

Ref. No. MCHI/GEN/13-14/013

June 25, 2013

To,
The Superintendent of Service Tax,
Service Tax Division – II,
Old Custom House, Fort,
Mumbai – 400 001.

Respected Sir,

Sub: Payment of Service Tax on Membership Fees from April 2007 onwards.

Ref: Service Tax No. : AAATM0334KST002.

Dear Sir,

Maharashtra Chamber of Housing Industry (MCHI) is a registered association. Its main activity is to cater knowledge to its members in respect of Real Estate Industry, guide the members, represent member's problem before competent authorities, courts etc. No members are charged for such services. MCHI is registered with Charity Commissioner, Mumbai and is also recognised as a charitable Institution under Income Tax Act in view of its activities.

Apart from above, MCHI also arranges exhibition for the growth of real estate industry and accordingly had taken service tax registration under the category of "**Business Exhibition Services**" and have been timely paying appropriate taxes and filing the statutory returns.

Sir, in the month of February 2013, your officers visited our premises and asked us to make the payment of service tax on membership fees collected from person from April 2007 onwards. He found all the transactions of receipt are properly recorded and accounted. We explained our side that MCHI is charitable institute which is non-taxable entity. Moreover the assistance provided to members as discussed in Para 1 above, MCHI dose not charge any extra from its members and there is no element of commerciality. Further to tax any services there has to be some receipt for the services provided. Membership fee is just an entry fee simplicitor. However the officer insisted to calculate the service tax from April 2007 and make the payment. Being a law abiding institution, we computed tax liability and paid the same with interest for the period 2007 to August 2011 as thereafter there is no liability.

Further Sir, the executive committee had bonafide belief that the membership is purely entry fee and by enrolling as member there was no commitment of any commercial services to members. Moreover, during tenure of membership one will avail even guidance services or not, was also not sure or certain and even if any such guidance was solicited, the same was without any charges for it and hence the service tax on membership is not applicable as there is no element of commerciality and there being no payment in respect of it. Therefore we have neither collected service tax from member nor paid to the department.

However, where the activities attracting service tax without any doubt like exhibition services to members, MCHI has discharged its proper statutory liability and is not in arrears of any taxes till date. Further Sir, as our all receipts are properly accounted and duly audited there is no question of any fraud, mis-statement or wilful suppression of facts to evade the tax liability and in the given circumstances benefit of Sec 73 may come to our rescue.

In the light of foregoing facts please treat our payment of tax and interest on the membership fees for the period from April 2007 on wards "under protest". And finally Sir, without prejudice to above, considering our bonafides & co-operative approach, we may please be honoured with the benefits available under the law.

Thanking you Sir,

Yours truly,

For MCHI

(C.P.GOYAL)
Chief Manager Finance