

## Reverse- Joint Charge Under Service Tax- Possible Way Out

CA Madhukar N Hiregange

The common citizen, the trader [ big & small] , small scale service providers, manufacturers who in normal course are not providing services would not be registered under service tax. Normally they may not even dream that they are liable to service tax. If aware, generally such persons would not like to be registered as it is a hassle, transaction costs would increase but at the same time they wish to be tax compliant. This article examines what one can do practically to mitigate the need to register and pay service tax under reverse/ joint charge without breaking the law.

In this article we look at the possible avoiding of the liability within the 4 corners of law.

1. GTA – Outward- For sales the contract could be that the customer is liable and freight could be on to pay. In case of exigencies where the supplier has to pay he is only paying on behalf of the customer and customer alone would be liable. The person liable to pay is required to comply.
2. GTA- Inward – For purchases the contract could be that the supplier is liable and freight would have been paid already. In exigencies if receiver pays it would only be on behalf of the supplier.
3. Procure services of vehicle hire, manpower supply, security, works contract from the corporate service providers. In that case the provider would be liable. Option of asking provider to convert into a corporate also another way out.
4. Do not provide any sponsorship. If at all required advertise instead where the advertiser would charge the ST.
5. Convert the manpower supplier into a higher value added service provider with responsibility of delivery of the service – cleaning services, disinfecting services, house keeping services etc.
6. Convert the works contractor into a pure labour contract of say construction, painting etc.
7. Break up the contract into one for supply and another for service.
8. Avail legal services from only business entities not individual lawyers or look for alternative professionals providing similar services like CWAs/ CS or CAs.

9. Do not import any services – look for their counterparts/ subsidiaries in India to procure the same.
10. Do not avail any services from Government which are also provided by private parties. Take it from private parties.
11. ... a few more possible on deeper understanding

Note- There could be a few situations like Directors Fess and exceptional instances where one may require to be registered or as the amount is not large would comply along with interest and possible penalties.

Only in India we find such atrocious laws being put in place where the Government of India even today does not maintain proper accounts and is not subjected to any audit. The amounts involved in each year of collections and expenditure together are Rs. 30,00,000 Crores!!! It also exempts itself from most of the compliances by putting the responsibility on the other side wherever applicable. At least the reverse/ joint charge should be exempted overall upto Rs. 10 lakhs for all. Readers are encouraged to respond with other possibilities which would help all to comply better.