

## Shift in Service tax liability upon Importer of Pre-paid Ocean Freight

The Central Government has issued Notification 13-15/2017-ST dated 13.04.2017 and 10/2017-CENT dated 13.04.2017, whereby the liability to pay Service tax in respect of services of transportation of goods by a vessel from a place outside India up to Customs clearance station in India, when provided by a person located in non-taxable territory to a person located in non-taxable territory, has been shifted from the person-in-charge of the vessel or his agent to the Importer. The amendments, except stated otherwise, shall be effective from 23 April 2017. Summary of these notifications are tabulated below:

Notification No.	Amendment made	Our comments
<b>15/2017 – ST dated 13.04.2017</b>	In respect of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, person liable for paying service tax other than the service provider <b><u>shall be the importer as defined under clause (26) of section 2 of the Customs Act, 1962 of such goods.</u></b>	Earlier, the liability to pay service tax was on the person in India who complies with sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) with respect to such goods <i>i.e. person in charge of the vessel or his agent in India.</i>  This is a major relief to the vessel owner / agents who may not have to pay service tax going forward.
<b>14/2017 – ST dated 13.04.2017</b>	The Point of Taxation Rules, 2011 have been amended to provide that in respect of the aforesaid services shall be the date of bill of lading of such goods in the vessel at the port of export.	The amendment is retrospective from 22 January 2017.



<b>13/2017 – ST dated 13.04.2017</b>	<p>Amendment made to Rule 2(1)(d) of the Service Tax Rules, 1994, whereby, the person liable to pay service tax in the above case would be the importer as defined u/s. 2(26) of the Customs Act, 1962.</p> <p>Further, an option has been granted to the importer to pay the service tax @ 1.4% of the sum of cost, insurance and freight (CIF) value of such imported goods.</p>	<p>Amendment to Rule 2(1)(d) is a consequential change in line with the above amendment.</p> <p>The option to pay @1.4% of CIF value would resolve the issue of disclosing the freight amount to the importer. The aforesaid option is effective from 22 January 2017</p>
<b>10/2017 – CENT dated 13.04.2017</b>	<p>Amendment in definition of 'input service' under Rule 2(l) of the CENVAT Credit Rules, 2004 (CCR) to include services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India where service tax is paid by the manufacturer or the provider of output service being importer of goods as the person liable for paying service tax for the said taxable services and the said imported goods are his inputs or capital goods.</p> <p>Similarly, second proviso has been inserted to Rule 4(7) of the CCR to allow credit on payment of service tax and clause (ea) has been inserted under Rule 9(1) to include challan evidencing payment of service tax as valid document for availing CENVAT credit.</p>	<p>Consequential changes have been made in the CENVAT Credit Rules to allow importer to avail credit on payment of service tax on ocean freight. The credit would be available on the basis of the challan.</p>



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