

The Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007

[Rescinded by Notification No. 35/2012-S.T., dated 20-6-2012] [w.e.f. 01-07-2012]

In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules to amend the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, namely :-

1.Short title and commencement

(1) These rules may be called the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007.

(2) They shall come into force with effect from the 1st day of June, 2007.

2.Definitions

In these rules, unless the context otherwise requires, -

(a) “Act” means the Finance Act, 1994 (32 of 1994);

(b) “section” means the section of the Act;

(c) “works contract service” means services provided in relation to the execution of a works contract referred to in sub-clause (zzzza) of clause (105) of section 65 of the Act;

(d) words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3.(1) Notwithstanding anything contained in section 67 of the Act and rule 2A of the Service (Determination of Value) Rules, 2006, the person liable to pay service tax in relation to works contract service shall have the option to discharge his service tax liability on the works contract service provided or to be provided, instead of paying service tax at the rate specified in section 66 of the Act, by paying an amount equivalent to four per cent of the gross amount charged for the works contract.

Explanation.-For the purposes of this sub-rule, gross amount charged for the works contract shall be the sum,-

(a) Including-

(i) The value of all goods used in or in relation to the execution of the works contract, whether

supplied under any other contract for a consideration or otherwise; and

(ii) The value of all the services that are required to be provided for the execution of the works contract;

(b) Excluding-

(i) The value added tax or sales tax as the case may be paid on transfer of property in goods involved; and

(ii) The cost of machinery and tools used in the execution of the said works contract except for the charges for obtaining them on hire Provided that nothing contained in this Explanation shall apply to a works contract, where the execution under the said contract has commenced or where any payment, except by way of credit or debit to any account, has been made in relation to the said contract on or before the 7th day of July, 2009.

(2) The provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004.

(2A) The CENVAT credit of tax paid on taxable services as referred to under sub –clauses (zzd), (zzq) and (zzzh) of clause (105) of section 65 of the Finance Act, 1994, shall be available only to the extent of 40% of the service tax paid when such tax has been paid on the full value of the service after availing CENVAT credit on inputs.

(3) The provider of taxable service who opts to pay service tax under these rules shall exercise such option in respect of a works contract prior to payment of service tax in respect of the said works contract and the option so exercised shall be applicable for the entire works contract and shall not be withdrawn until the completion of the said works contract.

(4) The option under sub-rule (3) shall be permissible only where the declared value of the works contract is not less than the gross amount charged for such works contract.