence it is necessary to determine the place where a service shall be deemed to be provided.

Sec 66C empowers the Central government to determine the place where such service are provided or deemed to be provided.

Rule 3 of Place of provision of Service Rules 2012 (POPS Rules 2012) provides that a service shall be deemed to be provided where the service receiver is located.

Rule 4 of POPS lays down that in cases where services are provided in respect of goods that are required to be made physically available by the recipient of service to the provider of service etc., **the place of provision of service shall be the location of the goods where service is actually provided.**

However**, Rule 14 of POPS** provides that when provision of a service is determinable in terms of more than one Rule, it shall be determined in accordance with the Rule that occurs later among the rules that merit equal consideration. **In the present case, the provisions of Rule 4 would prevail upon those of Rule 3.**

In the present case the goods have been made physically available to the service provider for any service therefore the place of provision of service is "abroad" out of "taxable territory".

As per above, it is considered that since the services availed abroad have not been provided in taxable territory ,therefore, no service tax is leviable on the same even if payment for the same has been made by a company located in India.

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