

Service by Non- Profit Entity to Own Members

1. Introduction



S.N. 28 of the Exemption Notification no. 25 /2012 dated 20.6.2012 **exempts services by unincorporated body or a non profit entity registered under any law to own members by way of reimbursement of charge or share of contribution.**

- ✚ As a Trade Union
- ✚ For provision of exempted services
- ✚ For the common use of its member in a housing society or residential complex.

In the earlier service tax regime, trade unions were specifically excluded from the definition of taxable services provided by “club or association”. Further the services of housing society to its own members were covered within the ambit of taxable services by “club or association”. However , a specific exemption was granted to resident welfare association for service provided or to be provided to its members vide notification no. 8/2007 dated 1.3.2007 provided the amount charged for such services does not exceed Rs. 3000 per month per member. Thus the mega exemption notification has increased the threshold limit to Rs. 5000 per month per member w.e.f 1.7.2012.

It is worthwhile to note that in the previous tax regime, the association having objective of public services or charitable, religious or political objective were also excluded from the taxable services provided by “ club or association”.

2. Statutory provision granting exemption



With effect from 1.7.2012, exemption is provided to service rendered by society to its own members.

As per S.N. 28 of the mega exemption notification, the following would be exempt:

Service by an unincorporated body or non-profit entity registered under any law for the time being in force, to its own member by way of reimbursement of charges or share of contribution-

- a) As a trade union
- b) For the provision of carrying out any activity exempt from the levy of service tax ; or
- c) Up to an amount of five thousand rupees per month per member for sourcing of goods or services from third person for the common use of its members in a housing society or a residential complex

Scope of Exemption

✚ Service should be provided by

- Unincorporated body; or
- Non profit entity registered under any law for the time being in force

✚ Service should be provided by way of

- Reimbursement of charges
- Share of contribution

✚ Such services should have been provided

- As trade union
- For the provision of carrying out any activity exempt from the levy of service tax ; or
- Up to an amount of five thousand rupees per month per member for sourcing of goods or services from third person for the common use of its members in a housing society or a residential complex

Service to its own member

It shall be exempt only when it is provided to its own member otherwise the same shall be taxable.

In any case, service provided by unincorporated body or a registered non- profit entity will be taxable unless specifically exempt under the provision of the mega exemption notification or the Act.

Reimbursement of charge

As per the dictionary reimbursement means “ restoration of equivalent for something paid or expended. Often one person incur some expenses on behalf of another and then recover the amount from the other person. This is subject to fulfillment of other conditions.

Share of Contribution

Means, expensed by unincorporated body or a registered non- profit entity on behalf of its members which has been collected from its members as monthly contribution.

Trade Union

Section 2 (h) of the Trade Union Act, 1926 defines a Trade Union means any combination , whether temporary or permanent , formed primarily for the regulating the relations between employers and workmen or between workmen and workmen or between employer and employer , or for imposing restrictive condition on the conduct of trade or business , and includes any federation of two or more trade unions.

Provision of exempt services

Mega Exemption provide that any amount collected by an unincorporated body or registered non- profit entity from its members for providing any exempt activity will be exempt from service tax.

For example , an amount collected by RWA from its members for holding camps to provide free health care services to poor persons will be exempt from service tax as the service provided is exempt. On the contrary, share of contribution shall be taxable, if any service provided is taxable.

Common Facilities in a Housing Society or residential complex

Housing society typically is an artificial jurisdictional person which provides services to, facilities or advantages for subscription or any other amount to its members. The members of its housing society generally reside in the same residential complex.

Service provided by housing society to its members can range from security of premises , upkeep of the premises , maintenance of common passage ,maintenance or upkeep of parking facilities to maintenance and upkeep of lifts etc.

As per S.N. 28 of Mega Exemption notification provides that Up to an amount of five thousand rupees per month per member for so unless sourcing of goods or services from third person for the common use of its members in a housing society or a residential complex. Any amount collected over and above Rs. 5000 shall be chargeable to tax.

Taxable Services

- ✚ Service provided by unincorporated body or an entity registered under any law to any third person(other than member) unless specifically exempted under any other provision.
- ✚ Amount received by unincorporated body or an entity registered from its members towards the amount expended or sought to be expended for the benefit of the member.

- ✚ Amount received by unincorporated body or an entity registered from its members for providing any taxable services.
- ✚ Amount over and above Rs. 5000 per month per member collected from the members of housing society for providing various services of the common use of all the members.

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