



ABSTRACT

LAND - LEASE - Service Tax - Collection of Service Tax for the Government lands leased out for Commercial purpose - Orders Issued.

REVENUE & DISASTER MANAGEMENT DEPARTMENT, LAND DISPOSAL WING, [LD-2(1)] SECTION

G.O.(Ms) No.196.

Dated:28.06.2019.

விகாரி வருடம், ஆனி 13
திருவள்ளூர் ஆண்டு 2050

Read:

1. From the District Collector, Chennai, Letter No.J6/19035/2001, dated 13.04.2015.
2. From the Additional Chief Secretary / Commissioner of Land Administration, D.O.Letter No.E1/10971/2015, dated 11.05.2015.
3. Government Letter No. 17990/LD-2(1)/2015-18, Revenue & D.M. Department, dated 21.02.2017 and 26.10.2017.
4. From the Advocate General of Tamil Nadu, opinion No.164/AGVN/2018, dated 14.11.2018.

ORDER:-

In the letter second read above, the Additional Chief Secretary/ Commissioner of Land Administration has stated that, the District Collector, Chennai has reported as follows:-

- (i) The Commissioner of Service Tax, Chennai, in his letter dated 24.03.2015, has stated that the lease rent in respect of "Cosmopolitan Club" and "Tamil Nadu Golf Federation" is liable to Service Tax in terms of provisions of Finance Act, 1994 and with effect from 1.6.2007 services of renting of immovable property for furtherance of business or commerce is under the net of service tax. Renting includes letting, licensing or other similar arrangement for right to use immovable property for a consideration and requested the Collector to remit the Service Tax. But, the collection of service tax for lease rent is not in practice in Chennai District and the District Collector, Chennai has requested the Government to give suitable instructions in the matter.
- (ii) The Principal Secretary and Commissioner of Commercial Taxes, among other things, has stated that "Considering the fact that, Cosmopolitan Club and Tamil Nadu Golf Federation come under

the category of "business entity" and the leasing out of immovable property by the Revenue Department to Cosmopolitan Club comes under the category of "Support Service" the rent received by the Revenue Department is chargeable to service tax. It is also to be noted that "Support Service" does not come under the negative list. Service Tax being indirect Tax, it has to be collected from Cosmopolitan Club and Tamil Nadu Golf Federation being the recipient of service. The Government may take necessary steps to recover the same from the above recipient of services and then remit it to the Service Tax Department. However, the Revenue Department may be requested to obtain opinion from the Advocate General."

- (iii) The Additional Chief Secretary/Commissioner of Land Administration has further stated that the Government lands are leased out on collection of 7% of the land cost inclusive of additional surcharge and 14% of land cost including additional surcharge as lease rent for non - commercial purpose and commercial purposes, respectively, in respect of leases in the Municipal and Corporation limits. It is seen from the views of the Principal Secretary and Commissioner of Commercial Taxes, that service tax has to be collected whenever Government land is leased out to a 'business entity' and such service tax may have to be collected from such entity, which is the recipient of services (lease of land) from the Government.
- (iv) The Additional Chief Secretary/Commissioner of Land Administration has also stated that, it is a policy decision to be taken by the Government and requested the Government to look into this matter suitably and arrange to pass appropriate orders urgently, in consultation with the Finance Department, after getting opinion of the Advocate General to the Government of Tamil Nadu.

2. In the Government letter third read above, the Advocate General of Tamil Nadu was requested to offer his opinion for whether service tax to be collected whenever Government land is leased out to a 'business entity' and such service tax may have to be collected from such entity, which is the recipient of services from the Government like Cosmopolitan Club and Tamil Nadu Golf Federation and whether service tax is leviable and needs to be collected from all lessees who are having Government lands as lease for commercial purpose.

3. In the opinion fourth read above, the Advocate General of Tamil Nadu has opined that, the view of the Commissioner of Service Tax is correct and that the answer to both questions is in affirmative. As per Section 66(D), services by the Government are in the Negative list, but the four services mentioned in 66 (D)(a) are excluded from the Negative list. The 4th item is "Support Services"

provided to business entities. Support Service has been defined to mean and include the renting of immovable property. Hence, Support Service provided by the Government is not in the Negative list and consequently renting of immovable property is chargeable to service tax. In that view of the matter, the Government should immediately start collecting the service tax for the relevant period in respect of renting of immovable property to business entities.

4. The Government, after careful consideration, based on the report of the Principal Secretary/ Commissioner of Commercial Tax and the Additional Chief Secretary/Commissioner of Land Administration and opinion of the Advocate General of Tamil Nadu, have decided to collect service tax whenever Government land is leased out to a 'business entity' and such service tax may have to be collected from such entity, which is the recipient of services from the Government like Cosmopolitan Club and Tamil Nadu Golf Federation and service tax is leviable and needs to be collected from all lessees who are having Government lands as lease for commercial purpose.

5. The Additional Chief Secretary / Commissioner of Land Administration is requested to issue suitable instructions to all the District Collectors for taking necessary follow up action regarding the collection of Service Tax.

(BY ORDER OF THE GOVERNOR)

**ATULYA MISRA,
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT.**

To

The Additional Chief Secretary/Commissioner of Land Administration, Chepauk,
Chennai-600 005.
All District Collectors.

Copy to:

The Commissioner of Service Tax, Ministry of Finance, Government of India,
2054-1, Newry Towers, II Avenue, 12th Main Road, Anna Nagar, Chennai - 40.
The Commercial Tax and Registration Department, Secretariat, Chennai-9.
The Finance Department, Secretariat, Chennai-9.
The Law Department, Secretariat, Chennai -9.
The Senior Personal Assistant to Hon'ble Chief Minister, Secretariat, Chennai-9.
The Senior Personal Assistant to Hon'ble Deputy Chief Minister, Secretariat,
Chennai-9.
The Senior Personal Assistant to Hon'ble Minister for
Revenue & Disaster Management, Secretariat, Chennai-9.

The Senior Personal Assistant to Hon'ble Minister for Law, Courts and Prison,
Secretariat, Chennai-9.

The Principal Private Secretary to Additional Chief Secretary to Government,
Revenue & Disaster Management Department, Chennai-9.

The Revenue & Disaster Management (OP-II) Department, Secretariat, Chennai-9.
SF/SC.

//FORWARDED BY ORDER//

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SECTION OFFICER.

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