



GN LAW ASSOCIATES

ARTICLES 2012

www.gnlawassociates.com

Negative Blues – VI



GTA reverse charge

Author: G. Natarajan

Little history : Service tax on Goods Transport Agency services was introduced with effect from 01.01.2005. The levy was on reverse charge basis, if the person liable to pay the freight is falling under some specified categories. An abatement of 75 % from value was prescribed under Notification 32/2004 ST Dated 03.12.2004. Later, the said abatement was provided vide Notification 1/2006 ST Dated 01.03.2006. These notifications were subject to a condition that the service provider is not availing the benefit of cenvat credit or notification 12/2003. This required obtaining undertaking from the GTAs everytime, so as to claim the abatement when the service recipient is paying service tax.

In order to obviate this difficulty, the abatement for GTA service was removed from Notification 1/2006 and covered under notification 13/2008 ST Dated 01.03.2008. This notification does not contain any condition as to non availment of cenvat credit. Simultaneously, the definition of “output service” under Cenvat Credit Rules 2004 was also amended, so as to keep the GTA services outside the definition. Hence, a GTA cannot at all avail any cenvat credit as the services provided by him are not at all “output services”. This definition of “output service” still continues and will also hopefully continue after 01.07.2012.

Now to the issue : Notification 26/2012 deals with abatements after 01.07.2012. As per S.No. 7 thereof, 75 % abatement is admissible for GTA services and service tax is payable only on 25 % of value. As per S.No. 2 of Notification 30/2012, reverse charge is made applicable for GTA service. But, though the condition of non availment of cenvat credit by GTA is redundant, in as much as the GTA cannot at all take cenvat credit, the said condition is still maintained in S.No. 7 of Notification 26/2012, may be by slip. Now, the amended definition of output service specifically excludes all services where service recipient is liable to pay service tax.

Let us hope that this infructuous condition would be removed in due course.

