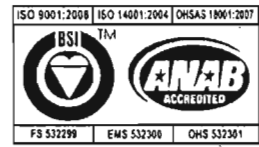




CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/FD-Taxation/STC/12-13

18th September 2012

Service Tax Circular # 61

Subject = Changes in Service Tax Provisions through Finance Act, 2012 affecting Construction Activities

In supersession of all Earlier Service Tax Circulars issued by CWC Corporate Office during 01.04.2012 to 31.07.2012 with regard to the taxability of the Construction Activities under the Service Tax Laws, the Service Tax Provisions affecting the Construction Activity are being consolidated hereunder for the benefit of all Concerned:

A. ST Notification No. 24/2012 dated 06.06.2012: Amendments to Service Tax (Determination of Value) Rules, 2006:

The Govt. of India, Central Board of Excise & Custom has, vide its Notification No. 24/2012-Service Tax dated 06.06.2012, amended the Service Tax (Determination of Value) Rules, 2006, superseding Service Tax Notification No. 11/2012 dated 17.03.2012, thereby replacing therein Rule 2A by the following Clauses:

Subject to the provisions of section 67, the value of service portion in the execution of a works contract, referred to in clause (h) of section 66E of the Act, shall be determined in the following manner, namely:-

- (i) Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.

Explanation:- For the purposes of this clause:-

- (a) Gross amount charged for the works contract shall not include value added tax or sales tax, as the case may be, paid or payable, if any, on transfer of property in goods involved in the execution of the said works contract;
- (b) Value of works contract service shall include:-
- (i) Labour charges for execution of the works;
 - (ii) Amount paid to a sub-contractor for labour and services;
 - (iii) Charges for planning, designing and architect's fees;
 - (iv) Charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;
 - (v) Cost of consumables such as water, electricity, fuel used in the execution of the works contract;
 - (vi) Cost of establishment of the contractor relating to supply of labour and services;
 - (vii) Other similar expenses relating to supply of labour and services; and
 - (viii) Profit earned by the service provider relating to supply of labour and services;

- (c) Where value added tax or sales tax has been paid or payable on the actual value of property in goods transferred in the execution of the works contract, then, such value adopted for the purposes of payment of value added tax or sales tax, shall be taken as the value of property in goods transferred in the execution of the said works contract for determination of the value of service portion in the execution of works contract under this clause.
- (ii) Where the value has not been determined under clause (i), the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the service tax payable in the following manner, namely:-
- (A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty percent of the total amount charged for the works contract;
- (B) in case of works contract entered into for maintenance or repair or reconditioning or restoration or servicing of any goods, service tax shall be payable on seventy percent of the total amount charged for the works contract;
- (C) in case of other works contracts, not covered under sub-clauses (A) and (B), including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property, service tax shall be payable on sixty percent of the total amount charged for the works contract;

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;

(b) "total amount" means the sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting-

(i) the amount charged for such goods or services, 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.

Explanation 2:-For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004".

Handwritten signature and date: 15/10/12

B. ST Notification No. 30/2012 dated 20.06.2012 (Taxability under Reverse Charge Mechanism):

The scope of Reverse Charge Mechanism has been enlarged by including within its ambit 11 Services out of which following are applicable to the Construction Cells.

| Sl. No. | Description of a service | Percentage of service tax payable by the person providing service | Percentage of service tax payable by the person receiving the service |
|---------|---|---|---|
| 1 | in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road | Nil | 100% |
| 2 | in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services | Nil | 100% |
| 3 | in respect of services provided or agreed to be provided by Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994 | Nil | 100% |
| 4 | in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers i. on abated value to any person who is not engaged in the similar line of business ii. on non abated value to any person who is not engaged in the similar line of business | Nil 60% | 100 % 40% |
| 5. | in respect of services provided or agreed to be provided in service portion in execution of works contract | 50% | 50% |
| 6 | in respect of services provided or agreed to be provided by way of supply of manpower or security services for any purpose | 25% | 75% |

This mechanism of distribution of Service Tax between the Service Provider and the Service Recipient shall only be applicable if such Service is provided to any Company by any Individual, Hindu Undivided Family, Proprietary Firm, Partnership Firm, whether registered or not, including the Association of Persons, located in the Taxable

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Territory. However, in case of Renting of Motor Vehicles, where Service provided by any Person to any other Person, except those in the similar business, shall be covered under the Reverse Charge Mechanism.

C. Taxability for Service Provided:

The supervision charges of work done under the Deposit Works (earlier know as Consulting Engineer Service) will be fully taxable @ 12.36%.

D. Service Tax Registration:

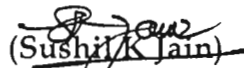
All the Construction Cells are advised to get Centralized Registration from the Service Tax Department giving details of all the locations under their jurisdiction where activities are carried on by the Construction Cells under the following categories:

- (i) As Service Recipient for Reverse Charge Mechanism; and
- (ii) As Service Provider for Services other than in the Negative List for Deposit Works.

In case a new location is added in future, the same would have to be endorsed on the Service Tax Registration Certificate.

Receipt of this Circular may be acknowledged and its Contents be brought to the Notice of all concerned for Scrupulous Compliance.

This issues with the Approval of the General Manager (F&A).


(Sushil K Jain)
AGM (Finance)
18/09/12

Distribution to:

1. All the Regional Managers of CWC.
2. All the Executive Engineers in-charge of all the Construction Cells of CWC.
3. All the AGMs/Managers/ (Sr.) Asstt. Managers in-charge of the Finance, Accounts & Internal Audit Wings of all Regional Offices & Construction Cells of CWC.

Copies for information to:

1. All HODs at CWC, Corporate Office, New Delhi.
2. All DGM/ AGMs/Managers/ (Sr.) Asstt. Managers/ Accountants in the Finance, Accounts & Internal Audit Cadre at CWC, Corporate Office, New Delhi.
3. PS to Managing Director, CWC, CO, New Delhi.
4. PS to Director (Pers)/Director (MCP)/Director (Fin), CWC, CO, New Delhi.
5. PS to CVO/ OSD (Recovery)/GM (F&A)s, CWC, Corp. Office, New Delhi.
6. PS to GM (Systems), CWC, CO, New Delhi with a request to place this Circular on CWC's Website.
7. Manager (Rajbhasha), CWC, CO, New Delhi with a request to arrange Hindi Version of this Circular.

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