



Bangalore Chamber of Industry and Commerce

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Dr. Vinod Nowal
President, BCIC

August 17, 2011

Mr. S. Dutt Majumder
Chairman
Central Board of Excise and Customs
Ministry of Finance
Government of India
North Block, New Delhi – 110 001

Dear Sir,

Sub: Service Tax on short term accommodation services

The Bangalore Chamber of Industry and Commerce (BCIC) is the apex Chamber of Industry and Commerce representing large and medium industries in the State of Karnataka. BCIC carries the distinction of facilitating various interactions between Industry, Trade and the Government on topical issues from time to time and work towards its endeavour to resolve in the process issues faced by the industry.

The Travel, Leisure & Hospitality industry, often referred to as the Tourism Industry is a nascent but a fast growing industry. Various services rendered by this industry are taxed both by the Central and State Governments.

Recently, Service tax has been introduced on short term accommodation services, which is one of the major sources of revenue in this industry. This levy has brought with it various challenges translating to certain financial hardships which the industry can ill afford at this juncture.

In this regard, we are pleased to enclose a detailed memorandum for your kind perusal. We hereby request your good offices to look into this matter sympathetically and provide us the required relief. We would be happy to meet you in person and explain this in greater detail if you so desire.

Thanking you once again and looking forward to hearing your positive response.

Yours sincerely,

Dr. Vinod Nowal

Cc: a) Smt. Vijayalakshmi Sharma, Member Service Tax, Central Board of Excise and Customs, Ministry of Finance, Department of Revenue, Government of India
b) Mr. Subash Chander, IRS, Chief Commissioner of Central Excise and Service Tax, Bangalore

1. Overview

The Travel, Leisure & Hospitality (TLH) industry renders a wide range services such as accommodation on a short term basis, supplying food & beverages, assistance in planning a tour, cab service, spa, gymnasium, conference halls, party halls etc. Services are provided to corporate and individual customers.

India has emerged as one of the most sought-after tourist destinations, fuelling the rapid growth of the TLH industry. Despite the TLH industry being in a fairly nascent stage in India, the industry is witnessing acute competition translating to developing innovative schemes to attract and retain customers. Some such schemes are providing complimentary food, complimentary cab services etc.

To provide ample choice, great experience etc, players in the TLH industry are investing in developing resorts and other facilities in fairly remote areas which is an expensive proposition. In certain cases, the TLH industry is involved in projects of reviving certain old facilities, which is also an expensive proposition. All the above factors cumulatively contribute to huge investments, long gestation period leading to break-even, severe pressure on margins etc.

2. Taxing the TLH industry

From an indirect tax perspective, the TLH industry is exposed to State Taxes such as VAT, Entry Tax, Luxury Tax, Stamp Duty etc. Further, Central Taxes like Customs duty, CST and Service tax are also applicable. This results in complexities, overlap of taxes resulting in dual taxation, loss of credit of certain taxes etc. All these factors further adversely impact margins in the industry, cash-flows etc.

3. Objective of this memorandum

The levy of service tax on the TLH industry, specifically, the recent levy of service tax on short term accommodation service has resulted in various financial hardships to the industry. Considering the dual state and central levies, the effective tax burden is higher. There has been a considerable resistance from customers in case of attempt to recover full service tax @10.3%. In case of abatement of 50%, CENVAT credit of certain duties and taxes would have to be borne, increasing the costs. In either case, the industry which is in a fairly nascent stage in India is made to suffer.

In view of these, we are requesting that Service Tax on short term accommodation services be rolled back and kept in abeyance till the introduction of GST.

4. Service tax on the TLH industry

Over a period of time, the Union Government has notified various services rendered by the TLH industry as 'taxable services' for the purpose of service tax laws. To illustrate, providing conference halls for meetings was made taxable in July 2001 as convention service, dry-cleaning was made taxable in August 2002 as dry cleaning service, services provided in spa etc were made taxable in August 2002 as health & fitness service and so on.

Recently, short term accommodation services have been made taxable, thereby making service tax applicable to the largest revenue yielding service in the TLH industry. Taxable service is providing of accommodation for a continuous period of less than three months. The tariff charged for letting out rooms would be subject to service tax under this category.

Following options are available for paying service tax as detailed in the following lines:

- Option 1 – pay service tax @10.3% on the gross amount billed to the customer; in this case, to the extent eligible, the service provider can claim credit of duties on inputs & capital goods and service tax on input services;
- Option 2 – pay service tax @10.3% on 50% of the gross amount billed to the customer; this would translate to effective service tax of 5.15%; in this case, the service provider is barred from claiming credit of duties on inputs & capital goods and service tax on input services;
- Option 3 – pay service tax @10.3% on the gross amount billed to the customer, as reduced by the value of goods and materials sold by the service provider; in this case, the service provider is barred from claiming credit of duties on such goods and materials;

5. Impact of levy of service tax

Under options 1 and 3, while credit of duties and taxes are available wholly / partially, a 10.3% service tax would significantly increase the pay-out from the customers' perspective, thereby having an adverse impact on the marketability of services of TLH industry. In case of corporate customers, also typically, service tax charged by the TLH industry would not be creditable in their hands.

Though, under option 2, the impact on the customer is reduced, the service provider would have to absorb the duties and taxes as a cost, which would be a significant amount, adversely impacting profitability.

Considering that luxury tax is levied by State Governments, additional service tax burden would adversely impact the TLH industry.

Some of the other areas of concern are:

- Typically, players in the TLH industry render various services, which are connected to short term accommodation services – for example, dry-cleaning, spa etc. While the abatement of 50% noted above is applicable only to short term accommodation services, similar abatement is not available in respect of the other services. If a service provider opts for abatement, full credit of duties on capital goods is lost, though, such capital goods may be used in common for providing short term accommodation services and other services;
- Further, considering that multiple services are rendered by players in the TLH industry, there are issues connected with clubbing or bifurcating values towards such services;

6. Our request

- Considering the above issues, we request that levy of service tax on short term accommodation services be rolled back and kept in abeyance till the introduction of GST;
- Alternatively, we request that service tax and state taxes may be made mutually exclusive and where state taxes such as luxury tax are levied, service tax exemption may be allowed.
