

Flash on “Taxability of International Private Leased Circuit (IPLC) service”



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In Brief

Central Board of Excise & Customs (CBEC) has clarified that the International Private Leased Circuit (IPLC) services received in India from service providers located outside India, though, cannot be taxed under “Telecommunication services” category yet as per definition they fall under the category of “Business support services (BSS)”, therefore the tax is payable on reverse charge basis.

Facts

IPLC services are essentially considered as telecommunication services. Organizations such as BPOs, MNCs and telecommunication operators receive services from International operators and utilize these for voice and data exchange worldwide.

Telecommunication services are taxable in India under The Finance Act (Service Tax) 1994 but one of the conditions of taxability of these services in India is that the provider of services should be a Telegraph Authority as per the section 4 of The Indian Telegraph Act, 1885.

The Indian Telegraph Act, 1885 does not allow a foreign entity to provide telecommunication services in India therefore they do not qualify as telegraph authority under this Act.

Accordingly, CBEC has come out with Circular No. - F.No.137/21/2011-Service Tax dated July 15, 2011 to clarify on the issue of “Taxability of International Private Leased Circuit (IPLC) Services” under the provision of Section 66A of the Finance Act, 1994 read with Rule 2 (1) (d) (iv) of the Service Tax Rules 1994.

CBEC has clarified that the IPLC services cannot be taxed under Telecommunication services due to the fact that the provider of services in this case do not qualify as Telegraph authority, yet, these services are taxable under the category of BSS, therefore the importer of these services are still liable to pay service tax on reverse charge basis.

Conclusion

On the back of this clarification it is expected that the field formations will initiate a fresh proceedings against the service receivers utilizing IPLC services and not paying service tax under reverse charges basis treating these as non-taxable services.

Contacts

Delhi

Vivek Mishra/R. Muralidharan
Ph: +91(124) 3306000

Mumbai

Dharmesh Panchal/S Satish
Ph: +91 (22) 6689 1000

Kolkata

Somnath Ballav/Siladitya Sarkar
Ph: +91(33) 2357 9100/ 4404 6000

Bangalore

Pramod Banthia
Ph: +91(80) 4079 6000

Hyderabad

Vivek Mallya/N V Raman
Ph: +91(40) 6624 6394

Chennai

Sriram B/Niranjan JV
Ph: +91(44) 4228 5000

Pune

Suresh Rohira/G.P Kawathekar
Ph: +91(20) 4100 4444

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