



केंद्रीय उत्पाद एवं सीमाशुल्क तथा सेवा कर आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE , CUSTOMS & SERVICE TAX
पी.बी.नं 13, आई.सी.ई. भवन, प्रेस क्लब रोड, तिरुवनंतपुरम 695001
P.B.No.13, I.C.E.BHAVAN, PRESS CLUB ROAD. THIRUVANANTHAPURAM 695001

दिनांक Date : 16/06/2016.

व्यापार सूचना सं 17/2016 - से.क TRADE NOTICE NO: 17/2016 - ST

5602

विषय:- माध्यस्थम अधिकरण और सदस्यों द्वारा उपलब्ध कराई गई सेवाएं-करयोग्य-स्पष्टीकरण संबंधित
Subject :- Services provided by arbitral tribunal and members - taxable – clarification regarding.

भारत सरकार , वित्त मंत्रालय, राजस्व विभाग, केंद्रीय उत्पाद एवं सीमाशुल्क बोर्ड , नई दिल्ली द्वारा जारी किए गए निम्न परिपत्र की प्रतिलिपि जानकारी , मार्गदर्शन और आवश्यक कार्रवाई हेतु इसके साथ संसूचित की जाती है ।

The copy of the following Circular issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, New Delhi is communicated herewith for information, guidance and necessary action.

क्र सं Sl. No.	परिपत्र सं एवं दिनांक Circular No. and Date	जारी करने वाले प्राधिकारी का संदर्भ सं Ref. No. of Issuing Authority	विषय Subject
1	193/03/2016-ST Dated : 18/05/2016	F.No: 356/01/2016-TRU	माध्यस्थम अधिकरण और इस तरह के अधिकरण के सदस्यों द्वारा उपलब्ध कराई गई सेवाओं के संबंध में सेवा कर उद्घरण करने के बारे में स्पष्टीकरण Clarification regarding leviability of service Tax in respect of services provided by arbitral tribunal and members of such tribunal.

(फाइल सी सं IV/16/1/2016 से क (सु) तक से जारी)
(Issued from file C.No: IV/16/1/2016 ST (H) Tech)

Encl :- As above.


(एम.श्रीधर रेड्डी M. SREEDHAR REDDY)
आयुक्त COMMISSIONER

To

- 1) तिरुवनंतपुरम आयुक्तालय के वितरण सूची I, II एवं III
Distribution list I, II & III of Thiruvananthapuram Commissionerate.
- 2) केंद्रीय उत्पादशुल्क मुख्य आयुक्त , केरल क्षेत्र , कोचिन Chief Commissioner of Central Excise, Kerala Zone, Cochin.
- 3) केंद्रीय उत्पाद शुल्क आयुक्त , कोचिन/कालिकट Commissioner of Central Excise, Cochin/Calicut.
- 4) सूचना पट्ट Notice board

J. 1638/16

Circular No.193/03/2016-Service Tax

F. No. 356/1/2016-TRU
Government of India
Department of Revenue
Central Board of Excise & Customs
New Delhi

New Delhi, the 18th May, 2016

To

Principal Chief Commissioners of Customs and Central Excise(All)
Principal Chief Commissioners of Central Excise & Service Tax (All)
Principal Director Generals of Goods and Service Tax/System/CEI
Director General of Audit/Tax Payer Services,
Principal Commissioners/ Commissioners of Customs and Central Excise (All)
Principal Commissioners/Commissioners of Central Excise and Service Tax (All)
Principal Commissioners/Commissioners of Service Tax (All)
Principal Commissioners/Commissioners LTU/Central Excise/Service Tax
(Audit)

Madam/Sir,

Sub: Clarification regarding leviability of service tax in respect of services provided by arbitral tribunal and members of such tribunal -reg.

It has come to the notice of the Board that there is some confusion regarding the legal position with respect to continuance of reverse charge mechanism for services provided by arbitral tribunals and individual arbitrators on the arbitral tribunal, with effect from 1.4.2016.

2.1 Services provided by an arbitral tribunal to (i) any person other than a business entity; or (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year, are exempt from services tax [Entry 6(a) of Notification No. 25/2012 – ST refers]. “Arbitral tribunal” has been assigned the same meaning in the exemption notification No. 25/2012 – ST [paragraph 2(c)] as in clause (d) of Section 2 of the Arbitration and Conciliation Act 1996, which is as follows:-

“arbitral tribunal means a sole arbitrator or a panel of arbitrators”

2.2 In the Budget 2016-17, the entry at (c) of Sl. No. 6 of nctification No.25/2012-ST, has been omitted with effect from 1.4.2016. It read as:

“Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.”

3. The matter has been examined. It may be noted that the services provided or agreed to be provided by an arbitral tribunal to a business entity (turnover exceeding Rs

10 lakh) located in the taxable territory, is taxable under reverse charge mechanism and recipient of service is liable to discharge service tax liability [Rule 2(d)(D)(I) of Service Tax Rules, 1994 and Notification No. 30/3012 – ST (Sl. No. 4) refer]. There is no change in the Budget 2016-17 with respect to the said provisions.

4. It could be argued that service provided by an arbitrator on the panel of arbitrators, to the arbitral tribunal is taxable under forward charge. However, this does not appear to be a correct interpretation of law. Any reference in Service Tax law to an “arbitral tribunal” necessarily includes the natural persons on the arbitral tribunal, by virtue of clause (d) of Section 2 of the Arbitration and Conciliation Act, 1996. Services are provided or agreed to be provided by the panel of arbitrators, as comprising the several natural persons on the said panel, to the business entity or to the arbitration institution approached by the business entity for purposes of arbitration. The liability to discharge service tax is on the service recipient, if it is a business entity located in the taxable territory with a turnover exceeding rupees ten lakh in the preceding financial year.

5. In view of the above, it is clarified that Service Tax liability for services provided by an arbitral tribunal (including the individual arbitrators of the tribunal) shall be on the service recipient if it is a business entity located in the taxable territory with a turnover exceeding rupees ten lakh in the preceding financial year.

6. All concerned are requested to acknowledge the receipt of this circular.

7. Trade Notice/ Public Notice to be issued. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow. ✓

Yours faithfully,


(Abhishek Verma)

18th May, 2016.

Technical Officer (TRU)