

Bimal Jain

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Dear Professional Colleague,

Video Presentation: Reverse Charge - POT & KrishiKalyan Cess

The Central Government vide **Notification No. 21/2016-ST dated March 30, 2016**, has amended Rule 7 of the Point of Taxation Rules, 2011 (**"the POTR"**) by inserting a proviso after the second proviso, in order to provide Point of Taxation (**"POT"**), where there is change in the liability or extent of liability of Service tax to be paid by Service Receiver under Reverse Charge in case service has been provided and the invoice issued before the date of such change, but payment has not been made as on such date, as follows:

"Provided also that where there is change in the liability or extent of liability of a person required to pay tax as recipient of service notified under sub-section (2) of section 68 of the Act, in case service has been provided and the invoice issued before the date of such change, but payment has not been made as on such date, the point of taxation shall be the date of issuance of invoice."

The above inserted proviso is an exception to the general POT under Reverse Charge i.e. date of payment provided payment is made within 3 months from date of invoice, otherwise date immediately following the end of said 3 months from date of invoice would be POT.

Further, this newly inserted proviso provides for POT where there is change in the liability or extent of liability of Service tax to be paid by Service Receiver under Reverse Charge because of changes in abatement rate, composition rate, change in rate of Service tax, applicability of any new levy like KrishiKalyan Cess w.e.f June 1, 2016 etc.

The POTR is duly amended/ clarified by following Notifications as on date.

Notification No.	Particulars
Notification No. 21/2016-ST dated March 30, 2016	Third Proviso inserted in Rule 7 to determine POT where there is change in the liability or extent of liability of Service tax to be paid by Service Receiver under Reverse Charge.
Notification No. 10/2016-ST dated March 01, 2016	Section 67A of the Finance Act, 1994 ("the Finance Act") is proposed to be amended to obtain specific rule making powers in respect of the POTR. (Corresponding amendments carried out in the POTR, which would come into force w.e.f. the date of enactment of the Finance Bill, 2016).

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	<p>Rule 5 of the POTR applies for payment of tax in cases of new services.</p> <p>Further, Rule 5 of the POTR provides that:</p> <p><i>“Where a service is taxed for the first time, then, -</i></p> <p><i>(a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;</i></p> <p><i>(b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.</i></p> <p><i>Explanation 1.- <u>This rule shall apply mutatis mutandis in case of new levy on services.</u></i></p> <p><i>Explanation 2.- New levy or tax shall be payable on all the cases other than specified above.”</i></p>
<p>D.O.F. No. 334/8/2016-TRU dated February 29, 2016</p>	<p>Para No. 12 of the TRU letter provides that the POTR will take care for POT in case of any doubt about the applicability of Service tax rate or apparent contradiction between Section 67A of the Finance Act and the POTR. The consequent modifications have been made in the POTR, which came into effect from March 1, 2016, as follows;</p> <p>Explanation is being inserted, supra, in Rule 5 stating that the same is applicable in case of new levy of services.</p> <p>Another Explanation is being inserted in Rule 5 stating that in situations other than those specified where new levy or tax is not payable, the new levy or tax shall be payable.</p>

Now, in order to provide complete understanding of the above discussed provisions and corresponding changes brought vide mentioned Notifications, Mr. Bimal Jain has recorded a video presentation titled **“Reverse Charge - POT & applicability of KrishiKalyan Cess”**, for easy digest. The video also captures the important changes with practical illustrations in PPT format, facilitating ease of understanding.

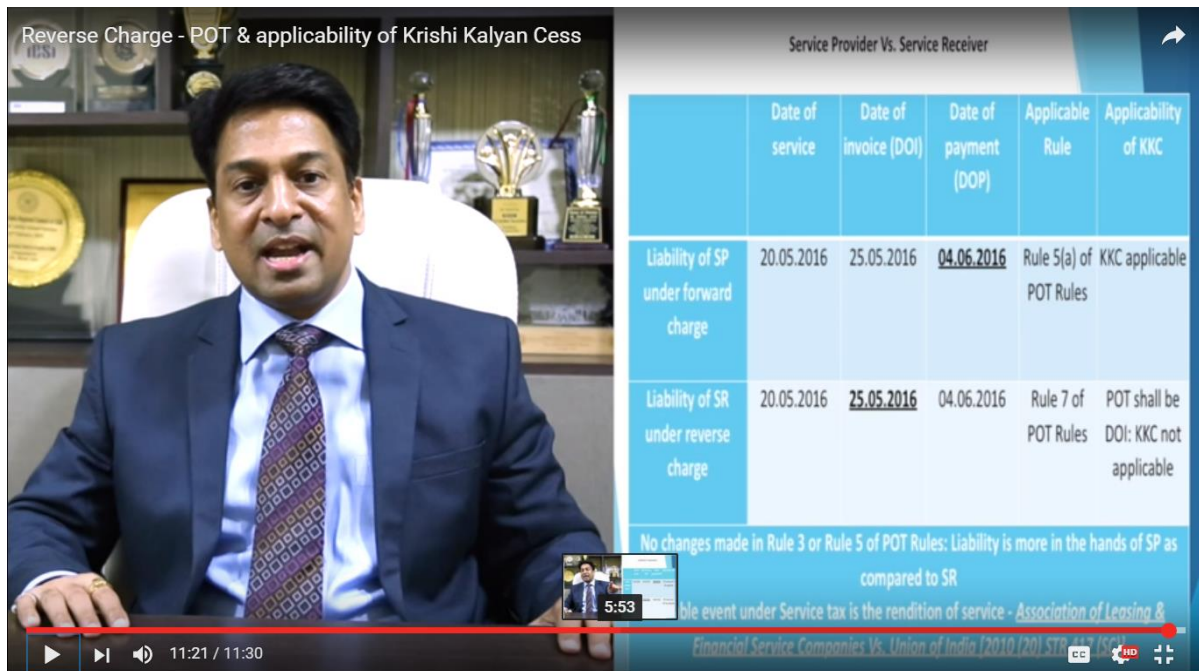
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You may watch the video presentation by clicking on the link below:

https://www.youtube.com/watch?v=NU5_2iAMy3g



Reverse Charge - POT & applicability of Krishi Kalyan Cess

Service Provider Vs. Service Receiver

	Date of service	Date of invoice (DOI)	Date of payment (DOP)	Applicable Rule	Applicability of KKC
Liability of SP under forward charge	20.05.2016	25.05.2016	<u>04.06.2016</u>	Rule 5(a) of POT Rules	KKC applicable
Liability of SR under reverse charge	20.05.2016	<u>25.05.2016</u>	04.06.2016	Rule 7 of POT Rules	POT shall be DOI: KKC not applicable

No changes made in Rule 3 or Rule 5 of POT Rules: Liability is more in the hands of SP as compared to SR

able event under Service tax is the rendition of service - Association of Leasing & Financial Service Companies Vs. Union of India (2010) 201 STR 447 153

To access our earlier Video Presentation, please click the link below:

Video Presentation: Changes in Cenvat Credit Rules, 2004 vide Union Budget 2016

<https://www.youtube.com/watch?v=8AfMeePYm-M>

Video Presentation: 'Any services' provided by Government or Local authority to a Business Entity chargeable to ST under Reverse Charge w.e.f. April 1, 2016

<https://www.youtube.com/watch?v=AB0LpVkuoUY>

Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.

Thanks & Best Regards

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