

Tax Hotline

April 29, 2003

NO LEVY OF SERVICE TAX ON EXPORT OF SERVICES

The Finance Minister while introducing the Finance Bill, 2003 ("Bill") had issued Notification No. 2/2003 dated March 1, 2003 ("Notification No. 2/2003") that has rescinded earlier Notification No. 6/99-Service Tax dated April 9, 1999 ("Notification No. 6/99"). This later Notification exempted taxable service from payment of service tax if the payment for services rendered was received in convertible foreign exchange and the foreign exchange was not repatriated outside India. Consequent to the issue of the Notification No. 2/2003, service tax would be leviable on all taxable services consumed or rendered in India, irrespective of whether the payment therefor is received in foreign exchange or not.

The withdrawal of the Notification No. 6/99 had raised several doubts whether the export of services would continue to remain tax free. In order to address these apprehensions, the Finance Ministry has issued a clarification on April 25, 2003 that the Service Tax is a destination based consumption tax and is not applicable on export of services. With regard to the services of secondary service provider, it is clarified that since such services are consumed in India, service tax would be leviable on the same.

It is also clarified that in case of service consumed/provided in India in the manufacture of goods which are ultimately exported, no credit of service tax paid can be availed or reimbursed at present as inter-sectoral tax credit between services and goods is not allowed.

The Bill has also proposed to increase the rate of service tax from 5 per cent to 8 per cent. In this context, it is clarified that the increased rate of service tax at 8 per cent would be applicable when the Bill is passed. Where invoices are already raised before passing of the Bill, but payments are received after the passing of the Bill, the service tax would be applicable at the rate of 5 per cent. If however the invoice is raised subsequent to the passing of the Bill, the service tax would be applicable at the enhanced rate of 8%.

Source: http://www.finmin.nic.in/press_room/april_details.htm as visited on April 29, 2003

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