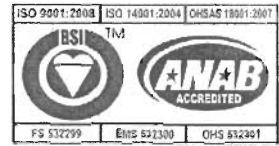




CENTRAL WAREHOUSING CORPORATION

(A GOVT. OF INDIA UNDERTAKING)



By Speed Post / Email

No. CWC/FD-Taxation/ST (Gen)/12-13

29th October, 2013

Service Tax Circular # 71

Subject = Frequently asked questions with regard to service tax provisions.

Certain questions were raised by the Participants in the recently held Training Programme on "Financial & Tax management" and the same have been examined at Corporate Office and the Clarifications are furnished as under;

<u>Sl.No.</u>	<u>Issue</u>	<u>Clarification.</u>
<u>1</u>	<i>Whether CENVAT Credit of Service Tax paid on Input service of Rent a Cab Service may be availed?</i>	<p>No, As per Definition of Input Service under Rule 2(l) of CENVAT Credit Rules, 2004 specifically excludes "Services provided by way of renting of motor vehicle, in so far as they relates to a motor vehicle which is not a Capital Goods". Hence Rent a cab service is not an input Service.</p> <p>Accordingly, CENVAT Credit on Rent-a-cab Service cannot be availed off and Service Tax amount will be charged to revenue.</p>
<u>2</u>	<i>Whether CENVAT Credit can be availed on services received in relation to personal use or consumption of employees?</i>	<p>No, Definition of Input Service under Rule 2(l) of CENVAT Credit Rules, 2004 specifically excludes "services used primarily for personal use or consumption of employees". Hence any service received by the corporation in relation to personal use or consumption of employees is not an input service and therefore CENVAT Credit for same can not be availed. Service Tax on such input service will be charged to revenue.</p>

		<p><i>Some of the examples are as listed below:</i></p> <table border="1"> <thead> <tr> <th data-bbox="662 261 1025 378">Service (Example)</th> <th data-bbox="1025 261 1332 378">Whether CENVAT Credit can be availed</th> </tr> </thead> <tbody> <tr> <td data-bbox="662 378 1025 455">Outdoor Catering for Employees</td> <td data-bbox="1025 378 1332 455">No</td> </tr> <tr> <td data-bbox="662 455 1025 572">Mediclaim Insurance or Group life Insurance for Employees</td> <td data-bbox="1025 455 1332 572">No</td> </tr> <tr> <td data-bbox="662 572 1025 769">Expenses on Residential Colony/quarters</td> <td data-bbox="1025 572 1332 769">No, except for Security and Legal Services as is specifically included in definition.</td> </tr> <tr> <td data-bbox="662 769 1025 847">Transport Charges for Transport of Employees</td> <td data-bbox="1025 769 1332 847">No</td> </tr> </tbody> </table>	Service (Example)	Whether CENVAT Credit can be availed	Outdoor Catering for Employees	No	Mediclaim Insurance or Group life Insurance for Employees	No	Expenses on Residential Colony/quarters	No, except for Security and Legal Services as is specifically included in definition.	Transport Charges for Transport of Employees	No
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<p><u>3</u></p>	<p><i>Whether service Tax is payable on Forfeiture of EMD/SD received?</i></p>	<p>Yes, As per Section 66E relating to declared Services “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act” is a declared service and chargeable to Service Tax.</p> <p><i>Forfeiture of EMD/SD etc. in case of violation of tender conditions by the contractor is a kind of declared service of “tolerating an act or a situation” and chargeable to Service Tax.</i></p> <p><i>Accordingly, SERVICE Tax is payable on any amount Forfeiture against EMD/SD etc. Total amount forfeited is to be treated as cum service tax and service tax amount is to be computed from reverse calculation.</i></p>										
<p><u>4</u></p>	<p><i>Whether Service Tax is to be charged by CWC on amount charged for stay in Guest House Charges or Holiday Home?</i></p>	<p><i>Mega Exemption Notification 25/2012 issued on 20.06.2012 provides the following exemption at point.No.-18:</i></p> <p><i>“services by way of Renting of a hotel, inn, guest house, club, campsite or other commercial places meant for Residential or lodging purpose, having declared tariff of a unit of accommodation below Rupees one thousand</i></p>										

		<p><i>per day or equivalent.</i></p> <p><i>Therefore, guest house charges collected by CWC are exempted if charges are below Rupees one thousand per day.</i></p>
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Receipt of this Circular may please be acknowledged and Contents brought to the Notice of all concerned for scrupulous compliance.

These issues with the approval of Competent Authority.


(A.S.Gopalan)
Dy.Gen.Manager (F&A)

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

Copies for information to:

1. All HODs at CWC, Corporate Office, New Delhi.
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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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