

Service Tax

D.A.P. No. 7A for AUDIT REPORT 2014-15 (SERVICE TAX)

Non-payment of Service Tax on organizing for card games

The Finance Act, 1994 vide Section 66B stipulates that Service Tax shall be levied on all services other than those mentioned in the negative list. As per Section 67 of the Act Service Tax shall be payable on the gross amount charged by the service provider for the taxable services provided or to be provided. Interest is payable for belated payment of Service Tax as per Section 75 of the Act.

M/s. Andhra social and cultural Association, in Chennai ST-II Commissionerate, organized card games and had earned income of ₹ 65.32 lakh and ₹ 54.50 during the years 2012-13 and 2013-14 respectively. It was however noticed that the assessee had neither filed the requisite ST return nor paid the Service Tax. The Service Tax payable for the two years working out to ₹ 14.81 lakh has to be recovered along with interest.

When we pointed this out (October 2014), the Commissionerate accepted (May 2015) the objection in principle and stated that SCN was being issued to recover Service Tax of ₹ 14.81 lakh. Further report from the department is awaited (June 2015).

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**LOCAL DRAFT PARAGRAPH No.ST- 05/2014-15 PROPOSED FOR AUDIT REPORT
2014-15 ON SERVICE TAX RECEIPTS**

Sub: Non-payment of service tax on organizing for card games

The Finance Act, 1994 vide Section 66B stipulates that service tax shall be levied on all services other than those mentioned in the negative list. As per Section 67 of the Act Service tax shall be payable on the gross amount charged by the service provider for the taxable services provided or to be provided. Interest is payable for belated payment of service tax as per Section 75 of the Act.

M/s. Andhra social and cultural Association, an assessee, falling under Service Tax II Commissionerate, Chennai organized card games and had earned income of ₹65.32 lakh and ₹54.50 during the years-2012-13 and 2013-14 respectively. It was however noticed that the assessee had neither filed the requisite ST return nor paid the service tax. The service tax payable for the two years working out to ₹14.81 lakh has to be recovered along with interest. The unit was a Category 'C' unit for internal audit purposes and was covered up to February 2009 only.

The objection was communicated to the department (October 2014, November 2014). The department accepted the objection in principle and stated that SCN was being issued to recover Service tax of ₹14.81 lakh. Further report from the department is awaited (May 2015).

(Approved on 11.05.2015)

Principal Director of Audit (Central)

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KEY

1.	Name of the assessee	Office of the Superintendent of Service Tax, Range A (M/s. Andhra social and cultural Association)
2.	Commissionerate	Service Tax II Commissionerate
3.	Division	Division III
3	Range	Range A
4.	Reference	<ol style="list-style-type: none">1. Para 2/IIB vide Letter No. PDA(C) /CERA /REP-II /VIII/2014-15/12-0007/135 dated 18/11/20142. SOF No. ST- 08 /2014-15 dated 27/3/20153. C.No. IV/16/07/2014 SU0301 dated 30/3/2015 of the Assistant Commissioner of Service Tax, Service Tax III Division4. C. No. III/10/19/2015 IA (CERA) dated 5/5/2015 of the Joint Commissioner, Service Tax II Commissionerate, Chennai

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प्रधान निदेशक लेखापरीक्षा (केंद्रीय) चेन्नै का कार्यालय
लेखापरीक्षा भवन, 361, अण्णा साहू, तेनापेट, चेन्नै - 600 018.
OFFICE OF THE PRINCIPAL DIRECTOR OF AUDIT (CENTRAL)
CHENNAI

FROM The Principal Director of Audit (Central) Central Excise Receipt Audit Lekha Pariksha Bhavan, 361, Anna Salai, Chennai - 600 018.	TO The Assistant Commissioner of Service Tax, Service Tax-IV Division Newry Towers, (Formerly Sonex TOWERS) Anna Nagar, Chennai-600040.
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No. PDA (C)/CERA/REP-II/VIII/2014-15/12-0007/135

Dated: 18.11.2014

Sub: Report on the Inspection of Service Tax receipts - forwarded.

1. I forward herewith the Inspection Report of Service Tax receipts and refunds of Office of the Superintendent of Service Tax, Group II, Division IV, Service Tax Commissionerate and request you to furnish the replies and your remarks and orders thereon to reach this office within one month from the date of receipt.
2. The audit was conducted from 07-10-2014 to 31-10-2014 and important irregularities and omission for which specific replies are required to be sent to this office have been included in the Part II of the report.

Yours Faithfully

[Signature]
18/11/14

For DEPUTY DIRECTOR / CERA

Encl: ONE REPORT

Encl. No. PDA (C)/CERA/REP-II/VIII/12-0007/2014-15/136

The Superintendent of Service Tax,
Service Tax-IV Division,
Newry Towers, (Formerly Sonex TOWERS)
Anna Nagar, Chennai-600040.

Dated: 18.11.2014

[Signature]
18/11/14

Senior Audit Officer/CERA

Encl. No. PDA (C)/CERA/REP-II/VIII/2014-15/12-0007/137

The Assistant Commissioner of Service Tax (Audit),
Service Tax Commissionerate
Newry Towers (Formerly Sonex Towers)
No. 2054-I, Ind Avenue Chennai- 600040.

Dated: 18.11.2014

[Signature]
18/11/14

Senior Audit Officer/CERA

[Signature]
18/11/14

ok

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Para 2/II B: Service tax not paid on Promoting/Organizing Gambling

In terms of Section 66B of the Act, Service Tax will be leviable to another for a consideration other than the services specified in the negative list. The services specified in the negative list therefore go out of the ambit of chargeability of service tax. The negative list of service specified in Section 66D includes (4.9) Betting, gambling or lottery. But it does not include auxiliary services that are used for organizing or promoting, betting or gambling events. Hence organizing gambling by way of playing cards is well within the scope of taxability under BAS of the Club.

During the check of ST3 returns filed by assessee viz. M/s. Andhra Social & Cultural Association holding registration Number AAAAAA 0221A ST001 and the Balance Sheet it was noticed that the assessee had shown the revenue collected under the head CARDS as below and not paid the service tax on it.

Financial Year	Taxable Amount	S.T (12.36%)
2012-13	65,32,966	807475
2013-14	54,50,930	673735
Total	1,19,83,896	14,81,210

This is brought to the notice of the department for taking necessary action for collecting service tax under the intimation to the audit.

T. Lakshaynashankar
Senior Audit Officer / DP Cell.

ANDHRA SOCIAL & CULTURAL ASSOCIATION

Particulars	Shuttle Court		Roof Garden		Restaurant		Library		Health Club		Conference Hall		Residential Quarters (Guest Room)	
	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13
INCOME														
Departmental Collections	355019	283,294	251,955	2,669,709	3,044,539	3,112,189	7,693	6,336	264,000	264,000	4,359,070	5,305,884	34,212,315	30,830,58
From Members														
Subscription														
Entry, Reinstatement Fees														
INTEREST FROM BANK														
Interest on FD, SB														
OTHER COLLECTIONS														
Sale of Scrap														
Rent - ATM & Cell Tower							36,204	37,844						
Miscellaneous Receipts	14,000	25,000												
Service tax recovery from members					6,600									
Provision Written back										168,762	223,985			6,50
TOTAL INCOME	369,019	308,294	2,517,955	2,669,709	3,044,539	3,118,789	43,897	44,180	264,000	264,000	4,527,832	5,529,869	34,212,315	30,830,58
EXPENDITURE														
DEPARTMENTAL COST OF SALES														
Cost of Sales														
EXPENSES FOR FACILITIES														
Tournament / Program Expenses														
Books and Periodicals														
Crockery and Glassware														
Cable TV						25,298	325,555	290,074						5,918
Residential Quarters Breakfast											15,000			
MAINTENANCE														
Building														180,96
Electrical	2,260	1,500	9,325	34,430										1,77,892
Department	1,000	2,500	6,000	3,260	6,500						18,350	500		
Computers	292,343	15,158	257,202	48,354	107,155	201,468		1,515			93,910	10,267	147,7	
General		1,050	12,400	2,050	10,031					116,002	28,432			
Residential Quarters (Guest)	4,050		11,249		14,760								22,420	6
Department Expenses							3,000				26,375		253,8	
General Expenses												3,118,257	1,954,6	
Generator	236	20,425	47,512	21,722	4,858	(156,194)	11,567	425						
OTHER EXPENSES														
Electricity Charges										43,984	51,055	31,714	77,02	
AGM	295,583	141,528	11,368	98,639	220,548	271,147	319,359	55,000						
Postage										484,435	708,116	3,292,397	1,169,98	
Printing and Stationery														
		29,383	19,460	89,892	32,546	4,930	750			1,626	3,175	15,079	27,755	

INCOME FROM ASSOCIATION ACTIVITIES

(Figures in ₹)

Cards		Cool Drinks		Permit Room		Billiards/Table Tennis		Swimming Pool		GYM		DEPARTMENT SUR TOTAL		Admin and Others (Unallocated)		GRAND TOTAL	
FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13	FY 2013-14	FY 2012-13
5,167,218	6,128,044	3,305,262	3,780,860	22,437,154	23,248,571	131,975	101,097	471,280	580,371	584,549	667,275	76,858,029	77,021,717			76,858,029	77,021,717
														6,662,230	6,800,045	6,662,230	6,800,045
														449,865	500,549	449,865	500,549
														12,485,418	10,865,667	12,485,418	10,865,667
285,712	354,912			27,974	40,799							347,890	433,565	212,262	27,074	560,152	460,639
														595,164	562,614	595,164	562,614
					20,511							182,762	282,596	304,040	332,069	486,802	614,665
														99,332	148,361	99,332	148,361
														330,074		330,074	
5,150,930	6,512,966	3,305,262	3,780,860	22,465,128	23,309,881	131,975	101,097	471,280	580,371	584,549	667,275	77,388,681	77,737,878	21,038,385	19,236,409	98,427,066	96,974,287
186,242	976,406	2,524,843	3,106,694	14,172,267	16,764,894							17,562,352	20,847,994			17,562,352	20,847,994
					28,371		1,200						35,516	3,813,570	2,082,225	3,813,570	2,117,741
												325,555	290,074			325,555	290,074
					9,860							98,760	50,158			98,760	50,158
	15,131				4,281							414,830	200,358			414,830	200,358
												2,364,062	1,778,969			2,364,062	1,778,969
					2,000			1,000	1,693			37,430	33,628	601,405	872,652	638,835	906,280
2,000	23,394			2,500	21,178			8,400	1,000	5,618	4,500	36,060	305,271	375,576	117,101	411,636	422,372
456,741	80,651			349,605	343,905	8,317	144,945	321,423	122,170	96,695	82,205	2,005,483	1,067,268			2,005,483	1,067,268
				4,775	10,295							30,295	39,086	82,574	85,762	112,869	124,848
	10,188				52,962		4,727	19,762		60,973		461,551	63,316	678,940	63,316	1,140,991	
												3,118,257	1,954,031			3,118,257	1,954,031
					99,526								99,526		339,863		439,389
2,912	37,705			84,558		650	450	5,067	25,310	41,893	19,700	274,951	98,420	945,858	562,843	1,220,809	660,963
														616,713	1,405,792	616,713	1,405,792
286,339	388,962			873,252	815,332	142,122	164,596	225,500	169,612	161,176	249,407	6,312,079	7,232,319	4,645,667	2,941,427	10,957,746	10,173,746
														1,474,685	375,629	1,474,685	375,629
														697,848	718,159	697,848	718,159
	8,000			36,445	74,256		400					177,355	166,342	333,711	398,201	511,066	564,543

OTM/ 2015-16/ 22 DT: 10/4/2015 Rep III

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OFFICE OF THE ASSISTANT COMMISSIONER OF SERVICE TAX
SERVICE TAX III DIVISION, NEWRY TOWER, GROUND FLOOR,
PLOT NO 2054, I BLOCK, 12th MAIN ROAD,
ANNA NAGAR, CHENNAI – 600 040

C.No. IV/16/07/2014 SU0301

Dated: 30.03.15

To
The Senior Audit Officer/CERA (HQRS),
Central Excise Receipt Audit
Lekha Pariksha Bhavan,
361, Anna Salai,
Chennai-18

Sir,

Sub: - Service Tax- M/s. Andhra Social and Cultural Association – Report on the

Inspection of Service Tax receipts - Reg.

Please refer to CERA/REP-II/VIII/2014-15/12-0007/14-15/135 dated 18.11.2014 on the above subject in r/o non- payment of Service Tax on promotion of gambling services, short payment of Service tax on renting of guest house due to claim of excess abatement and non- payment of interest on delayed payment of service tax on various occasions in 2012-13 and 2013-14.

In this connection, it is informed that a letter has been addressed to the assessee on 08.12.2014 and a reminder sent on 24.12.2014 regarding payment of Service Tax and Interest as raised in the CERA paras. However, no reply has been received from the assessee as yet. Meanwhile a draft Show cause notice invoking suppression has been prepared and forwarded to the Joint Commissioner, Service Tax II Commissionerate. The draft Show cause notice proposes inter- alia demand of Service Tax of Rs 14,81,210/- payable by the assessee on the taxable service of organizing the card game as well as demand of Service Tax Rs. 8,03,930/-short paid by the assessee due to excess availment of abatement to the extent of 10%. The last date of issue of the notice is 21.1.17 and the show cause notice is in the course of issue at present. Copy of the notice as and when issued will be forwarded for reference.

Yours faithfully

(JOHNSON K)

ASSISTANT COMMISSIONER

30/3/15



No. 044-26262422

Email id: stax2audit@gmail.com

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
OFFICE OF THE COMMISSIONER OF SERVICE TAX
SERVICE TAX II COMMISSIONERATE
III FLOOR, NEWRY TOWERS,
No. 2054-I, II Avenue, Anna Nagar, CHENNAI-40

C. No. III/10/19/2015-IA (CERA)

Dated: 01-05-2015

To

✓ The Deputy Director, CX-I,
O/o The Principal Director of Audit (Central),
'Lekha Pariksha Bhavan', No. 361, Anna Salai,
Teynampet, Chennai-18

Sir,

Sub.: Statement of Facts No. ST-08/2014-15 – M/s. Andhra Social and Cultural Association - Regarding.

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Please refer to D. O. letter No. PDA(C)/CERA/DP/5-1/14-15/204 dt.27.3.2015 on the statement of facts No. 08/2014-15 regarding non-payment of service tax on organizing card games by M/s. Andhra Social and Cultural Association.

AUDIT CONTENTION:

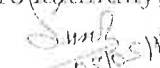
The statement of facts No. 8/2014-15 has been raised on non-payment of service tax by M/s. Andhra Social and Cultural Association by quoting Section 65(105)(zzzzn) of the Finance Act, 1994. In the SFV it has been stated that M/s. Andhra Social and Cultural Association had organized card games and earned income of Rs. 65.32 Lakhs and Rs. 54.50 Lakhs during the years 2012-13 and 2013-14 respectively. The service tax short paid for the said two years works out to Rs.14.81 Lakhs and the same is recoverable along with interest.

DEPARTMENT VIEW:

The department principally agrees with the audit objection as the assessee is rendering service to the participants of card games by way of providing their premises with necessary facilities like electricity, water, etc. and also its employees for conducting the games. Therefore the assessee have been asked by the Assistant Commissioner, III Division during December, 2014 to pay the service tax amount as pointed out by the CERA along with interest. As such the Assistant Commissioner III division has submitted, a draft SCN proposing demand of 14,81,210/- payable by the assessee on the taxable service of organizing card games, to the adjudication section of the Hqrs office and the same is under process. As and when the same is issued a copy of the same will be forwarded.

In view of the above, the SOF may please be considered for closure.

Yours faithfully,


(S.K. KUJUR)

Joint Commissioner

Copy to

The Assistant Commissioner, Division III, Service Tax – II Commissionerate, Chennai-40, with reference to letter C. No. IV/6/07/2014-SU0301 dated 28.04.2015 for taking necessary action for recovery of the service tax with interest due on the issue covered in the Audit objection/SFV for the subsequent period also.