Service tax on GTAs : Make it 2.5 per cent with no strings attached

By TIOL Edit Team

SERVICE Tax on Goods Transport Agency has come into effect from 1st Jan 2005, with a number of Notifications issued by the MoF on various issues. After one month of experience, it is worthwhile to review the difficulties faced by all those concerned with the policy decision. Given the fact that the Goods Transport Agents were up in arms against this levy on them, the Government followed the recommendations of the Bhardwaj Committee and shifted the liability of paying Tax from the GTAs to either consignors or consignees. This peculiar concept of making the recipient of the Service liable to pay tax has created serious problems for the taxpayers.

As per Rule 2(1)(d)(v) of the Service Tax Rules, the consignee or consignor falling under the categories specified therein is liable to pay the tax. But the amount of tax to be paid is governed by the Notification 32/2004 dated 3.12.2004. This Notification exempts 75% of the gross amount charged from service tax, subject to the condition that no credit shall be availed on the inputs/capital goods used under the provisions of the Cenvat Credit Rules, 2004 for providing such taxable service. If the gross amount paid is Rs 100, the duty liability under this notification would be Rs 2.5 (10% on Rs 25). Thus, the effective tax liability would be at 2.5% on the gross amount charged (for the sake of brevity, education cess is ignored).
This amount has to be assessed by the consignee or consignor and the condition of "not availing the credit" has to be fulfilled by the GTA! How can the consignor or consignee ensure that the GTA stationed at a far off place has taken credit or not? So the consignors/consignees who are willing to take registration and pay tax are in utter confusion as to whether they can avail the benefit of Notification 32/2004 or not and also how it is possible for them to ensure that the GTA has not availed any credit. And what is the machinery available to check this?

And, what would happen if the consignor /consignee pays 2.5% tax and the GTA takes credit without the knowledge of the consignee/consignor? Can the department ask them to pay 10% instead of 2.5% from the consignor/consignee **for a violation by the GTA on which they have no control?** Going by the past experience in input credit disputes, it is all likely that the consignor /consignee cannot be penalized for the violation on part of the GTA.

But, why there should be such condition in the Notification? Obviously no inputs are required for providing the Service of a GTA (HSD and MS are excluded from the definition of inputs). The only item they can take credit is perhaps a one time excise duty paid on a Truck. But that would make not only their consignee/consignors not entitled for exemption under Notification 32/2004 , but also the GTA himself, in cases where the GTA is liable to pay service tax. Between the options of paying service tax at full rate by availing onetime credit on the Truck, and paying only 2.5% by not availing the credit, more and more GTA s would choose only the later option.

Instead of the above, it is better that the Government exclude the GTAs from the purview of Cenvat Credit and
make the tax effective at 2.5% across the board and give wide publicity.
A tax rate at 2.5% is not a very horrifying and perhaps this kind of presentation would make more and more assessees voluntarily contribute to the kitty and thus make this difficult task of taxing the truckers a smooth ride. Perhaps North Block needs to borrow a few marketing strategies from the corporate houses too!