



# **WIRC**

## **Workshop on Service Tax**

### **Topics Covered:**

- a. Point of Taxation (POT)
- b. Place of provision of services.

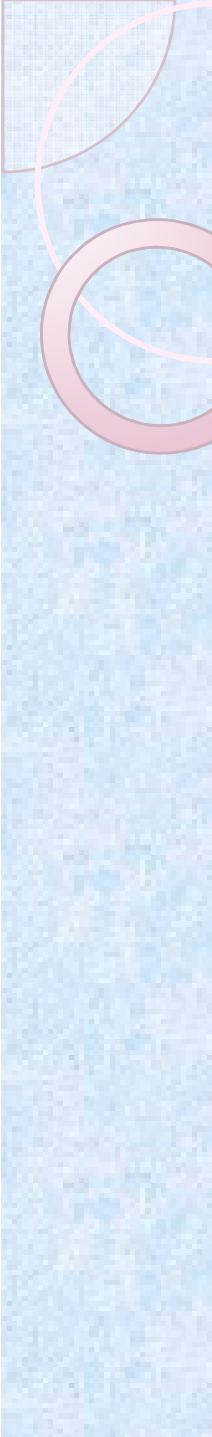
**29<sup>th</sup> May, 2015**

**-By C.A. Vinod Awtani**



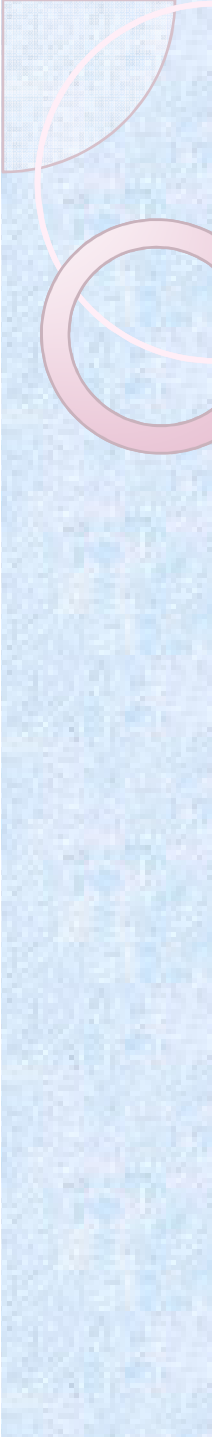
## POINT OF TAXATION RULES 2011. (POT)

- a. As per preamble, rules incorporated for the purpose of collection of service tax and determination of rate of service tax.
- b. Means the point of time when tax will be payable. Thus accrual of liability to pay to be determined from such rules.
- c. Point of taxation also required to be adopted for determination of applicable tax rate.



Section 67A which provides for determination of the date on which rate of duty, rate of tax and value of taxable service reads as follows :-

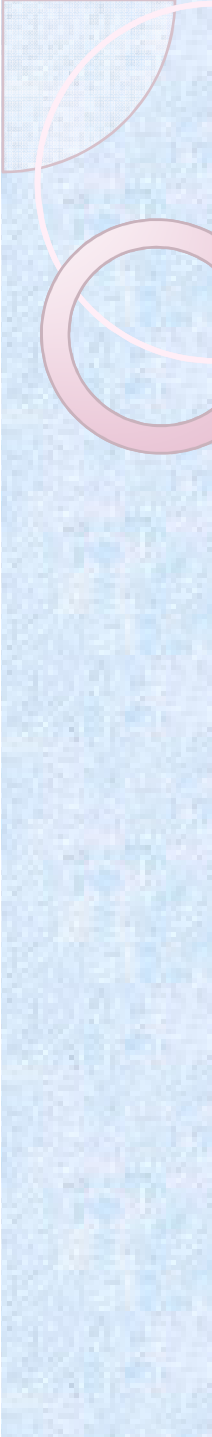
*“The **rate of service tax**, value of a taxable service and rate of exchange, if any, shall be the rate of service tax or value of a taxable service or rate of exchange, as the case may be, in force or as applicable at the time when the taxable service has been provided or agreed to be provided.*”



After introduction of section 67A, rule 5B which read as follows have been deleted.

*“5B. Date for determination of rate – The rate of tax in case of services provided, or to be provided, shall be the rate prevailing at the time when the services are deemed to have been provided under the rules made in this regard.”*

***Rule 5B was prevalent till 30-06-2012.***



W.e.f 1-07-2012 only section 67A is prevalent and the said section does not make any reference to Point of Taxation Rules and therefore may create problem in interpretation.

However, circular no. 162/13/2012-ST dated 6<sup>th</sup> July 2012 and other circulars issued by CBEC still refers to Point of Taxation Rules in determining the rate of tax.



# Point of Taxation Rules, 2011

Prior April, 2011, service tax was payable on receipt basis. The “Point of Taxation Rules, 2011” have been introduced w.e.f. 1<sup>st</sup> April, 2011 and since then the service tax is required to be paid on accrual basis or invoicing basis as commonly known.

**However, the compliance of the same was mandatory only from July 1<sup>st</sup>, 2011.**



## Rule 9 Transitional Provision

- Nothing contained in [these rules] shall be applicable, -
  - (i) where the provision of service is completed; or
  - (ii) where invoices are issued  
prior to the date on which these rules come into force :

**Provided** that services for which provision is completed on or before 30th day of June, 2011 or where the invoices are issued upto the 30th day of June, 2011, the point of taxation shall, at the option of the taxpayer, be the date on which the payment is received or made as the case may be.]



# Point of Taxation

## Rule 2

(e) “point of taxation” means the point in time when a service shall be deemed to have been provided.



# Determination of point of taxation

## Rule 3

For the purposes of these rules, unless otherwise provided, 'point of taxation' shall be-

- (a) the time when the invoice for the service provided or agreed to be provided is issued.

“Provided that where the invoice is not issued within the time period specified in rule 4A of the Service Tax Rules, 1994, the point of taxation shall be the date of completion of provision of the service”;

( currently 30 days from the completion of service)

- (b) In a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

## When is the provision of Service Completed?

The above question is explained by Circular No. 144/13/2011-S.T., dated 18-7-2011

### Issue:

In many situations it is not possible to issue invoices within 14 days of the completion of the service since the exact date of completion of service is difficult to identify. Instances have been given where after the task of providing the service may be physically accomplished, but certain other formalities are required to be completed from the client's end before an invoice can be issued.

### Clarification:

The Service Tax Rules, 1994 require that invoice should be issued within a period of 14 days from the completion of the taxable service. The invoice needs to indicate *inter alia* the value of service so completed. Thus it is important to identify the service so completed. *This would include not only the physical part of providing the service but also the completion of all other auxiliary activities that enable the service provider to be in a position to issue the invoice. Such auxiliary activities could include activities like measurement, quality testing etc. which may be essential pre-requisites for identification of completion of service.* The test for the determination whether a service has been completed would be the completion of all the related activities that place the service provider in a situation to be able to issue an invoice. However such activities do not include flimsy or irrelevant grounds for delay in issuance of invoice

## Whether reminders are also invoices?

Circular No. 166/1/2013-S.T., dated 1-1-2013

Issue: reminders sent by Life insurance companies.

3. The matter has been examined. Under the Point of Taxation Rules, 2011, the point of taxation generally is the date of issue of invoice or receipt of payment whichever is earlier. The invoice mentioned refers to the invoices as issued under Rule 4A of the Service Tax Rules, 1994. No tax point arises on account of such reminders. **Thus it is clarified that reminder letters/notices for insurance policies not being invoices would not invite levy of Service Tax. In case of issuance of any invoice, point of taxation shall accordingly be determined.**

## Rule 3 .....contd

“Provided that for the purposes of clauses (a) and (b), —

- (i) in case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service;
- (ii) wherever the provider of taxable service receives a payment **up to rupees one thousand in excess** of the amount indicated in the invoice, the point of taxation to the extent of such excess amount, at the option of the provider of taxable service, shall be determined in accordance with the provisions of clause (a).”

Explanation – For the purpose of this rule, wherever any advance by whatever name known is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.



## Point of taxation in case of change in rate.

(ba) “change in effective rate of tax” shall include a change in the portion of value on which tax is payable in terms of a notification issued in the Official Gazette under the provisions of the Act, or rules made thereunder;

## Circular no. 162/13/2012-ST dated 6<sup>th</sup> July 2012

3.2 To illustrate, the following would be changes in effective rate of tax:-

- i. the change in the portion of total value liable to tax in respect of works contract other than original works (from @ 4.8% earlier to @ 12% on 60% of the total amount charged, or effectively @ 7.2% now).
- ii. exemption granted to certain works contracts w.e.f. 1<sup>st</sup> July 2012 which were earlier taxable.
- iii. taxability of certain works contracts which were hitherto exempted.
- iv. change in the manner of payment of tax from composition scheme under the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 to payment on actual value under clause (i) of rule 2A of the Service Tax (Determination of Value) Rules, 2006.

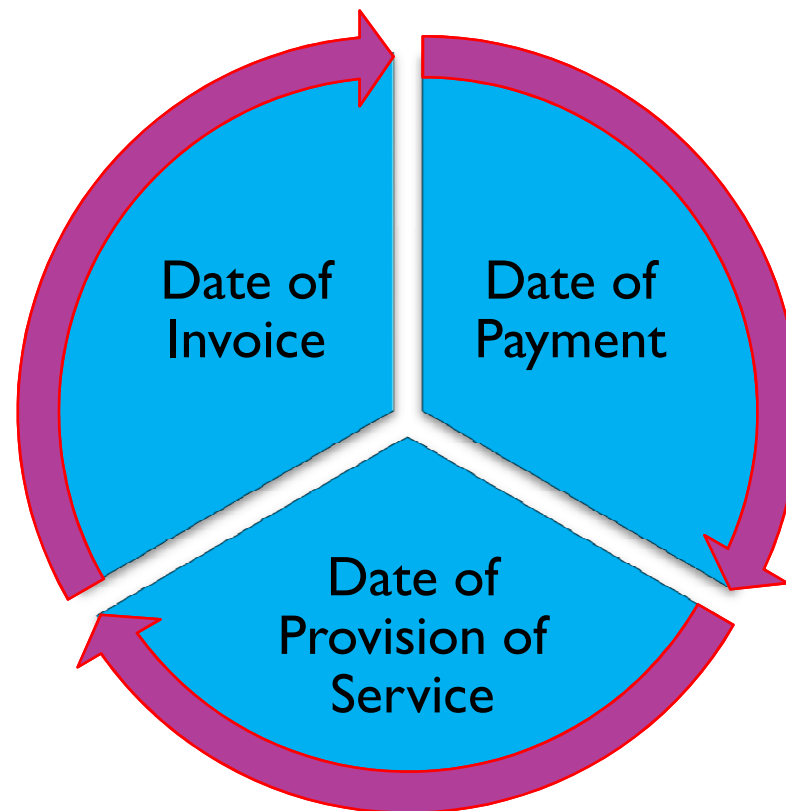
### 3.3 However, the following will not be a change in effective rate of tax:-

- I works contracts earlier paying service tax @ 4.8% under Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 and now required to pay service tax @12% on 40% of the total amount charged, keeping the effective rate again at 4.8% (as only the manner of expression has been altered).
  
- II works contracts which were outside the scope of taxation (and not merely exempted) but have become now taxable e.g. construction of residential complex comprising of 2 to 12 residential units, construction of buildings meant for use by NGOs etc. (Rule 5 of the Point of Taxation Rules, 2011 shall apply to such services.)



# PoTR – Change in effective rate of Service Tax

## Rule 4 (Commonly known as '2/3 Rule')



Rule 4 :- The point of taxation in case of change in rate can be explained by following tables :-

| <b>Provision of service</b>     | <b>Payment made</b> | <b>Invoice Issued</b> | <b>Point of Taxation</b>  | <b>Rate Applicable</b> |
|---------------------------------|---------------------|-----------------------|---|------------------------|
| <b>1. Before change of rate</b> | After rate change   | After rate change     | Date of issue of invoice or date of payment, whichever is earlier | New rate               |
|                                 | After rate change   | Before rate change    | date of issue of invoice  | Old rate               |
|                                 | Before rate change  | After rate change     | Date of payment   | Old rate               |

| Provision of service    | Payment made       | Invoice Issued         | Point of Taxation   | Rate Applicable |
|-------------------------|--------------------|------------------------|---|-----------------|
| 2. After change of rate | After rate change  | Before the rate change | Date of payment   | New rate        |
|                         | Before rate change | Before rate change     | Date of issue of invoice or date of payment, whichever is earlier | Old rate        |
|                         | Before rate change | After rate change      | Date of issue of invoice  | New rate        |

## Circular No. 155/6/2012-S.T., dated 9-4-2012

### Issue:

Airlines are collecting differential service tax on tickets issued before 1st April 2012 for journey after 1st April 2012, causing inconvenience to passengers.

3. Rule 4 of the Point of Taxation Rules, 2011 deals with the situations of change in effective rate of tax. In case of airline industry, the ticket so issued in any form is recognised as an invoice by virtue of proviso to Rule 4A of Service Tax Rules, 1994. Usually in case of online ticketing and counter sales by the airlines, the payment for the ticket is received before the issuance of the ticket. Rule 4(b)(ii) of the Point of Taxation Rules, 2011 addresses such situations and accordingly the point of taxation shall be the date of receipt of payment or date of issuance of invoice, whichever is earlier. Thus the service tax shall be charged @ 10% subject to applicable exemptions plus cesses in case of tickets issued before 1st April, 2012 when the payment is received before 1st April, 2012.

## Circular No. 155/6/2012-S.T., dated 9-4-2012

4. In case of sales through agents (IATA or otherwise including online sales and sales through GSA) the payment is received by the agent and remitted to airlines after some time. When the relationship between the airlines and such agents is that of principal and agent in terms of the Indian Contract Act, 1872, the payment to the agent is considered as payment to the principal. Accordingly as per Rule 4(b)(ii), the point of taxation shall be the date of receipt of payment or date of issuance of invoice, whichever is earlier. Thus the service tax shall be charged @ 10% subject to applicable exemptions plus cesses in case of tickets issued before 1st April 2012 when the payment is received before 1st April 2012 by the agent.



## DETERMINATION OF DATE OF PAYMENT.

Rule 2A. Date of payment.— For the purposes of these rules, “date of payment” shall be the earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax:



**Date of payment in case there is change in rate between entry in books of accounts and credit in bank accounts.**

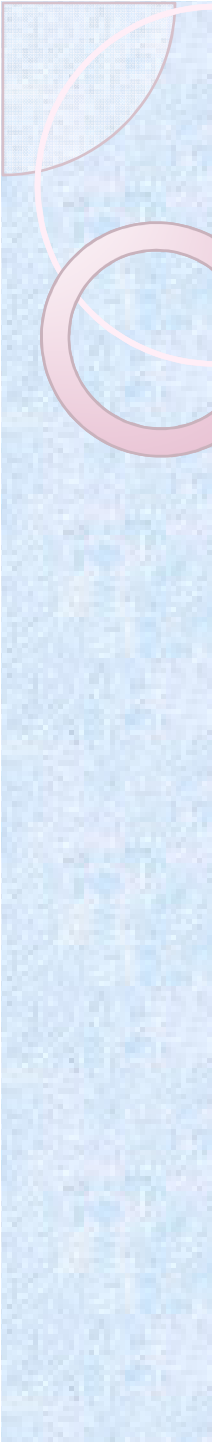
- (A) the date of payment shall be the date of credit in the bank account when —
- (i) there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account; and
  - (ii) the credit in the bank account is after four working days from the date when there is change in effective rate of tax or a service is taxed for the first time; and
  - (iii) the payment is made by way of an instrument which is credited to a bank account,
- (B) if any rule requires determination of the time or date of payment received, the expression “date of payment” shall be construed to mean such date on which the payment is received;”

# POINT OF TAXATION IN CASE OF NEW SERVICES

Rule 5. Where service tax is levied for the first time, then,-

- a) No tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- b) No tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within 14 days from the date of service is taxed for the first time.





It appears that this rule is contrary to ratio laid down by Supreme Court for levy of excise duty under Excise Act. The Hon. Supreme Court has in the case of Vazir Sultan Tobacco Co. Ltd. 1996 (83) ELT3 (SC) has held that the special excise duty levied equal to 5% of amount of excise duty levied under Finance Act, 1978 which came in to effect from 1<sup>st</sup> March 1978 is not chargeable on the stock which is manufactured prior to 28<sup>th</sup> February 1978. The Court held that as per entry no. 84 of list 1 of VII schedule, the parliament is empowered to make law providing for levy of duties of excise on tobacco and other goods manufactured or produced India, it cannot be levied at the stage of removal of the said goods. The idea of collection at the stage of removal is advised for the sake of convenience. It is not as if the levy is at the stage of removal. It is only the collection which is at the stage of removal.

## POINT OF TAXATION WITH RESPECT TO REVERSE CHARGE.

Provisions applicable from 01-October-2014.

*“Determination of point of taxation in case of specified services or persons.— Notwithstanding anything contained in rules 3, 4, or 8, the point of taxation in respect of the persons required to pay tax as recipients of service under the rules made in this regard in respect of services notified under sub-section (2) of section 68 of the Act, shall be the date on which payment is made :*

***Provided that where the payment is not made within a period of three months of the date of invoice, the point of taxation shall be the date immediately following the said period of three months:***

*Provided further that in case of “associated enterprises”, where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier.”*

## Point of Taxation Rules, 2011 (w.e.f. 1-10-2014)

Rule 7 of Point of Taxation Rules, 2011: –

Applicable for reverse charge.

- i. Point of taxation is date of payment.
- ii. If payment not made within *three* months then the *first day after expiry of said period* is point of taxation.
- iii. In case of import of services Associated enterprises the point of taxation is the date of accrual in the books.

## POT Summary for foreign Payments

- In respect of import of service, service tax is liable to be paid by recipient of service under reversed charge mechanism as per rule 7 of the Point of Taxation Rules, 2011. The same is summarized below

| Party  | Rule 7   | Point of taxation                          |
|--|--|--|
| Non Associated Enterprise  | If the payment is made within 3 months from the date of Vendor's Invoice     | Date of Payment                            |
|  | If the payment is not made within 3 months from the date of Vendor's Invoice | First Day after the expiry of three months |
| Associated Enterprise <u>in case of import of services only.</u> | Date of Credit in the Books of accounts OR Date of making the payment        | Earlier of the two Dates                   |

- Conclusion**

W.e.f. 01.10.2014, an assessee must pay service tax on the applicable rate (as per AS-II) on the date when the point of taxation arises.

## POINT OF TAXATION WITH RESPECT TO REVERSE CHARGE upto 30-09-2014.

The erstwhile Rule 7 of the Point of Taxation Rules, 2011 as existed prior 01-October-2014 provided for the point of taxation in respect of reverse charge. The said Rule is reproduced as follows:

*“Determination of point of taxation in case of specified services or persons.— Notwithstanding anything these rules, the point of taxation in respect of the persons required to pay tax as recipients of service under the rules made in this regard in respect of services notified under sub-section (2) of section 68 of the Act, shall be the date on which payment is made:*

***Provided** that where the payment is not made within a period of six months of the date of invoice, the point of taxation shall be determined as if this rule does not exist:*

***Provided further** that in case of “associated enterprises”, where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier.”*



## Point of Taxation Rules, 2011. (upto 30.09.2014)

Continued...

Rule 7 of Point of Taxation Rules, 2011: –

Applicable for reverse charge.

- i. Point of taxation is date of payment.
- ii. If payment not made within six months then date of invoice is point of taxation.
- iii. In case of import of services received from Associated enterprises the point of taxation is the date of accrual in the books.

# Transitional Period from 01/10/2014 onwards

## **Transitional Provision Rule 10 of POT Rules**

**Rule [10].** *Notwithstanding anything contained in the first proviso to rule 7, if the invoice in respect of a service, for which point of taxation is determinable under rule 7 has been issued before the 1st day of October, 2014 but payment has not been made as on the said day, the point of taxation shall, -*

- (a) if payment is made within a period of six months of the date of invoice, be the date on which payment is made;*
- (b) if payment is not made within a period of six months of the date of invoice, be determined as if rule 7 and this rule do not exist.*



## Determination of point of taxation in case of copyright [Rule 8]

- **RULE 8. Determination of point of taxation in case of copyrights, etc. —** In respect of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever is earlier.





## Point of taxation of services with associated enterprise located in INDIA

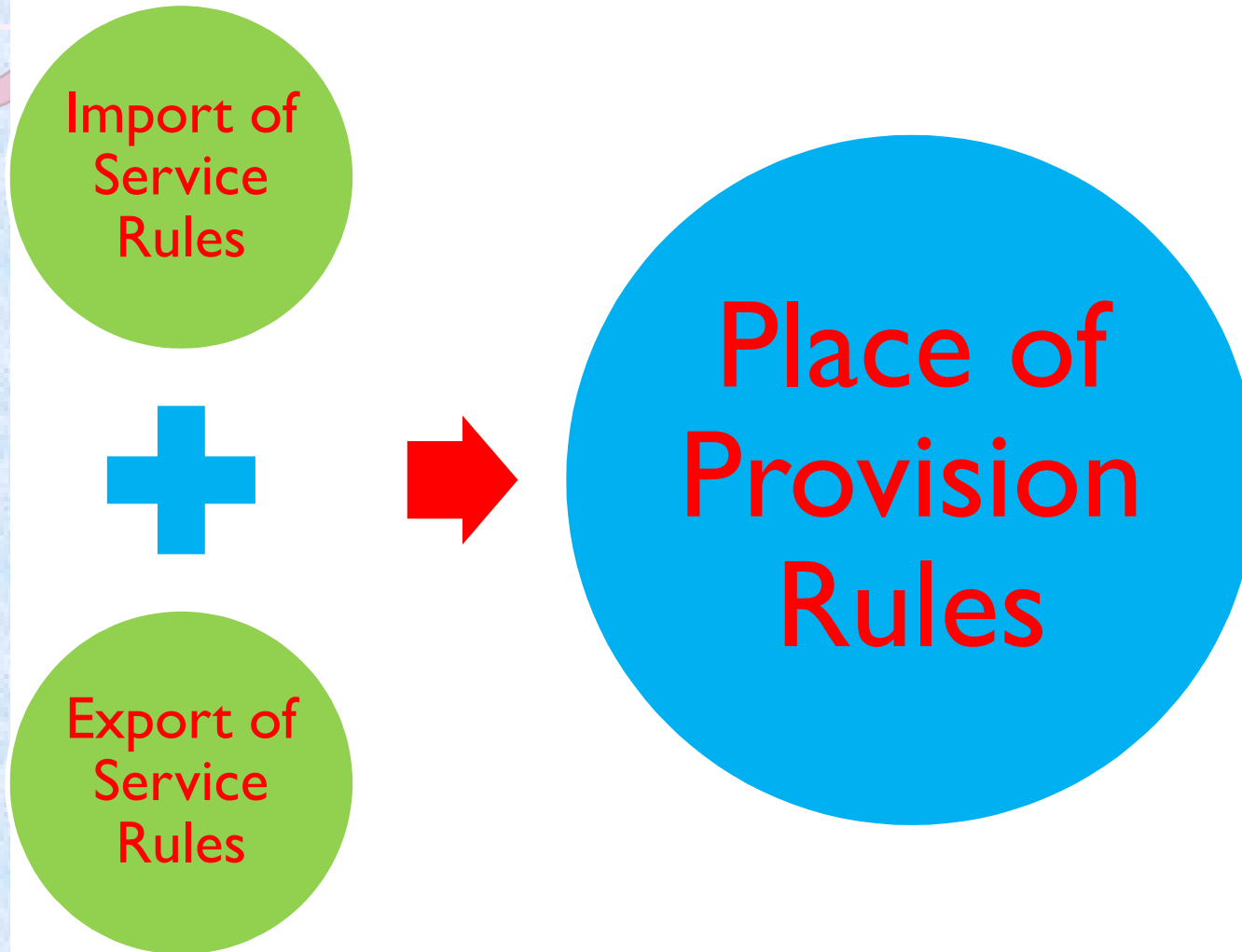
There is no specific rule which provides for determination of point of taxation when the associated enterprise is located in India. Therefore the point of taxation will be governed by rule 3 where provider of service is liable to pay service tax or by rule 7 where service tax is payable under reverse charge.



## [Rule 8A]

**RULE 8A. Determination of point of taxation in other cases.** — Where the point of taxation cannot be determined as per these rules as the date of invoice or the date of payment or both are not available, the Central Excise officer, may, require the concerned person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account such material and the effective rate of tax prevalent at different points of time, shall, by an order in writing, after giving an opportunity of being heard, determine the point of taxation to the best of his judgment.

# PLACE OF PROVISION RULES, 2012



# Place Of Provision Rules, 2012

- a.) Place of provision rules, 2012 is being introduced to determine, where the service are deemed to have been provided/ supplied.
  
- b.) On the basis of the said rules, one can determine the taxability for off shore transactions as well as inter state transaction, going forward under the GST regime.

# Relevant Provisions

## **1.) Section 66B Charge of service tax on and after Finance Act, 2012. —**

*There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.*

## **2.) Section 66C. Determination of Place of Provision of Service.**

*The Central Government may, having regard to the nature and description of various services, by rules made in this regard, determine the place where such services are provided or deemed to have been provided or agreed to be provided or deemed to have been agreed to be provided*



## SECTION 65B(52) OF THE FINANCE ACT, 1994

*“taxable territory” means the territory to which the provisions of this Chapter apply;*

*As per section 64, the Chapter applies to whole of India except the State of Jammu and Kashmir.*



## ORDER OF APPLICATION OF RULES [RULE 14]

*“Notwithstanding anything stated in any rule, where the provision of a service is, prima facie, determinable in terms of more than one rule, it shall be determined in accordance with the rule that occurs later among the rules that merit equal consideration.”*



## Broad framework of rules relating to Place of Provision of service [POPS]

**Place of provision generally is location of service receiver [Rule 3]**

*“Rule 3. The place of provision of service shall be the location of the recipient of service*

*Provided that in case the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service.”*

**Example – Management Consultancy**



# DEFINITIONS

## Location of service receiver [Rule 2(i)]

(i) *“location of the service receiver” means:-*

a) *where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;*

b) *where the recipient of service is not covered under sub-clause (a):*

*(i) the location of his business establishment; or*

*(ii) where services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or*

## Location of service receiver [Rule 2(i)]

- (iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and*
- (iv) in the absence of such places, the usual place of residence of the recipient of service.*

### **Explanation:-**

*For the purposes of clauses (h) and (i), “usual place of residence” in case of a body corporate means the place where it is incorporated or otherwise legally constituted.*

### **Explanation 2:-**

*For the purpose of clause (i), in the case of telecommunication service, the usual place of residence shall be the billing address.*

## Location of service provider [Rule 2(h)]

*(h) “location of the service provider” means-*

- (a) where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;*
- (b) where the service provider is not covered under sub-clause (a):*
  - i. the location of his business establishment; or*
  - ii. where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, location of such establishment; or*
  - iii. where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and*
  - iv. in the absence of such places, the usual place of residence of the service provider.*



- ## Meaning of Business Establishment

*5.2.5 'Business establishment' is the place where the essential decisions concerning the general management of the business are adopted, and where the functions of its central administration are carried out. This could be the head office, or a factory, or a factory, or a workshop, or shop/ retail outlet. Most significantly, there is only one business establishment that a service provider or receiver can have.*

- ## Meaning of Fixed Establishment

*5.2.6 A "fixed establishment" is a place (other than the business establishment) which is characterized by a sufficient degree of permanence and suitable structure in term of human and technical resources to provide the services that are to be supplied by it, or to enable it to receive and use the services supplied to it for its own needs.*

# Performance based services

## [Rule 4]

Rule 4(a) read as follows :-“The place of provision of following services shall be the location where the services are actually performed, namely:-

- (a) services provided in respect of goods that are required to be made physically available by the recipient of service to the provider of service, or to a person acting on behalf of the provider of service, in order to provide the service:

*Provided that when such services are provided from a remote location by way of electronic means the place of provision shall be the location where goods are situated at the time of provision of service*

**Provided further that this clause shall not apply in the case of a service provided in respect of goods that are temporarily imported into India for **repairs and are exported after the repairs without being put to any use in the taxable territory, other than that which is required for such repair****

**Example- Repair of defective goods**



## PERFORMANCE BASED SERVICES [RULE 4]

*“(b) services provided to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the receiver or the person acting on behalf of the receiver, with the provider for the provision of the service.”*

### **Example – Beauty Treatment**

# Immovable property [Rule 5]

*“The place of provision of services provided directly in relation to an immovable property, including services provided in this regard by experts and estate agents, provision of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including architects or interior decorators, shall be the place where the immovable property is located or intended to be located.”*

**Example – Renting**



# Admission to or organization of event etc. [Rule 6]

*“The place of provision of services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be the place where the event is actually held.”*

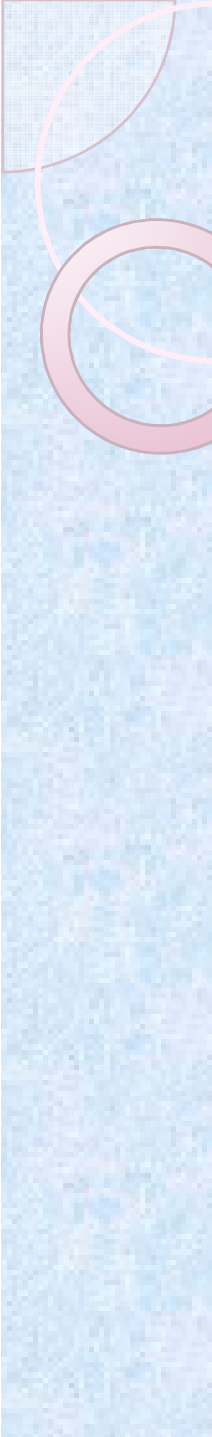
## **Example – Organizing Award Function**



# Services provided at more than one location [Rule 7]

*“Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in the taxable territory, its place of provision shall be the location in the taxable territory where the greatest proportion of the service is provided.”*

**Example – Road Shows in different countries**



# Service provider and recipient located in taxable territory [Rule 8]

*“Place of provision of a service, where the location of the provider of service as well as that of the recipient of service is in the taxable territory, shall be the location of the recipient of service.”*

**Example - Indian architect working on property in UK for Indian Company**

# In respect of specified services [Rule 9] subclause (a)

*Rule 9 is reproduced below :-*

*“The place of provision of following services shall be the location of the service provider:-*

- a. Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;*

***Meaning of account :-***

*An account bearing interest to the depositor, and includes a non resident external account and a non- resident ordinary account;*

**Example – Demand Draft Charges**

# In respect of specified services [Rule 9] subclause (b)

*Rule 9 is reproduced below :-*

*“The place of provision of following services shall be the location of the service provider:-*

*b. Online information and database access or retrieval services;*

*Meaning of online Information and Database access or retrieval services*

*” means providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;*

**Example – Taxmann.com, taxindiaonline.com**

# Specified services [Rule 9] subclause (c)

*“The place of provision of Intermediary services shall be the location of the service provider.*

*c. Intermediary services;*

## **Example – Travel Agent**

Meaning of Intermediary:-

- A. Prior to 01.10.2014 ; “A broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) between two or more persons, but does not include a person who provides the main service on his account”
  
- B. Post 01.10.2014: “A broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) **or a supply of goods**, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account”

## IN RESPECT OF SPECIFIED SERVICES [RULE 9]

- d. Service consisting of hiring of all means of transport other than,-*
- (i) aircrafts, and*
  - (ii) vessels except yachts,*
- upto a period of one month.*

**Example – Bus given on hire**

## PLACE OF PROVISION OF GOODS TRANSPORTATION SERVICES [RULE 10]

*“The place of provision of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of the goods.*

*Provided that the place of provision of services of goods transportation agency shall be the location of the person liable to pay tax.”*

**Example –Transport of Goods by Air  
from India to UK**

(d) *“person liable for paying service tax”, -*

(i) *in respect of the taxable services notified under sub-section (2) of section 68 of the Act, means,-*

(A) \_\_\_\_\_

(B) *in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—*

\_\_\_\_\_

\_\_\_\_\_

*any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage :*

*Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.*





## Place of Provision of Passenger Transportation Service [Rule 11]

*“The place of provision in respect of a passenger transportation service shall be the place where the passenger embarks on the conveyance for a continuous journey.”*

**Example – Transport of Passenger by Air from India to UK**



## Place of Provision of Passenger Transportation Service [Rule 11]

*(d) “continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by one service provider or through one agent acting on behalf of more than one service provider, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.*

*(g) “leg of journey” means a part of the journey that begins where passengers embark or disembark the conveyance, or where it is stopped to allow for its servicing or refuelling, and ends where it is next stopped for any of those purposes.*

## Place of Provision of Passenger Transportation Service [Rule 11]

**5.11.3** What is the meaning of a stopover? Do all stopovers break a continuous journey?

"Stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time. All stopovers do not cause a break in continuous journey. **Only such stopovers will be relevant for which one or more separate tickets are issued.** Thus a travel on Delhi-London-New York-London-Delhi on a single ticket with a halt at London on either side, or even both, will be covered by the definition of continuous journey. However if a separate ticket is issued, say New York-Boston-New York, the same will be outside the scope of a continuous journey.

## PLACE OF PROVISION OF SERVICES PROVIDED ON BOARD A CONVEYANCE [RULE 12]

*Place of provision of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.*

**Example – In flight Movie**



## POWERS TO NOTIFY DESCRIPTION OF SERVICES OR CIRCUMSTANCES FOR CERTAIN PURPOSES [RULE 13]

*“In order to prevent double taxation or non-taxation of the provision of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of provision shall be the place of effective use and enjoyment of a service.”*



**THANK YOU**

**PRESENTED BY:**

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