Clarification on rate of service tax

The rate of service tax has been restored to 12% w.e.f. 1st April 2012. Representation have been made seeking clarification on the rate of tax applicable wherein invoices were raised before 1st April 2012 and the payments shall be after 1st April 2012. Clarification has been requested in case of the 8 specified services provided by individuals or proprietary firms or partnership firms, to which Rule 7 of Point of Taxation Rules 2011 was applicable and services on which tax is paid under reverse charge.

In the Circular no 158/9/2012-ST, dated 8th May 2012 it has been clarified that the rate of service tax prevalent on the date when the point of taxation occurs is rate of service tax applicable on any taxable service.

In respect of the 8 specified services and services wherein tax is required to be paid on reverse charge by the service receiver the *point of taxation is the date of payment*. The same has also been clarified in the Circular No 154/5/2012 – ST dated 28th March 2012. Thus in case of such 8 specified services provided by individuals or proprietary firms or partnership firms and in case of services wherein tax is required to be paid on reverse charge by the service receiver, if the payment is received or made, as the case maybe, on or after 1st April 2012, the service tax needs to be paid @ 12%.

In a situation where the invoices issued before 1st April 2012 may reflect the previous rate of tax (10% and cess). In case of need, supplementary invoices may be issued to reflect the new rate of tax (12% and cess) and recover the differential amount. In case of reverse charge the service receiver pays the tax and takes the credit on the basis of the tax payment challan. Cenvat credit can be availed on such supplementary invoices and tax payment challans, subject to other restrictions and conditions as provided in the Cenvat Credit Rules 2004.

In regard to Service Tax major amendments proposes in the Finance bill 2012 are as follows:-

The definition of “works contract” has also been enlarged to include movable properties. Exemption for specified services relating to agriculture in the Negative List has also been extended to agricultural produce enlarging the scope of the entry.