

Levy of ST on Air-Conditioned Hotels – Negative development for Hospitality Sector – Mar 1, 2013



By S Sivakumar, Advocate

ONE proposal taking effect from April 1, 2013, that would affect the Hospitality Sector in a big way, is the proposed amendment to Item No, 19 of the Mega Exemption Notification No. 25/2012-ST dated the 20th June, 2012. The clause (ii) which reads as “a license to serve alcoholic beverages’ is proposed to be deleted, which would mean that, any restaurant, eating joint or a mess having the facility of air-conditioning in any part of the establishment, at any time during the financial year, would be covered under the service tax regime.

In terms of this proposal, the requirement that a restaurant, etc. should have a license to serve alcoholic beverages would no longer be applicable. Due to this, all air-conditioned restaurants, eateries, etc. would attract service tax, irrespective of whether they serve alcoholic beverages or not. The fact that, air-conditioning in any part of the restaurant is enough to attract service tax, would result in most hotels and restaurants coming under the service tax net.

When one drives along the highways, one comes across hotels situated on the roadside, with an ‘air-conditioned room’. Of course, in most cases, these ‘air-conditioned’ rooms simply don’t work. Now.. all of these restaurants, located even in the small time towns, would come under the service tax net.

In a city like Bangalore, where I live, we have tens of hundreds restaurants, which have small air-conditioned rooms, with most part of these restaurants being non air-conditioned. Unfortunately, all of these hotels and restaurants would come under the service tax net.

It would seem that, even eating joints which are run by Companies for the benefit of their employees, would get covered under the service tax net, as most of these are air-conditioned, along with the main facility area, as some of these are registered as ‘restaurants’ under the applicable laws.

Most of the eating joints run by Clubs, Associations and even Hospitals, would get covered under the service tax net, if they have even a small area which is air-conditioned.

Most eating joints run by State Run Tourist Homes, etc., if air-conditioned, would come under the service tax net, including Pizza Huts, Pizza Corners, etc. The road-side ice-cream shops will also come under the service tax net, as they are compulsory required to have an air-conditioned facility to protect the ice-creams.

And, look at this... service tax is attracted when the air-conditioning facility has operated for a part of the year. In terms of this, a restaurant which installs an air-conditioner in a small part of the restaurant on March 31, 2014 would be expected to have collected and discharged service tax liability right from April 1, 2013, an impossible requirement to meet.

Surely, this proposal would bring most restaurants and eating joints into the service tax net, unfortunately and the sad story is that, most of these restaurants could be located in rural or semi-urban areas.

It would be better if the levy of service tax is restricted to hotels or restaurants having introduced.

Before concluding...

I am addicted to coffee and consume about 5 to 6 cups, every day, from the nearby Shanti Sagar Hotel (which, most unfortunately, has an 'air-conditioned' room). Despite that, I have to collect the coffee myself (under the self-service scheme), my cost per coffee cup, which is already at a steep price of Rs 15- for a small cup, would further go up now, due the levy of service tax on this Hotel. May be... I should look at having coffee from a road-side shop.

Of course, the threshold exemption limit of Rs 10 lakhs would be available to these air-conditioned restaurants. Despite this, most of the air-conditioned restaurants and eateries would still come under the service tax net, given the fact that, an annual limit of Rs 10 lakhs is too small a limit for restaurants and eateries