CASE STUDIES ON LOGISTICS SECTOR

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Case Study – 1

1.1 *Garam Ltd* is a steamer agent in India of a foreign shipping line (*Line Inc.*!). Presently, in respect of its import consignments it pays service tax on THC[1] and IHC[1] and recovers it from the consignee with service tax. In case the Bill of Lading mentions 'freight to collect', prior to 01.06.2016 since no service tax was applicable on import freight it was not collecting service tax on such freight. However, post 01.06.2016 International Ocean Freight for inbound shipments is brought into service tax net. The invoice for the freight is raised by *Garam Ltd.* as an agent of *Line Inc.* In this regard please advise whether the service tax on import freight is to be paid -

(i) by *Garam Ltd*; or

(ii) by the consignee [as recipient of service]; or

(iii) by the 'notify party' mentioned in the Bill of Lading [as recipient of service]; or

(iv) by any other person

Please examine the above in 2 scenarios:

(i) where service tax is paid on THC and IHC in the registration number of *Garam Ltd* who also pays service tax on his steamer agency commission ;

(ii) where the service tax is paid on the THC and IHC in the registration number of *Line Inc.* by *Garam Ltd.* as its agent and in his own registration *Garam Ltd.* pays service tax on his steamer agency commission

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1 Terminal Handling Charges (THC) are charges collected from the consignee for moving the cargo through the port. Inland Haulage Charges (IHC) are charges for managing the transport of goods from the port to the consignee's place.

1.2 *Garam Ltd's* Chartered Accountant has one more apprehension i.e. whether the freight collected outside India by *Line Inc.* or by its overseas agent in respect of consignment imported into India is liable for Service Tax. Please advise.

1.3 *Garam Ltd* also books export cargo from India on behalf of the *Line Inc.* where in certain cases it charges slightly more than *Line Inc's.* mandated rate and hence in the year end it makes a 'freight surplus'. Whether freight surplus is liable for service tax?

1.4 Lastly, in this chain between *Garam Ltd* and the consignee there is freight forwarder who is a 'notify party'. What would be the Service tax implication to him on the transaction, if the freight he charges the consignee is more than the freight he pays to the *Line Inc. / Garam Ltd.*? Examine the issue from all perspectives.

NOTE:

(i) *In all the "Freight to collect" cases, the contract is between the carrier (foreign shipping line or through his Indian agent) and the consignee or notify party in India.*

(ii) *'Notify party' is the party mentioned in the Bill of lading who has to be notified on arrival of the cargo.*

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Case Study – 2

2.1 *M/s. Everywhere Transport Ltd.*, a logistics company, is engaged in providing door-to-door international multimodal transportation services. It essentially undertakes to transport cargo from the factory of the shipper to the consignee's factory. The transportation generally involves more than one mode of transportation viz., road, sea, rail and air. The processes involved in is illustrated as follows. *Everywhere* enters into a contract with the shipper having his plant at Surat to export a consignment of textiles to a consignee at Düsseldorf, Germany *'by sea'*. However, *Everywhere* agrees to pick up the cargo from the factory and reach it to the destination. *Everywhere* engages the following:

(i) a local transporter to move the empty containers from the container yard to the plant and thence transport laden containers from the plant to the load port, say, Kandla for onward transport by sea;

(ii) a shipping line for transport by sea from Kandla to the destination port, say, Hamburg;

(iii) a transporter or their counterpart in Hamburg to move the laden containers from Hamburg to the consignee at Düsseldorf.

During the interval for changing the mode of transport from sea to road or vice versa the cargo maybe stored in a warehouse. At the plant *Everywhere* would issue a “Multimodal Transport Document” (MTD) to the shipper accepting the goods for transportation from Surat to Düsseldorf. In the MTD the *‘place of acceptance’* would be shipper’s plant; the *‘port of loading’* would be Kandla; the *‘port of discharge’* maybe Hamburg and the ‘*place of discharge’* would be Düsseldorf. *Everywhere* incurs the following expenses:

(i) Ocean Freight payable to the shipping line;

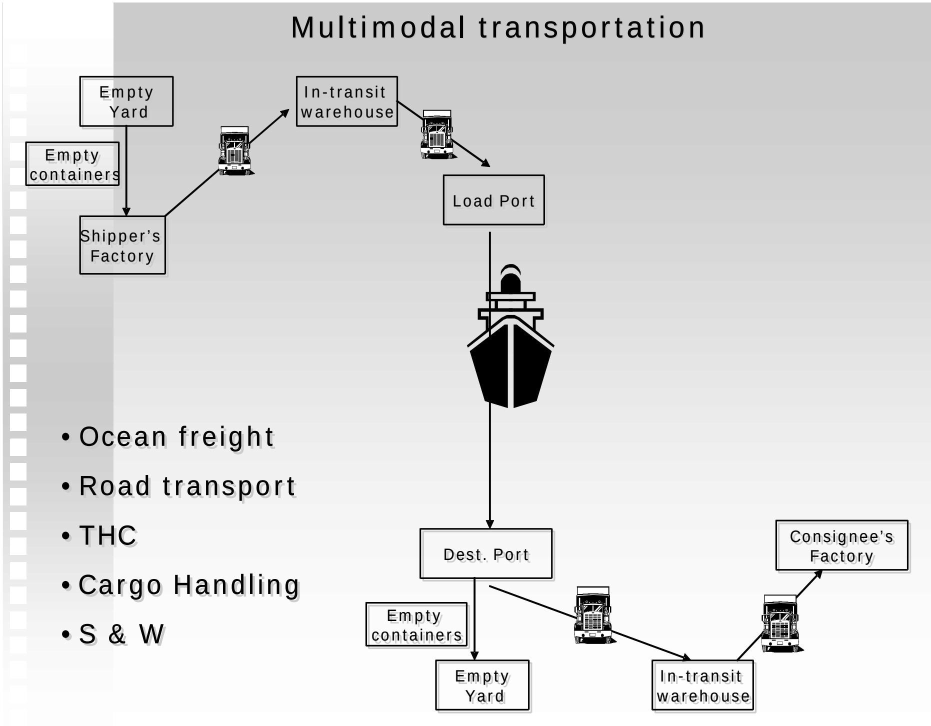
(ii) Terminal Handling payable to the port;

(iii) Cargo Handling payable to an agency;

(iv) Road transport charges payable to a transporter;

(v) Storage and Warehousing payable to a warehouse keeper.

For convenience of understanding the process is depicted pictorially as under.



For the entire single transportation contract, *Everywhere* charges the shipper by issuing two invoices for the following:

(a.i) Ocean Freight;

(a.ii) Inland Haulage Charges (charges for inland transportation by goods by road) (“IHC”) and terminal handling charges (“THC”)

In the alternative it may charge single amount towards its *service*. Analyse the service tax implications.

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Case Study – 3

3.1 *Committed Transport Ltd. ("CTL")* has bagged a transport contract for transportation of heavy duty equipment which its customer wants to import for a period of 2 years from 1.7.2016 - 30.6.2018 so as to launch it in Indian market. The transport is to be done from Mumbai to Delhi. CTL issues a consignment note to its customer and its customer pays service tax on the freight paid to CTL. Since *CTL* does not have the enough vehicles to deploy, it hires the services of *Responsible Transport Ltd. ("RTL").* RTL is required to make available 50 vehicles of a specified make with drivers and requisite licences for the said period of two years. RTL charges Rs. 50,000/- per day per vehicle deployed for a period of 12 hours and any overtime beyond 12 hours is charged at Rs. 10000/- per hour. Further, any travel beyond a certain number of kilometres is also charged extra. The responsibility for maintaining the vehicles in good condition and that of damage or loss during transportation is on RTL. RTL issues a consignment note to CTL. CTL has been paying service tax on the charges of RTL. CTL is in doubt whether it is liable to pay service tax on RTL's charges since it cannot utilize the credit on the tax it pays and there is cascading. Advice CTL.

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Case Study – 4

4.1 A & Co. (a partnership firm) owns a fleet of tourist cars, which it provides on a rental basis. The general terms of rental are as under:

(a) Rs. 3,000/- for 8 hours , additional Rs. 500/- per hour

(b) All tolls and parking charges to be paid directly by the person taking the car on rent

(c) Driver Allowance of Rs. 300/- per night to be directly paid to the driver by the person taking the car on rent

4.2 It has provided the cars on rental basis to the following persons:

(a) B Limited, which is in the business of construction of roads

(b) C & Co (a proprietory concern), which is in the business of providing software services

(c) D & Co (which is in the same business of renting of cars) for further renting to E Limited

(d) F Limited (which is in the same business of renting of cars) for further renting to G & Co.

(e) H Limited which is in the hotel business and uses this car for guest pick up and drop (on chargeable basis)

(f) H Limited (which has an online software to connect people in this regard)

4.3 Discuss issues pertaining to the following

(a) Valuation of Taxable Services

(b) Who is required to pay the tax in the specific situations mentioned above

(c) Eligibility of Abatement and partial reverse charge mechanism

(d) Availability of Credit to the clients of A & Co.

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Case Study – 5

5.1 ABC is in the business of providing solutions related to travel and tourism. It offers the following services

(a) Booking of air passage, for which it receives commission from the airline, incentives from CRS companies and sometimes convenience fees from the passengers. It also has markup in the air fare, which it appropriates to its' own account

(b) Arranging of passport and visa, for which there is a markup in the value

(c) Arranging of rail passes in Europe, for which commission is received and at the same time, there is a markup in the value

(d) Booking of hotels, for which a commission is received from the customer and at the same time, there is a markup in the hotel charges.

Discuss the service tax implications on ABC. Would it make a difference if the hotels referred to above are located outside India?

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