

F. No. 356/25/2013-TRU
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(CENTRAL BOARD OF EXCISE AND CUSTOMS)
TAX RESEARCH UNIT
NEW DELHI

Dated: May 15, 2014

To

The Chief Commissioner,
Service Tax (Hyderabad Zone)
Basheer Bagh, L.B. Stadium Road,
Hyderabad-500004

Subject :- Service tax liability on Film Exhibitors – reg.

Please refer to your office letter C.No. IV/16/104/2013-STCC(HZ)/666 dated 02.04.2014 and 22.04.2014 on the aforesaid subject.

2. The issue regarding the levy of service tax on film industry with regard to the distribution and exhibition of films was examined by the Board and a Circular No.148/17/2011-ST dated 13.12.2011 was issued wherein it was specifically clarified that wherever distributors enter into an agreement with the exhibitor or theatre owner to share revenue or profit, a new entity emerges. The said new entity either in the form of Joint Venture (JV) or Association of Persons (AOP) will be recognized as a 'person' and any service provided to or by such JV/AOP will be liable to tax as in the case of any other independent person. As per the said circular :

- Where a theatre owner exhibits a movie on his account, the copyrights are temporarily transferred and the distributors (who transfer such copy rights) are required to pay service tax on copyright services.
- Whereas if a theatre owner exhibits a movie on account of a distributor, either for a fixed consideration or on revenue sharing basis, service tax would apply in the category of renting of immovable property or business support service , as the case may be.

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

Lunawat & Co.

Chartered Accountants

E-mail: ca@lunawat.com, lunawat@vsnl.com.

Website: www.lunawat.com.

It has also been emphasized in the said circular that the taxability of the services involved in these transactions needs to be decided in view of the facts and circumstances of each case.

3. The activity of temporary transfer of copyright was given exemption with effect from 01.07.2012. Hence during the period after 01.07.2012, in cases involving temporary transfer of copyright, service tax is not leviable on the distributors/sub-distributors for providing such service. Moreover exhibitors/ theatre owners are also not leviable to service tax for exhibiting such movies on their own account under support service.

4. In case of revenue sharing arrangements between the theatre owners (service provider) and the distributors/sub-distributors/joint venture (service recipient), as the case may be, service tax will be leviable in accordance with the circular dated 13.12.2011.

5. In view of the above, for determining the leviability of service tax on film industry with regard to the distribution & exhibitions of the films, the facts and circumstances in each case should be examined in the light of circular dated 13.12.2011 and action taken accordingly.

7. This issues with the approval of Member (Budget).

(Dr Abhishek Chandra Gupta)
Technical Officer (TRU)

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

Lunawat & Co.

Chartered Accountants

E-mail: ca@lunawat.com, lunawat@vsnl.com.

Website: www.lunawat.com.