



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

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July 20, 2016

Emkay Global Financial Services Ltd
The Ruby, 7th Floor
Senapati Bapat Marg
Dadar West
Mumbai 400028

Kind attention: Mr. Ajay Bendkhale, Compliance Officer

Dear Sir,

Sub: Request for informal guidance by way of Interpretive Letter under SEBI (Informal Guidance) Scheme 2003 in connection with the removal of doubts over inclusion of service tax on brokerage

1. This has reference to your letter dated June 07, 2016 on the captioned matter.
2. You have, *inter alia*, represented as under:-
 - i. With respect to the interpretation of SEBI Notification dated September 26, 2012 in terms of amendment of SEBI (Mutual Funds) (Second Amendment) Regulations, 2012 regarding the brokerage and transaction costs, SEBI Notification is silent on Service Tax levy and the Mutual Funds clients are interpreting the upper cap of 0.12 per cent or 0.05 per cent (as the case may be) as inclusive of service tax, have started requesting brokerage firms to revise their brokerage rates to include service tax, so as not to exceed such brokerage to 0.12 per cent in case of cash transactions of 0.05 percent in case of derivatives transactions.
 - ii. It was also mentioned that unlike other statutory levies, basis of charge and rate of service tax (payable on broker's brokerage and Exchange transaction cost) has been enlarged and amended from time to time. The rate of service tax (inclusive of cess) w.e.f June 01, 2016 is 15%.



अनुवर्ती :
Continuation :

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3. In view of the above, you have sought guidance from SEBI on the following:

- i. As per SEBI Notification, brokerage and transaction cost are capped to 0.12 percent in case of cash market transactions and 0.05 percent in case of derivative transactions. Service tax (including cess) is payable on brokerage as well as on Exchange transaction cost. You had requested to clarify the correct position whether the said SEBI Notification meant service tax at applicable rate is included in the upper cap of brokerage and transaction cost or is excluding of service tax.

4. Our views on the queries are as under:

- a. As per SEBI Circular dated September 13, 2012 read with SEBI circular dated November 19, 2012; service tax on brokerage and transaction cost paid for execution of trade, if any, shall be within the limit of TER specified under Regulation 52 of the SEBI (MFs) Regulations, 1996.
- b. Further, brokerage and transaction costs can be capitalized in the concerned Mutual Fund scheme's books to extent of 12bps and 5bps for cash market transactions and derivatives transactions respectively. Any payment towards brokerage and transaction cost, over and above 12bps and 5bps for cash market transactions and derivatives transactions respectively, is to be borne by the scheme within the Total Expense Ratio (TER) limit specified under Regulation 52 of the SEBI (MFs) Regulations, 1996. Any expenditure in excess of the specified TER limits, has to borne by Asset Management Company (AMC), Trustee or sponsors.

5. You may note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and corresponding circulars and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,


Harini Balaji