

कार्यालय आयुक्त केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर, भोपाल
 48, प्रशासनिक क्षेत्र, अरेरा हिल्स, होशंगाबाद रोड, भोपाल
 OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX,
 48, ADMINISTRATIVE AREA, ARERA HILLS, HOISHANGABAD ROAD, BHOPAL.

F.No. IV(16)30/TN/ST/BPL/2013

Bhopal, Dated 01.2014

TRADE NOTICE NO. 01/2014/SERVICE TAX

Subject: Levy of service tax on services provided by a Resident Welfare Association (RWA) to its own members – regarding.

Attention of the field formations, service providers, trade & industries, the public in general and all concerned is invited that Service tax on 'club or association service' which covers Resident Welfare Association (RWA) was introduced with effect from 16.06.2005, vide section 65(105)(zzze) read with section 65(25a)[(25a)] was later renumbered as (25aa)]. Under the positive list approach which was followed prior to 1st July 2012, exemption was available under notification No. 8/2007-ST dated 01.03.2007, if the total consideration received from an individual member by the RWA for the services does not exceed three thousand rupees per month. This notification was rescinded vide notification No. 34/2012-ST dated 20th June 2012, with effect from 1st July, 2012.

2. Under the negative list approach, with effect from 1st July, 2012, notification No.25/2012-ST [sl 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.


3. Certain doubts have been raised regarding the scope of the present exemption extended to RWAs under the negative list approach. These doubts have been examined and clarifications are given below:

| Sl. No. | Doubt | Clarification |
|---------|--|--|
| 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 | 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. If per month per member contribution of any or some members of a RWA exceeds five thousand rupees, the entire contribution of such members whose per month contribution exceeds five thousand rupees would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members. |

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| 2. | <p>(i) Is threshold exemption under notification No. 33/2012-ST available to RWA?</p> <p>(ii) Does 'aggregate value' for the purpose of threshold exemption, include the value of exempt service?</p> | <p>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 ten lakh 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.</p> |
| 3. | <p>provides certain services payment of electricity or sued by third person, in its members, acting as a t' of its members, is from value of taxable lable for the purposes of provided in Notification or 25/2012-ST ?</p> | <p>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.</p> <p>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.</p> |
| 4. | <p>Is CENVAT credit available to RWA for payment of service tax?</p> | <p>RWA may avail cenvat credit and use the same for payment of service tax, in accordance with the Cenvat Credit Rules.</p> |

4. All the Members of Regional Advisory Committee, the Trade Associations, and the chamber of Commerce & Industry and field formations are requested to bring the contents of this Trade Notice to the notice of the member, trade and industries, public and all other concerned.

Authority – Board's Circular no. 175/01/2014-ST dtd. 10.01.2014


(Dr. D.K. Verma)

Commissioner

23/1/2014