

SERVICE TAX

Supreme Court grants stay on service tax on commercial rentals

A 10% service tax on commercial rentals was originally introduced in the year 2007 which was stayed by the Delhi High Court in the case of *Home Solution Retail India Ltd. v. UOI 2009 20 STT 129 (Del.)*. The High Court in the instant case held that the renting of immovable property could not be regarded as a service exigible to service tax. However, the Finance Act, 2010 amended the definition of taxable renting of immovable property service to provide explicitly that the activity of 'renting' itself is a taxable service. The amendment was given retrospective effect from the year 2007.

Since then, the Punjab and Haryana High Court, the Karnataka High Court, the Orissa High Court, the Bombay High Court and recently the Delhi High Court have upheld the decision of the Government.

However, in an appeal filed by the Retailers Association of India against the decision of Bombay High Court with the Apex Court, the Apex Court has granted stay over the High Court's decision that upheld the Government proposal to bring the commercial renting of properties under services tax net.

Source: <http://www.financialexpress.com/news/service-tax-on-commercial-rentals-stayed/853177/>

CUSTOMS

Advance Ruling facility available to resident public limited companies

By virtue of *Notification No. 67/2011 dated 22.09.2011*, the Resident Public Limited Companies have been brought under the ambit of Section 28E of Customs Act. Such companies can now avail the facility of advance ruling on the issues like classification, applicability of any exemption notification, principles of valuation, applicability of notifications issued in respect of duties under the Customs Act, 1962, Customs Tariff Act, 1975, and any duty chargeable under any other law for the time being in force in the same manner as duty of Customs under the Customs Act, 1962 etc.

Public limited company shall have the same meaning as is assigned to a "public company" in clause (iv) of sub-section (1) of section 3 of the Companies Act, 1956 and shall include a private company that becomes a public company by virtue of section 43A of the said Act. A 'resident' shall have the same meaning as is assigned to it in clause

(42) of section 2 of the Income tax Act, 1961 in so far as it applies to a company. The facility provides an option to wholly Indian-owned companies to seek binding rulings so as to avoid risk litigation at a later stage.

Hitherto, the advance ruling facility was restricted to any person who is a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident, any person who is a resident setting up a joint venture in India in collaboration with a non-resident, a wholly-owned subsidiary Indian company of which the holding company is a foreign company, a joint venture in India or a resident who proposes to import any goods under specified preferential or free trade agreements. In 2009, public sector companies were also allowed to seek advance ruling and now the facility has been extended to resident public limited companies.

[Notification No.67/2011 Cus. (NT) dated 22.09.2011]

Source: www.cbec.gov.in

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