केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर आयुक्त का कार्यालय

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS & SERVICE TAX

केन्द्रीय राजस्व भवन, आई.एस.प्रेस रोड, कोचिन -682018

C.R.BUILDING, I.S.PRESS ROAD, COCHIN-682018

प.सं.C. No. IV/16/08/2014-ST दिनांक / Dated: 05.11.2014

व्यापार सूचना सं/. TRADE NOTICE NO. 06/2014 ST

Subject: - Levy of service tax on activities involved in relation to inward remittances from abroad to beneficiaries in India through MTSOs- reg.

The contents of Circular No. 180/06/2014 – ST (F. No 354/105/2012-TRU (Pt.) dated 14.10.2014 issued by the Central Board of Excise & Customs, on the above subject is reproduced below for information, guidance and necessary action.

Vide circular No. 163/14/2012–ST, dated 10th July, 2012, on the issue of levy of service tax on the activities involved in the inward remittance it was clarified that there is no service tax *per se* on the foreign exchange remitted to India from outside for the reason that money does not constitute a service and that conversion charges or fee levied for sending such money would also not be liable to service tax as the person sending money and the company conducting the remittance are both located outside India. It was also clarified that the Indian bank or financial institution who provides service to the foreign bank or any other entity is not liable to service tax as the place of provision of service shall be the location of the recipient of service. This clarification covers the scenario where the Indian bank or financial institution provides services on principal to principal basis to the foreign bank/entity, on its own account, and thus the service is covered by the general rule, i.e. rule 3 of the Place of Provision of Service Rules, 2012.

2. However, subsequently, it had been brought to the notice of the Board that the foreign money transfer service operator (MTSO), conducting remittances to beneficiaries in India, have appointed Indian Banks/financial entities as their agents in India who provide agency /representation service to such MTSO for furtherance of their service to a beneficiary in India. The agents are paid a commission or fee by the MTSO for their services. The entire sequence of transactions in remittances of money from overseas through the MTSO route is as under:

Step 1: Remitter located outside India (say 'A') approaches a Money Transfer Service Operator (**MTSO**)/bank (say B) located outside India for remitting the money to a beneficiary in India; 'B' charges a fee from 'A'.

Step 2: 'B' avails the services of an Indian entity (**agent**) (say 'C') for delivery of money to the ultimate recipient of money in India (say 'E'); 'C' is paid a commission/fee by 'B'.

Step 3: 'C' may avail service of a **sub-agent** (D). 'D' charges fee/commission from 'C'.

Step 4: 'C' or 'D', as the case may be, delivers the money to 'E' and may charge a fee from 'E'.

3. Clarifications have been sought as to whether such agents (referred in Step 2 above) would fall in the category of intermediary, and if so, whether service tax would be leviable on the commission/fee amount charged by such agents. Clarifications have also been sought as to

whether the services provided by sub agent (referred in step 3 & 4 above) are leviable to service tax and on certain other related issues.

4. The issues discussed above have been examined and it is clarified as follows,-

S. No.	Issues	Clarification
1	Whether service tax is payable on remittance received in India from abroad?	No service tax is payable *per se* on the amount of foreign currency remitted to India from overseas. As the remittance comprises money, it does not in itself constitute any service in terms of the definition of 'service' as contained in clause (44) of section 65B of the Finance Act 1994.
2	Whether the service of an agent or the representation service provided by an Indian entity/ bank to a foreign money transfer service operator (MTSO) in relation to money transfer falls in the category of intermediary service?	Yes. The Indian bank or other entity acting as an agent to MTSO in relation to money transfer, facilitates in the delivery of the remittance to the beneficiary in India. In performing this service, the Indian Bank/entity facilitates the provision of Money transfer Service by the MTSO to a beneficiary in India. For their service, agent receives commission or fee. Hence, the agent falls in the category of intermediary as defined in rule 2(f) of the Place of Provision of Service Rules, 2012.
3	Whether service tax is leviable on the service provided, as mentioned in point 2 above, by an intermediary/agent located in India (in taxable territory) to MTSOs located outside India?	Service provided by an intermediary is covered by rule 9 (c) of the Place of Provision of Service Rules, 2012. As per this rule, the place of provision of service is the location of service provider. Hence, service provided by an agent, located in India (in taxable territory), to MTSO is liable to service tax. The value of intermediary service provided by the agent to MTSO is the commission or fee or any similar amount, by whatever name called, received by it from MTSO and service tax is payable on such commission or fee.
4.	Whether service tax would apply on the amount charged separately, if any, by the Indian bank/entity/agent/sub-agent from the person who receives remittance in the taxable territory, for the service provided by such Indian bank/entity/agent/sub-agent	Yes. As the service is provided by Indian bank/entity/agent/sub-agent to a person located in taxable territory, the Place of Provision is in the taxable territory. Therefore, service tax is payable on amount charged separately, if any.
5.	Whether service tax would apply on the services provided by way of currency conversion by a bank /entity located in India (in the taxable territory) to the recipient of remittance in India?	Any activity of money changing comprises an independent taxable activity. Therefore, service tax applies on currency conversion in such cases in terms of the Service Tax (Determination of Value) Rules. Service provider has an option to pay service tax at prescribed rates in terms of Rule 6(7B) of the Service Tax Rules 1994.
6.	Whether services provided by sub-agents to such Indian Bank/entity located in the taxable territory in relation to money transfer is leviable to service tax?	Sub-agents also fall in the category of intermediary. Therefore, service tax is payable on commission received by sub-agents from Indian bank/entity.

5. Accordingly, Circular No. 163/14/2012-ST, dated 10.7.2012 stands superceded.

6. Hindi version follows.

Reshma Lakhani

रेश्मा लखानी /RESHMA LAKHANI

आयुक्त /COMMISSIONER

सेवा में /To

1. प्रेषण सूची -1 व 2 के अनुसार / As per DL-I & II of Cochin Commissionerate

प्रति/Copy to:-

1. ट्रिवेनड्रम आयुक्तालय / Trivandrum Commissionerate
2. केलिकट आयुक्तालय /Calicut Commissionerate

प्रति प्रस्तुत है /Copy submitted to :-

मुख्य आयुक्त कार्यालय / The Chief Commissioner's office