



Tax Talk

The Monthly Service Tax Bulletin



Editorial

Happy New Year everyone!! One more year loaded with lots of happiness, cheerful incidents and achievements have passed with your love, support and blessings. We hope to receive this bliss in the upcoming years also. Again we should also keep in mind the past to gain pearls of wisdom and start a new year with the same quest and vigour to achieve new heights and success.

We are very glad to inform you that the ICAI elections which were under process for the last 3 to 4 months has now been successfully completed and the results have been announced. We take opportunity to convey our heartiest congratulations to the newly elected regional and central council members. We hope that these members would take our profession to new levels and bring glory for our institute.

Recently, CBEC has taken ardent steps to facilitate trade and resolve litigations which have been on a compounding growth. The number of appeals being filed by the revenue has increased exponentially over the years and accordingly with a view to curve such practices, directions have been issued to the revenue officers. Some of the steps taken by board include raising the threshold limits for filling of appeal before the Tribunal and High Court, withdrawal of appeals which are pending before the tribunal and High court, imparting training to the adjudication officers to make them judicially potent to pass proper adjudication orders, the Chief Commissioner/ Principal Commissioner to hold periodical meetings with the Adjudicating/Appellate Commissioners to advise them on

passing proper adjudicating/appellate orders, consultation at the level of Principal Commissioner has been made mandatory before issuance of Show Cause Notice involving an amount exceeding Rs.50 Lakhs.

The Joint committee on Business processes for GST after having an elaborate discussion with the trade, industry and other stakeholders had come up with its report on GST registration. The report has been discussed in detail at page 2 & 3 of this issue.

The CBEC has issued a circular clarifying various issues to settle the dilemma regarding the levability of service tax on the services provided by the job worker to the apparel exporters in relation to fabrication of garments. The said circular is discussed in detail at page 4 of this issue.

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.

We are regularly receiving request for earlier issues of Tax Talk. Understanding the needs of our valued readers we have posted the soft copy of the newsletter at our website. You may refer all earlier issues of Tax Talk at www.gstpeople.com.

Editorial Board



DUE DATES		
PAYMENT	FORM	DUE DATE
Payment for the Month/Quarter ending December 2015 (all assesseees)	E-payment	6th January, 2016
RETURN	FORM	DUE DATE
Return for the Quarter October 2015 - December 2015 (For a SEZ Unit or a Developer)	A-3 (Physical)	30th January, 2016

GST Updates

GST

A Joint Committee on business processes for GST was constituted in consultation with Government of India, to primarily make important recommendations to the Empowered Committee on GST business processes such as Registration and Returns. The joint committee in due consultation with the trade and industry, came up with its report on Registration process.

Report of the Joint Committee on Registration Processes in GST Regime

Registration of a business with the tax authorities implies obtaining a unique identification code from the concerned tax authorities so that all the operations of and data relating to the business can be agglomerated and correlated. In any tax system this is the most fundamental requirement for identification of the business for tax purposes or for having any compliance verification program. The business process proposed in the report of the Joint Committee is based upon the following assumptions:

- A legal person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him.
- There will be a threshold of Gross Annual Turnover including exports and exempted supplies (to be calculated on all-India basis) below which any person engaged in supply of Goods or Services or both will not be required to take registration.
- However, such person with all-India gross annual turnover below the threshold turnover would be allowed to take registration, if he wants to.
- There will be another relatively higher threshold of Gross Annual Turnover (to be calculated on all-India basis) to be called Compounding turnover up to which the registered person can opt to pay tax at a specified percentage of the turnover, without entering the credit chain.
- All other taxable persons will be required to take GST registration. Such persons will be able to take the credit of taxes paid on inputs / input services / capital goods and pass on the credit of GST to his customers / recipients of goods or services or both.
- The registered person eligible for the Compounding scheme but opting against the Compounding can pay regular taxes and file tax returns on monthly basis, and thereby make his supplies eligible for input tax credit in the hands of the purchasers/recipients.
- Irrespective of turnover, if a taxable person carries out any inter-state supply and / or is liable to pay GST under reverse charge, he will be compulsorily required to take registration.
- All UN bodies seeking to claim refund of taxes paid by them would be required to obtain a unique identification number (ID) from the GST portal. The structure of the said ID would be uniform across the States in uniformity with GSTIN structure and the same will be common for the Centre and the States.
- A unique identification number (ID) would be given by the respective state tax authorities through GST portal to Government authorities / PSUs not making outwards

supplies of GST goods (and thus not liable to obtain GST registration) but are making inter-state purchases.

- The concept of Input Service Distributor (ISD) presently being followed in Centre's Law may continue if the GST Law so provides. They would be required to obtain GSTIN for distributing the credit of GST paid on services proposed to be used at multiple locations which are separately registered.
- All existing registered persons, whether with the Centre or State under any of the tax statutes being subsumed in GST, would be allotted a GST registration number called Goods and Services Tax Identification Number (GSTIN) on voluntary basis.
- Tax authorities, in case of enforcement cases, may grant suo-moto registration. If such person does not have PAN, the registration would be initially temporary and later converted into a PAN based registration.
- For each State the taxable person will have to take a separate registration, even though the taxable person may be supplying goods or services or both from more than one State as a single legal entity.
- Multiple registrations within one State to business verticals [as defined in Accounting Standard (AS) 17 issued by ICAI] of a taxable person may also be permitted, subject to all the verticals being on the same scheme of tax treatment.
- A supplier who is not registered on regular basis, whether on mandatory or voluntary basis, in other State (s) and desires to conduct business in a particular State for a limited period, will have to obtain registration in that State for that limited period.

Procedure for obtaining registration

- New applicant can apply for registration:
 - (1) at the GST Common Portal directly; or
 - (2) at the GST Common Portal through the Facilitation Centre

Following scanned documents are required to be filed along with the application for Registration:

Relevant Box No. in the Registration Form	Document required to be uploaded	Reason for requirement
i) Constitution of Business	• Partnership Deed in case of Partnership Firm. • Registration Certificate in case of other businesses like Society, Trust etc. which are not captured in PAN.	• In case of Companies, GSTN would strive for online verification of Company Identification Number (CIN) from MCA21. • Constitution of business / applicant as per PAN would be taken except for businesses such as Society, Trust etc. which are not captured in PAN. • Partnership Deed would be required to be submitted in case of Partnership Firms.

ii) Details of the Principal Place of business	• In case of Own premises—any document in support of the ownership of the premises like Latest Tax Paid Receipt or Municipal Khata copy or Electricity Bill copy • In case of Rented or Leased premises – a copy of the valid Rent / Lease Agreement with any document in support of the ownership of the premises of the Lessor like Latest Tax Paid Receipt or Municipal Khata copy or Electricity Bill copy • In case of premises obtained from others, other than by way of Lease or Rent – a copy of the Consent Letter with any document in support of the ownership of the premises of the Consenter like Municipal Khata copy or Electricity Bill copy • Customer ID or account ID of the owner of the property in the record of electricity providing company, wherever available should be sought for address verification.	This is required as an evidence to show possession of business premises. If the documentary evidence in Rent Agreement or Consent letter shows that the Lessor is different from that shown in the document produced in support of the ownership of the property, then the case must be flagged as a “Risk Case”, warranting a post registration visit for verification. GST Law Drafting Committee may add penalty provision for providing wrong lease details.
iii) Details of Bank Account (s)	Opening page of the Bank Passbook held in the name of the Proprietor / Business Concern – containing the Account No., Name of the Account Holder, MICR and IFS Codes and Branch details	This is required for all the bank accounts through which the taxpayer would be conducting business.
iv) Details of Authorised Signatory	For each Authorised Signatory: • Letter of Authorisation or copy of Resolution of the Managing Committee or Board of Directors to that effect	This is required to verify whether the person signing as Authorised Signatory is duly empowered

v) Photograph	• Proprietary Concern – Proprietor • Partnership Firm / LLP – Managing/ Authorized Partners (personal details of all partners is to be submitted but photos of only ten partners including that of Managing Partner is to be submitted) • HUF – Karta • Company – Managing Director or the Authorised Person • Trust – Managing Trustee • Association of Person or Body of Individual – Members of Managing Committee (personal details of all members is to be submitted but photos of only ten members including that of Chairman is to be submitted) • Local Body – CEO or his equivalent • Statutory Body – CEO or his equivalent • Others – Person in Charge	
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Amendments in the Registration Form

Capturing registration information is not a one-time activity and any change in critical information should be entered at the common portal within a stipulated time period. All amendments in the details in registration application form will be retained in the database of the GSTN and will be made visible to the tax authorities.

Cancellation/Surrender of registration

In the following cases, the registration can be either surrendered by the registrant or cancelled by the tax authorities:

- (1) Closure of business of tax payer;
- (2) Gross Annual Turnover including exports and exempted supplies (to be calculated on all-India basis) falling below threshold for registration;
- (3) Transfer of business for any reason including due to death of the proprietor of a proprietorship firm;
- (4) Amalgamation of taxable person with other legal entities or de-merger;
- (5) Non commencement of business by the tax payer within the stipulated time period prescribed under the GST laws.

Clarification for Apparel Exporters

The department is of the view that the services received by apparel exporters from third party in relation to job work service are covered under manpower supply service. However, on the contrary, assessee is of the view that the services received by them is of job work involving a process amounting to manufacture or production of goods, and thus would fall under negative list [section 66D(f)] and hence would not attract service tax.

After detailed examination/analysis on this matter, the result shows that the nature of manpower supply service is quite distinct from the service of job work. The essential characteristic of manpower supply service is that the manpower supplied by the service provider is directly under the supervision of service receiver during the period of contract. Service provider's accountability is only to the extent of quality of manpower. Under manpower supply service, the value of service is equal to the number of manpower deployed multiplied by the rate.

The essential characteristic of job works is that the manpower is not supplied but is directly under the control of service provider. Service provider is accountable for the job he undertakes. It is upto him to decide how he deploys and uses his manpower. In other words, service receiver is not concerned about the manpower. The value of service is equal to the number of pieces fabricated multiplied by the rate.

Therefore, the exact nature of service needs to be determined on the facts of each case which would vary from case to case. The terms of agreement and scope of activity undertaken by the service provider would determine the nature of service being provided.

However, every job work is not covered under the negative list. If the job work involves a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944, it would be covered under the negative list in terms of Section 66D(f) read with section 65B (40) of the Finance Act, 1994.

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(a unit of Goyal Tax Services Pvt. Ltd.)

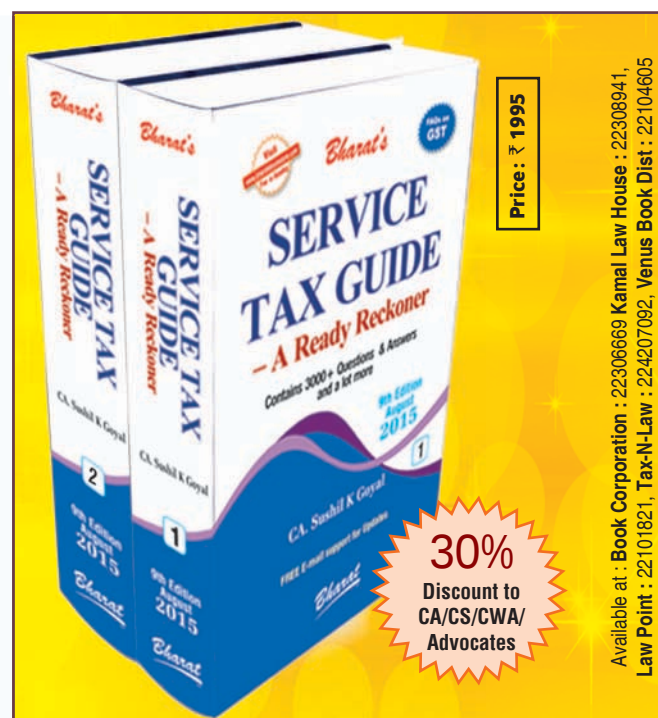
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