



Service Tax obligations

Work shop – Service tax obligations for NGOs 20th Dec 2012

Registration Procedure

Persons requiring registration:

- **Sec69 read with Rule 4 of Service Tax Rues 1994**
 - **Persons providing taxable services**
 - **Persons made responsible under reverse charge mechanism (Rule 2(1)(d) of STR 1994 (Registration compulsory with out regard to taxable limits,**
 - **Input Service Distributors**
 - **Small scale service provider no longer exempt under provisions of Notifications no. 6/2005 (i.e. the taxable turnover exceeds Rs.9lacs in current financial year and also in preceding financial year.**

Procedure for registration:

- **Online registration compulsory**
 - After filing the online application, the applicant needs to submit a hard copy of application along with various papers.
- **Option of Centralized registration or Dentralsed registration**

Cont.

- **Conditions as imposed by Sec11(4A) still applicable. These are business activities should be incidental to business and separate books of accounts are required to be maintained.**
- **Relief to small scale Trusts / societies**
Those trusts / societies whose gross total receipts from business does not exceed Rs.25lacs still enjoys 2(15) benefit.
- **Mutual trade / commerce association pooling financial resources for a common purpose are outside Sec2(15), provided there is complete identification between poolers and beneficiaries. (refer CBDT circular- 11/2008)**
- **Whether Trade/commerce / business includes consultancy – No (refer Gannon Dunkerley decision) (9STC 353)**
- **Charitable purposes include education, medical relief, relief to the poor, preservation of natural resources, preservation of historical monuments. Therefore, all objects are definitive in nature and scope except relief to the poor.**
- **An trusts/ societies carrying out any objects not falling with in the definition, may take recourse to relief to poor.**
- **Relief to poor- may be way of providing micro finance loans/ credits, employment generation activities, livelihoods, activity of financial inclusion by assisting poor people open bank accounts with banks (i25 Rural mobile commerce services vs. DIT (E) (Bang.)etc.**

SEC 2(15):

- **Difference between Trade/ commerce / business from charitable activities:**
 - **Infrequent printing of books, holding charity events, generation of sponsorship income are activities other than of business nature.**
- **Relief to poor- may be way of providing micro finance loans/ credits, employment generation activities, livelihoods, activity of financial inclusion by assisting poor people open bank accounts with banks (i25 Rural mobile commerce services vs. DIT (E) (Bang.), helping artisans, marginal farmers, senior citizens, indigent workers, etc**
- **EDUCATION - WHEN EDUCATION IS MONETISED BY COLLECTING CAPITATION FEES.**

SEC 2(15)continued

- **DOES IT MEAN STRUCTURAL EDUCATION ONLY (PRESCRIBED BY CERTAIN EDUCATION DEPTT.) OR NON FORMAL EDUCATION ARE ALSO INCLUDED.**
- **PROMOTING READING HABITS AMONGST CHILDREN – EDUCATION**
- **HOLDING CLASSES IN AID OF EDUCATION- EDUCATION**
- **HOLDING CRAFT TRAINING – NOT EDUCATION**
- **EDUCATION SHOULD BE UNDER COMPETENT STATE/ CENTRAL GOVT. AUTHORITY**
- **PRINTING BOOKS IS NOT EDUCATION**
- **WHAT DOES RELIEF TO THE POOR MEAN:**
 - **Very wide term and a no. of case laws available**
 - **Thanthi Trust vs. ACIT**

SEC 2(15)continued

- **Whether a society whose Sec80G certificate expires on or after 1-1-2009 is required to approach for renewal**
- **Recent decision explaining the meaning of word business, trade or commerce**
- **Promoting interests of a class of people: whether Charitable**
- **Whether adult education or NFE is education**
- **A case law which clearly showed what is not a charitable activity**

SEC 2(15)continued

- **Implications if 2(15) conditions are violated.**
 - **A trust may lose tax exemption status as Sec11 provides for wholly charitable or religious purposes.**
 - **No respite for part trusts(part private and part charitable/ religious).**
 - **Heading of Sec11 “ Income from property held for charitable or religious purposes”.**
 - **In scrutiny cases (AY2009-10), question have been raised by ITO/ DIT(E) of revoking 12A registration where violations of 2(15) are found.**
 - **Pl. note that in case of any charitable trusts using funds for religious purposes, it doe not lose 12A registration but that much part of income is excluded from tax exemption.**



Thank You