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Negative Blues – IV



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Speed Post Vs Courier

One of the entry under the negative list, as per Section 66 D of the Finance act, reads as

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere-

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government.

It may be observed from the above that the Speed Post services provided by the Department of Post, Government of India is not under negative list, but is subject to service tax. It is also an undisputed fact that the courier services provided by the private operators is also subject to service tax.

As per para A, clause (iv) of Notification 15/2012, support services provided by the Government are notified for the purpose of reverse charge, whereby as per S.No. 6 of Table under Para II of the Notification, the entire service tax liability in respect of the support services provided by the Government shall be paid by the service receiver.

The term "support service" is defined in section 65B (49) of the Finance Act, 1994 as "support services means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis". This broad definition of support services can cover the speed post services provided by the Department of Posts also, as "operational / administrative / logistic support".

Hence, if speed post services are availed by a business entity, the service tax liability thereon shall be discharged by the service recipient, whereas in case of its cousin, courier services, the liability to discharge service tax is only on the courier agency.

Instead of undergoing the burden of paying service tax under reverse charge basis for the speed post services availed, is it not a better option to shun speed post and opt for private courier services?



Before parting...

The reverse charge liabilities on business entities is now so many. Support services received from Government, services of individual advocates, works contract services, manpower supply services and rent a cab services (where the service provider is individual, partnership, AOP, HUF). Considering the fact that even a individual businessmen would be construed as "business entity" as per the present definition of the term "business entity", why not a threshold exemption like the one now available to service providers upto Rs. 10 lakhs, be provided even for the reverse charge liabilities?

Postscript: Speed post has since been specifically kept outside the reverse charge applicability as per notification 30/2012 ST Dated 20.06.2012.

For those availing the services of advocates / firm of advocates, exemption from the applicability of service tax has been given if their preceding year turnover is below Rs.10 lakhs, vide notification 25/2012 ST Dated 20.06.2012.

