

F.No.332/29/2009-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Tax Research Unit)

New Delhi-110001 dated the 26th April, 2010.

To

Director General of Service Tax, Mumbai
Director General of Central Excise Intelligence, Delhi
Chief Commissioner of Central Excise (All)
Chief Commissioner of Customs and Central Excise (All)
Commissioner of Service Tax (All)

Madam/Sir,

Subject: Service tax on Container Detention Charges - regarding

Generally marine containers are temporarily brought into a customs territory and have to be re-exported within a specified period. Normally, a Full Container Load is taken out of the port and the activity of stuffing or de-stuffing takes place at the premises of the exporter/importer. The shipping companies/steamer agent provide a pre-determined period within which the container (that has gone out of the port) is to be returned. This is called as 'pre-holding period' and the duration of the same is mentioned in the contract. In case there is any delay on the part of the customer in returning the container, the charges known as 'detention charges' are collected over and above the contracted amount by the shipping line.

3. Representations have been received in the Board that service tax has been demanded on such 'detention charges' under the 'Business Support Service (BSS)' or 'Business Auxiliary Service (BAS)'.

4. The issue has been examined. To retain the container beyond the pre-holding period is neither a service provided on behalf of the client

(Business Auxiliary Service) nor is it an infrastructural support in the business of either the shipping lines or the customer (Business Support Service). Such charges can at best be called as 'penal rent' for retaining the containers beyond the pre-determined period. Therefore, the amount collected as 'detention charges' is not chargeable to service tax.

5. The Board desires that pending cases, if any, on this issue may be decided in line with the above clarification.

Yours faithfully,

(Gautam Bhattacharya)
Joint Secretary (TRU-II)
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