

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE: TRICHY.
NO.1, WILLIAMS ROAD, CONTONMENT, TRICHY-620 001.

Trade Notice No.8/2007 S. Tax

Dated: 17-5-2007.

Subject : 1) Review of circulars/clarifications/instructions issued on matters relating to service tax law and procedures – withdrawal of circulars – reg.

2) Applicability of service tax on entry and exit load Charged by the Mutual Fund – reg.

Ministry's Service Tax Circulars No.93/04/2007- ST dt. 10-5-07 and No.94/5/2007- ST dt. 15-5-2007 issued vides F.No.137/85/2007-CX.4 and F.No.137/158/2006-CX.4 respectively on the above subject is communicated for information, guidance and necessary action.

The contents of this Trade Notice may be brought to the knowledge of all constituent members of the Trade Associations and Chamber of Commerce.

(Issued from C.No.IV/16/905/2007 S.Tax)

Sd./-
(M.G.THAMIZHVALAVAN)
JOINT COMMISSIONER (T).

To
The Mailing list I / II / III

Copy of Ministry's Service Tax Circulars No.93/04/2007- ST dt.10-5-07 and No.94/5/2007- ST dt. 15-5-2007 are reproduced below.

Subject: 1) Review of circulars/clarifications/instructions issued on matters relating to service tax law and procedures – withdrawal of circulars – reg.

It was decided to undertake review of circulars/clarifications/ instructions issued by the Central Board of Excise & Customs/Director General (Service Tax) from time to time since the introduction of Service Tax in 1994. Circulars/clarifications/instructions have been issued from time to time to explain the scope of statutory provisions, for removal of doubts, to prescribe special procedures and on matters of interpretations. Ministry of Finance, Department of Revenue vide Order F.NO.465/70/2006-TRU dated 13.6.2006 appointed Shri T. R. Rustagi to undertake review of circulars/clarifications/ instructions on matters relating to service tax since the introduction of Service Tax in 1994, taking into account the changes in service tax law and procedures, the judicial pronouncements and other relevant considerations. For this purpose, views/comments/suggestions were solicited from trade and industry associations, officers from field formations and others stakeholders. Taking into account all the response received, Shri T. R. Rustagi submitted his report to the Government on 22.2.2007.

2. The report of Shri T. R. Rustagi Committee was placed on the CBEC website on 9.3.2007 seeking views/comments/suggestions from all concerned on the recommendations made in the report. Suggestions in respect of circulars/clarifications/instructions which were not covered in the report were also invited.

3. Taking into account the recommendations made in the report submitted by Shri T. R. Rustagi, views / comments / suggestions received from the trade and industry associations, the departmental officers and all material facts, it has been decided that certain service tax circulars/clarifications/instructions which were previously issued with some objectives,

but which have since then lost their relevance or have become anachronistic due to changes in law, procedures, etc., should be withdrawn. Accordingly, the following circulars/clarifications/instructions stand withdrawn with immediate effect,-

Sl. No.	Circular No. / F.No.	Date
1	1/1/94 – ST	29.06.1994
2	2/2/94 – ST	08.07.1994
3	4/4/94 – ST	06.09.1994
4	5/5/94 – ST	11.10.1994
5	6/1/95 – ST	02.05.1995
6	7/1/96 – ST	29.02.1996
7	8/2/96 – ST	11.03.1996
8	9/3/96 – ST	11.03.1996
9	13/7/96 – ST	20.09.1996
10	15/9/96 – ST	04.10.1996
11	16/10/96 – ST	15.10.1996
12	19/13/96 –ST	21.11.1996
13	20/14/96 – ST	31.12.1996
14	21/1/97 – ST	27.01.1997
15	F. No. B.43/7/97- TRU	11.07.1997
16	F. No. 148/3/97 – CX4	09.09.1997
17	23/3/97 – ST	13.10.1997
18	F.No.354/128/97 –TRU	18.12.1997
19	25/2/98 – ST	23.07.1998
20	26/3/98 – ST	10.09.1998
21	27/1/99 – ST	19.05.1999
22	28/2/99 – ST	04.07.1999
23	30/1/2000 – ST	05.06.2000
24	31/2/2000 – ST	31.07.2000
25	34/2/2001 – ST	30.04.2001
26	36/4/2001 – ST	08.10.2001
27	37/5/2001 – ST	27.12.2001
28	38/1/2002 – ST	07.02.2002
29	39/2/2002 – ST	20.02.2002
30	42/5/2002 – ST	29.04.2002
31	45/8/2002 – ST	30.07.2002
32	48/10/2002-ST	13.09.2002
33	51/13/2002 – ST	07.01.2003
34	53/2/2003 – ST	27.03.2003
35	54/3/2003-ST	21.04.2003
36	55/4/2003 – ST	24.04.2003
37	56/5/2003 – ST	25.04.2003
38	57/6/2003 – ST	20.05.2003
39	64/13/2003 – ST	28.10.2003
40	65/14/2003 – ST	05.11.2003
41	70/19/2003 – ST	17.12.2003
42	73/3/2004 – ST	05.01.2004
43	74/4/2004 – ST	23.01.2004
44	77/07/2004 – ST	10.03.2004
45	78/8/2004 – ST	23.03.2004
46	79/9/2004 – ST	13.05.2004
47	F. No. 341/20/2005-TRU	12.05.2005
48	F.No./354/106/2005-TRU	08.08.2005

4. As regards the remaining circulars/clarifications/instructions (other than those mentioned above), it is seen that certain portions of some of these circulars relate to the issue of valuation of taxable services. However, any such portion, which is inconsistent with the Service Tax (Determination of Value) Rules, 2006 has already been withdrawn w.e.f. 19.4.2006, vide para 4.1.13 of instruction No. B1/4/2006-TRU, dated 19.4.2006. Therefore, in all cases the value of a taxable service is to be determined strictly in terms of the Service Tax (Determination of Value) Rules, 2006 read with the section 67 of the Finance Act, 1994. As regards the other portions of these circulars, the same are presently under examination by the Board and a decision about their further continuance or otherwise would be taken soon.

Yours faithfully,
Sd/-
(Gautam Bhattacharya)
Commissioner (Service Tax)

Subject:- 2) Applicability of service tax on entry and exit load charged by the Mutual Fund – reg.

Service tax is leviable on 'asset management and all other forms of fund management' under the category of 'banking and other financial service'. In this context a question has arisen as to whether the service tax would be chargeable on the 'entry and exit load' amount charged by a mutual fund to the investor.

2. The issue has been examined by the Board. 'Mutual Fund' statutorily means a fund established in the form of a trust to raise money through sale of units to the public for investing in securities including money market instrument. Thus, a mutual fund is a collective pool of money created by subscription of its units by the investors. The objective of a mutual fund is to achieve financial goal of maximizing the return for subscribers, by investing the money efficiently and effectively in the securities and other such instruments using the service of a professional fund manager, i.e., an asset management company (AMC).

3. In operating the scheme, the following expenses are incurred by the mutual fund,-

(i) **Initial issue expenses:** These expenses are incurred on initial brochures, SEBI approvals, advertisement, registrars, preparation of certificate, postage, distribution and broker, etc.

(ii) **The recurring expenses :** These expenses are incurred on fund management fee to Asset Management Company, brokerage, trustees fee, expenses on account of stationery, postages, advertisements, listing on exchanges, publishing of Net Asset Value (NAV), distribution charges, custodian charges, audit fee ,etc.

4. In terms of the Tenth Schedule to the SEBI (Mutual Fund) Regulation, 1996, the initial issue expenses are amortized over a period of the scheme, and the entry and exit load charges are paid by the investors to the fund to meet these expenses. Any unamortized portion of expenses is included in calculation of NAV. **Hence, entry and exit load charges are not towards fund management service provided by the AMC but to meet the initial issue expense and other specified expenses, incurred by the mutual fund. It is accordingly clarified that "entry and exit load" charged by mutual fund would not attract service tax levy under the category of fund management service.**

5. In a mutual fund, fund management activity is undertaken by an asset management company (AMC) right from the stage of inception of mutual fund. For its services of fund/asset management, (i.e., a periodic/recurring fee) an AMC charges the mutual fund an 'investment and advisory fee', in accordance with provisions contained in the SEBI regulation. This fee is chargeable to service tax under 'fund management service'. Similarly, service provided by the distributors/ selling agents, brokers, custodians, trustees etc., to the fund, is also taxable under respective taxable service such as business auxiliary service, stock broking service and banking & other financial services.

(Gautam Bhattacharya)
Commissioner (Service Tax)
