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

C. No. IV/16/08/2014-ST दिनांक / Dated: 08.07.2015

व्यापार सूचना सं./ TRADE NOTICE NO.: 03/2015 ST

Subject: Payment of Service Tax under Reverse Charge basis-clarification regarding.

As per Sec 68 of Finance Act, 1994 every person providing Taxable Service shall pay Service Tax at the prescribed rates. However Sub Section (2) of section 68 empowers the government to notify **persons other than the provider of service as liable to pay Service Tax either fully or partially and such persons are also required to comply with all the statutory formalities like registration, filing of returns, payment of Service Tax as applicable to any provider of taxable services liable for payment of Service Tax**. Accordingly Government of India, Department of Revenue, issued Notification No. 30/2012 ST dated 20.06.2012 as amended vide Notification No. 45/2012 ST dated 07.08.2012, Notification No. 10/2014 ST dated 11.07.2014 and Notification No. 07/2015 ST dated 01.03.2015 has notified the following services for full/partial reverse charge.

Sl. No.	Name of Service	Percentage of Service Tax payable by the service provider	Percentage of Service payable by the Service recipient/other person
1	**Service by an Insurance Agent:** to any person carrying out Insurance Business	NIL	100%
2	**Service by Recovery agents:** to the financial institution	NIL	100%
3	**Service by Mutual Fund Agent or distributor:** to Mutual Fund or Asset Management Company	NIL	100%
4	**Service by selling or Marketing agent of Lottery:** to a Lottery Distributor or selling agent	NIL	100%
5	**Service by Goods Transport Agency**: for transport of goods by Road	NIL	100%
6	**Sponsorship Service:** provided to body corporate or partnership firm.	NIL	100%
7	**Arbitral Tribunal Service:** Business entity receiving Service	NIL	100%
8	**Legal Service:** Provided by an Advocate or a firm of Advocates to business entity.	NIL	100%
9	**Services of a Director of a company/body corporate** to the said company or body corporate	NIL	100%
10	**Services provided to Business Entity by Govt. or local authority** other than renting immovable property, services mentioned under Sec 66D (a)(i)(ii) & (iii),	NIL	100%
11	**Renting of Motor vehicle** designed to carry passenger to a person not engaged in similar line of business. (i) Paying tax on abated value (ii) Paying tax on non abated value	 (i) NIL (ii) 50%	 (i) 100% (ii) 50%

12	**Man Power Supply service/Security Services**	NIL	100%
13	**Works Contract Service**	50%	50%
14	Services by person located in non taxable territory to person located in taxable territory.	NIL	100%
15	**Aggregator**	NIL	100%

- In the case of Service of a Goods Transport Agency, reverse charge is applicable only when the person paying freight is (i) a factory or (ii) a society or (iii) co-operative society or (iv) dealer of excisable goods or (v) body corporate or (vi) partnership whether registered or not including Association of person
- In the case of Renting of motor vehicle/Man Power Supply/ Security Service/ Work Contract Service, reverse charge is applicable only in case where the provider of service is any individual/ Hindu Undivided Family/ partnership firm whether registered or not, including association of firms and the recipient is a business entity registered as a body corporate.
- Services are taxable only if place of provision falls in the taxable territory. Services provided by person located outside the taxable territory if received by Government, Individual etc. for purposes other than business, profession, commerce or Industry is not liable to Service Tax.
- Services of an advocate/firm of advocates to persons other than business entity and also to a business entity with turnover less than Rs. 10 Lakhs in the preceding financial year are exempt and hence reverse charge also will not be applicable. Services by arbitral tribunal to business entity with turnover less than Rs. 10 Lakhs is exempt.
- Exemption available to a small service provider with aggregate value of taxable turnover less than Rs.10 Lakhs in the previous financial year is not available to a person paying Service Tax on reverse charge basis.
- CENVAT credit cannot be utilized for payment of Service Tax on reverse charge basis and liability is to be discharged in cash.
- The liability of a service provider and service recipient under partial/full reverse charge basis are independent of each other.
- In the case of works contract service with reverse charge, the provider and the recipient are free to follow separate valuation method as provided under Rule 2A of Service Tax (Determination of Value) Rules, 2006.
- There can be cases where the service provider providing services under partial reverse charge may not be paying service tax on a transaction by availing exemption for small service provider whereas the recipient is required to pay Service Tax to the extent notified.
- Trade and Public are advised to refer to the relevant notifications for clarifications and for all legal purposes.

It has to come to notice that in many cases persons liable to pay Service Tax on reverse charge basis, are not complying with their statutory obligations which will attract interest and other penal provisions as per Finance Act, 1994.

All the Trade Associations are requested to bring the contents of this Trade Notice to the attention of their members in particular and the Trade in general.

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