



F. No. 137/25/2011 – Service Tax
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi, the 3rd August 2011

27.9.11
Chief Commissioners of Central Excise & Customs (All)
Chief Commissioners of Central Excise (All)
Director General of Central Excise Intelligence
Director General of Audit & DGST
Commissioners of Service Tax (All)
Joint Secretary (TRU-II)

Madam/Sir

Subject: Clarification regarding service tax on delayed payment charges collected by the service provider in respect of Stock Broker's services - reg.

Representations have been received seeking clarification regarding leviability of service tax on the additional amount that is collected towards the delay in making payment to the stock brokers by their customers (delayed payment charges) in respect of Stock Broker's services.

2. The matter has been examined. Clarifications issued by the Board in the past on similar issues are summed up below,-

- (i) Circular No. 96/7/2007 at para 002.01 clarifies that an amount collected for delayed payment of a telephone bill is not to be treated as consideration charged for provision of telecom service and therefore, does not form a part of the value of taxable service.
- (ii) Circular No. 121/02/2010 – ST dated 26.04.2010 clarifies that detention charges in respect of detained containers are not in respect of service provided on behalf of client (under BAS) nor is it on account of infrastructure support services (under BSS). Such charges can at best be called as 'penal rent' for retaining the containers beyond the predetermined period. Therefore, the amount collected as 'detention charges' is not chargeable to service tax.

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28/9/2011

2. In a similar manner, delayed payment charges received by the stock brokers are not includible in taxable value as the same are not the charges for providing taxable services. Such charges are on account of delay in making payments by the service recipient to the service provider and are in the nature of a penal charge for not making the payment within stipulated time. Such amounts are not includible in the taxable value for charging service tax. This principle will also apply to other service providers.

3. However, section 67 of the Finance Act 1994 provides that service tax is chargeable on taxable value which shall be the 'gross amount charged' by the service provider. Therefore, if in the account statement / invoice / bill, etc. issued by the service provider, only the gross amount is shown without indicating the delayed payment charges separately, the service tax would be payable on the entire amount. Delayed payment charges would not be includible in 'gross value charged' only if these charges are shown separately in the account statement/invoice/bill etc.

4. Pending cases, if any, on this issue may be decided in line with the above clarification.

Yours faithfully
03/01/2011
(Deepankar Aron)
Director, Service Tax
CBEC, New Delhi
Ph. 23003355.



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भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

Market Intermediaries Regulation & Supervision
Department Division of Registration - 1

MIRSD-1/VT/OW/36557/ 2011
November 30, 2011

To,
The Managing Directors/Chief Executive Officers/
Executive Directors/ Officiating Executive Directors
of all the Recognized Stock Exchanges

Dear Sir,

Sub : Clarification regarding service tax on delayed payment charges collected by the service provider in respect of Stock Broker's services – reg.

Please find enclosed herewith Trade Notice No. 09/2011-2012 dated November 2, 2011 alongwith a copy of clarification issued vide F. No. 137/25/2011-Service Tax dated August 3, 2011 issued by the Director (Service Tax), Dept. of Revenue, CBEC, New Delhi, which is self explanatory.

All the recognized Stock Exchanges are requested to bring the contents of this trade notice to the notice of their members.

Yours faithfully,

Hukat
T. VENKATESHWARLU
ASST. GENERAL MANAGER

