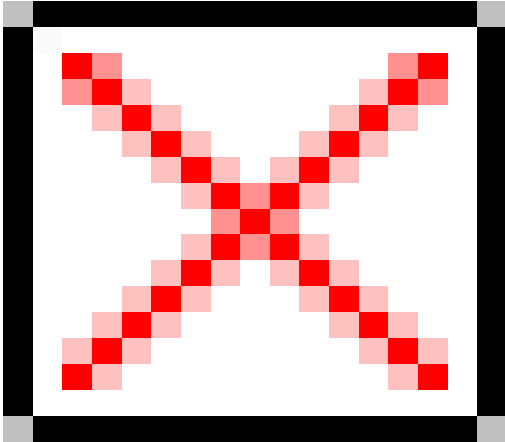


Service Tax - Online Invoice without Digital Signature



TIOL-DDT 2994

20 12 2016

Tuesday

GOVERNMENT

has amended the Service Tax Rules to to allow a person located in non taxable territory providing online information and database access or retrieval services to a non-assessee online recipient to issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017.

Rule 4C(1) of the Service Tax Rules reads as:

Any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature .

Now, a proviso is added to this sub-rule:

' Provided that a person located in non-taxable territory providing online information and database access or retrieval services to a non-assessee online recipient located in taxable territory may issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017'

Incidentally, cross border business to consumer [B2C] OIDAR [online information and database access or retrieval]services provided by a foreign service provider to a person in India has become taxable from 1st December, 2016 onwards. Å For more see [DDT 2968](#) and [2982](#).

[Notification No. 53/2016-Service Tax., Dated: December 19, 2016 Å](#)

Railways have second thoughts on paying Service Tax

THE Rate Circular No. [29 of 2012](#)

dated September 28, 2012 issued by the Dy. Director, Traffic Commercial (Rates), Railway Board on the subject "**Levy of Service Tax on Transportation of Goods by Rail**" contains the following guidelines -

ix) As per Rule 6 of the Service Tax (Determination of Value) Rules 2006, "the amount realized as demurrage or by any other name whatever called for the provision of service beyond the period originally contracted or in any other manner relatable to the provision of service" is included as part of the taxable service.

Accordingly, the levy of any demurrage and wharfage charges in case of transportation of goods by Rail shall attract Service Tax at the rate of 3.708%. Zonal Railways, FOIS/CRIS are instructed to levy the Service Tax @ 3.708% on the gross amount of the demurrage and wharfage charges and collect the same from the customers for the purpose of remitting to Government of India.

I had in [DDT 2021](#) while reporting the Rate Circular [29 of 2012](#) mentioned -

Will the Board - CBEC (not Rail Board) Clarify?

Four days back, apparently, the **Railways**

had a re-think on the matter. And after examination of the contents of the above paragraph, they have issued a [Corrigendum no. 7](#) to the subject Circular. The corrigendum makes it amply clear that the same is issued with the concurrence of Accounts and Finance Directorates of Ministry of Railways.

This is what the corrigendum reads -

In supersession of Para 4(ix) of Rates Circular No. 29 of 2012, it is advised that there is no liability on the part of Railways to collect Service Tax on Demurrage and Wharfage Charges . Demand Note/Receipt etc. for collection of Demurrage/Wharfage Charge shall, however, clearly specify that "**Customer shall solely be liable for paying applicable Service Tax directly, under Reverse Charge Mechanism**".

Incidentally, there has been no change in the law on the Service Tax side but that does not seem to have bothered the Railways a bit.

P G James has been incessantly covering this issue through his articles carried on our portal and has also followed it up with RTI applications made to the CBEC. Please see [DDT 2021 & 2425](#).

We are carrying his latest article on this "**corrigendum**" titled "[Why 'over-burdened' Railway should pay Service Tax?](#)" our [ST se GST tak](#) column today.

Payment of Excise Duty with Old Notes?

MY friend and our columnist Shveta Parikh writes in:

[DDT 2993 dated 19.12.2016](#) published a clarification given by Hon'ble Finance Minister in the Parliament to the effect that **the payment of Indirect Taxes has not been authorized by cash after demonetization of high value currency notes.**

In this regard, it appears that as per the Notification No. SO 3408(E) dated 8.11.2016, as amended by Notification Nos. 3429(E) dated 10.11.2016 and 3448(E) dated 14.11.2016 published by Department of Economic Affairs, the demonetized currency notes of Rs.500 and Rs.1000 could be used for making payment towards any fees, charges, **taxes** or penalties payable to the **Central** or State Governments including Municipal and local bodies up to 24.11.2016.

As duties of Customs and Central Excise as well as Service Tax are taxes payable to Central Government, it is felt that the old notes of Rs.500 and Rs.1000 could be used for payment of these taxes up to 24.11.2016.

Bharuch Commissionerate has issued a Trade Notice No. 07/2016-17 dated 16.11.2016 to the effect that by virtue of aforesaid Notifications the demonetized currency / specified bank notes could be used for making payment towards any fees, charges, taxes (**including Central Excise duties and Service Tax**) or penalties payable to the Central or State Governments apart from utility charges from 9 th November to 24th November 2016. A copy of the said Trade Notice, as received through WhatsApp in personal capacity, is enclosed.

However, as per Rule 8(1B) of the Central Excise Rules, 2002, effective from 1.7.2014, every assessee has to pay duty electronically through internet banking except allowed by AC/DC for payment of duty by any other mode. Similar provisions have also been made for making payment of Service Tax electronically. So, it appears that if AC/DC has permitted any assessee to pay Central Excise duty or Service Tax by cash in old currency notes of Rs.500 and Rs.1000, he could have paid the same during the period from 10.11.2016 to 24.11.2016. However, there was no such official clarification, except the aforesaid Trade Notice of Bharuch Commissionerate. **Â**

Deposit of Old Notes - RBI Clarification

RBI has clarified yesterday that:

++ Tenders of SBNs in excess of Rs 5000 into a bank account will be received for credit only once during the remaining period till December 30, 2016. The credit in such cases shall be afforded only after questioning tenderer, on record, in the presence of at least two officials of the bank, as to why this could not be deposited earlier and receiving a satisfactory explanation. The explanation should be kept on record to facilitate an audit trail at a later stage. An appropriate flag also should be raised in CBS to that effect so that no more tenders are allowed.

++ Tenders of SBNs up to Rs 5000 in value received across the counter will be allowed to be credited to bank accounts in the normal course until December 30, 2016. Even when tenders smaller than Rs 5000 are made in an account and such tenders taken together on cumulative basis exceed Rs 5000 they may be subject to the procedure to be followed in case of tenders above Rs 5000, with no more tenders being allowed thereafter until December 30, 2016.

++ Full value of tenders of SBNs in excess of Rs 5000 shall be credited to only KYC compliant accounts and if the accounts are not KYC compliant credits may be restricted up to Rs 50,000 subject to the conditions governing the conduct of such accounts.

++ The above restrictions shall not apply to tenders of SBNs for the purpose of deposits under the Taxation and Investment Regime for the Pradhan Mantri Garib Kalyan Yojana, 2016.

++ The equivalent value of specified bank notes tendered may be credited to an account maintained by the tenderer at any bank in accordance with standard banking procedure and on production of valid proof of Identity.

++ The equivalent value of specified bank notes tendered may be credited to a third party account, provided specific authorisation therefor accorded by the third party is presented to the bank, following standard banking procedure and on production of valid proof of identity of the person actually tendering, as indicated in Annex-5.

[RBI/2016-17/189 DCM \(Plg\) No. 1859/10.27.00/2016-17., Dated: December 19, 2016](#)

Proposals for setting up of new SEZs - MHA clearance

DEPARTMENT

of Commerce has instructed the Development Commissioners Special Economic Zones that since the requirement of National Security Clearance is to be assessed by the Department, before issuance of formal approval for setting up of new SEZs, the proposals may be examined and indicated whether the proposal would require National Security Clearance from MHA before sending the same to the Department for consideration of the Board of Approval (BoA).

Country Sensitivity: India's national security concerns include threats emanating from outside country. Hence, investment proposals originating from certain countries of concern (contextual) and tax havens require higher due diligence and caution during the process of vetting.

Geographical sensitivity: for the preservation of territorial integrity, serious threats emanate from ware and cross border activities including terrorism, subversion and sabotage.

Consequently, special care and higher due diligence needs to be exercised while evaluating proposals in the proximity of the LoC, LAC and the international borders from the point of view of locational integrity.

Proposals of foreign investment from countries of concern in the following areas will require more due diligence in threat assessment:

Please see: [GSTN - No security clearance was obtained in respect of private institutions](#) , [Â](#) and [DDT2927](#), [Â2931](#), [2935](#), [Â2949](#)

[Department of Commerce \(SEZ Section\) No. F.2/7/2016-SEZ., Dated: December 19 2016](#)

Recovery of 8 Crores worth New Notes - CBI Registers Case

THE CBI registered a case against certain persons in connection with the seizure of about 8 Crores worth of new notes in Pune. The CBI FIR mentions that Shri Sudhir Puranik, Director, M/s.Worldwide Oilfield Machine Pvt. Ltd., Pune, Shri Mangesh Annachhatre, Chief Finance Officer, M/s.Worldwide Oilfield Machine Pvt. Ltd., Pune during the period from November and December 2016 entered into criminal conspiracy with Shri Satyen Gathani of M/s.Ishanya Hyundai Motors, Pune and unknown officers/officials of Banks and unknown private persons and in pursuance of the said criminal conspiracy illegally and unauthorizedly obtained new GC Notes issued by the Reserve Bank of India to the tune of Rs.7,97,95,500/-, including 39,893 numbers of new GC notes of the denomination of Rs..2000/- and 19 numbers of new GC notes of the denomination of Rs.500/- from unknown Banks and thereby cheated the Government of India.

During the raid conducted by Income Tax on 14.12.2016, these notes have been recovered from 15 Bank lockers maintained at Bank of Maharashtra, Parvati Branch, Pune in the name of M/s. Worldwide Oilfield Machine Pvt. Ltd., Pune. Shri Sudhir Puranik, Director and Shri Mangesh Annachhatre, Chief Finance Officer of M/s.Worldwide Oilfield Machine Pvt. Ltd., Pune obtained the new GC Notes from Shri Satyen Gathani of M/s. Ishanya Hyundai Motors, Pune, who in turn obtained the same from various sources/banks. In view of the demonetization of currency declared by Government of India on 08.11.2016, the old GC Notes of Rs.1000/- and Rs..500/- were demonetized and new GC Notes of the denomination of Rs.2000/- and Rs.500/- have been issued. These new GC Notes are being circulated through the Banks and Post Offices under the instructions issued by Reserve Bank of India. As per the instructions of RBI, there is restriction on the amount of the withdrawal of money from the account or through ATM and any person cannot withdraw money to the tune of Rs.7,97,95,500/- within such a short span, subsequent to the demonetization.

Therefore, a Regular Case is registered against Shri Sudhir Puranik, Director, M/s.Worldwide Oilfield Machine Pvt. Ltd., Pune and Shri Mangesh Annachhatre, Chief Finance Officer of M/s.Worldwide Oilfield Machine Pvt. Ltd., Pune, Shri Satyen Gathani of M/s.Ishanya Hyundai Motors, Pune and unknown officers/officials of Banks and unknown private persons.

Pax Loses 5 lakhs at airport - Blames Customs

THE Ahmedabad Mirror

reported yesterday that a passenger who flew into the Ahmedabad airport on December 12 lost his wallet in the airport and he blames the Customs.

His complaint states,

"I flew in on December 12. After landing at Ahmedabad Airport, I was clearing the Customs check. I had put my wallet in a tray for scanning. After clearing the check, I picked up my luggage and went home. It was only after reaching home that I realized I had failed to pick up my wallet. I immediately went back to the airport to retrieve it but the officials could not find it."

He filed an application with the Customs department to be allowed to check the CCTV footage of the luggage scanning area so that he could figure out who took his wallet. He claims the department did not give him permission. It seems the Police checked the CCTV footage from the airport but discovered that the luggage scanning area has no CCTV cameras installed.

The Customs Commissioner is reported to have said,

"I am not aware of a passenger losing his wallet at the Customs clearance counter and filing an application with the police. But the department will fully cooperate with the probe."

Until Tomorrow with more **ADD**T

Have a nice day.

Mail your comments to vijaywrite@tiol.in