

Service tax: Excise dept gets cracking on landlords

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There is resentment brewing among landlords against the Central Board of Excise and Customs. The reason? The board is yet to retract a circular issued in July last year directing service tax units to take action against those who do not pay tax on rentals earned from immovable property.

With the circular still in force, the department is issuing show-cause notices asking landlords to pay tax running into lakhs. Considering the tax burden is usually passed on to the end user, the landlord/lessor is pressurising lessees to pay the service tax, giving rise to differences between the two parties.

SC judgment pending

Many landlords have paid under protest, but after taking an undertaking from lessees that they will pay the tax if the Supreme Court quashes the order passed by the Delhi high court barring the Union government from collecting such a tax.

Experts say if the landlords pay up, they can file a refund claim within a year if the judgment goes in their favour

What has irked developers is that the tax has not been rescinded despite the Delhi high court ruling last year that renting immovable property does not constitute a taxable service. The court had passed the order while hearing a petition filed by a subsidiary of Pantaloon Retail (India) Limited, along with other retailers, challenging the government's decision.

Further, when the circular was challenged, the board had assured the court that it will take corrective steps, yet continued issuing notices demanding the tax, forcing many landlords to pay it under protest.

The board defends itself by saying since an appeal is pending before the apex court, it is free to demand taxes.