

Circular No. 150/1/2012-ST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Tax Research Unit)

New Delhi, 8th February, 2012

Subject: Meaning of the expression 'gross amount' appearing in Rule 3(1) of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, as it stood prior to 07th day of July 2009 - regarding.

Reference has been received from a field formation seeking clarification as to whether 'gross amount', for the purpose of payment of service tax under the Works Contract Composition Scheme, included the value of free of cost supplies, for the period prior to 07/07/2009.

2. The issue has been examined. The meaning of the expression 'gross amount' appearing in Rule 3(1) of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, is qualified by the Explanation inserted in the said Rule with effect from 07/07/2009. Since the Explanation inserted in Rule 3(1) with effect from 07/07/2009 is clarificatory and prospective in nature, inclusion of value of free-of-cost supplies of goods and services in or in relation to the execution of Works Contract [mentioned in the Explanation to Rule 3(1) (a) (i) and (ii)] in the 'gross amount' for the purpose of payment of service tax on works contract under the composition scheme, is a legal requirement, only with effect from 07/07/2009 when the Explanation became a part of Rule 3(1).

3. The explanation appended to Rule 3(1) with effect from 07/07/2009, categorically says in the proviso that "...nothing contained in this Explanation shall apply to a works contract where the execution under the said contract has commenced or where any payment, except by way of credit or debit to any account, has been made in relation to the said contract on or before the 7th day of July, 2009." Where execution of works contract has commenced prior to 07/07/2009 or where any payment(except payment through credit or debit) has been made towards a works contract prior to 07/07/2009, then in those cases 'gross amount' for the purpose of payment of service tax does not include the value of free of cost supplies.

4. The above clarification may be communicated to the field formations and service tax assesses through Trade Notice/ Public Notice. Hindi version to follow.

F.No.354/236/2010-TRU

(Samar Nanda)
Under Secretary, TRU