

Superintendent (Service Tax),
(Central Excise & Service Tax Division)

Date:

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Case: M/s.

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Ref: Letter No.....dated (Copy
Enclosed)

Sir,

M/s (hereinafter referred as 'assessee' for the sake of brevity) would like to submit that the assessee has **voluntarily** discharged its service tax liability under the category of 'Renting of Immovable Property Service'.

However, after the judgment of Delhi High Court in the Case of **Home Solutions Retails India Ltd. Vs. UOI & Ors, [2009] 20 STT (129) Delhi**, wherein, it was held that **Renting of Immovable Property per se is not taxable**, the assessee ceased to discharge its service tax liability since 18.04.2009.

Further, after the amendment in taxable clause, the assessee has paid all its service tax dues.

In this respect, we would like to submit as under-

Section 73(3) of Finance Act, 1994 reads as under-

“(3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the Central Excise Officer of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section(1) in respect of the amount so paid:

PROVIDED that the Central Excise Officer may determine the amount of short payment of service tax or erroneously refunded service tax, if any,

which in his opinion has not been paid by such person and, then, the Central Excise Officer shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation- For the removal of doubts, it is hereby declared that the interest under Section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the Central Excise Officer, but for this sub-section".

In view of section 73(3), it is hereby requested that since the assessee has voluntarily discharged its service tax liability, show cause notice should not be served upon it.

Please find enclosed the **GAR-7 challan** evidencing the payment of Rs. on account of the service tax dues.

Thanking You,

For M/s.....

(Partner)