

CUSTOMS DUTY

Air passengers travelling to USA prohibited to carry rice in baggage

U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA – APHIS) has notified new phytosanitary regulations for the entry of rice from countries including India where Khapra beetle (*Trogoderma granarium*) is known to occur. These regulations, *inter alia* prohibit non-commercial rice consignment including passenger baggage and mail with effect from 30th July, 2011.

Therefore, CBEC has clarified that all air passengers travelling to USA should not carry rice in their baggage. The prohibition would also be applicable in dispatch of rice through other means such as courier or mail.

[Circular No.34/2011- Cus dated 03.08.2011]

SERVICE TAX

International Private Leased Circuit (IPCL) charges are liable to service tax under Business Support Services

The issue on which the clarification from CBEC is sought is whether International Private Leased Circuit (IPCL) charges incurred in foreign currency by BPO/MNCs against receipt of services from the service provider situated outside India/group companies are liable to service tax under reverse charge mechanism [Section 66A of the Finance Act, 1994 read with Rule 2 (1) (d) (iv) of the Service Tax Rules 1994].

The activities are in the nature of Leased Circuit services presently covered under Telecommunication service. However, for getting classified under Telecommunication service, Section 65 (105 (zzzx) of the Finance Act, 1994 provides that the service should be provided by a Telegraph authority. Telecommunication service as defined under Section 65 (109a) covers services which are provided by a person who has been granted a licence under the first proviso to sub-section (I) of section 4 of the Indian Telegraph Act, 1885. In this situation in the instant case since the service provider is located abroad, he is not covered under the definition given in Section 65 (109a). Thus the service provided by foreign vendors cannot be taxed under Telecommunication service.

However, it has been clarified that the above activity of receiving IPCL service from abroad is chargeable to Service Tax under Business Support Service [Section 65 (105)(zzzq) *ibid*] at the hands of recipients situated in India in terms of Section 66A of the Finance Act, 1994, read with Rule 2 (1) (d) (iv) of the Service Tax Rules, 1994 and provisions of Taxation of Services (Provided) From Outside India and Received in India, Rules 2006 apply. The definition of business support service *inter alia* includes the above activity.

[CBEC Letter No. F.No.137/21/2011-ST dated 15.07.2011]

Source: www.cbec.gov.in and www.tiol.com

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Secretary

Indirect Taxes Committee

The Institute of Chartered Accountants of India

ICAI Bhawan A-29, Sector -62, NOIDA (U.P.)India

Telephone Direct - +91 120 3045 906 Telephone Board - +91 120 3045900 Ext. 906