Rs. 5/-

Tax Talk

The Monthly Service Tax Bulletin

Editorial

A very Happy and a Prosperous New Financial Year 2015 - 16 to all our readers. We also want to take this opportunity to thank all concerned due to whose support we are entering into the 4th year of our publication and also for their appreciations and wishes we received on completion of the 3rd year of Tax Talk - The Monthly Service Tax Bulletin. Your appreciations keep us motivated and encourage us to strive for excellence!

Hope this new year will give us lots of strength and enthusiasm to adapt to the changes in the compliance mechanism, reporting standards and newly introduced audit/ taxation regulations. Moreover, a lot more effort shall be required to gear ourselves up and be ready to hit on the most probable change in the Indian taxation regime, i.e. introduction of GST. Recently, in an interview with the Wall Street Journal, our Finance Minister, Shri Arun Jaitley, on being asked about his efforts as a FM said that *"For indirect tax, I am replacing it with the GST (Goods and Services Tax) I am trying to break off from the legacy of the past, which provided for unpredictability. So I am conscious of the fact that India needs stability and predictability of taxation regime"*.

New Service Tax Rate of 14% and later 16% (after inclusion of Swachh Bharat Cess) will be applicable from a date to be notified, creating confusion amongst the people at large including professionals. Seeing this, we would like to request the CBEC to have a certain and/or fixed date for applicability of new rates, if any, in future.

Recently, pursuant to the Cadre restructuring and reorganization of the CBEC, the board has issued instructions regarding adjudication of Central Excise and Service Tax Cases booked by Director General of Central Excise Intelligence (DGCEI). Vide the circular, the methodology to be followed for adjudication of cases booked by the officers of the DGCEI has been prescribed and as per the same, now such cases shall be adjudicated by the Additional Director General (Adjudication) in DGCEI. Earlier, the adjudication power vested in the hands of the field Commissioners only, which shall however be continued for the cases booked by them in addition to the empowerment of DGCEI officials for adjudication. This shall lead to instances of adjudication of cases by the same officer who investigated the case and issued the Show Cause Notice.

Beginning of the month shall make applicable a lot of changes in the field of service tax due to the amendments as part of the budget announcements made last month. A good number of provisions made by notifications issued with budget proposal either became effective from 1st March, 2015 or will become effective from today, i.e. 1st April, 2015. One can refer the last issue of Tax Talk for details of such changes. A key area of concern for small business entities as well as corporates is the applicability of Reverse Charge Mechanism in service tax. We have compiled the Reverse Charge provisions including amendments made in such provisions to have a complete understanding of the applicability of Reverse or Joint Charge Mechanism as applicable with effect from 1st April, 2015 and the same is tabulated along with notes thereon on page 2 and 3.

We would like to make all concerned persons aware that the system of online Service Tax Registration has been revamped vide Order No. 01/2015 – Service Tax and made applicable with effect from 1st March, 2015. The same has been discussed in details on page 4.

We hope this newsletter will add some value and prove to be beneficial to the readers. We highly solicit suggestions/opinions of the readers. Please feel free to convey your views at servicetaxgoyal@gmail.com.

CA Sushil Kr Goyal

DUE DATES		
RETURN	FORM	DUE DATE
Return for the half year i.e. October 2014 to March 2015 (All Assessee)	ST-3 (Online)	25th April, 2015
Return for the quarter i.e. January 2015 to March 2015 (For a SEZ Unit or a Developer)	A-3 (Physical)	30th April, 2015
DECLARATION		
Half Yearly Declaration (Exemption to Exporters)	EXP-2 (Physical)	15th April, 2015

Reverse or Joint Charge Mechanism at A Glance

Sl. No.	Description of service provided	RCM w.e.f.	Service Provider (Effective Tax %)	Service Receiver/ Any Person (Effective Tax %)	Service Provider	Service Receiver	Refer Notes on Page 3
1	Insurance Agency Service	13.11.2001	Nil	100%(12.36%)	Any Person	Insurance Company	
1A	Recovery Agent Service	11.07.2014	Nil	100%(12.36%)	Any Person	Banking Company, Financial Institution and NBFC	1
1B	Mutual Fund Agent or Distributor Services	01.04.2015	Nil	100%(12.36%)	Mutual Fund Agent or Distributor	Mutual Fund or Asset Management Company	2
1C	Services of Selling or Marketing Agent of Lottery Tickets	01.04.2015	Nil	100%(12.36%)	Selling or Marketing Agent	Lottery Distributor or Selling Agent	
2	Goods Transport Agency Service	01.01.2005	Nil	100% (3.09%)	Any Person	As mentioned in Note	3
		01.04.2015	Nil	100% (3.708%)			
3	Sponsorship Service	01.05.2006	Nil	100%(12.36%)	Any Person	Body Corporate or Partnership Firm	
4	Service of Arbitral Tribunal	01.07.2012	Nil	100%(12.36%)	Arbitral Tribunal	Business entity	4
5	Legal Services (Advocate)	01.07.2012	Nil	100%(12.36%)	Individual or Firm	Business entity	5
5A	Director Service	07.08.2012	Nil	100%(12.36%)	Individual	Company	6
		11.07.2014	Nil	100%(12.36%)	Individual	Company or Body Corporate	
6	Government Support Services	01.07.2012	Nil	100%(12.36%)	Government /Local Authority	Business Entity	7
	Government Services	Yet to be notified	Nil	100%(12.36%)			
7	Renting of Passenger Vehicle After Abatement of 60%	01.07.2012	Nil	100%(4.944%)	Individual/ HUF/ Partnership firm AOP / LLP	Business Entity registered as body corporate	8
	Renting of Passenger Vehicle Without Abatement	01.07.2012	60%(7.416%)	40%(4.944%)			
		01.10.2014	50%(6.18%)	50%(6.18%)			
8	Supply of Manpower	01.07.2012	25%(3.09%)	75%(9.27%)			
		01.04.2015	Nil	100% (12.36%)			
8	Security Services	07.08.2012	25%(3.09%)	75%(9.27%)			
		01.04.2015	Nil	100%(12.36%)			
9	Service portion on execution of Works Contract						
	a. Value of service excluding material (Taxable 100%)	01.07.2012	50% (6.18%)	50% (6.18%)			
	b. Original Work (Taxable 40%)	01.07.2012	50%(2.472%)	50%(2.472%)			
	c. Repairs and Maintenance of any goods (Taxable 70%)	01.07.2012	50%(4.326%)	50%(4.326%)			
	d. Maintenance, Repairing, Completion or Finishing of immovable property (Taxable value increased from 60% to 70%)	01.07.2012	50%(3.708%)	50% (3.708%)			
		01.10.2014	50% 4.326%)	50%(4.326%)			
10	Import of service	19.04.2006	Nil	100%(12.36%)	Any Person	Any Person	9
11	Services involving an Aggregator	01.03.2015	Nil	100%(12.36%)	Any Person	Any Person	10

Notes on Page 2 Table

1. The term **'Recovery Agent'** has not been defined in the service tax laws. However, in trade and common parlance, 'recovery' refers to the action or process of regaining possession or control of something stolen or lost. Accordingly, "recovery agent" shall mean to be a person who has the power to recover bad (or poor) debts.
2. 'Mutual Fund Agent or Distributor Services' were taxable under RCM w.e.f. 01.04.2005 to 30.06.2012.

   The same had been exempted w.e.f 01.07.2012 vide Notification No. 25/2012-ST dated 20.06.2012. The exemption is being withdrawn w.e.f 01.04.2015.
3. **Person Liable :** Any person who pays or is liable to pay freight either himself or through his agent if such person is:
   a. any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or
   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; or
   c. any co-operative society established by or under any law; or
   d. any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; or
   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.

   However, if such person is located in a non-taxable territory, the provider of such service (i.e. GTA) shall be liable to pay service tax.

   Abatement : Prior to 31.03.2015, abatement / exemption available on GTA Services was 75%, which has been reduced to 70% w.e.f. 01.04.2015.
4. Services of an arbitral tribunal are exempted if service receiver is:
   a. any person other than a business entity; or
   b. a business entity with a turnover up to rupees ten lakh in the preceding financial year.
5. Legal services (i.e. services of an advocate or firm of advocates) are exempted if service receiver is:
   a. an advocate or partnership firm of advocates providing legal services; or
   b. any person other than business entity; or
   c. a business entity with a turnover up to rupees ten lakh in the preceding financial year.
6. Services of Director of a 'Body Corporate' has been included in the purview of Director Services, w.e.f 11.07.2014.

   Service provided by a director in capacity of an employee of the Company or Body Corporate shall not be chargeable to service tax. Deduction of TDS under salary head can establish the same.
7. Presently RCM is applicable on all "Support Services" provided by Government or Local Authority except the following:
   a. Renting of Immovable Property,
   b. Services by Department of Post by way of Speed Post, Express Parcel Post, Life Insurance and Agency Services;
   c. Services in relation to aircraft or a vessel, inside or outside the precincts of a port or an airport;
   d. Transportation of goods or passengers.

   Vide the Finance Bill 2015, it is proposed to extend to "Any Service" with effect from a date to be notified.
8. No reverse charge is applicable, in case of similar line of business.
9. Where any taxable service is provided by a person located in non – taxable territory and as per the Place of Provision Rules 2012; Place of provision of the service is determined to be in the taxable territory, such service will be considered as Import of Service.
10. In relation to service provided or agreed to be provided by a person involving an aggregator in any manner, the person liable to pay tax is the aggregator of the service (or any person representing the aggregator for any purpose or designated if aggregator does not have a physical presence in the taxable territory).

    "Aggregator" means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator.

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

GST Update

With all positive indications for introduction of GST from April, 2016, it seems that the Government is all geared up and is putting in required efforts for the reform. In league of the developments for roll out of GST, the Kerala Finance Minister, Mr. K. M. Mani has been appointed as the chairman of the empowered committee of State Finance Ministers on GST. The empowered committee chairman's post fell vacant after Mr. Abdul Rahim Rather, the former Finance Minister of Jammu & Kashmir, quit following the defeat of the National Conference in state elections held in December 2014.

Continuing with the tradition of appointing Chairman of the Empowered Committee of State Finance Ministers on Goods and Services Tax (GST) from non-ruling party, Mr. Mani represents the Kerala Congress (M) and is also a senior Finance Minister and his appointment could help the government garner support from the opposition when Parliament takes up the Constitutional Amendment Bill for GST.

With just a year in hand, the Central Government is working at a rapid pace for implementation of GST and it shall require support of the stakeholders and the public at large also.

The Government is also facing certain difficulties in walking through its roadmap. Many states including states led by BJP have forwarded their request and urged the Centre to compensate them for their share of revenue that they have to forego on implementation of GST. Recently, the Finance Minister of Maharashtra, Shri Sudhir Mungantiwar said "Many states want the Central Government to enact a law to make it mandatory for the Centre to compensate for octroi and entry tax for 10 years. At present, the Centre has promised the arrangement for only three years. States like West Bengal fear loss of revenue due to abolition of entry tax. In the case of Mumbai, it is octroi."

Moreover, while addressing a National Workshop, the Urban Minister, Shri M. Venkaiah Naidu stressed on the need of share of GST revenue for the municipalities across the country to ensure predictable and guaranteed flow of funds to enable them take up urban reconstruction initiatives.

New Guidelines for Service Tax Registration

(applicable w.e.f. 1st March, 2015)

1. **PAN:** Except government departments, all proprietor and legal entities are mandatorily required to quote their Permanent Account Number (PAN). Persons having temporary registration i.e. (without PAN) shall have to obtain PAN and apply online for PAN based registration within 31st May'2015.
2. **Email address and mobile number** are mandatorily required to be quoted by the applicants in the application form. Existing registrants are required to file an amendment application by 30th April'2015 for providing the said details.
3. **Trust Based Registration** shall be granted within 2 days of filing of completed online application (in 'Form ST – 1'), through web-portal ACES (www.aces.gov.in). Registration certificate downloaded from the ACES website would be accepted as proof of registration. The applicant on obtaining such registration shall be able to pay service tax electronically.
4. **Verification of Premises** shall be done in case need arises and it shall have to be authorized by an officer not below the rank of Additional/Joint Commissioner.
5. **Revocation:** The registration certificate may be revoked by the Deputy/Assistant Commissioner if:
   a. the premises are found to be non existent or not in the possession of the assessee, or
   b. no documents are received within 15 days of the date of filing the registration application, or
   c. the documents are found to be incomplete or incorrect in any respect.

   (The assessee shall be given an opportunity to represent against proposed revocation)
6. **Submission of Documents:** Self-attested copy of the following documents is required to be submitted by **registered post/speed post** to the concerned division within 7 days of filing of Form ST -1 online:
   a. Copy of **PAN card** of the proprietor or legal entity registered.
   b. **Photograph** of the person filing the application.
   c. **Proof of identity** of the person filing the application (Such as PAN, Voter ID Card, Passport, Aadhar Card, Driving License or any other Photo ID Card issued by CG, SG or PSU).
   d. **Proof of Address** (Documents establishing possession of the premises to be registered such as proof of ownership, lease agreement etc)
   e. Details of the **Main Bank Account**.
   f. **Memorandum/ Articles of Association.**
   g. **List of Directors**
   h. **Authorization** by the Board of Directors/Partners/ Proprietor for the person filing the application.
   i. **Business Transaction Numbers** obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number, Company Index Number (CIN) issued prior to the filing of service tax registration application.

[Order No. 1/2015 – ServiceTax,dated 28th February, 2015]

BOOK POST

Published from :

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

Owner: M/s Goyal Tax Services Pvt. Ltd., **Printer & Publisher:** Mrs. Reena Goyal Published from Stephen House, Room No. 64, 4 B. B. D. Bag (East), 4th Floor, Kolkata-700 001 And **Printed from** M/s CDC Printers Pvt. Ltd., Tangra Industrial Estate-II (Bengal Pottery), 45, Radhanath Chowdhury Road, Kolkata - 700 015. **Editor:** CA Sushil Kumar Goyal.

Date of Publication : 1st April 2015
Postal Registration No. KOL RMS/465/2015-17
Registration under RNI No. WBENG/2013/55099