

No retro service tax on spectrum, mines

In a breather to telecom and mining companies, the finance ministry has clarified that the service tax proposed on auctioning of natural resources, including telecom spectrum, will be imposed prospectively for transfer of rights by the government taking place after April 1.

Besides, in what could benefit the cash flow of mining companies and telecom service providers (TSPs), the government has also allowed availing of input tax credit on service tax paid in three years, as against the earlier proposal of spreading it over the period for which rights are issued — 20 years in the case of spectrum.

“By these measures, the government has ensured that there is no new tax liability on the TSPs in respect of the services provided in the past,” the ministry said on Thursday. The effective service tax rate is 15 per cent, including 0.5 per cent each of the Swachh Bharat cess and Krishi Kalyan cess. The clarification comes a year after minister Arun Jaitley had proposed a levy on “all services” provided by the government to business entities. This essentially meant allocation of spectrum or mines would attract service tax on the fee or royalty to be paid by companies. Prior to this, only support services provided by the government to business entities were taxable.

On the distribution of input tax credit for service tax paid in respect of services in the assignment of telecom spectrum over 20 years, the government said, “This has been addressed... by effecting changes in the Cenvat Credit Rules and allowing the credit of service tax paid on one-time charges for assignment, ie the auction price, to be taken evenly over three years.” And, that the service tax will be payable when the payments, whether full upfront or part under the deferred payment option, become due or are made, whichever is earlier. “This will be a big relief for telecom and mining companies. Besides, allowing Cenvat credit in three years will be a big positive, as the earlier proposal of spreading it over 10 or 20 years would have resulted in huge credit losses for these companies,” said Bipin Sapra, tax partner, EY.

MORE THAN LIP SERVICE

To the benefit of mining and telecom companies, government issued clarification on service tax proposal

CAUSE

Service tax will be levied on spectrum, mining rights and natural resource allocations from April 1, 2016

Allocation of spectrum or mines prior to April 1 will be exempted from service tax

Input tax credit will be allowed for service tax paid evenly over a period of three years, against the earlier proposal of it being spread over the period of rights assigned — 10/20 years

EFFECT

The move is expected to provide relief to telecom and mining companies

Cash flows of companies not likely to be affected

(Business Standard)