Rs. 5/-

Tax Talk

The Monthly Service Tax Bulletin

Editorial

We pray for the early recovery and rehabilitation of the people affected by the unfortunate incident. The devastating earthquake in Nepal and adjoining areas has left us all in shock. This reminds us that we live on the whims of Mother Nature.

The most important and much awaited step for introduction of GST, the 122nd Constitution Amendment Bill has been placed for discussion in the lower house of the Parliament on 24th of April, 2015. Commending the Bill for consideration and passage, Finance Minister Shri Arun Jaitley had said "*GST is going to lead to a win-win situation as far as the Centre and the states are concerned. It is going to up India's GDP. It is going to up India's revenue and therefore I commend GST Constitution Amendment Bill to the House for (consideration)*".

The long-pending Bill on Goods and Services Tax (GST) was moved in the Lok Sabha amid stiff resistance by several opposition parties. A possible truce with the Congress Party may allow the government to ensure passage of the Goods and Services Tax (GST) Bill in the ongoing session of Parliament itself. The Congress appears positively inclined after Finance Minister reached out to the party leadership over the weekend for ironing out differences over the proposed law. Even in this Political hustle and bustle in the Parliament, we are quite hopeful that the bill will be passed by the house at the earliest.

The proposed increase in rate of service tax to 14% is creating a lot of confusion amongst people at large, especially regarding the effective date of increase of rate of Service Tax. Hence, the Tax Research Unit of the Ministry of Finance has recently issued a circular and the Finance Minister as well personally pointed out at various forums that the new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015 and the date will be notified in due course after the enactment. The circular and the Finance Minister also requested people not to pay service tax at the rate of 14% even if it is so charged at higher rate by certain people until the effective date of change of rate. As we know the effective date of applicability of new rate is yet to be notified, this in fact is making people worried and scared of a situation where they may end up paying 14% tax although having charged only 12.36% as of now.

The circular also clarified that no change has been made in the Service Tax (Determination of Value) Rules, 2006 and any confusion with regard to abatement on value of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year is unwarranted. Accordingly, the rate of service tax on the specified portion of the amount charged for such supply which is 40% continues to be 12.36% (including cesses) at present i.e. 4.944 %. Such rate of Service tax will continue unchanged till a date which will be notified in due course. Apart from restaurant services, other taxable services wherein abatement is available, the effective rate of service tax applicable as on date is a matter of a lot of confusion. In order to summarize and clearly depict the applicable effects, we have tabulated the abatements available in respect of various taxable services at page 2.

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		
PAYMENT	**FORM**	**DUE DATE**
Payment for the month of April, 2015 (assessees other than individuals, proprietorship firm, partnership firm and LLP)	E-payment	6th May 2015
RETURN	**FORM**	**DUE DATE**
Half Yearly Return for the period October, 2014- March, 2015 (with a late fees of Rs. 500/-)	ST-3	10th May 2015
Half Yearly Return for the period October, 2014 - March, 2015 (with a late fees of Rs. 1,000/-)	ST-3	25th May 2015
Note: For delay beyond 25th May, 2015 Rs. 1,000 + Rs. 100/- per day (Maximum Rs. 20,000/-)		

Abatements at a Glance

Abatement in Service Tax was introduced more than a decade ago. We have compiled a table of abatements as applicable with effect from 1st July, 2012.

Sl. No.	Description of taxable Service	Applicable w.e.f.	Abatement (in %)	Effective Tax Rate (@12.36%)	Conditions for availing the abatement	Note
1	Services in relation to financial leasing including hire purchase	01.07.2012	90	1.236%	Nil	1
2	Transport of goods by rail	01.07.2012	70	3.708%	Nil	
		01.04.2015	70	3.708%	CENVAT credit on inputs, capital goods and input services has not been taken	
3	Transport of passengers by rail	01.07.2012	70	3.708%	Nil	
		01.04.2015	70	3.708%	CENVAT credit on inputs, capital goods and input services has not been taken	
4	Mandap Keeper or Convention Services	01.07.2012	30	8.652%	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) has not been taken	2
5	Transport of passengers by air (i) economy class	01.07.2012	60	4.944%	CENVAT credit on inputs and capital goods has not been taken	
	(ii) other than economy class	01.07.2012	60	4.944%		
		01.04.2015	40	7.416%		
6	Short Term Accommodation Services (hotels, inns, guest houses etc.)	01.07.2012	40	7.416%	CENVAT credit on inputs and capital goods has not been taken	
7	Goods transport agency Service	01.07.2012	75	3.09%	CENVAT credit on inputs, capital goods and input services has not been taken by the Service Provider	
		01.04.2015	70	3.708%		
8	Services provided in relation to chit	01.07.2012	30	8.652%	CENVAT credit on inputs, capital goods and input services has not been taken	3
		01.04.2015	–	12.36%	Not Applicable	
9	Renting of any motor vehicle designed to carry passengers	01.07.2012	60	4.944%	CENVAT credit on inputs, capital goods and input services has not been taken	
	Renting of motor cab	01.10.2014	60	4.944%	Refer Note	4
9A	Transport of passengers in a contract carriage other than motorcab	11.07.2014	60	4.944%	CENVAT credit on inputs, capital goods and input services has not been taken	
9A	Transport of passengers in a radio taxi	01.10.2014	60	4.944%		
10	Transport of goods in a vessel	01.07.2012	50	6.18%	CENVAT credit on inputs, capital goods and input services has not been taken	
		01.10.2014	60	4.944%		
		01.04.2015	70	3.708%		
11	Services by a tour operator in relation to:	01.07.2012				5
	(i) a package tour		75	3.09%	The bill issued indicates that it is inclusive of charges for such a tour	
	(ii) solely arranging or booking accommodation for any person in relation to a tour		90	1.236%	The bill issued indicates that it is towards the charges for such accommodation and is not only towards service charges for booking accommodation.	
	(iii) Others		60	4.944%	The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour	
12	Construction Services by a builder, developer etc.	01.07.2012	75	3.09%	CENVAT credit on inputs has not been taken AND The value of land is included in the amount charged from the service receiver.	6
12	Construction Services by a builder, developer etc. (other than for a residential unit having carpet area upto 2000 square feet and where the amount charged is less than rupees one crore)	01.03.2013	70	3.708%		

Apart from abatements, below mentioned services are taxable at lower values:

Sl. No.	Description of taxable Service	Applicable w.e.f.	Taxable Value (in %)	Effective Tax Rate (@12.36%)	Conditions for availing the abatement
1	Service portion on execution of Works Contract:	01.07.2012			CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, has not been taken
	– Value of service excluding material		100	12.36%	
	– Original Work		40	4.944%	
	– Repairs and Maintenance of any goods		70	8.652%	
	– Maintenance, Repairing, Completion Finishing of immovable property	01.07.2012	60	7.416%	
		01.10.2014	70	8.652%	
2	Restaurant Services	01.07.2012	40	4.944%	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) has not been taken
3	Outdoor Catering Services	01.07.2012	60	7.416%	

Notes on Page 2 Table

1. For the purposes of abatement on Services in relation to financial leasing including hire purchase:
   a. The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installments paid towards repayment of the lease amount and the principal amount contained in such installments;
   b. The abatement shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee, which shall be added to the amount calculated in terms of (a) above.
2. For the purposes of abatement on Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises together with renting of such premises:

   The amount charged shall be the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink (whether or not intoxicating) and whether or not supplied under the same contract or any other contract, after deducting-

   (i) the amount charged for such goods or services supplied to the service provider, if any; and

   (ii) the value added tax or sales tax, if any, levied thereon:

   Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.
3. "Chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount.
4. Conditions for availing abatement on Services of Renting of Motorcab are:
   a. CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004
   b. CENVAT credit on input service of renting of motorcab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner:
      i. Full CENVAT credit of such input service received from a person who is paying service tax on forty percent of the value; or
      ii. Up to forty percent CENVAT credit of such input service received from a person who is paying service tax on full value;
   c. CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5. Apart from the conditions enumerated categorically in specific categories of Services by a tour operator, a common condition for availment of abatement is that CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

   However, with effect from 01.10.2014, restriction on availment of CENVAT Credit of service tax paid on Input Services of a tour operator has been lifted.

   Here, "Package Tour" means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour.

   And, "Tour Operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.
6. For the purposes of abatement on Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer: the amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract, after deducting:

   (i) the amount charged for such goods or services supplied to the service provider, if any; and

   (ii) the value added tax or sales tax, if any, levied thereon:

   Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

GST

Amidst stiff resistance by several opposition parties, the long-pending Bill on Goods and Services Tax (GST) was moved for discussion in the Lok Sabha last week. With all the possible measures to strengthen its "reform" credentials, Finance Minister presented the much awaited GST Bill in the current session of the parliament for the approval of the same.

When the Finance Minister, Shri Arun Jaitley addressed the parliament for the presentation of GST bill, an unexpected protest by the oppositions raised doubts whether the Government would succeed in rolling out the ambitious tax reforms initiative. On the contrary, indicating a positive sign, the newly elected chairman of the Empowered Committee of State Finance Ministers, Shri K. M. Mani said that "*Most of the states have welcomed GST and only few states are opposing. Even they are also agreeing gradually. I think there is no obstinate opposition from any state*".

In a recent meet of the empowered committee attended by Hon'ble Finance Minister Shri Arun Jaitley, Mr. M C Sampath, Minister for Commercial Taxes and Registration, Tamil Nadu expressed its opposition to GST Constitution Amendment Bill. He demanded that the manufacturing states should be made to retain 4% of the CGST portion in IGST on all inter State sales/transfer of both goods and services.

The discussion relating to revenue neutral tax rate (RNR) of GST to be levied still remains uncertain, even after the addition of clause in GST constitution (122nd Amendment) bill, regarding compensation to states for the part of their revenue loss in the initial phase of GST regime. Previously, many government panels and independent experts had in the past put the revenue neutral rate between 12-20% but recently National Institute of Public Finance and policy mooted a higher rate of 26.68% (comprising of 12.77% CGST and 13.91% SGST) based on the collections made by the state in F.Y 2011-12 . The panel has not yet accepted the rate and sought revised projections as per the collection made in F.Y 2013-14 by the respective state governments.

Expectations from all the sectors are increasing day by day and we all are looking forward to the implementation of the GST, so as to derive its benefits in near future.

FAQ

Q We had discharged our service tax liability amounting to Rs.1,00,000/- for the month of August, 2014 on 25th September, 2015. What amount of interest will be payable?

A An assessee is liable to pay interest for the period of delay if its service tax liability is not discharged within the time limits prescribed under Rule 6 of the Service Tax Rules, 1994. The period of delay in payment refers to the delay from the day following the due date of payment upto the date of payment of the tax liability. Interest on delayed payment of service tax is chargeable at the rates prescribed for the respective period of delay.

The interest rate had been altered a number of times. With effect from 01.04.2011, it was increased from 13% p.a. to 18% p.a.. Further, with effect from 08.04.2011, a concession of 3% p.a. on such interest rate has been prescribed for assessees having gross value of taxable services provided in the preceding financial year upto Rs.60 lakhs. Moreover, with effect from 01.10.2014, interest rates have been revised and a slab rate has been prescribed as under:

Period of delay	Interest Rate (Value of taxable Service > 60 lakhs)	Interest Rate (Value of taxable Service ≤ 60 lakhs)
For first 6 months	18%	15%
For period beyond 6 months and up to 1 year	24%	21%
For period beyond 1 year	30%	27%

In the instant case, the due date of discharging service tax liability for August 2014 shall be 06th September, 2014. So, there has been a delay in payment of service tax and interest is liable to be paid. The delay here is from 07th September, 2014 to 25th September, 2015.

Accordingly, in the instant case, assuming the value of taxable services provided in the preceding financial year was more than Rs.60 Lakhs, for the period from 07th September, 2014 to 30th September, 2014, the rate of interest of 18% p.a. shall be applicable, irrespective of period of delay. Thereafter, with effect from 01.10.2014, slab wise interest rate as above shall be applicable. For this purpose, total period of delay shall be counted i.e. from the due date on which the said payment was to be made till the date of payment and the rate of interest shall be applicable as per the prescribed slab depending upon the period of delay.

In your case, the interest payable for delayed payment of service tax shall be arrived at as under:

Interest for the period		Amount
07.09.2014 to 30.09.2014	100000*18%*24/365	Rs. 1,184/-
01.10.2014 to 06.03.2015	100000*18%*157/365	Rs. 7,742/-
07.03.2015 to 06.09.2015	100000*24%*184/365	Rs. 12,099/-
07.09.2015 to 25.09.2015	100000*30%*19/365	Rs. 1,562/-
Total Interest Payable		**Rs. 22,587/-**

BOOK POST

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