Tax News

PKF SRIDHAR & SANTHANAM
Chartered Accountants

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INCOME TAX

Reminder for Mar-2013

Action Due	Due Date
TDS/TCS for Feb 2013	07-03-13
PF for Feb 2013	15-03-13
ESI for Feb 2013	21-03-13
Advance Tax	15-03-13

SERVICE TAX

Action Due	Due Date
Service Tax for Feb 2013 in case of company	05-03-2013
Service Tax for Feb 2013 in case of a company for which e-payment is mandatory.	06-03-2013
Service Tax for the quarter Jan 2013 to March 2013 in case of Individuals or partnership	31-03-2013
Service Tax for the month of March 2013 in case of company	31-03-2013

INCOME TAX

Important Circulars / Notifications

- **Tax Deducted At Source:** Certain amendments have been made in the procedure and forms related to submission of TDS. The details are in the **Income Tax Circular dated Feb 19, 2013.**

SC / HC Judgments

➢ **Commission paid by company to an HUF consisting of Directors of the company:** The assessees were the Directors of a company engaged in the business of selling textiles. The said company made all purchases from SSVC, an HUF of two of the Directors of the company. In accordance with sec 2(24)(iv), the AO treated the personal expenses of the assessees paid by the company as the income of the Directors. The commissions received by them, from SSVC, were also taxed for the AYs 2000-01 and 2001-02.

On appeal, the CIT(A) held that since the company had not claimed the amounts paid for personal expenses of the assessees, the same cannot be treated as income in the hands of its Directors. So far as commission from SSVC is concerned, it was held that although the assessees admitted the same by way of a letter, yet later on it was retracted, and there was no other evidence except the retracted letter. On appeal by Revenue, the Tribunal held that the personal expenses met out of the company's money cannot be treated as income in the hands of the assessees as the money had not been paid directly to them, but to the franchisees, which their HUF owned. In its appeal before the High Court, the main contention of the Revenue was that when the fact that each Director received benefit towards the personal expenses, was not disputed, it was irrelevant and immaterial that the company had not claimed the amount as an expenditure in its profit and loss account. Moreover, the company had simply used the medium of HUF of the Directors in whose name the franchisee stood, to make payment towards their personal expenses. The High Court held that:

- What is essential to be considered is, whether the income has been allowed to escape from being taxed or not. It is also relevant to point out that the assessees did not file any return in their individual capacity and notices under Section 147 were issued only on the ground that they did not file any return disclosing the perquisites and benefits received by them from the company and that they are guilty of omission to file the returns.
- Under such circumstances, the order of remand made by the Income Tax Appellate Tribunal is perfectly justified. 2013-TIOL-131-HC-MAD-IT.

- **Recovery u/s 226 against public trust:** The assessee was a public trust registered under the Bombay Public Trusts Act, 1950 and managed educational institutions all over India as well as homes for the elderly, hostels for small children and health centres. In 1975, the assessee was granted a registration u/s 12A. In 1986, an amendment was made to the objects of the assessee with a reference that the rendering of services shall be primarily for Catholics and in consonance with Catholic principles. The registration u/s 12A was not withdrawn from 1986 till 2008 and a certificate u/s 80G was granted from time to time. Between 1975 and 2010, the assessee was also allowed an exemption u/s 11. The assessment for AY 2004-05 and 2006-07, was reopened by notices u/s 148 issued in March 2011 and simultaneously, a notice was also issued for the withdrawal of the registration u/s 12AA. For A.Y.2009-10, assessment was made denying exemption u/s 11 on the ground that the objects clause had been amended. In December 2011, orders were passed u/s 143(7) and Section 147 for A.Ys.2004-05 and 2006-07 withdrawing the exemption which had been granted earlier. The assessee filed appeals for all these AYs, which are still pending before the CIT(A).

  In March 2012, the assessee was issued a communication for recovery of demands for the concerned AYs, to which the assessee replied by requesting a stay, pending the disposal of the appeal before the CIT(A). In January, 2013, the assessee received a demand notice for Rs 11.72 crores to which the assessee replied by seeking an opportunity of being heard, but no hearing was granted. Thereafter, a notice was served u/s 226 to the Branch Manager of the assessee's banker, to pay over the said amount towards the demands raised on the assessee. The notice was served on the assessee after the amount of Rs 4.76 Crores was withdrawn from the account, and the Branch Manager was repeatedly instructed by the Department not to contact the assessee before the amount was withdrawn. Aggrieved by such action of the Department, the assessee filed a writ petition before the High Court. The HC held that:

  - The whole object of serving a notice on the assessee is to enable the assessee to have some recourse. In some cases, it may be necessary for the Revenue to take recourse to Section 226(3) and not serve a prior notice on the assessee if there is an apprehension that the monies would be spirited away to the detriment of the Revenue. This was not that kind of a case at all. In the present case, appeals filed by the assessee are pending before the CIT (A) and the assessee had sought an opportunity of being heard and filed applications for stay. There was no justification to proceed hastily with the enforcement of the recovery of the demand without disposing of the application for stay.
  - While the interest of the Revenue has to be protected, it is necessary for assessing officers to realize that fairness to the assessee is an intrinsic element of the quasi judicial function conferred upon them by law. Applications for stay must be disposed of at an early date. Such applications cannot be kept pending until after monies are recovered using the coercive arm of the law.

- In this case, the assessee would be entitled to the grant of equitable relief in the exercise of the jurisdiction under Article 226. Considering the interests of the Revenue, it would not be appropriate to direct that the entire amount should be restored in the bank account of the assessee, however, it would be appropriate to ensure that sufficient funds are restored to the bank account of the Petitioner with a view to allow it to carry on its activities for a period of 45 days, within which recourse can be taken to the pending stay application before CIT (A). 2013-TIOL-120-HC-MUM-IT).

➢ **Separate TAN for Head Office and field office:** The assessee (Parle Biscuits Pvt Ltd, Bahadurgarh) had given contract for executing the works to various persons, making it liable to deduct tax on the rate prescribed under Section 194C of the Act. Eight of the contractors furnished certificates as contemplated under Section 197 (2) of the Act addressed to Parle Biscuits Pvt. Ltd., Mumbai for deduction of tax on lower rate than the specified in Section 194C of the Act. The assessee made a deduction of tax at the rates so specified in such communications acting on certificates issued by the Assessing Officer of the contractors. The Assessing Officer found that there was short deduction of tax as the Parle Biscuits Pvt. Ltd., Mumbai had a separate Tax Deduction Account Number (TAN) than the Parle Biscuits Pvt. Ltd., Bahadurgarh, which implied that the assessee and Parle Biscuits Pvt. Ltd., Mumbai were separate entities for the purpose of deduction of tax at source. Consequently, the AO passed an order of raising demand against the assessee for the violations of Sec 194C.

The CIT(A) returned a finding that since the geniuneness of the issue of certificates under Section 197 of the Act had not been doubted by the Assessing Officer, therefore, there was no justification to hold that the assessee was in default merely on the ground that the said certificate was not issued in the name of Bahadurgarh unit. The said order was affirmed by the Tribunal. The High Court held that:

- Merely because the assessee has got separate TAN for Bahadurgarh unit and for Mumbai unit, will not render the certificate issued under Section 197(2) as redundant. Such certificate is to be issued to the Principal Officer of the Company as the person responsible for deduction of tax and not to any other person or unit of the assessee.
- Therefore, the order passed by the Commissioner of Income Tax (Appeals) Rohtak and affirmed by the Tribunal cannot be said to be suffering from any illegality in any manner. 2013-TIOL-98-HC-P&H-IT.

➢ **Dividend declared by transferor company after the date of amalgamation:** A scheme for amalgamation was formulated by eight different companies, including Torrent Power Ltd., Torrent Leasing and Finance Ltd. and Torrent Ltd. The said scheme envisaged 1st August 1999 as the effective date from which such amalgamation would take effect. According to such scheme, eight different companies

amalgamated into Torrent Investment Ltd with effect from 1st August 1999. Torrent Investment Ltd was then renamed as Torrent Private Ltd, i.e. the petitioner Company.

Torrent Power Ltd. had after the effective date of amalgamation, but before the same was actually sanctioned by the HC, declared and paid out dividend to three shareholder companies. It had also deposited the dividend distribution tax. The petitioner moved an application before the AO and claimed refund of the dividend distribution tax. The AO rejected the claim and was of the opinion that the liability to pay tax would arise as soon as the dividend was credited or distributed or deemed to have been paid, credited or distributed to the shareholders. The CIT rejecting revision petition u/s 264 observed that the petition itself was not maintainable as the same was not filed against the order passed by the AO. Mere correspondence between the petitioner and the AO cannot be treated to be an order stipulated u/s 264. Despite such conclusion, he examined the petitioner's claim on merits and held that the same was not acceptable.

Before the HC the Assessee's Counsel submitted that any dividend declared or paid after the effective date of the amalgamation, but before the same was sanctioned would cease to bear the character of dividend since no dividend could be paid by the company to its own self. That being the position, liability to pay any tax under section 115-O would therefore cease. The Revenue Counsel submitted that u/s 115-O, liability to pay dividend distribution tax arose the moment the dividend was paid, declared or distributed. The Tribunal held that:

- The CIT could not have examined the merits of the petitioner's claim unless he himself was convinced that the revision petition was maintainable. Merely because such application was not in a formal format, the same would not change the character of the application being one seeking refund. Likewise, the AO, after hearing the petitioner made a detailed speaking order dealing with the petitioner's claim for refund. Such order also cannot be simply brushed aside as one being correspondence between the assessee and the AO. The order passed by the AO was certainly one to which the CIT revisional powers u/s 264(1) apply.
- It is well settled that a merger or amalgamation scheme once sanctioned by the competent court would take effect from the date of the order envisaged in the scheme itself unless, of course, the court sanctioning such scheme otherwise provides. By virtue of such subsequent developments, the payment of dividend could no longer retain the character of dividend paid by Torrent Power Ltd since there cannot be payment of dividend by one company to its own self.

- The petitioner was justified in seeking refund of the tax already paid. Section 237 provides that if any person satisfies the AO that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for

any A.Y exceeds the amount with which he is properly chargeable under the Act for that year, he shall be entitled to a refund of the excess amount. The case of the petitioner would, thus, be clearly covered under the said statutory provisions. 2013-TIOL-87-HC-AHM-IT.

- **Compensation to CA Firm for loss of referral work is a non-taxable capital receipt:** The assessee, a firm of Chartered Accountants, was one of the "associate members" of Deloitte Haskins & Sells (DHS) for 13 years pursuant to which it was entitled to practice in that name. Deloitte desired to merge all the associate members into one firm. As this was not acceptable to the assessee, it withdrew from the membership and received consideration of Rs. 1.15 crores from Deloitte. The said amount was credited to the partners' capital accounts & claimed to be a non-taxable capital receipt by the assessee. The AO rejected the claim. The CIT (A) reversed the AO. The Tribunal reversed the CIT (A). On appeal, the HC held:
  - There is a distinction between the compensation received for injury to trading operations arising from breach of contract and compensation received for loss of office. The compensation received for loss of an asset of enduring value would be regarded as capital. If the receipt represents compensation for the loss of a source of income, it would be capital irrespective of the fact that the assessee continues receive income from its other similar operations.
  - The compensation was for loss of a source of income, namely referred work from DHS, because entering into such arrangements with international CA firms, with the same regularity with which companies carrying on business take agencies, is difficult. In a firm of chartered accountants there could be separate sources of professional income such as tax work, audit work, certification work, in addition to the referred work. In this case, there was a regular inflow of referred work. There is no evidence that the assessee had entered into similar arrangements with other international firms of chartered accountants. It is for that loss of the source of income that the compensation was calculated and paid to the assessee. The compensation was thus a substitute for the source and the Tribunal was wrong in treating the receipt as being revenue in nature. *Khanna and Ananandhanam v. CIT , 25TH FEB 2013, itatonline .org.*

- **Gains arising on sale of shares of foreign company by NR to NR not taxable in India:** Two French companies named "Murieux Alliance" ('MA') and "Groupe Industrial Marcel Dassault" ("GIMD") held shares in another French company named "ShanH". MA & GIMD acquired shares in an Indian company named "Shantha Biotechnics Ltd" ("Shantha"). The shares in Shantha were transferred to ShanH. MA and GIMD subsequently sold the shares in ShanH to another French

company named "Sanofi Pasteur Holding". The assessees filed an application for advance ruling claiming that as the two French companies had sold the shares of another French company to a third French company, the gains were not chargeable to tax in India. The department opposed the application on the ground that ShanH was formed with no purpose other than to hold the shares of the Indian company and that the transaction was taxable in India. The AAR upheld the department's plea on the ground that the French company's (ShanH) only asset were the shares in the Indian company & so when its shares were sold, what really passes were the underlying assets and the control of the Indian company. On appeal by the assessee, the High Court held:

- ShanH was incorporated as part of the policy that all off-shore investments must be made through a subsidiary incorporated in France. ShanH is an entity of commercial substance and business purpose. Though a subsidiary of MA/GIMD, it is not a mere nominee or alter ego of MA/GIMD and there is nothing to show that they exercised overriding control over it. ShanH is accordingly the true and beneficial owner of the Indian company's shares. When the shares of ShanH were sold, it was the sale of shares of a French company and it cannot be said that the control, management or underlying assets of the Indian company were sold. So it should not attract tax on capital gains in India.
- Article 14(5) of the India-France DTAA which exempts capital gains from shares representing more than 10% holding from tax in India, does not permit a 'see through' on whether the 'alienation' of shares by ShanH is an 'alienation' of the control, management or assets of the Indian company. The fact that the value of the shares of ShanH was because of the value of the Indian company's assets, is irrelevant.
- The retrospective amendment to s. 9(1) so as to supersede the verdict in *Vodafone International* and to tax off-shore transfers does not impact the provisions of the India-France DTAA because the DTAA overrides the Act.
- The Revenue's argument that as the term "alienation" is not defined in the DTAA, it should have the meaning of the term "transfer" in s. 2(47) as retrospectively amended is not acceptable. In some DTAA's, the term "alienation" is defined to include the term "transfer" but not in the India-France DTAA.
- Even assuming that the controlling rights or assets in India held by the Indian company were transferred on the alienation of the French company's shares, the cost of acquiring those rights and assets in the Indian company and their date of acquisition cannot be determined. It is also not possible to determine the exact or rationally approximate consideration (out of the total consideration for the transaction in issue), apportionable to these assets/rights.
- The AAR has no power to review its own order. Having admitted the application, the AAR cannot at a later stage invoke clause (iii) of the Proviso to s. 245R(2)(iii) & decline to rule on the application. *Sanofi PasteursHolding*

SA v. Dpertment of revenue (Andhra Pradesh High Court) 18th Feb 2013.

Tribunal Judgments

- **Consistency Principle:** The assessee company, a small scale undertaking, had claimed deduction u/s 80IB. The assessment was completed u/s 143(3), allowing the deduction. Subsequently, the CIT observed that the value of plant & machinery of the assessee company was more than Rs one crore, and the same was not a small scale undertaking u/s 11B of Industries (Development and Regulation) Act, 1951. The CIT observed that under the Act, the conditions for being small scale undertaking should be satisfied on the last day of the previous year. Thus, the CIT directed the AO to reassess the income.

  The Assessee contended that as per the consistency principle, since the deduction had been allowed for past A.Y. from 2001-02 to A.Y. 2005-06 where the value of plant & machinery was above Rs one crore, the deduction u/s 80IB could not be denied in the A.Y. under consideration. On appeal, the Tribunal held that:

  - As per the Act, for an undertaking to be regarded as small scale industrial undertaking, the essential condition is that therein must not have investment in plant and machinery exceeding Rs. 1 crore. Thus, the assessee's undertaking cannot be regarded as small scale industrial undertaking for the year under consideration.
  - The above condition must be satisfied for each year where the deduction is claimed. Therefore, merely because of allowance of deduction in an earlier year in which the assessee satisfied the condition, it cannot be held that the assessee must be allowed deduction in subsequent eligible years also.
  - The assessee can be allowed deduction on the satisfaction of conditions envisaged in the law and not merely because it was erroneously allowed any deduction in the earlier years. 2013-TIOL-165-ITAT-MAD.

SERVICE TAX

Important Circular / Notification

- **Changes in form ST-3:** The Form ST- 3 for the period between the 1st day of July 2012 to the 30th day of September 2012, shall be submitted by the 25th day of March, 2013" and there are certain changes in Form ST-3. For changes please refer the notification. *Notification No. 01/2013, 22nd February, 2013* .

- **Definition of resident public company**: The Central Government specifies "the resident public limited

company" as class of persons. "Public limited company" shall have the same meaning as is assigned to "public company" in clause (iv) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956) and shall include a private company that becomes a public company by virtue of section 43A of the said Act. *Notification no. 4/2013, dated 1st March 2013.*

- **Amendments in the Notifn no.25/2012 and 26/2012 - Service Tax, dated 20th June, 2012:** Certain modifications have been made in the subject notifications, mainly for services related to Copyright, Transportation of goods, Services provided by restaurants, and in Construction of building complexes. The details are in the Notification *no. 2 & 3 /2013 - Service Tax, dated March 1, 2013.*

CESTAT JUDGMENT

- **Reverse charge mechanism for courier agents outside India:** The appellant was engaged in rendering taxable services such as Courier Agency Services and Air Travel Agency Services. It also engaged in the business of collecting documents and articles from customers located all over India and delivering them abroad. The company had appointed various Courier Agents outside India to deliver such items.

  The Service Tax authorities noticed that for the payments made to such courier companies abroad, the appellant was liable to pay Service Tax under Reverse Charge Mechanism and it had not discharged the Service Tax liability during the period 2008-09, 2009-10 and 2010-11. The appellant contended that:

  - Since the services were rendered abroad there was no liability to pay Service Tax in India and that it had paid Service Tax on the entire amount collected from the customers in India for delivering the letters/packets abroad.
  - Even if it was held that the Service Tax was liable to be paid by it under Reverse Charge Mechanism, it would be eligible for taking CENVAT Credit of the Service Tax so paid and, therefore, the entire situation was revenue neutral.
  - Courier services came under category of clause (ii) of Rule 3. As per these Rules, when the taxable service was partly performed in India, it shall be treated as performed in India. In the instant case, the services had not been rendered partly in India and, therefore, in terms of Rule 3(ii), Service Tax liability under Reverse Charge Mechanism was not attracted.

  The Tribunal held that the appellant was not liable to pay Service Tax in respect of services rendered abroad. 2013-TIOL-373-CESTAT-MUM.

- **Business Auxilliary Service related to sugar production:** The appellant M/s. Amrut Sanjivani

Sugarcane Transport Pvt. Ltd. rendered sugarcane harvesting and transportation services to M/s. Sanjivani (T) SSK Ltd. during the period 2005-06 to 2008-09. The appellant contested that:

- In terms of Notification 13/2003-ST the services provided by the commission agent in relation to sale or purchase of agricultural produce was exempt from service tax. Since they dealt with sugar cane which is an agricultural produce, they are eligible for the exemption.
- Alternatively, under Notification 14/2004-ST, exemption from service tax is available in respect of 'Business Auxiliary Service' relating to procurement of goods and service which are inputs for the client and provided in relation to agriculture, printing, textile processing or education. Since sugar cane is an input for the sugar factory, they are eligible for the benefit of this exemption.
- The payments received towards harvesting and transportation had been given to the labour contractors and the transporters and on the commission retained by it, it had paid the service tax.
- It was acting as a 'pure agent' on behalf of the harvesting contractors and the transport contractors and accordingly it was not liable to pay any service tax.

The CESTAT Bench observed:

- The appellant is not eligible for the benefit under Notification No. 13/2003-ST as the activity involved herein is harvesting of sugar cane and transportation of sugar cane from the fields to sugar factory. It is not in relation to sale or procurement of sugar cane.
- As regards the benefit under Notification No. 14/2004-ST, the service has to be rendered in relation to agriculture. In the instant case the service has been rendered to the sugar factory and sugar is a manufactured product. Therefore, it cannot be said that the said service has been rendered to the client in relation to agriculture.
- Further, there is nothing available on record to show that the appellant was acting as a pure agent on behalf of the clients. The appellant was rendering service to third party namely, sugar factory, and the service was not rendered to the harvesting contractor or the transport contractor. The appellant was rendering the service by engaging harvesting contractors and transport contractors. Therefore, the appellants have not made out a prima facie case for complete waiver of pre-deposit of the dues adjudged.

- However, it may be mentioned that in the past, in similar cases, with very similar circumstances, the CESTAT has passed orders in favour of the appellant. For example, 2012-TIOL-1419-CESTAT-MUM and 2013-TIOL-304-CESTAT-MUM where it was held that this service could be classified as service

provided under "Business Auxiliary Service" in relation to the sale of agricultural products, and so exempt from service tax.] *2013-TIOL-365-CESTAT-MUM.*

- **Service Tax on Advisory activity performed by MD:** Appellant had employed a Managing Director (MD), who was also employed as MD of another company where it was required to devote 20% of his time. The other company compensated the MD for his work and remuneration was routed through the appellant and the payment received was credited to the account of the MD without retaining any part thereof.

  The department took the view that the appellant rendered Management & Consultancy Services to the other company, by lending the services of its MD, and a demand notice was served for recovery of Service Tax. The CESTAT Bench held:

  - If at all, any advisory activity was undertaken by the said person, the demand for Service Tax can be made only on him and not on the appellant.
  - Further, there is no evidence on record to show that the MD of the appellant firm rendered any consultancy/advisory services. He actually functioned as the MD of the other company also, therefore, the remuneration received by him through the appellant company does not come under the category of 'Management Consultancy Services'. *2013-TIOL-350-CESTAT-MUM.*

- **Taxability of Hospital cleaning services:** The applicant entered into an agreement for cleaning of the premises of D.Y. Patil Hospital & Research Centre, Pune. The AO took the view that the said activity came under the category of Manpower Recruitment and Supply Agency Services. Accordingly, a demand notice for recovery of Service Tax was issued and confirmed by the Commissioner along with imposition of interest and penalties. Upon appeal, the Tribunal held:
  - As per the Agreement, the applicant is engaged in Cleaning services. As per Section 65 (105) of the Finance Act, 1994, the Cleaning service is taxable, if provided to any Commercial or Industrial Institution.

  - In this case, the cleaning service has been provided to a hospital and research institute, which is neither commercial nor an Industrial institution. Therefore, the activity undertaken by the applicant is not taxable. 2013-TIOL-272-CESTAT-MUM

- **Job workers or Selling Agents:** The appellants was manufacturer of country liquor under the registered brand name of "Pahili Dhar" and was having an agreement with

M/s. Talreja Trade (HUF) for marketing of the said country liquor. The HUF was also supplying the essence and packing materials for manufacturing of country liquor to the appellant The Revenue took the view that the raw material was being supplied by HUF to the appellant and the appellant was a job worker for the HUF. Therefore, the appellant was liable to pay service tax under the category of "Business Auxiliary Service". Upon appeal, the Tribunal held:

- Appellants are the manufacturer of a country liquor brand, which is a registered trade name of the appellant itsel. The appellant is having the agreement with the HUF for marketing this liquor. Therefore, it cannot be said that the appellant is the job worker. Rather, the HUF is a selling agent of the appellant.

- Hence, the appellant is not liable to pay service tax under "Business Auxiliary Service" on the above mentioned activity. *2013-TIOL-263-CESTAT-MUM*.

➢ **Works Contract Services:** The appellant had constructed a Boys and Girls Hostel for students of an educational institution. It got registered itself with the Revenue authorities and paid service tax on the said activity under 'Works Contract services' for the period April 2008 to September 2008. Later, the appellant realized that as it was not constructing any building which was to be used for commercial purpose, it was not liable for service tax. It stopped paying service tax but continued to file its service tax return. Consequently, it filed refund claim of the service tax paid by it for the period April 2008 to September 2008.
Show cause notices were issued to the appellant for the period October 2008 to September 2010, demanding service tax along with interest and various penalties. The appellant submitted that it had constructed the hostel for residence of boys and girls studying in a medical institute, and this activity was not of commercial or industrial nature, so it was not liable to pay service tax under the category of Works Contract Services as clarified by the Board Circular No. 80/10/2004-ST dated 10.9.2004. The Revenue submitted that there was no evidence produced by the appellant with regard to use to which the building constructed had been put to and, therefore, service tax had been correctly demanded under the category of Works Contract Service. Upon appeal the Tribunal held:

- Service tax would be applicable only if the building is used or to be used for commerce or industry. The information about this has to be gathered from the approved plan of the building. Such constructions which are for the use of organizations or institutions being established solely for educational, religious charitable, health, sanitation or philanthropic purposes, and not for the purposes of profit, are not taxable being, non-commercial in nature.

- Generally, government buildings are used for residential, office purposes, or for providing civic amenities. Thus, normally Government constructions would not be taxable. However, if such constructions are for commercial purposes like local Government bodies getting shops constructed for letting them out, such activity would be commercial and builders would be subjected to service tax.

  In this case, the appellant is not liable to pay service tax. *2013-TIOL-238-CESTAT-MUM* .

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