

भारत सरकार/Government of India

प्रधान आयुक्त का कार्यालय /Office of the Principal Commissioner

केन्द्रीय उत्पाद शुल्क एवं सेवा कर / Central Excise & Service Tax, Patna

एनेक्सी भवन, केन्द्रीय राजस्व भवन, बीरचंद पटेल पथ, पटना।

C. R (Annexe) Building, Bir Chand Patel Marg, Patna-800001.

C. No. IV(39)38/Tech/CCE/PAT/14/

Date: /12/2015

Trade Notice: 09 /2015-16

Date: 31 /12/2015

व्यापार, उद्योग एवं सम्बंधित प्रतिष्ठान का ध्यान वित्त मंत्रालय, राजस्व विभाग, केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड, नई दिल्ली द्वारा निम्न विषय पर दिनांक 15.12.2015 संचिका सं० 354/153/2014-TRU से जारी किए गए परिपत्र सं० 190/9/2015-Service Tax दिनांक 15.12.2015 की ओर आकर्षित किया जाता है।

Attention of the trade is invited to Circular No. 190/9/2015-Service Tax Dated 15.12.2015 issued vide F. No. 354/153/2014-TRU by the Technical Officer, Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit, New Delhi regarding Applicability of Service Tax on the services received by apparel exporters in relation to fabrication of garments.

परिपत्र की विषयवस्तु नीचे दी गई है:-

The contents of the aforesaid circular are reproduced below:-

Subject: Applicability of Service Tax on the services received by apparel exporters in relation to fabrication of garments.

It has come to the notice of the Board that certain field formations are taking a view that service tax is payable on services received by the apparel exporters from third party for job work. Apparently field formations are taking a view that the services received by apparel exporters is of manpower supply, which neither falls under the negative list nor is specifically exempt. However, trade is of the view that the services received by them is of job work involving a process amounting to manufacture or production of goods, and thus would fall under negative list [section 66D (f)] and hence would not attract service tax.

2. The matter has been examined. The nature of manpower supply service is quite distinct from the service of job work. The **essential characteristics of manpower supply service** are that the supplier provides manpower which is at the disposal and temporarily under effective control of the service recipient during the period of contract. Service provider's accountability is only to the extent and quality of manpower. Deployment of manpower normally rests with the service recipient. The value of service has a direct correlation to manpower deployed, i.e., manpower deployed multiplied by the rate. In other words, manpower supplier will charge for supply of manpower even if manpower remains idle.

2.1 On the other hand, the **essential characteristics of job work service** are that service provider is assigned a job e.g. fabrication/stitching, labeling etc. of garments in case of apparel. Service provider is accountable for the job he undertakes. It is for the service provider to decide how he deploys and uses his manpower. Service recipient is concerned only as regard the job work. In other words service receiver is not concerned about the manpower. The value of service is function of quantum of job work undertaken, i.e. number of pieces fabricated etc. It is immaterial as to whether the job worker undertakes job work in his premises or in the premises of service receiver.

3. Therefore, the exact nature of service needs to be determined on the facts of each case which would vary from case to case. The terms of agreement and scope of activity undertaken by the service provider would determine the nature of service being provided. A typical agreement that has been forwarded by the Apparel Export Promotion Council in respect of outsourced services contains following terms and condition,-

- a. The contractor (service provider) is engaged for undertaking specific jobs.
- b. The contractor is at liberty to decide the number of workers which are required for undertaking

the jobs.

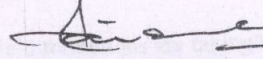
- c. The job worker may undertake job in his premises or in the premises of service receiver;
- d. Value of service is payable on per piece basis, depending upon item and style;
- e. Service provider is liable to compensate the service recipient if the work is not as per the standard norm;
- f. In case the work is executed by service provider at the site of service recipient, the service provider would indemnify the service receiver of any loss to inputs and infrastructure.
- g. The employee deployed for the assigned job would be under the control/supervision of the service provider.
- h. Payment would be at agreed piece rate basis.

Plain reading of this agreement makes it an agreement of job work applying the criterion outline in para 2 above.

4. However, every job work is not covered under the negative list. If the job work involves a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944, it would be covered under negative list in terms of Section 66D(f) read with section 65B (40) of the Finance Act, 1994.

5. The issue of applicability of service tax may accordingly be decided taking into account the nature of agreement/contract and the service being provided.

6. केन्द्रीय उत्पाद शुल्क एवं सेवाकर आयुक्तालय, पटना, के क्षेत्राधिकार में आनेवाले सभी व्यापार समितियों/वाणिज्य मंडलों/आर.ए.सी. के सदस्यों (संगठित एवं लघु उद्योग), से अनुरोध है की इस व्यापार सूचना के विषयवस्तु की ओर अपने घटक सदस्यों और अन्य सभी सम्बंधित का ध्यान आकृष्ट करें।

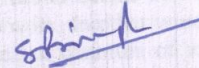


[Mohd. S.I. Faisal]
Joint Commissioner (Technical)
Central Excise & Service Tax, Patna

Date: 3/12/2015

C. No. IV(39)38/Tech/CCE/PAT/14/ 1209-1225
Copy forwarded for information & needful :-

01. The Commissioner, Central Excise & Service Tax, Audit/Ranchi-I/Ranchi-II/Dhanbad/ Jamshedpur/Customs, Patna, Appeal Ranchi/Patna.
02. The Joint Commissioner (CCO), Central Excise & Service Tax, Ranchi Zone, Patna
03. The Deputy/Assistant Commissioner, Central Excise & Service Tax Division-Patna-I / Patna-II / Service-Tax Patna / Muzaffarpur / Gaya / Bhagalpur for necessary action please.
04. P.S to the Principal Commissioner, Central Excise & Service Tax, Patna
05. The Superintendent(Systems), Central Excise, Patna for take necessary action to upload the T.N in the Commissionerate website.
06. Bihar Industries Association, Industry House, Sinha Library Road, Patna-01
07. Bihar Chamber of Commerce & Industries, Khemchand Chaudhary Marg, Patna-01
08. Notice Board
09. Guard file.



Superintendent (Technical)
Central Excise & Service Tax, Patna