

A Firm's Presentation



**Reverse Charge Mechanism ( RCM )**  
**SERVICE TAX**

Presented By :

**MPK ASSOCIATES**  
**Chartered Accountants**

# Reverse Charge in Service Tax

## HISTORY

Up to 1994 , the main source of Revenue for the Indian Government was from Income Tax , Wealth Tax, Central Excise & Custom etc.

# Reverse Charge in Service Tax

## HISTORY

Up to 1994 , the main source of Revenue for the Indian Government was from Income Tax , Wealth Tax, Central Excise & Custom etc.

At that time service sector was well developed in India but was not covered under the purview to taxation as compared to other developed countries. Therefore, Service Tax was introduced in India in Finance Act 1994.

# Reverse Charge in Service Tax

## HISTORY

Up to 1994 , the main source of Revenue for the Indian Government was from Income Tax , Wealth Tax, Central Excise & Custom etc.

At that time service sector was well developed in India but was not covered under the purview to taxation as compared to other developed countries. Therefore, Service Tax was introduced in India in Finance Act 1994.

Initially only 3 services was covered and presently it covers all the services except those covered in the Negative list w.e.f. July 1,2012.

# Reverse Charge in Service Tax

## HISTORY

Up to 1994 , the main source of Revenue for the Indian Government was from Income Tax , Wealth Tax, Central Excise & Custom etc.

At that time service sector was well developed in India but was not covered under the purview to taxation as compared to other developed countries. Therefore, Service Tax was introduced in India in Finance Act 1994.

Initially only 3 services was covered and presently it covers all the services except those covered in the Negative list w.e.f. July 1,2012.

The share of services in India 's GDP at factor cost (at current prices) increased from 33.3% (1950-1951) to 56.5% in 2012-13, as per advance estimates. Including construction, this would increase to 64.8%.

# Reverse Charge in Service Tax

## Shifting gears in Taxation

TAX



“At the end of June 2012, Service Tax has attended the adulthood by completing 18 years. It is therefore time to shift gears & accelerate ahead” - Shri Pranab Mukherjee (Finance Minister of India ) in his budget speech on 16th March, 2012.

For the period post 1st July, 2012; Central Government vide notification No 30/2012-ST dated 20th June, 2012 as amended by Notification No 45/2012- ST dated 7th August, 2012 has prescribed specified services under Section 68 (2) for the purposes of reverse charge mechanism.

# Reverse Charge in Service Tax

## Transaction Scenario up to 30<sup>th</sup> June 2012 in case of all services (Prior to introduction of RCM)

Service Provider providing services like:-

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

10 lakhs + 1.23 = 11.23 Lakhs



Pay 11.23 Lakhs after TDS

Service Receiver



**Service provider has a responsibility to collect the Service Tax of Rs.1.23 lakhs and deposit it with Government Treasury.**

# Reverse Charge in Service Tax

## RCM THEORY

Section 68(2) of the Finance Act, 1994 provides for liability to pay service tax by a person other than service provider for certain specified services. This is generally known as “reverse Charge”.

Services covered under reverse charge.

Description of Service	Tax payable by SP	Tax payable by SR (SAKAL)
Insurance Agent's Services	NIL	100%
Goods Transport Agency's Services	NIL	100%
Sponsorship Services	NIL	100%

Further, services covered under the RCM for the first time vide Notification no. 30/2012



# Reverse Charge in Service Tax

## RCM THEORY

**New services  
covered under Full  
Reverse Charge**

Description of Service	Tax payable by SP	Tax payable by SR (SAKAL)
Arbitral Tribunal Services	NIL	100%
legal services	NIL	100%
Director of a company to the said company	NIL	100%
Support services by Government of Local Authority	NIL	100%
Renting or hiring of any motor vehicle where tax is paid on abated value	NIL	100%
Service Provided by any located in a non taxable territory & received by any person located in the taxable territory	NIL	100%

# Reverse Charge in Service Tax

## RCM THEORY

**New services covered  
under partial  
Reverse Charge.**

Description of Service	Tax payable by SP	Tax payable by SR (SAKAL)
Renting or hiring of any motor vehicle where tax is paid on non abated Value	60%	40%
Supply of manpower or security services	25%	75%
Service portion in execution of works contract	50%	50%

# Reverse Charge in Service Tax

## APPLICABILITY OF RCM

Services covered under negative list or under Mega notification, RCM will not be attracted

NEGATIVE LIST



MEGA NOTIFICATION  
No. 25/2012

# Reverse Charge in Service Tax

Transaction Scenario where the responsibility of service tax is on service receiver after 1<sup>st</sup> July, 2012

Service Provider

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

M/s ABC LTD.

10 lakhs + 1.23 = 11.23 Lakhs



Pay 10 Lakhs + 25%(1.23) after TDS

Service Receiver

ABC

Company Ltd.

| Print | TV | Online | Events |

The Service Receiver (SAKAL) has a responsibility to deduct and deposit the same with Government Treasury



# Reverse Charge in Service Tax

## ISSUES RELATING TO REVERSE CHARGE

- The small service provider exemption of Rs 10 lakhs not available when tax is payable under reverse charge
- Cenvat credit cannot be used to pay tax by service receiver. Service tax as to be paid by cash only.
- Once paid, Cenvat credit can be taken if it is his eligible 'input service'

# Reverse Charge in Service Tax

## BILLING BY SERVICE PROVIDER

- Service provider should charge only his part of service tax
- Service receiver to pay service tax of his part by GAR-7 challan
- Service receiver liable for only his part and not entire amount, even if service provider does not charge his portion of service tax

# Reverse Charge in Service Tax

## REVERSE CHARGE WITH CONDITION OF NON-AVAILABILITY OF CENVAT

- In some services (e.g. GTA, renting of motor vehicle designed to carry passengers), the abatement is subject to condition of non-availment of Cenvat credit by service provider (not by service receiver)
- A certificate should be obtained from the service provider about non-availment of Cenvat credit

# Reverse Charge in Service Tax

## BUSINESS ENTITY AND BODY CORPORATE

- “Business entity” means any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession
- Body Corporate – Company, LLP, Cooperative Society is Body Corporate – Firm, HUF, Trust is not ‘Body Corporate’ [Society is legally not ‘body corporate’]



# Reverse Charge in Service Tax

## REVERSE CHARGE IN WORKS CONTRACT SERVICE

- 50% tax by service receiver if service provider of works contract service is individual, HUF, proprietary or partnership firm or AOP
- AND service receiver is company or business entity incorporated as body corporate. 50% by service provider
- Construction, Job work, AMC covered

# Reverse Charge in Service Tax

## REVERSE CHARGE IN CASE OF MANPOWER SUPPLY

- 75% tax by service receiver if service provider of manpower supply is individual, HUF, proprietary or partnership firm or AOP
- AND service receiver is company or business entity incorporated as body corporate. Balance 25% by service provider

# Reverse Charge in Service Tax

## ISSUES RELATING TO MANPOWER SUPPLY SERVICE

- Service should be manpower supply i.e. under command of Principal Employer - cleaning service, piece basis or job basis contract is not 'manpower supply service'
- Service tax on salary plus PF, ESI plus commission of labour contractor
- Persons sent on deputation is manpower supply service

# Reverse Charge in Service Tax

## REVERSE CHARGE IN RENTING OF MOTOR VEHICLE DESIGNED TO CARRY PASSENGERS

- Reverse charge when renting to a person who is not in similar line of business
- Service Provide HUF, Individual, firm
- Service receiver – Business entity registered as body corporate
- Tax on 40% - No Cenvat credit – hence cost to company

# Reverse Charge in Service Tax

## GOODS TRANSPORT AGENCY

- Tax when consignment issued
- GTA liable only when both service provider and service receiver are individuals
- Tax on 25% if GTA does not avail Cenvat Credit – Hence should get certificate from him
- Otherwise tax on 100% value

# Reverse Charge in Service Tax

## SUPPORT SERVICES OF GOVERNMENT OR LOCAL AUTHORITY

- Sovereign and statutory activities not subject to service tax
- Support services like testing, police protection, Advertisement, construction, Outsourcing type services provided by Government to business entity
- Business Entity liable for entire service tax

# Reverse Charge in Service Tax

## OTHER SERVICES UNDER REVERSE CHARGE

- Insurance Agent
- Services of Advocate or Advocate Firms or Arbitral Tribunal to Business Entity having turnover over Rs 10 lakhs
- Sponsorship by Body corporate or Partnership Firm
- Import of Service

# Reverse Charge in Service Tax

## Due Date of Taxation

### Date of payment By service Recipient is Point of taxation (general rule):

As per rule 7 of the point of Taxation Rules 2011 (amended ) in case where the service recipient is liable to pay tax , the point of taxation shall be the date of payment against such services.

If payment is not made within six months (except) : However, the said rule provides that in case the payment is not made within 6 months from the date of invoice , then the point of taxation shall be determined, as the rule does not exist. Thus the point of in that case would be as per rule 3.

1. If the invoice is issued within the period specified in rule 4A of service tax rules, 1994 (**30days w.e.f 01.04.2012 earlier 14 days**) from the date of completion of service : Date of issue of invoice or receipt of payment ,which ever is earlier.
2. If invoice is not issued within prescribed time: Date of completion of service or receipt of payment (payment date).



# Reverse Charge in Service Tax

## Due Date of Taxation

**Interest is leviable if payment delayed beyond six months** in payment is not made in within 6 months as given above then Point of taxation is advanced as per point number one and two given above, in such cases recipient would be liable to pay interest on delayed payment of service tax under section 75 of the Finance act 1994.

**Example:** Suppose a Service has been provided by Ram (SP) to Sham Ltd (SR) and date of completion of service is 31.07.2012. Determine point of taxation if

- ✓ Payment is made in advance on 15.07.2012 (Advance)
- ✓ Payment is made on 15.01.2013 (within 6 months)
- ✓ Payment is made on 15.03.2013(after 6 months)

\* Bill is raised on 15.08.2012 (within 30days as prescribed rule 4A)

\* Bill is raised on 15.09.2012( After 30 days as prescribed in rule 4A)

# Reverse Charge in Service Tax

## Due Date of Taxation

### Answer:

Point of taxation in the above case will be as under.

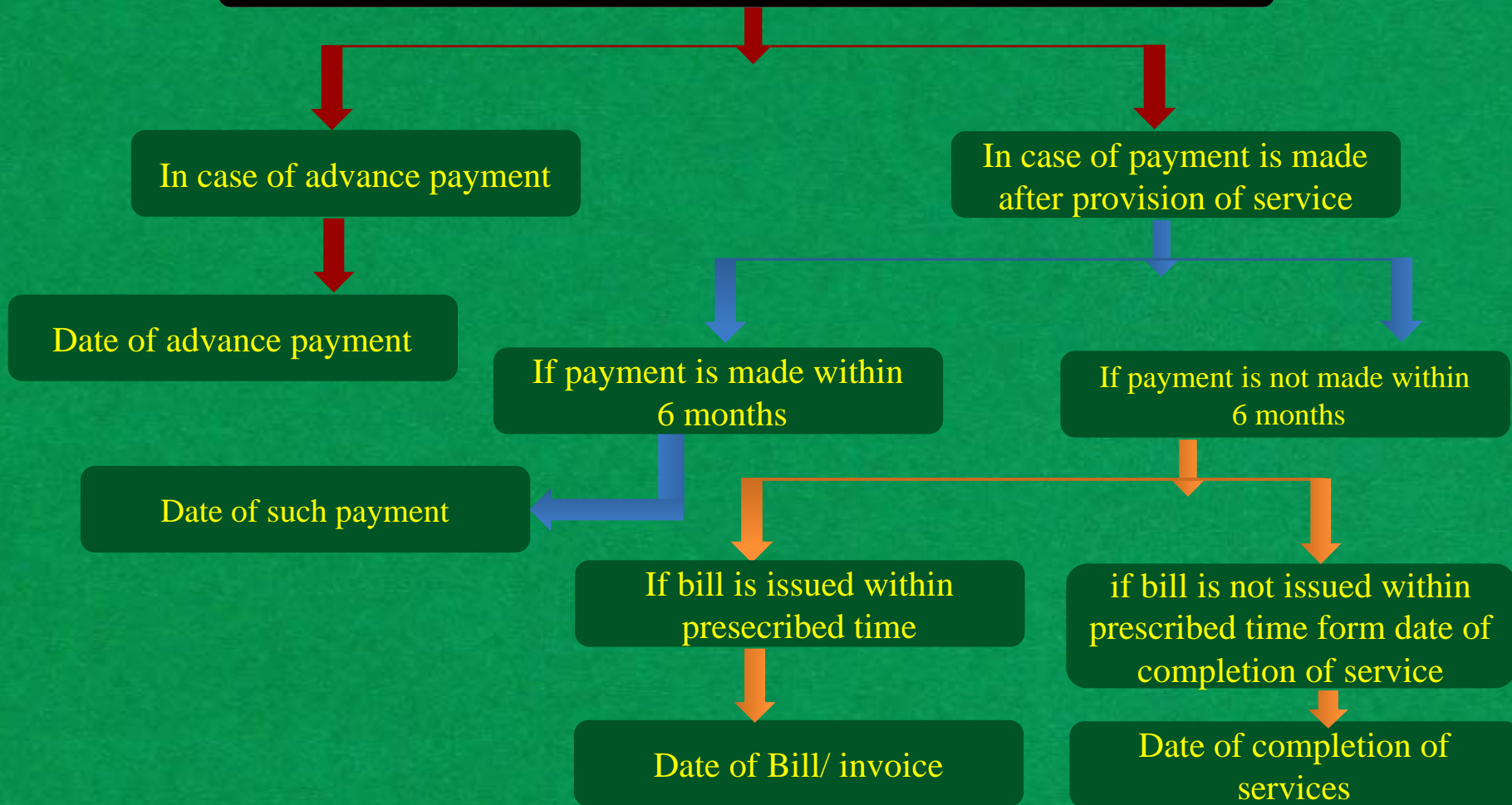
1. 15.07.2012 (date of advance payment)
2. 15.01.2013 (date of Payment)
3. Rule 7 first proviso read with rule 3

\* 15.08.2012 (date of invoice)

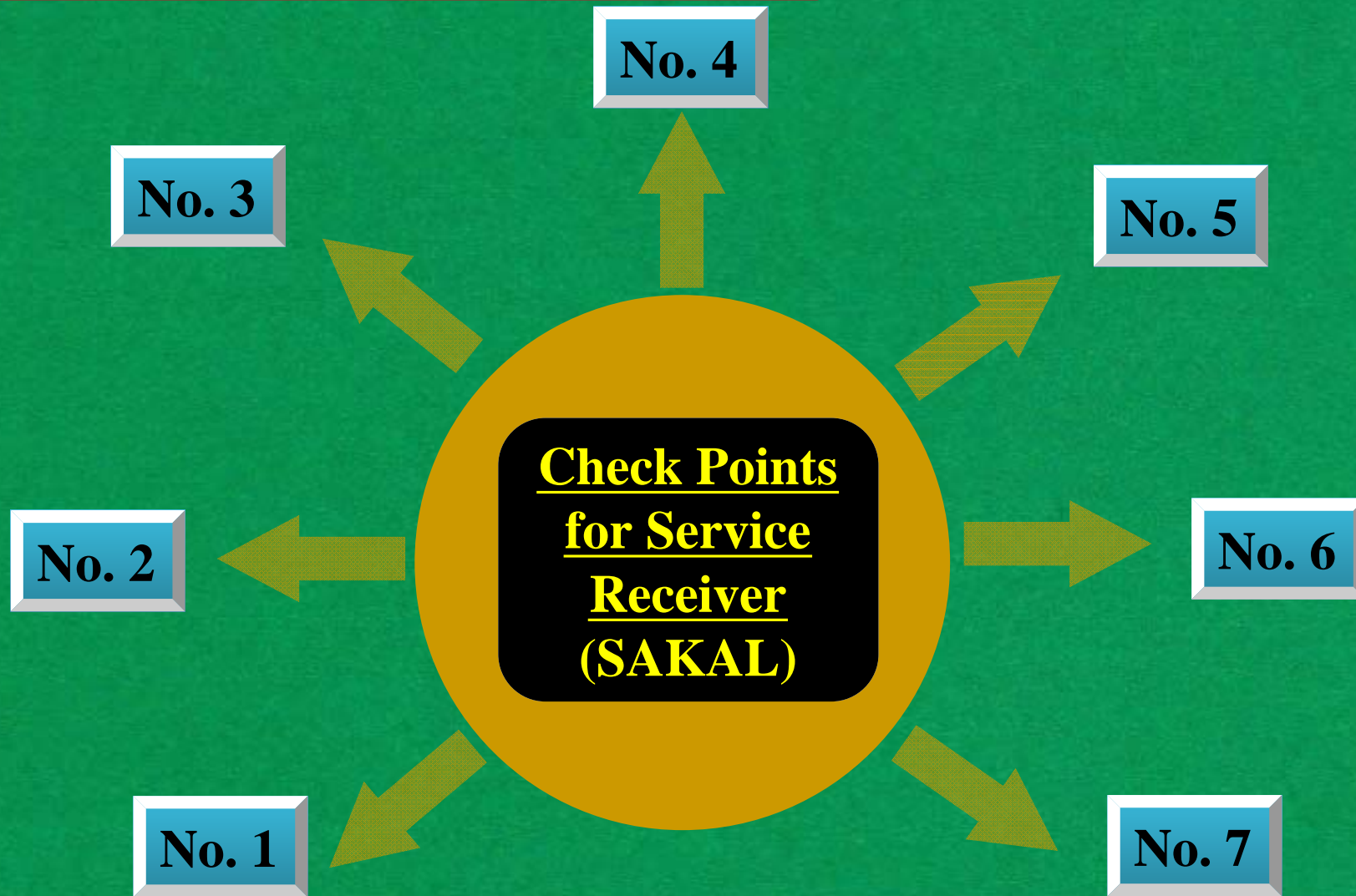
\* 31.07.2012 (date of completion of service)

# Reverse Charge in Service Tax

## POINT OF TAXATION IN REVERSE CHARGE MACHANISM



# Reverse Charge in Service Tax



# Reverse Charge in Service Tax

## Check Point No.1

Particulars	Company registered under Co.Act 1956	Individual, Huf, Proprietary Firm, Partnership Firm	Whether RCM is applicable or not
Ascertain the Constitution of Service Provider	✓	X	X ( in case of certain specified services )
	X	✓	✓ (Go to next check point)

# Reverse Charge in Service Tax

## Check Point No. 2

Particulars	Company registered under Co.Act 1956	Individual, Huf, Proprietary Firm, Partnership Firm	Whether RCM is applicable or not
Ascertain the nature of services & whether the service is covered under <a href="#">Notification no. 30/2012</a>	✓	X	X
	X	✓	✓ (Go to next check point)

## Reverse Charge in Service Tax

### Check Point No. 3

Ascertain the proportion of Service Tax to be paid by Service **Receiver** i.e. 100% in case of full reversal and specified % in case of partial reversal

## Reverse Charge in Service Tax

### Check Point No. 4

**Ensure that only net amount is paid after deducting service receiver's ST liability and TDS.**



## Reverse Charge in Service Tax

### Check Point No. 5

**Ensure that the Service Tax is calculated at prescribed rate.**

## Reverse Charge in Service Tax

### Check Point No. 6

**Ensure that the category of service is covered under the Registration Certificate if not then obtained the same.**

## Reverse Charge in Service Tax

### Check Point No. 7

**Make payment of Service Tax as per accounting codes.**

Presentation By :

MPK ASSOCIATES  
Chartered Accountants



*Thank You !*

A Firm's Presentation

\*\* Disclaimer: Information provided by us in the slides is subject to change, MPK Associates Chartered Accountants takes no responsibility for any damages or loss caused due to slides presented in the PPT.