

AMCs burdened with service tax liability

Amfi to discuss issue today before representations to ministry and Sebi

The Central Board of Excise & Customs' advertisement in newspapers last Thursday provided relief to the mutual fund distribution sector from service tax liability but opened a can of worms for mutual fund houses.

The clarification from the department states, "Liability to pay service tax on service provided by mutual fund agents and distributors is on mutual funds and asset Management companies (AMCs) and not on agents and distributors." However, the AMCs and mutual funds can claim credit against the service tax payment, it adds. This is where the problem starts for fund houses. According to industry executives, they will not be able to claim credit against the service tax payment for distribution of mutual fund products.

Niren Shethia of PriceWaterhouseCoopers (PWC) explained why the tax credit would not be available to AMCs.

"The advertisement says mutual funds can take credit of the service tax paid on distributor commission. In the first place, mutual fund entities are not eligible to avail any credit of distributors' commission. Further for AMCs, admissibility of credit depends upon the facts of each case and contractual arrangements," he said.

"The matter is being taken up with the Association of Mutual Funds in India (AMFI) on Thursday," said a top executive of a fund house. After deliberations at the AMFI, fund houses will send representations to the Securities and Exchange Board of India and the ministry of finance.

There has been much debate about who needs to pay service tax, AMCs or distributors.

Thus far, AMCs had been deducting 14 per cent tax from the brokerage payout to distributors and were depositing it directly in the exchequer.

Rajiv Bajaj, vice-president and managing director of Bajaj

Capital, told Business Standard,

"Earlier, there was lack of clarity for almost four months about whether fund houses would receive the credit. Now, it is clarified and we are hopeful that it will reduce the impact on distributors." Pratik Jain, partner, KPMG, said, "It is the AMC which has to pay service tax to the government. However, the AMC can have a commercial understanding with the distributor and the commission payable to the intermediary can be appropriated and adjusted accordingly."

TAXING TIMES

- Fund houses puzzled by CBEC advertisement levying service tax of MF distribution on them
- MFs would not be able to take credit on the service tax paid
- AMCs can take credit but that could lead to a rise in expense ratio, burdening the investor
- Sebi had mandated to AMCs that no burden should be passed on to investors
- In the 2015 Union Budget, the govt had proposed to withdraw service tax exemption given to distributors

(Business Standard)