



CENTRAL WAREHOUSING CORPORATION

(A GOVT. OF INDIA UNDERTAKING)



By Speed Post / Email

No. CWC/FD-Taxation/CO(ST)/14-15

18th July, 2014

Service Tax Circular # 81

Subject = Changes in the Service Tax Provisions as per Finance Bill, 2014.

Consequent upon the presentation of Finance Bill, 2014 by Hon'ble Finance Minister before the Parliament on 10th July 2014, the following Service Tax Notifications have been issued by the Central Board of Excise & Customs (CBEC) notifying Amendments/Changes in various Service Tax Provisions which are relevant to CWC:

1. Interest on delayed payment of Service Tax

Ref: ST Notification No. 12/2014 dated 11.07.2014

At present interest on delayed payments of Service Tax is payable at the uniform rate of 18% per annum. The above said Service Tax notification has amended the rate of interest on delayed payment of Service Tax w.e.f 01.10.2014, as follows:-

Sl. No.	Period of Delay	Rate of Simple interest Per Annum
(1)	(2)	(3)
1.	Up to Six Months	18 percent
2.	More than six months and up to one year	18 percent for first six months of delay and 24 percent for the delay beyond six months.
3.	More than one year	18 percent for first six months of delay; 24 percent for the period beyond six months up to one year and 30 percent for any delay beyond one year.

2. Service Tax Rules, 1994:-

Ref: S.T. Notification No. 9/2014 dated 11.07.2014

Under the existing rule 6(2), only an assessee who has paid a total amount of service tax of Rupees One Lakh or more in the preceding Financial Year is liable to pay Service Tax electronically.

Now, E-payment of service tax has been made mandatory for all service taxpayers w.e.f. 01.10.2014. However, Relaxation from e-payment can be allowed by the Divisional Assistant /Deputy Commissioner.

3. Valuation of Service portion in Works Contract Service:-

Ref: ST Notification No. 11/2014 dated 11.07.2014

Under the existing rule 2A(ii) of Service Tax (Determination of Value) Rules, 2006, the service provider was liable to pay service tax on the service portion involved in the works contract which is valued as under:-

- (A) In case of works contracts entered in to for execution of original works, service tax shall be payable on forty percent of the total amount charged for the works contract.
- (B) In the case of maintenance or repair or reconditioning or restoration or servicing of any goods, 70% of the total amount charged for the works contract is taken as service portion.
- (C) In the case of other works contract transaction involving maintenance, repair, completion and finishing services relating to immovable property, 60% of the total amount charged for the works contract is the service value on which service tax is payable.

Service Tax notification No.11/2014 dated 11.07.2014 has merged the above clauses (B) & (C) and a new Clause (B) is provided as below:

- (B) In case of works contract, not covered under sub clause (A), including works contract entered in to for
 - (i) Maintenance or repair or reconditioning or restoration or servicing of any goods,
 - (ii) Maintenance or repair or completion and finishing services such as glazing or plastering of floor and wall tiling or installation of electrical fittings of immovable property,Service tax shall be payable on seventy percent of the total amount charged for works contract.

Therefore now w.e.f 01/10/2014, in case of all works contracts other than for execution of original works, Service tax shall be payable on seventy percent (70%) of the total amount charged for works contract.

4. Reverse Charge Mechanism

Ref: S.T. Notification No. 10/2014 Dated 11.07.2014

Under the Earlier S.T. Notification No. 30/2012 Dated 20.06.2012 in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person, Percentage of service tax payable by the person providing service on **non-abated value** was 60% and Percentage of service tax payable by the person receiving the service was 40%.

The above percentage of Service Tax payable by Service provider & Service recipient is now amended vide S.T. Notification No. 10/2014 Dated 11.07.2014. As per the notification, 50% of the Service Tax is to be paid by Service provider and balance 50% is to be paid by Service recipient. This amendment will be effective from 11.07.2014.

However, in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers, **on abated value**, 100 Percentage of service tax payable will continue to be payable by person receiving the service.

5. Cenvat Credit Rules, 2004:-

Ref: Notification No. 21/2014-Central Excise dated 11.07.2014

A). Under the existing Cenvat Credit Rules, 2004, there is no time limit for an assessee to avail CENVAT credit on input or input services. Now, vide above said notification, a time limit of 6 months from the date of issue of invoice or bill is specified for a service provider to avail the Cenvat credit on inputs, capital goods and input services. This amendment shall take effect from 01.09.2014.

However Cenvat Credit availed as per Cenvat Credit rules may be utilized without any limitation of time.

B) Under earlier rule 4(7) of Cenvat Credit Rules, 2004, CENVAT credit in respect of input service tax paid by the service recipient on reverse charge basis is allowed to him on or after making payment of the value of input service and service tax paid or payable as indicated in the invoice of the service provider. Rule 4(7) is now amended from 11.07.2014 to provide as under:

I) **Full Reverse Charge cases:** In the case of service tax paid by the service recipient under Full Reverse Charge, the condition of payment of invoice value to the service provider shall not be a pre-requisite requirement for availing tax credit. All that is required is the payment of service tax by the service recipient on full reverse charge basis and credit can be taken after deposition of service tax by the service recipient. The challan will be the document for taking credit of input service tax.
However, in case the payment of the value of input service is not made within three months of date of invoice, an amount equal to Cenvat Credit availed earlier shall be paid to Service Tax deptt. and thereafter the Credit of such an amount can be availed on payment of the value of input service.

II) **Partial Reverse Charge Cases:** However, there is no change in respect of Partial Reverse Charge cases. In these cases, input service tax credit shall be available to the service recipient on or after the day on which payment towards value of input service and service tax as appearing in the invoice is remitted to the service provider. Thus pre-payment of invoice value including service tax is a mandatory requirement for availing CENVAT credit in respect of service bill in Partial Reverse Charge cases.

6. Point of Taxation Rules (POTR):-

Ref: S.T. Notification No. 13/2014 Dated 11.07.2014

Under rule 7 of POTR, the point of taxation in the reverse charge cases is the date on which payment is actually made by the service recipient to the service provider. This is subject to the rider that if the payment is not made within 6 months of the date of invoice, the point of taxation will be determined ignoring the payment rule i.e. point of taxation will be date of Invoice.

Rule 7 is now being amended from 01.10.2014 to provide that if payment is not made within 3 months of the date of invoice, the point of taxation will be the date that follows after the expiry of the said 3 months.

For example, an Advocate issues invoice say on 10th October, 2014 for Legal consultancy service to the CWC. CWC makes payment on 15th March, 2015 and deposit service tax by 31st March, 2015 under reverse charge basis. Since the payment was not made within 3 months by 10th January, 2015, the point of taxation shall be taken as 11th January, 2015. Going by this new rule, CWC should deposit service tax by 06.02.2015 (e-payment). This means delay in deposition of service tax 53 days inviting interest and penal liability.

The above amendment will apply to invoices issued on or after 01.10.2014. The invoices issued by the service provider before 1st October, 2014 will continue to be covered by existing rule 7 of POTR where the rider of making payment within 6 months of the invoice date is available.

7. Mega Exemption

Ref: S.T. Notification No. 06/2014 Dated 11.07.2014

A) The umbrella of Mega exemption notification No. 25/2012-ST has been expanded to grant service tax exemption to some more services. The important services now exempted are as under;-

- (a) Loading, unloading, packing, storage or warehousing of cotton, ginned or baled.
- (b) Services by way of transportation by rail or a vessel from one place in India to another of cotton, ginned or baled and organic manure.
- (c) Services provided by a Goods Transport Agency, by way of Transport in a goods carriage of cotton, ginned or baled and organic manure.

B) Few Existing entries in the Mega exemption notification 25/2012 has been amended vide S.T. Notification No. 06/2014 Dated 11.07.2014 as follows:

- a) Under Entry at Sr. No. 9, services provided to educational institution in the form of auxiliary educational services and renting of immovable property to such educational institution were exempted from service tax. Such entry has been substituted with new entry as below:

"Services Provided,-

- (a) By an educational institutions to its student, faculty and staff;
- (b) To an educational institution, by way of
 - i) transportation of students, faculty and staff;
 - ii) catering, including any mid-day meals scheme sponsored by the Government;
 - iii) security or cleaning or house-keeping services performed in such educational institution;
 - iv) Services relating to admission to, or conduct of examination by such institute.

Therefore the PCS services provided to an educational institution is now exempted from levy of Service Tax.

Educational Institution means an institution providing services by way of:

- (i) Pre-school education and education up to higher secondary school or equivalent;
- (ii) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) Education as a part of an approved vocational education course.

- b) The existing exemption of service in relation to Transport of passengers by a contract carriage is substituted to provide the exemption of Service in relation to Transport of passengers by non-air-conditioned contract carriage other than radio taxi. Therefore, Transportation of passengers by an air conditioned contract carriage will attract service tax with immediate effect.

All the above amendments in the Mega Exemption notification No. 25/2012 are applicable from 11.07.2014.

8. Abatement Notification 26/2012 dated 20.06.2012

Ref: S.T. Notification No. 08/2014 Dated 11.07.2014

- a) In the case of Goods Transport Agency service, service tax is payable on the abated value of 25% on gross freight paid to the GTA subject to the condition that CENVAT credit on input, capital goods and input services, used for providing the taxable service has not been taken. Since in the case of GTA service, service recipient is liable to pay service tax on reverse charge basis, the service recipient insists for a

certificate/ Declaration from the GTA to the effect that GTA is not availing CENVAT credit facility in relation to transportation of goods. Now it is clarified that the condition of non-availment of CENVAT credit is required to be satisfied by the service provider only and therefore service recipient is not required to establish satisfaction of this condition by the service provider i.e GTA.

- b) Transportation of passengers by an air conditioned contract coach will attract service tax with immediate effect. The taxable portion of such service is fixed at 40% with the condition that CENVAT credit of inputs, capital goods or input services has not been taken.

9. Negative List (Section 66D)

At present transportation of passengers by metered cabs, radio taxies or auto rickshaws is beyond the service tax net due to coverage in the Negative List. It has been proposed in Finance Bill 2014, to take out radio taxies or radio cabs, (whether air conditioned or not) from the basket of negative list. However, transportation service through metered cab or auto rickshaw will continue to remain in the negative list. Service tax on radio taxi service will come into effect from a date to be notified.

The contents of this Circular may please be implemented and also brought to the Notice of all concerned for scrupulous compliance.



(N.K.Grover)

Gen. Manager (F&A)

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1. All Regional Managers of CWC.
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