

## **CHAPTER V NON-PAYMENT OF INTEREST**

Where a person liable to pay service tax under section 68 of the Finance Act, 1994 or the Rules made thereunder fails to pay the tax or any part thereof within the prescribed time, he is liable to pay interest at 13 per cent per annum for the period of default under section 75 of the aforesaid Act. Two cases of non-payment of interest involving revenue of ₹ 32.88 lakh are mentioned below. These observations were communicated to the Ministry through two draft audit paragraphs. The Ministry/department had accepted the audit observations in both draft audit paragraphs of which ₹ 7 lakh had been recovered.

### **5.1 Immovable property and advertising services**

As per rule 6(1) of Service Tax Rules, 1994, service tax in respect of any service provided by a service provider during a month is to be paid to the credit of the Central Government by the 5<sup>th</sup> of the month immediately following the month in which payments are received except for the month of March where tax is to be paid by the 31<sup>st</sup> of March itself. Failure to pay service tax by the due date attracts interest at the rate of 13 per cent per annum.

M/s Hyderabad Metro Development Authority (HMDA), in Hyderabad-II commissionerate, engaged in rendering of renting of immovable property service and sale of space for advertisement service, paid service tax of ₹ 287.54 lakh on these services for the years 2007-08 and 2008-09 beyond due dates, with delays ranging from 30 to 727 days. Interest of ₹ 19.36 lakh thereon was required to be recovered from the assessee.

When we pointed this out (September 2009), the department accepted the audit observation and reported (June 2010) that action was being initiated to recover interest for period of delay. Further development was awaited (December 2010).

Reply of the Ministry had not been received (December 2010).

### **5.2 Storage and warehousing services**

M/s AM Enterprises, in Haldia commissionerate and M/s BPCL, Kolkata, in Kolkata service tax commissionerate, were registered service tax payers of port service and Storage and warehousing services respectively. During the period April 2007 to March 2009, M/s AM Enterprises, collected advances for services to be provided but paid the service tax later on finalization of bills with their customers. In the case of M/s BPCL, service tax on storage and warehousing for the period 2004-05 to 2006-07 (up to January 2007) was paid in March 2007. The delay in payment varied from one month to twenty four months. The non payment of interest on such belated payments of service tax was ₹ 2.28 lakh and ₹ 6.52 lakh respectively.

When we pointed this out (July 2009 and December 2008), the department while admitting the observations reported (October 2009 and March 2010) recovery of ₹ 7 lakh for the period 2004-05 to 2008-09 in the first case and stated that show cause cum demand notice in the second case was being issued.

Reply of the Ministry had not been received (December 2010).

**New Delhi**  
**Dated :**

**(SUBIR MALLICK)**  
**Principal Director (Indirect Taxes)**

**Countersigned**

**New Delhi**  
**Dated :**

**(VINOD RAI)**  
**Comptroller and Auditor General of India**