



Date: 20th August, 2020

16051

To
Shri Ajit Kumar
The Chairperson,
Central Board of Indirect Taxes and Customs,
Government of India,
North Block,
New Delhi – 110001

Durgesh V. Buch
President

Natubhai Patel
Sr. Vice President

Bhargav Thakkar
Vice President

Sanjeev Chhajer
Secretary

Dilip M. Padhya
Secretary (R)

Pathik S. Patwari
Treasurer

Sub: Request for revoking notices issued to Health & Medical Practitioners and Lawyers for payment of service tax

Respected Sir,

We would like to place on record our sincere appreciation to the commendable efforts taken by the government towards fighting the COVID-19 pandemic and also applaud the recent initiatives taken by the CBIC for ensuring smooth and effective regulation of GST in India. The approach, espoused by extending GST due dates, waiver of interest and late fees and timely addressing the myriad problems faced by the trade & industry, is exemplary. This regime has provided us with new hope and optimism for a future bereft of the virus.

We would like to inform your good self about the recent notices under Service Tax Department being issued to Health & Medical Practitioners and Lawyers for payment of service tax. With regards to the Service Tax, all services are taxable except for those specified in Negative list or those services which are specifically exempt from service tax. Notification no 25/2012 dt 20th June, 2012 (**Viz. Mega Exemption Notification**) provides the list of services which are exempt from applicability of service tax. We are reproducing below the relevant entries of service tax relating to health and medical practitioners and advocates:

For Health and Medical practitioners:

- As per Entry No. 2 of Mega Exemption Notification,
 - i) **Health care services** by a clinical establishment, an authorised medical practitioner or para-medics;
 - ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above;
 - 2A. Services provided by cord blood banks by way of **preservation of stem cells** or any other service in relation to such preservation;
 - 2B. Services provided by **operators of the Common Bio-medical Waste Treatment Facility** to a clinical establishment by way of treatment or disposal of bio-medical waste or the **processes incidental thereto**;
- As per Entry No. 3 of Mega Exemption Notification, Services by a **veterinary clinic** in relation to health care of animals or birds
- As per Entry No. 35 of Mega Exemption Notification, Services provided to Government, a local authority or a governmental authority by way of –
 - i) water supply, **public health**, sanitation conservancy, solid waste management or slum improvement and up-gradation

For Advocates:

- As per Entry No. 6 of Mega Exemption Notification, Services by – an individual as an advocate or a partnership firm of advocates by way of legal services to, –
 - (i) an **advocate** or partnership firm of advocate providing legal services;
 - (ii) **any person** other than a business entity; or
 - (iii) a **business entity** with a turnover up to rupees ten lakh in the preceding financial year; or
- And in case of a **business entity** with a turnover more than rupees ten lakh in the preceding financial year, **the recipient will be liable to pay 100% service tax** i.e. under reverse charge mechanism. Hence, no liability on part of advocates arises for the payment of service tax.

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However, Health & Medical practitioners and Advocates are receiving notices from CGST for payment of service tax for the period of FY 2013-14 to FY 2017-18 (till June 2017) for the payment of service tax. The notices are being issued based on the amount mentioned in the Income Tax Return under “sales/gross receipts from services” or “Total amount paid/ credited under section 194C, 194I, 194H, 194J of Income Tax Act, 1961. Since the medical practitioners and advocates are exempt from payment of service tax, there is no point of raising such notices requiring them to justify their receipts being exempt under Service Tax.

In India the cases of COVID-19 have reached to more than 27 lakhs by daily rise of 50,000 to 60,000 and in this present pandemic situation, Medical practitioners are working day in and day out to help our citizens combat this deadly pandemic. Receiving such unnecessary demand notices can be really burdensome and can exert undue pressure on them to revert to such notices on time.

As Health & medical practitioners and Advocates are not liable for the payment of service tax as per above specified entries from Mega Exemption Notification, we request you to issue necessary instructions to the field officers not to issue such demand notices based only on Income Tax return and Form 26AS without knowing the full facts.

We all are facing this unprecedented situation and we require your co-operation and patient hearing to our concerns. We would be very grateful if your good self would take an early action in this regard and have a positive consideration of our requests. This will be very useful for the taxation fraternity and also for the trade and industry. In conclusion, we request that a suitable orders/clarification may be issued to this effect at the earliest.

Warm regards,

Sincerely yours,



Durgesh V. Buch
President