

**-COPY OF-
SERVICE TAX CIRCULAR
No.125/7/2010 - ST
Dated 30th July 2010**

Subject: Services provided by state governments under Centrally Sponsored Schemes (CSS) -- regarding.

In the recent past, instances have come to the notice of the Board, where field formations have demanded service tax from State governments or their departments/agencies, for providing certain services under the centrally sponsored schemes (CSS). To cite an illustration, in the case of the centrally sponsored National Biogas and Manure Management Program operating under Ministry of New and Renewable Energy, State government agencies were involved in setting up of bio-gas plants in villages. Certain expenses incurred by the State governments or their departments/agencies during the course of setting up of such bio-gas plants were reimbursed by the central government by way of a grant under the CSS. Jurisdictional service tax authorities demanded service tax from the State government department/agency, saying that the reimbursements received by the concerned State government department/agency (as service provider) are nothing but consideration for installation and commissioning service received from the central government (service receiver).

2. Implicit in this service tax demand is an assumption that the relationship between Central government and the State government is an equivalent of a relationship between principal and the agent. This assumption is questionable as under administrative arrangement, State governments are bound to implement the centrally sponsored schemes on receipt of a grant. The fact that State governments are implementing agencies for the Central government within the framework of CSS does not make them service providers. Consequently, Central government cannot be taken as service receiver. Grant released by the Central government under a centrally sponsored scheme cannot be presumed as consideration for providing a taxable service.

3. Levy and collection of service tax on State government agencies/departments implementing CSS under a central grant, is not legally tenable and therefore in such cases service tax should not be demanded.

4. Trade Notice/Public Notice may be issued to the field formations.

5. Please acknowledge receipt of this Circular. Hindi version follows.

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