

Workshop on 'All Encompassing Service Tax'

The Chamber organised a Workshop on 'All Encompassing Service Tax' on 21st September, 2012 from 3:00 p.m. to 6.00 p.m. at The Park Hotel, Kolkata. The Workshop was addressed by Shri K K Jaiswal, Commissioner of Service Tax, Kolkata Department of Revenue, Ministry of Finance, Government of India, as the Guest-in-Chief. The Panel Speakers at the Workshop included Shri Sidhartha Jain, Partner and Shri Pankaj Agarwal, Manager, Ernst & Young and Shri Mayank Sharma, Assistant Commissioner of Service Tax, Kolkata, Department of Revenue, Ministry of Finance, Government of India.

As many as 53 participants representing member concerns of the Chamber attended the Workshop.

In course of his Welcome Address, Shri Sandip Choraria, Chairman, Indirect Taxes and State Taxes Standing Committee observed that about 18 years ago, when first formulated, Service Tax was levied only on three services. Presently, the number of services on which Service Tax is levied has increased to 119. The scope of services covered under this tax has widened to make the levy of Service Tax based on outside the negative list. Only 38 items have been included in the negative list. This in turn has widened the tax base, Shri Choraria felt.

The concept of a 'Negative List in Service Tax has been introduced to facilitate the transition from the former to a GST regime. Once this concept is given effect, the scope of service will automatically get expanded drastically, Shri Choraria stated. According to this concept, every activity which meets the new definition of 'service' shall be leviable to Service Tax except those, which are proposed to be included in the Negative List and exempted by way of suitable notifications. Under the new system, in certain cases, even the service receiver has to also pay Service Tax. Thus, Shri Choraria felt that though the concept of the Negative List has been delayed, it needs to be widely considered as a necessary and important step towards fiscal reforms.

Services account for nearly 60 per cent of the economic activity in India. In this regard 'manufacturing' has been an over-burdened and over-taxed segment. If both goods and services are the key economic contributors, taxation should not be differential, Shri Choraria stated. This reform may, therefore, lead to an equitable distribution of the tax burden on the goods and services, Shri Choraria felt.

Shri K K Jaiswal, Commissioner of Service Tax, Kolkata, Department of Revenue, Ministry of Finance, Government of India observed that the modification and revamping of the entire structure of Service Tax, in itself is a new concept and is worth appreciation. The new structure allotted to Service Tax, has not only increased its base but has also made it free from loop holes. From the time of its implementation, Service Tax has brought under its ambit as many as 119 services. The present modification has further enlarged its incidence as all services apart from the ones included in the negative list are liable to taxation. The new structure for Service Tax has thus not left much scope for controversy and confusion among tax payers, Shri Jaiswal felt.

Shri Sidhartha Jain, Partner, Ernst & Young, observed that being tax payers, it is important for the people to understand and be aware of the various facets of the new Service Tax laws. In the earlier Service Tax regime, there was a possibility of charging tax on certain items in the positive list. Thus, a major problem arose with regard to identification of people who would be included within the ambit of taxation. The previous form of Service Tax also did not include the exact definition of a 'taxable service', Shri Jain stated.

The new Service Tax law overcomes almost all such problems. It gives specific definition of what a 'taxable service' should comprise of. All services covered under such a definition would be entitled to taxation except the ones included under the negative list. Over and above the amendments, the new Service Tax structure has also done away with the 'export-import rule' and has in its place incorporated 'place for provision Rules'. Thus, according to Shri Jain the burden of liability has been shifted from being borne by only the recipient to being shared among both the recipient and the provider.

The new Service Tax law, for the first time has included in details all services that would be liable to taxation. A separate definition for 'activity and consideration' has been included. A categorisation of self services has also been made in the newly formulated law. The law, Shri Jain stated that for the first time, 9 'Declared Services' have been included with a detailed taxation procedure applicable on them. These services are most disputed while being placed under the ambits of Service Tax. Refraining from an act or to do it or to tolerate it is an unconventional aspect included under the aegis of declared services, Shri Jain stated.

The law not only covers the intricacies of the new taxation regime adopted by the Government but also gives a wide reference of the 'Negative List', so introduced. 17 services, according to Shri Jain, have been included in the 'Negative List'. The list has 88 specific exclusions among the 17 services covered under the 'Negative List'. The revamped Service Tax regime makes special provision for specific abatements to tax the services during transactions, Shri Jain said.

Shri Pankaj Agarwal, Manager, Ernst & Young observed that the 'place of provision of services Rules-2012' introduced within the aegis of Service Tax helps in understanding the service tax charged on export-import of services. This rule has been formulated under 14 points. These points mainly represent the taxation jurisdiction for services. The norms according to Shri Agarwal are used in determining the taxable areas and the place of provision of services. Over and above, it also gives details of the taxable service provided during events, on immovable property, performance based services, transport of goods, passenger services etc.

Shri R G Agarwala, Co-Chairman, Indirect Taxation & State Taxes Standing Committee, offered a hearty Vote of Thanks to the Learned Speakers and Chief Guest Shri K K Jaiswal, Commissioner of Service Tax, Kolkata, Department of Revenue, Ministry of Finance, Government of India.
