

SERVICE TAX

Clarification on Levy of service tax on services provided by RWA

Notification No. 25/2012- ST dated 20.06.2012 clause no. 28(c ) provides for exemption to service by a RWA to its own members by way of reimbursement of charges or share of contribution up to five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members.

CBEC has issued a Circular No. 175/01/2014- ST dated 10.1.2014, which have clarified certain doubts regarding the scope of the present exemption extended to RWAs under the negative list approach as below :

Doubt-1

(i) In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods [Example: for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity Bill for the common area and lift, etc.]. Is service tax leviable?

(ii) If the contribution of a member/s of a RWA exceeds five thousand rupees per month, how should the service tax liability be calculated?

Clarification

Exemption at Sl. No. 28 (c) in notification No. 25/2012-ST is provided specifically with reference to service provided by an unincorporated body or a non-profit entity registered under any law for the time being in force such as RWAs, to its own members. However, a monetary ceiling has been prescribed for this exemption, calculated in the form of five thousand rupees per month per member contribution to the RWA, for sourcing of goods or services from third person for the common use of its members.

Doubt-2

(i)Is threshold exemption under notification No. 33/2012-ST available to RWA?

(ii)Does 'aggregate value' for the purpose of threshold exemption, include the value of exempt service?

Clarification

Threshold exemption available under notification No. 33/2012-ST is applicable to a RWA, subject to conditions prescribed in the notification. Under this notification, taxable services of aggregate value not exceeding 10 lacs rupees in any financial year is exempted from service tax. As per the definition of 'aggregate value' provided in Explanation B of the notification, aggregate value does not include the value of services which are exempt from service tax.

### Doubt-3

If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of exemptions provided in Notification 33/2012-ST or 25/2012-ST ?

### Clarification

*In Rule 5(2) of the Service Tax (Determination of Value) Rules, 2006, it is provided that expenditure or costs incurred by a service provider as a pure agent of the recipient of service shall be excluded from the value of taxable service, subject to the conditions specified in the Rule.*

*For illustration, where the payment for an electricity bill raised by an electricity transmission or distribution utility in the name of the owner of an apartment in respect of electricity consumed thereon, is collected and paid by the RWA to the utility, without charging any commission or a consideration by any other name, the RWA is acting as a pure agent and hence exclusion from the value of taxable service would be available. However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area, etc., since there is no agent involved in these transactions, the exclusion from the value of taxable service would not be available.*

### Doubt-4

Is CENVAT credit available to RWA for payment of service tax?

### Clarification

*RWA may avail cenvat credit and use the same for payment of service tax, in accordance with the Cenvat Credit Rules.*

[Circular No. 175 /01 /2014 - ST dated 10.1.2014]

### **Exemption for Sponsorship of Sporting events extended even if participating team represents Country**

*Services by way of sponsorship of sporting events organised by a national sports federation, or its affiliated federations were exempt if participating teams or individuals represent any district, state or zone. The aforesaid exemption has been extended even if participating teams or individuals represents **Country**.*

[Notification No. 1/2014 ST dated 10.1.2014]

### Amendment to CENVAT Credit Rules(CCR), 2004

Rule 3, sub rule 5(c) of CCR, provides that where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under Rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on inputs used in the manufacture or production of said goods shall be reversed.

The aforesaid provision has been amended. Now, even the CENVAT credit on **input services used in or in relation to the manufacture or production of said remitted goods is required to be reversed.**

Further, an explanation has been inserted after Sub-rule 5(C) which clarify that the amount payable under sub-rules (5), (5A), (5B) and (5C), unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

Also, an earlier explanation which provide for the recovery of cenvat credit taken by the manufacturer of goods or the provider of output services under sub-rules (5), (5A) and (5B) in the manner as provided in rule 14, has been amended. Now if the manufacturer of goods or the provider of output services fails to pay the amount payable under sub-rules (5), (5A), (5B) and (5C) , it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken and utilised."

[ Notification 1/20014-CX dated 08.01.2014]

Source: [www.cbec.gov.in](http://www.cbec.gov.in)

#### **Disclaimer**

Information published in the newsletter are taken from publicly available sources and believed to be accurate. The Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the newsletter. No part of this newsletter may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of

#### **ICAI Feedback**

The Indirect Taxes Update is an endeavour of the Indirect Taxes Committee to apprise the readers about the amendments made in various central indirect tax laws vide significant notifications, circulars etc.

We welcome your feedback on the Update and its contents. Please email [idthc@icai.in](mailto:idthc@icai.in) for feedback.

You can also write to:

Secretary  
Indirect Taxes Committee  
The Institute of Chartered Accountants of India  
ICAI Bhawan A-29, Sector -62, NOIDA (U.P.) India