

Export of Services

Benefits, Procedures and Issues

**Accretive Business Consulting
Private Limited**

Introduction

- ▶ Service Tax:
 - > Provision of 'taxable services' liable to service tax @ 10.30%
 - > Exemption: Central Government has granted complete exemption from payment of service tax on Export of Services

Export of Services

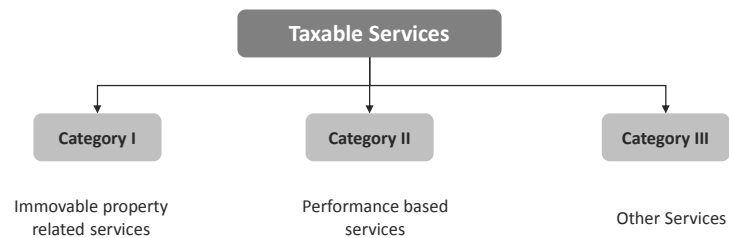
Upto 17.04.2006

- ▶ Exemption from payment of service tax if money received in convertible foreign exchange
 - > With certain exceptions during the year 2003

With effect from 18.04.2006

- ▶ Export of Service Rules, 2006 introduced
- ▶ Conditions laid down thereunder to be fulfilled to qualify for exemption

Export of Services



Category I

Immovable property related services

- ▶ **Immovable property to be located outside India**
- ▶ Provision of services from India
- ▶ Services to be used outside India
- ▶ Money to be received in convertible foreign exchange

Examples

- ▶ Architect's services
- ▶ Construction services
- ▶ Dredging services
- ▶ Insurance services with respect to immovable properties
- ▶ Mining services
- ▶ Real estate agency services
- ▶ Renting of immovable property
- ▶ Works contract services

Category II

Performance based services

- ▶ **Services to be partly / wholly performed outside India**
- ▶ Provision of services from India
- ▶ Services to be used outside India
- ▶ Money to be received in convertible foreign exchange

Examples

- ▶ Maintenance and repair services
- ▶ Clearing and forwarding services
- ▶ Commercial training and coaching
- ▶ Courier services
- ▶ CHA services
- ▶ Erection, installation and commissioning
- ▶ Market research agency services
- ▶ Outdoor catering
- ▶ Photography services
- ▶ Rent a cab services
- ▶ Security agency services
- ▶ Goods transport agency services
- ▶ Travel agent services
- ▶ Technical inspection, testing and certification services

New Services:

- Cosmetic or plastic surgery services
- Transport of goods through waterways

Category III

Other services

- ▶ **Client to be located outside India**
 - > **If client has multiple offices including India**
- ▶ Provision of services from India
- ▶ Services to be used outside India
- ▶ Money to be received in convertible foreign exchange

New Services:

Legal consultancy services

Other than those specified earlier
(under Category I and Category II)

Examples

- ▶ Advertising agency and space selling services
- ▶ Banking and financial services
- ▶ Business auxiliary services & support services
- ▶ Design services
- ▶ Consulting engineering services
- ▶ Online information services
- ▶ Insurance services (other than immovable property related)
- ▶ IPR services
- ▶ Franchisee services
- ▶ Internet telecommunication services
- ▶ Manpower recruitment services
- ▶ Management consulting services
- ▶ Supply of tangible goods

Other Benefits

- ▶ Refund of CENVAT credits under CENVAT Credit Rules
 - > Service tax paid on 'input services'
 - > Central excise duty paid on 'inputs'

Can be used for payment of service tax payable on other services

If it remains unutilised, application for refund may be made within a period of 1 year

- ▶ Rebate of CENVAT credits under Notifn No. 12/2005
 - > Service tax paid on 'input services'

No CENVAT credit is availed on the above

Prescribed procedure to be followed

Documentation

- ▶ To substantiate export of services and claim of exemption
 - > Customer agreement
 - > Sales invoice
 - > FIRC for receipt of convertible forex
 - > Travel jackets of personnel involved
 - > Order for services received from office outside India
 - > Furnishing of appropriate details in the half yearly return

Points to Remember

- ▶ No service tax to be charged to the client
 - > *Including where rebate is to be claimed under Notifn No. 12/2005*
- ▶ Convertible foreign exchange received shall not be repatriated outside India
- ▶ Declaration to substantiate that the client does not have an office / establishment in India
- ▶ Declaration stating that no DBK has been claimed in respect of CENVAT credits

Some Concerns

- ▶ Tribunal unsettles the principle enumerated in the circular issued by CBEC
 - > Delhi CESTAT in the case of Microsoft Corp (I) Private Limited
- ▶ Refund / rebate in respect of inputs/ input services prior to registration
 - > Registration obtained within prescribed time limit of 30 days
- ▶ Reckoning of date for timelimit of 1 year for refund under CENVAT Rules
 - > 1 year to be reckoned from date of payment in terms of Section 11B of Central Excise Act, 1944?
- ▶ Incorrect classification of input services by the input service provider
- ▶ Input services to be USED in providing export services

Some Concerns

- ▶ Money should be received in convertible foreign exchange:
 - > What if equivalent INR is received from the overseas client / customer?
 - > What if any amounts are remitted into the bank accounts outside India?
- ▶ If services listed under Rule 3(1)(iii) are provided other than in relation to business or commerce
 - > Eg: if the recipient is a charitable institution
- ▶ Conversion of unutilised CENVAT credit into service tax payment under Notifn 11/2005
- ▶ Difference between Notifns 5/2006 and 12/2005 not explained to the field formations



Thank you



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