



SERVICE TAX

-COPY OF-

**37B Order No 5/1/2007-ST
Dated 12th March, 2007**

**F.No.166/13/2006-CX.4
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi
** ** ***

Goods transport by road service provided by a goods transport agency-reg.

In exercise of the power conferred under Section 37B of the Central Excise Act, 1994, as made applicable to Service Tax by Section 83 of the Finance Act, 1994, the Central Board of Excise and Customs considers it necessary, for the purpose of uniformity with respect to levy of service tax, to issue the following orders:-

- In terms of notification No. 32/2004-ST, dated 3.12.2004 (rescinded on 1.3.2006), and No.1/2006-ST, dated 1.3.2006, the Central Government has exempted the taxable service provided by a goods transport agency to a customer, in relation to transport of goods by road, in a goods carriage, from so much of service tax leviable thereon as is in excess of the service tax calculated on the value which is equivalent to twenty-five per cent of the gross amount charged from the customer by such goods transport agency, subject to the following conditions,-

(i) the credit of duty paid on inputs or capital goods used for providing such taxable service has not been taken;

- the goods transport agency has not availed of the benefit under the notification No. 12/2003-ST, dated 20.6.2003.

3. Vide rule 2 (1) (d) of the Service Tax Rules, 1994, in certain cases, the person who pays or is liable to pay freight, either himself or through his agent, for the transport of goods by road in a goods carriage, has been made liable to pay service tax, instead of the service provider, namely, the goods transport agency. In such cases, the Revenue Audit of the Comptroller & Auditor General of India has objected to the availment of benefit of the aforesaid exemption.

4. The issue has been re-examined. These notifications exempt taxable services from so much of service tax as specified therein, irrespective of the person made liable to pay service tax. It is, therefore, clarified that any person who is made liable to pay service tax, while discharging service tax liability on such service, is entitled to avail of the benefit of exemption in terms of aforesaid notifications No 32/2004-ST, and No.1/2006-ST, subject to fulfilment of the conditions prescribed therein by adopting the procedure prescribed vide para-31 of circular No. B1/6/2005-TRU, dated 27.7.2005. The procedure prescribed is that a declaration by the service provider, in all such cases, on the consignment note, to the effect that the conditions of the aforesaid exemption notification have been satisfied, would be sufficient for availing of the benefit under the said notifications. Opinion of Law Ministry has also been sought in this matter. Law Ministry has concurred with the above views of the Department.

5. Therefore, in all such cases, where the above procedure has been followed, no demand notice may be issued on the basis of objection raised by the C&AG office, and all pending matters may be decided accordingly. Past instructions, circulars and orders on the issue stand suitably modified.

6. Suitable Trade Notices may be issued for the information of trade.

**Sd/-
(Gautam Bhattacharya)
Commissioner (Service Tax)**

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