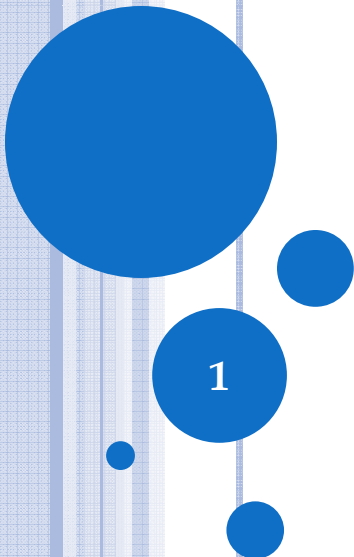


WORKSHOP ON SERVICE TAX FOR BEGINNERS

14 March, 2015



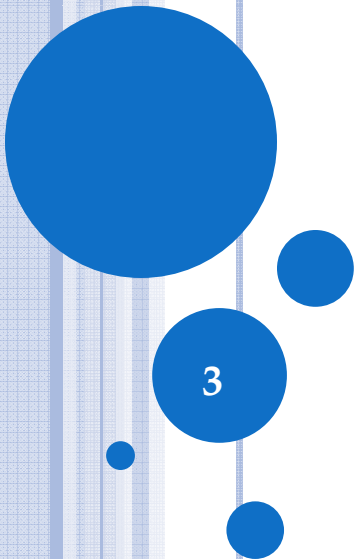
Presented by
CA Archit Agarwal

TOPICS COVERED—

1. REVERSE CHARGE MECHANISM
2. PLACE OF PROVISION OF SERVICE RULES, 2012

REVERSE CHARGE UNDER SERVICE TAX

(NOTIFICATION NO. 30/2012 DATED 20.06.2012)



STATUTORY PROVISION: SECTION 68 OF THE FINANCE ACT, 1994

- 1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed.
- 2) Notwithstanding anything contained in sub-section (1), in respect of such taxable services as may be notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service :

Provided that the Central Government may notify the service and the extent of service tax which shall be payable by such person and the provisions of this Chapter shall apply to such person to the extent so specified and the remaining part of the service tax shall be paid by the service provider.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 1. | in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business | Nil | 100% |

As per Service Tax Rules, 1994 'insurance agent' shall be as defined under Section 2(10) of the Insurance Act, 1938 which is produced as follows:

“(10) insurance agent means an insurance agent licensed under Section 42 who receives agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance;”

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 1A | In respect of services provided or agreed to be provided by a recovery agent to a banking company or financial institution or non-banking financial institution. | Nil | 100% |

This entry has been introduced w.e.f. 11-July-2014.

Erstwhile **Section 65(105)(zzzl) of the Finance Act, 1994** defined taxable service provided by the Recovery Agents as follows:

“(zzzl) to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or a financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner;”

Letter No. 334/4/2006-TRU, dated 28-2-2006.

“3.8 Recovery Agent : Services provided for recovery of any sums due to a commercial or business entity are covered under this category. Under Securities and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 and the relevant rules made thereunder, banks and other financial institutions appoint recovery agents.”

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 1B | In respect of services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company. | Nil | 100% |

This entry was introduced vide Notification No. 7/2015-S.T. dated 1-March-2015 and the same shall be applicable with effect from 1-April-2015.

* Presently the service provided by Mutual Fund Agent or distributor, to mutual fund or asset management company is exempt from service tax vide notification no. 25/2012. The said exemption has been withdrawn vide notification no. 6/2015 effective from 1-April-2015.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 1C | In respect of services provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent. | Nil | 100% |

This entry was introduced vide Notification No. 7/2015-S.T. dated 1-March-2015 and the same shall be applicable with effect from 1-April-2015.

* Presently the service provided by selling or marketing agent of lottery tickets to a lottery distributor or selling agent is exempt from service tax vide notification no. 25/2012. The said exemption has been withdrawn vide notification no. 6/2015 effective from 1-April-2015.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 2 | in respect of services 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 covered under the specified persons. | Nil | 100% |

Explanation I to the Notification is reproduced below:

The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Person liable for paying service tax -

(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, —

- 1) any factory registered under or governed by the Factories Act, 1948;
- 2) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India;
- 3) any co-operative society established by or under any law;
- 4) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made there under;
- 5) any body corporate established, by or under any law; or
- 6) any partnership firm whether registered or not under any law including association of persons;

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

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 3 | in respect of services provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory | Nil | 100% |

Erstwhile definition of “sponsorship” includes:

- Naming an event after the sponsor
- Displaying the sponsor’s company logo or trading name
- Giving the sponsor exclusive or priority booking rights
- Sponsoring prizes or trophies for competition

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 4 | in respect of services provided or agreed to be provided by an arbitral tribunal | Nil | 100% |

As per Arbitration and Conciliation Act, 1996.

" arbitration' means any arbitration whether or not administered by permanent arbitral institution;

" arbitral tribunal" means a sole arbitrator or a panel of arbitrators;

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 5 | in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services | Nil | 100% |

Advocate Act – “advocate” means an advocate entered in any roll under the provisions of this Act;

Service tax Rules –

[(cca) “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 5A | in respect of services provided or agreed to be provided by a director of a company or a *body corporate to the said company or the *body corporate | Nil | 100% |

The entry was introduced vide Notification No. 45/2012-S.T. dated 07-August-2012

*This entry was amended vide Notification No. 10/2014-S.T. dated 11-July-2014 to include the word 'body corporate' w.e.f. 11-July-2014

D.O.F. No. 334/15/2014 – T.R.U. dated 10/07/2014: Body corporate includes bodies like Reserve Bank of India

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 6 | in respect of services provided or agreed to be provided by Government or local authority *(_) excluding,- (1) renting of immovable property, (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994 | Nil | 100% |

*The words “by way of support services” shall be omitted W.E.F. 1-April-2015. Presently only the support service provided by Government or local authority to business entity is taxable under reverse charge mechanism. However, the word “support” is proposed to be deleted from date to be notified after enactment.

GOVERNMENT SERVICES WHICH ARE NOT COVERED UNDER REVERSE CHARGE. –

- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government;
- (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (iii) transport of goods or passengers;

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

Person liable in relation to serial no. 7, 8 & 9:

provided or agreed to be provided by way of:

- (a) renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business; or
- (b) supply of manpower for any purpose; or
- (c) security services; or
- (d) service portion in execution of works contract

by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory

to a business entity registered as body corporate, located in the taxable territory;

MEANING OF BODY CORPORATE

Service Tax Rules, -

(bc) "body corporate" has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);

Companies act, the term body corporate is defined as follows:

- (7) "body corporate" or "corporation" includes a company incorporated outside India but does not include-
- (a) a corporation sole;
 - (b) a co-operative society registered under any law relating to co-operative societies; and
 - (c) any other body corporate (not being a company as defined in this Act) which the Central Government may, by notification in the Official Gazette, specify in this behalf;

Company Law Board vide Circular No. 8(26)/2(7)/63-PR dated 13.03.1963 has discussed the meaning of the term 'body corporate' as follows:

Generally speaking, the Department would consider that any corporate body, i.e., a body which has been or is incorporated under some statute and which has a perpetual succession, a common seal and is a legal entity apart from the members constituting it, will come within the definition of the term 'body corporate'. The term will not, however, include a society registered under the Societies Registration Act, 1860, or any of the bodies which have been specifically excluded by sub-clauses (a), (b) and (c) of clause (7) of section 2.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 7 | <p>(a) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business</p> <p>(b) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business [Partial Reverse Charge]</p> | <p>Nil</p> <p>50% (Effective from 01/10/2014. Earlier, it was 60%)</p> | <p>100 %</p> <p>50% (Effective from 01/10/2014. Earlier, it was 40%)</p> |

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service (Partial Reverse Charge) | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 8. | in respect of services provided or agreed to be provided by way of supply of manpower for any purpose or *security service | Nil (Effective from 01/04/2015. Currently - 25%) | 100 % (Effective from 01/04/2015. Currently - 75%) |

*This entry was amended to include 'security services' vide Notification No. 45/2012-S.T. dated 07-August-2012.

Rule 2 (1) (g) of Service Tax Rules, 1994.

"supply of manpower" means supply of manpower, temporarily or otherwise, to another person to work under his superintendence or control."

Rule 2 (1) (fa) of Service Tax Rules, 1994.

"security services" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity;"

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|--|--|---|
| 9. | in respect of services provided or agreed to be provided in service portion in execution of works contract | 50% | 50% |

Section 65B (54) - "works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

Continued...

Explanation-II under notification no. 30/2012–S.T.

In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|---|---|
| 10. | in respect of services provided or agreed to be provided by any person who is located in a non-taxable territory and received by a person located in a taxable territory. | Nil | 100% |

NOTIFICATION 30/2012-S.T. DATED 20TH JUNE, 2012

| Sr. No. | Description of a service | % of S.T. payable by provider of service | % of S.T. payable by any person liable for paying service tax other than the service provider |
|---------|---|--|---|
| 11 | In respect of any services provided or agreed to be provided by a person involving an aggregator in any manner. | Nil | 100% |

This entry was introduced vide Notification No. 7/2015-S.T. dated 1-March-2015 – applicable with immediate effect.



AGGREGATOR SERVICE

- 1) Rule 2(1)(d) of the Service tax Rules, 1994 has been amended vide notification no. 05/2015 dated 1-March-2015 so as to make the aggregator as person liable to pay service tax in respect of any service provided under aggregator model using the brand name of the aggregator.
- 2) If the aggregator is not having a physical presence in the taxable territory then person liable to pay service tax will be any person representing the aggregator in the taxable territory.
- 3) If aggregator and his agent do not have any physical presence in the taxable territory then the aggregator must appoint a person in the taxable territory for the purpose of paying the service tax on behalf of the aggregator.



Continued...

The term “aggregator” and “Brand Name” has been defined in Rule 2(1)(aa) and (bca) of the Service Tax Rules, 1994 respectively are as follows:

- 'aggregator' means a person who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator.
- 'brand name or trade name' means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person.



PLACE OF PROVISION OF SERVICE RULES, 2012

RELEVANT PROVISIONS

- ❖ ***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.
- ❖ ***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.

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 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]

❖ *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;

Example – Demand Draft Charges

b. Online information and database access or retrieval services;

Example – Online News

c. Intermediary services;

Example – Travel Agent

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

IN RESPECT OF SPECIFIED SERVICES [RULE 9]

Meaning of account :-

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

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;

IN RESPECT OF SPECIFIED SERVICES [RULE 9]

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”

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 refueling, 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 Passenger Transportation Service [Rule 11]

Mega Exemption (notification no. 25/2012)

“23. Transport of passengers, with or without accompanied belongings, by –

(a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;

(b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or

(c) ropeway, cable car or aerial tramway;”

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.”

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.”

THANK YOU

Presented by
C.A. ARCHIT AGARWAL



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