

*SERVICE TAX MATTERS FOR BROKERS' IN INTERNATIONAL FINANCIAL
SERVICE CENTRE OF GUJARAT INTERNATIONAL FINANCE TEC-CITY*

*This is our fourth article for the in series of awareness articles on International Financial Services
Center (IFSC) for brokers*

1.0. Synopsis of our previous issue on IFSC

In our last article, we introduced you with the benefits for brokers in Domestic Tariff Area (DTA) under State and Central Government Regulations.

2.0. Coverage in the current issue

In the current release, we shall endeavor in detailing the service tax law applicable to brokers in International Financial Service Centre [here-in-after referred as 'IFSC'] of Gujarat International Finance Tec-City [here-in-after referred as 'GIFT'].

For the ease of understanding the topics are bifurcated into six points:

3.0. Service tax registration

According to Finance Act, 1994ⁱ, the service tax registration for an IFSC unit has not been specifically provided for. However, the IFSC unit under various circumstances may become entitled to exemption and / or refund of Excise Duty and Service tax in respect of goods and services procured from the DTA. In order to facilitate the refund process, it would be imperative for an IFSC unit to seek registration. In our view obtaining service tax registration is advisable.

4.0. Benefit from service tax for units located in the IFSCⁱⁱ

Service procured by the IFSC unit from the DTA may be categorized between those for which approval has been granted by the Development Commissioner under the Special Economic Zones Act, 2005 (SEZ Act) read with the Rules framed thereunder (hereinafter referred to as services for authorized operations) and the others for which no such approval has been granted.

Depending upon the category, service tax leviable on the services procured by IFSC from any unit in the DTA may be exempted either by way of ab-initio exemption or exemption through refund. To claim either of the exemption(s), the law presupposes compliance of prescribed conditions, which are enumerated below in brief.

- Ab-initio Exemption – Service utilized exclusively for authorized operations

The service provided by DTA unit to IFSC unit may be exempted ab-initio, if the services are used exclusively for the authorised operationsⁱⁱⁱ. The conditions being:

- ✓ Make an application to jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise (hereinafter referred to as the jurisdictional Central Excise Officer or CEO) in Form A-1, verified by the Specified Officer of SEZ;
- ✓ On the basis of the form filed, an authorization may be issued by the jurisdictional CEO in Form A-2, within 15 days from the date of submission of Form A-1. The authorization would contain the list of services approved to be towards authorized operations.
- ✓ The authorization issued in Form A-2, may be valid from the date of verification mentioned in Form A-1.

The IFSC unit may provide a copy of the authorization to service provider, which would enable the service provider to raise the Invoice for the services rendered, without levying

service tax on the same. It goes without saying that the services provided by the service provider should be one amongst those, which are mentioned in the Authorization issued by the jurisdictional CEO in Form A2.

IFSC unit is required to furnish quarterly statement, to jurisdictional CEO in Form A-3 within 30th of the month following the particular quarter, reconciling the services received.

- Exemption through Refund

Exemption from service tax under this category may arise in the following scenarios:

- ✓ the services procured from the DTA are not used exclusively for authorised operations; or
- ✓ the services although used exclusively for authorized operations but ab-initio exemption could not be availed for various reasons.

An application for refund has to be made to the jurisdictional CEO, complying with the following procedures:

- ✓ File an application in Form A-4;
- ✓ Application is permitted to be filed once for every quarter.

IFSC unit who have not obtained service tax registration, may also claim refund^{iv}.

- Maintenance of books and records

IFSC unit inter alia has to maintain copies of the Invoices issued by the service providers and also books of account.

5.0. Service provided by unit in IFSC to unit in Domestic Tariff Area

Services rendered by IFSC unit to units located in the DTA are likely to attract service tax. The IFSC unit has to collect and deposit the requisite amount of service tax with the jurisdictional authorities.

6.0. Return filing ST 3

Service Tax Return Form ST-3 must be filed twice in a year. Return for half year ending 30th September and 31st March are required to be filed by 25th October and 25th April, respectively.

7.0. Filing of statement with the Development Commissioner, time limits etc.

The SEZ unit is required to submit annual performance report to the Development Commissioner under the SEZ Act, in 'Form-I' duly certified by a Chartered Accountant.

8.0. Conclusion

IFSC in the GIFT is one of the first in India. The model of an IFSC is in existence and successful in other countries and the Governments thereof have incentivized the same through multiple benefits. Adopting the best global practices, to promote IFSC in India, the Government of India and the Government of Gujarat, have provided multiple benefits under various laws, service tax being one of them. These incentives would go a long way in laying strong foundation of IFSC in India and would be a catalyst to its success. "An early bird catches the worm", has no gainsaying for a broker setting up a unit in the IFSC, in early stages.

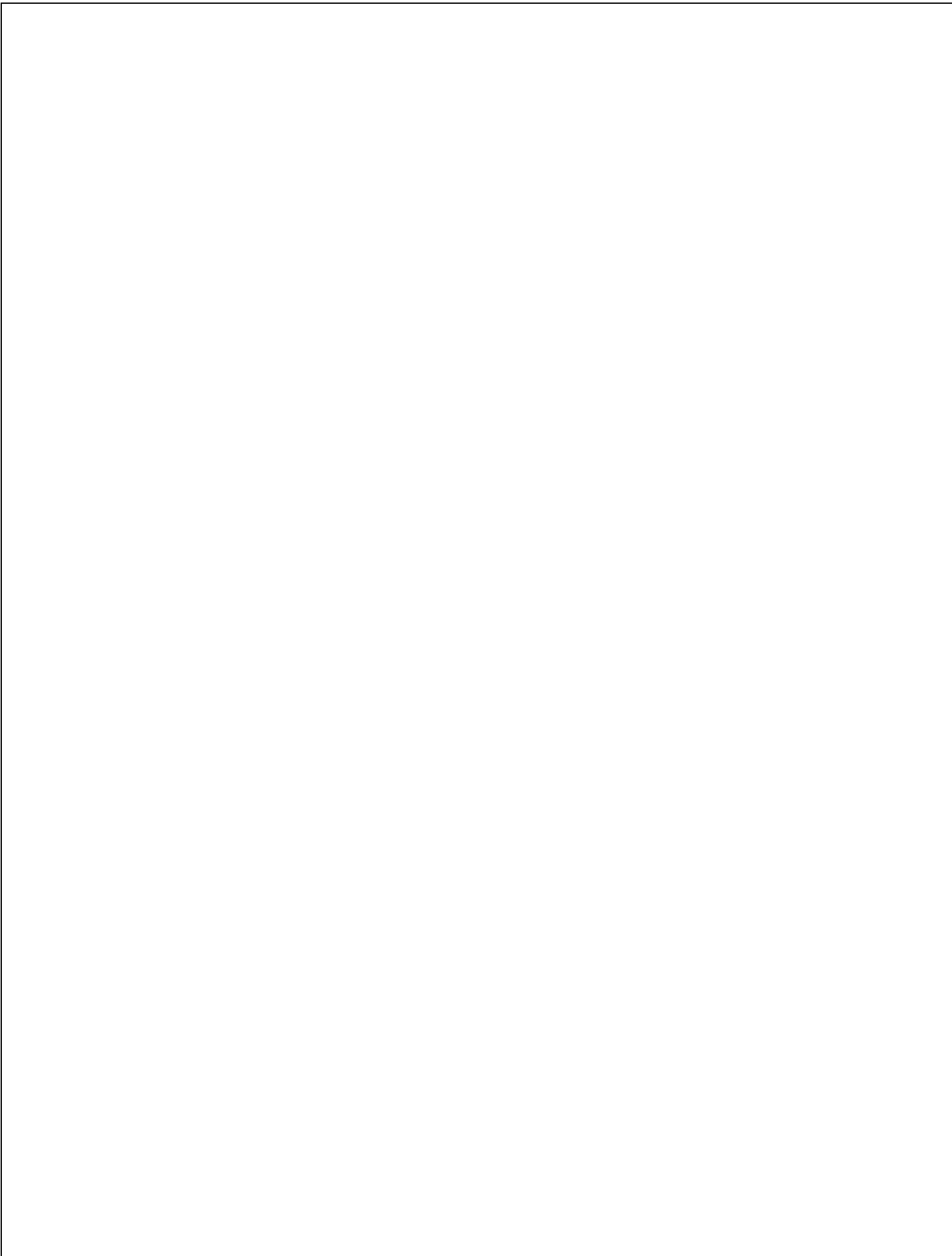
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- ⁱ Section 69 of Finance Act, 1994 read with Rule 4 and Rule 2(1)(d) of Service Tax Rules, 1994 as well as Service Tax (Registration of special category of Person Rules), 20105
- ⁱⁱ Notification No. 12/2013-ST dated. 01-07-2013
- ⁱⁱⁱ Section 4(2) and Section 15(9) of SEZ Act, 2005
- ^{iv} Application may be filed under rule 4 of Service Tax Rules, 1994.