

**SECTION 65(105)(ZZZZ) OF THE FINANCE ACT, 1994 - RENTING OF
IMMOVABLE PROPERTY SERVICE - CIVIL APPEAL ON
"RENTING/LEASING OF IMMOVABLE PROPERTY"**

TRADE NOTICE NO : 8/ 2011 DATED 3/11/2011

Attention is drawn to the Hon'ble Supreme Court's order dated 14.10.2011 in the matter of Civil Appeal Nos. 8391-8393 of 2011 arising out of Bombay High Court's order in Writ Petition No. 1474 of 2010 before Hon'ble High Court of Bombay challenging provisions of Section 65 (90a) read with Section 65 (105)(zzzz) of the Finance Act, 1994 as amended by Sections 75 and 76 of the finance Act, 2010, which levied service tax on "Renting/leasing of immovable property" from 01.06.2007 which provisions were upheld by the Hon'ble High Court of Bombay by order dated 04.08.2011 and dismissed the Writ Petition No. 1474 of 2010. (Copy of Supreme Court Order dated 14/10/2011 enclosed).

2. Hon'ble Supreme Court had passed order dated 14.10.2011 on said appeal which reads as under;

"(i) all members of the appellant association, namely, Retailers Association of India, who are before us, shall deposit with the concerned department 50% of the arrears towards the said tax within six months in three equated instalments, on or before 1st November, 2011; 1st January, 2012 and 1st March, 2012; (ii) for the balance 50% all the members shall furnish a solvent surety to the satisfaction of the jurisdictional Commissioner; (iii) they shall file individual affidavits in this Court, within four weeks from today undertaking to pay the balance arrears of service tax, stayed in terms of this order, as may be directed by this court at the time of final disposal of the appeal and (iv) the successful party in this appeal shall be entitled to interest on the amount stayed by this court at such rate as may be directed at the time of final disposal of the appeal."

3. All the petitioners who are paying the tax as per Supreme Court order should give following details to the Assistant/Deputy Commissioner of Service Tax of the Division concerned:

Name and address of the Landlord	Central Excise/Service Tax Commissionerate	Service Tax Code No.	Total Amount of rent paid from 01.06.2007 to 30.09.2011	Total Amount of Service Tax payable on rent	Amount paid along with Challan details

They should enclose the copies of Challans with their letter. It should be ensured that Service Tax is paid on rent for the period 01.06.2007 to 30.09.2011.

4. For Solvency Surety to be produced by the petitioners, it is directed that the petitioner shall furnish a bank guarantee for balance 50% amount or they should produce a Solvency Certificate issued by the bank. The format of Solvency Certificate is enclosed herewith. Along with the Solvency Certificate, a General bond in the given format will also be submitted. Any Petitioner who has already filed a Bond/Undertaking in any other format should furnish the revised Bond and BG/Solvency Certificate immediately and on submission of the Bond and BG/Solvency Certificate as per this Trade Notice only, the compliance as per the Hon'ble Supreme Court's order dated 14/10/2011 would be considered to have been made.

FORMAT OF SOLVENCY CERTIFICATE

..... BANK.
H.O
..... BRANCH
DATE :

To
The Commissioner of Service Tax,
Mumbai-I,
Utpada Shulk Bhawan,
M.K. Road,
MUMBAI- 400 020.

Subject: Solvency Certificate in respect of M/s.

This is to certify that in our opinion and to the best of our knowledge and information available on the records of Bank as on, M/s. a firm/Private Ltd. Co. carrying on Business at with Shri as a proprietor/ Partners/ Directors is solvent and capable of paying Service Tax Dues of Rs. along with interest (being 50% of the ST dues, for which solvency certificate is being given).

This certificate is issued without any guarantee or responsibility or commitment on the part of the bank or any of its Officers/ employees.

For

.....Branch.

MANAGER/ SENIOR MANAGER. BANK's STAMP

FORMAT OF GENERAL BOND

(General Bond with solvency Certificate)

We of hereinafter called "the obligor(s)" are held and firmly bound to the President of India (hereinafter called the "President") in the sum of rupees to be paid to the President for which payment will and truly to be made. We bind ourselves and our respective heirs, executors/administrators, legal representatives/successors and assigns by these presents:

WHEREAS the obligors filed Writ Petition No. of 2010 before Hon'ble High Court of Bombay challenging provisions of Section 65 (90a) read with Section 65 (105)(zzzz) of the Finance Act, 1994 as amended by Sections 75 and 76 of the Finance Act, 2010, which levied service tax on "Renting/leasing of immovable property" from 01.06.2007 which provisions were upheld by the Hon'ble High Court of Bombay by order dated 04.08.2011 and dismissed the Writ Petition No. of 2010 and whereas Civil Appeal Nos. 8391-8393 of 2011 is filed before Hon'ble Supreme Court against above referred order passed by Hon'ble High Court of Bombay and whereas Hon'ble Supreme Court had passed order dated 14.10.2011 on said appeal which reads as under;

"(i) all members of the appellant association, namely, Retailers Association of India, who are before us, shall deposit with the concerned department 50% of the arrears towards the said tax within six months in three equated instalments, on or before 1st November, 2011; 1st January, 2012 and 1st March, 2012; (ii) for the balance 50% all the members shall furnish a solvent surety to the satisfaction of the jurisdictional Commissioner; (iii) they shall file individual affidavits in this Court, within four weeks from today undertaking to pay the balance arrears of service tax, stayed in terms of this order, as may be directed by this court at the time of final disposal of the appeal and (iv) the successful party in this appeal shall be entitled to interest on the amount stayed by this court at such rate as may be directed at the time of final disposal of the appeal."

The condition of this bond is that if the obligor(s) shall observe all the provisions of the Finance Act, 1994 or the provisions of other rules made under the said Act and all such amendments thereto, as may be issued from time to time so far as they relate to the said services.

And if all dues whether service tax or other lawful charges, which shall be finally held payable by the Hon'ble Supreme Court, be duly paid into the treasury to the account of the Commissioner along-with interest, if any, as per the period granted by the Court or within 10 days of final order, this obligation shall be void.

And whereas the obligor(s) have enclosed a Bank Guarantee or a Bank Solvency Certificate from their Bankers.

We further declare that this bond is given under the orders of the Hon'ble Supreme Court for the performance of an act in which the public are interested. In these presents the words imposing singular only shall also include the plural and *vice versa* where the context so requires;

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the obligor(s) and the surety (ies).

Signature(s) of obligor(s). Date : Place : Witnesses

(1) Name and Address Occupation

(2) Name and Address Occupation

Date

Place

Accepted by me this day of
.....(month) (year)
..... of Service Tax, (Designation)
for and on behalf of the President of India.