



cutting through complexity

TAX & REGULATORY

The 'wider' world of service tax

Compendium
of Service Tax Law

September 2014

kpmg.com/in

TAX & REGULATORY

The 'wider' world of service tax

Compendium of
service tax law

September 2014

kpmg.com/in



भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE

नई दिल्ली/New Delhi, the.....

M. Vinod Kumar
Joint Secretary (TRU-II)
Tel: 23093027

02nd September. 2014

The scope of Service Tax in India was widened significantly with the introduction of the Negative List regime in 2012. The contribution of the Service Tax to the revenues of the exchequer has been considerable and is now reaching a stage wherein it would be on par with that of Central Excise or Customs. This also assumes significance in the movement towards implementation of GST in the country.

Widening of the tax base in the services sector is an ongoing process and has lead to more and more new assesseees coming into the tax net. It is essential that these assesseees be made aware of the provisions of the law, rules and procedures relating to Service Tax. Similarly, those who are already tax-payers need to keep themselves abreast with the changes which have been made in the recent past. Spreading awareness of the law is absolutely essential in the attempt being made to encourage voluntary tax compliance.

KPMG has over the past five years been publishing an annual updated 'Compendium of Service Tax Law' which has been very well appreciated by the trade and industry. I am sure that the latest edition, which also incorporates changes coming into effect on 1st October, 2014, is being eagerly awaited and will be similarly appreciated.

I congratulate KPMG for putting in tremendous efforts in publishing this compendium on Service Tax provisions.

Yours sincerely,

(M. Vinod Kumar)



सत्यमेव जयते

वी. एस. कृष्णन

मुख्य आयुक्त

केन्द्रीय उत्पाद शुल्क एवं सेवा कर

मुंबई क्षेत्र - I

V. S. KRISHNAN

CHIEF COMMISSIONER

CENTRAL EXCISE & SERVICE TAX

MUMBAI ZONE - I

केन्द्रीय उत्पाद शुल्क भवन

115, महर्षि कर्वे रोड,

मुंबई - 400 020.

दूरभाष : 2201 5780

तार : केन्द्रीय उत्पाद शुल्क

फैक्स : 2206 1722

CENTRAL EXCISE BUILDING

115, Maharshi Karve Road,

Mumbai - 400 020.

Tel. : 2201 5780

Gram : "CENEXCISEE"

Fax : 2206 1722

29th July, 2013

Foreword

The Services sector contributes to nearly 60% of India's GDP. Commensurate with this, the Government has expanded the area of taxation in services to bring it in line with the best international practices. In 2012, it took an important initiative by introducing the 'Negative List of Services' to facilitate wide coverage together with a simpler procedural regime. The taxation of services has evolved over the years keeping in mind the pattern of growth of various services. It is perhaps true to say that with the expansion of Service Tax certain interpretational issues have arisen.

In order to bring in new areas within the ambit of taxation of services the Government has announced a "Voluntary Compliance Encouragement Scheme. This was designed to promote a non- adversarial relationship between the government and Trade and Industry. The scheme provides a window of opportunity to the industry to pay the tax dues and avoid unnecessary litigation in the future.

The publication brought out by the KPMG is lucid and very user friendly. This is the fourth year of its publication and I have no doubt that the reader will find it very useful.

I would like to compliment KPMG for bringing out this excellent publication.

Yours Sincerley,

(V.S. KRISHNAN)



Dr. Parthasarathi Shome
Professor

November 8, 2012

Foreword

Service tax in this year achieved adulthood and has taken a big leap by way of introduction of negative list based taxation. The basic objective of such change is to bring simplicity, widen the tax base and adopt GST principle.

Until 30 June 2012, there were more than 115 service categories which were liable to service tax. Any tax payer to know whether his services were taxable had to refer to the definition of various services and decide whether tax is payable or not. However, w.e.f. 1 July 2012 the same has been done away with as there are no taxable services but service has been defined for applicability of tax and there is a specific negative list of services on which no tax is applicable. Also there is a mega notification which provides a list of services which are specifically exempted from tax.

Another important step is the introduction of Place of Provision of service rules for determining the taxability of the transaction. In effect it can be said that Government has taken an important step towards the implementation of GST in the near future. In addition to major amendments in the Finance Act and the introduction of new rules, is an expansion of the list of services on which tax is payable by a service recipient under the reverse charge mechanism. It has put significant responsibility on the service recipient to identify where tax is payable and the proportion of tax payable.

It is impressive that KPMG has continued its legacy of bringing out this publication on service tax and included both the current applicable provisions and earlier provisions. There is no doubt that the publication shall be of great assistance to the trade, commerce, industry and to tax administrators.

I wish the publication great success.

Parthasarathi Shome



भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE

नई दिल्ली/New Delhi, the

V.K. Garg
Joint Secretary (Tax Research)
Tel: 23093027

29th July, 2011.

Foreword

Service tax is a fast expanding subject that is still evolving in a number of ways. In a short span of last 8 years, its collection has grown nearly 20 times to more than Rs.71,000 crore. As of today there are more than 100 services covered under the tax net. Thus, for a common taxpayer, it is uppermost in his interest to know the relevant aspects of the service tax laws, which affect his day to day business. Further, the credit mechanism, import and export rules, valuation rules, etc. are the most important facets under the service tax legislation.

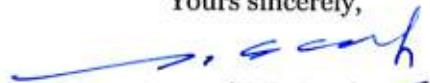
Furthermore, with the newly introduced Point of Taxation Rules, 2011, the earlier provisions with regard to payment of tax on payment basis have been changed to provision basis and thus the impact of the same on the cash flows of the companies is immense.

It is praiseworthy that KPMG is bringing out its second edition of 'Compendium of Service Tax Law'. I understand that the first edition has been very well appreciated by both industry and department as it is a ready reference for understanding the service tax legislation.

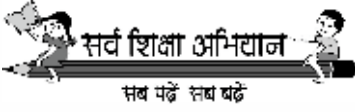
I am sure that the second edition shall be a great success and continue to be of great assistance to the industry and to the tax administrators.

I hope KPMG shall continue its contribution towards knowledge sharing and wish all success in its future endeavours.

Yours sincerely,



(V.K. Garg)



भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE

नई दिल्ली / New Delhi, the

Gautam Bhattacharya
Joint Secretary (TRU - II)
Tel: 23093027

12th August, 2010.

I am immensely delighted to learn about KPMG compiling an important publication "Compendium of Service Tax Law". Its relevance is immense and timely arising out of the rapidly developing service tax legislation in India.

Service Sector contributes more than 50 per cent of India's GDP. This sector plays a leading role in the development of Indian economy. Hence service tax has become the major source of revenue to the Central Government. Over the last decade, it has grown tremendously, due to which it has become the most promising and important contributor to Government exchequer.

Service tax is a complex subject and is rapidly evolving. The service tax law is amended almost every year by bringing different services under the service tax net, with existing services crossing 100 mark. Further, various sets of rules dealing with credit mechanism, exports, imports, valuation, etc issued from time to time necessitating a comprehensive compilation of service tax. Therefore it is indeed a great effort to compile all the relevant facets of the service tax legislation comprehensively. A publication of such nature providing a quick reference to service tax legislation will be of great help to all the concerned.

I wish KPMG all the best in this endeavour.

Yours sincerely,

(Gautam Bhattacharya)

Table of contents

1	Glossary	01
2	Key provisions at a glance	11
3	Finance Act, 1994	21

Section No.	Chapter V of the Finance Act, 1994	Page No.
64	Extent, commencement and application	22
65	Definition*	22
65A	Classification of Taxable Service*	22
65B	Interpretations	23
66	Charge of Service Tax*	27
66A	Charge of Service Tax on services received from outside India*	27
66B	Charge of service tax on and after Finance Act, 2012	28
66BA	Reference to section 66 to be construed as reference to section 66B	28
66C	Determination of place of provision of service	28
66D	Negative list of service	28
66E	Declared services	29
66F	Principles of interpretation of specified descriptions of services or bundled services	30
67	Valuation of taxable services for charging service tax	30
67A	Date of determination of rate of tax, value of taxable service and rate of exchange	31
68	Payment of service tax	31
69	Registration	31
70	Furnishing of returns	32
71	Scheme for submission of returns through service tax return preparers	32
72	Best judgement assessment	32

***The Provisions of this section are not applicable from 1st July 2012.**

Section No.	Chapter V of the Finance Act, 1994	Page No.
72A	Special Audit	33
73	Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded	33
73A	Service tax collected from any person to be deposited with Central Government.	36
73B	Interest on amount collected in excess	36
73C	Provisional attachment to protect revenue in certain cases	37
73D	Publication of information in respect of persons in certain cases	37
74	Rectification of mistake	37
75	Interest on delayed payment of service tax	38
75A	Omitted vide Finance (No.2) Act, 2004, w.e.f. 10 September 2004	38
76	Penalty for failure to pay service tax	38
77	Penalty for contravention of any provision for which no penalty is specified elsewhere	39
78	Penalty for suppressing etc. of value of taxable service	39
78A	Penalty for offences by directors, etc. of company	40
79	Omitted vide Finance (No.2) Act, 2004, w.e.f. 10 September 2004	40
80	Penalty not to be imposed in certain cases	40
81	Omitted	41
82	Power to search premises	41
83	Application of certain provisions of Act 1 of 1944	41
83A	Power of adjudication	41
84	Appeals to the Commissioner of Central Excise (Appeals) under directions of Commissioner	41
85	Appeals to the Commissioner of Central Excise (Appeals)	42
86	Appeals to Appellate Tribunal	42
87	Recovery of any amount due to Central Government	44
88	Liability under Act to be first charge	45
89	Offences and penalties	45
90	Cognizance of Offences	46
91	Power to arrest	46

Section No.	Chapter V of the Finance Act, 1994	Page No.
92	Omitted	46
93	Power to grant exemption from service tax	46
93A	Power to grant rebate	46
93B	Rules made under section 94 to be applicable to services other than taxable services	47
94	Power to make rules	47
95	Power to remove difficulties	48
96	Consequential amendment	50

Chapter VA-Advance Rulings

96A	Definitions	50
96B	Vacancies, etc., not to invalidate proceedings	50
96C	Application for advance ruling	50
96D	Procedure on receipt of application	51
96E	Applicability of advance ruling	52
96F	Advance ruling to be void in certain circumstances	52
96G	Powers of Authority	52
96H	Procedure of Authority	52
96-I	Power of Central Government to make rules	52
96-J	Special exemption for service tax in certain cases	53
97	Special Provision for exemption in certain cases relating to management, etc. of roads	53
98	Special Provision for exemption in certain cases relating to management, etc. of non-commercial Government buildings	53
99	Special provision for taxable services provided by Indian Railways	53
100	Services provided by employees' state Insurance Corporation	54

Chapter VI of the Finance Act, 2013

104	Short title	55
105	Definitions	55
106	Person who may make declaration of tax dues	55
107	Procedure for making declaration and payment of tax dues.	56

108	Immunity from penalty, interest and other proceeding	56
109	No refund of amount paid under the scheme	56
110	Tax dues declared but not paid	56
111	Failure to make true declaration	56
112	Removal of doubts	57
113	Power to remove difficulties	57
114	Power to make rules	57

4 Service Tax Rules, 1994

58

Rule. No.	Particulars	Page No.
1.	Short title and commencement	59
2.	Definitions	59
3.	Appointment of officers	61
4.	Registration	61
4A.	Taxable service to be provided or Credit to be distributed on Invoice, Bill or Challan	62
4B.	Issue of consignment note	63
5.	Records	64
5A.	Access to a registered premise	64
6.	Payment of service tax	64
6A.	Export of services	68
7.	Returns	68
7A.	Returns in case of taxable service provided by goods transport operators and clearing and forwarding agents	68
7B.	Revision of return	68
7C.	Amount to be paid for delay in furnishing the prescribed return	69
8.	Form of Appeals to Commissioner of Central Excise (Appeals)	69
9.	Form of appeals to Appellate Tribunal	69
10.	Procedure and Facilities for Large Taxpayer	70
11.	Determination of rate of exchange	70
12.	Power to issue supplementary instructions	70

Rule No.	Particulars	Page No.
1	Short title, extent and commencement	72
2	Definitions	72
3	CENVAT credit	75
4	Conditions for allowing CENVAT credit	80
5	Refund of CENVAT credit	82
5A	Refund of CENVAT credit to units in specified areas	83
5B	Refund of CENVAT credit to service providers providing services taxed on reverse charge basis	83
6	Obligation of a manufacturer or producer of final products and a provider of output service	83
7	Manner of distribution of credit by input service distributor	88
7A	Distribution of credit on inputs by the office or any other premises of output service provider	88
8	Storage of input outside the factory of the manufacturer	88
9	Documents and accounts	89
9A	Information relating to Principal Inputs	91
10	Transfer of CENVAT credit	91
10A	Transfer of CENVAT credit of additional duty leviable under sub – section (5) of section 3 of the Customs Tariff Act.	91
11	Transitional provision	92
12	Special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim	93
12A	Procedure and facilities for large tax payer	93
12AAA	Power to impose restrictions in certain type of cases	95
13	Power of Central Government to notify goods for deemed CENVAT credit	95
14	Recovery of CENVAT credit wrongly taken or erroneously refunded	96
15	Confiscation and penalty	96
15A	General penalty	96
16	Supplementary provision	96

6 Place of Provision of Services Rules, 2012

97

Rule No.	Particulars	Page No.
1.	Short title, extent and commencement	98
2.	Definitions	98
3.	Place of provision generally	99
4.	Place of provision of performance based services	99
5.	Place of provision of services relating to immovable property	100
6.	Place of provision of services relating to events	100
7.	Place of provision of services provided at more than one location	100
8.	Place of provision of services where provider and recipient are located in taxable territory	100
9.	Place of provision of specified services	100
10.	Place of provision of goods transportation services	101
11.	Place of provision of passenger transportation service	101
12.	Place of provision of services provided on board a conveyance	101
13.	Powers to notify description of services or circumstances for certain purposes	101
14.	Order of application of rules	101

7 Service Tax (Determination of Value) Rules, 2006

102

Rule No.	Particulars	Page No.
1.	Short title and commencement	103
2.	Definitions	103
2A.	Determination of value of service portion in the execution of a works contract	103
2B.	Determination of value of service in relation to money changing	104
2C.	Determination of value of service portion involved in supply of food or any other article of human consumption or any drink in a restaurant or as outdoor catering	105
3.	Manner of determination of value	105
4.	Rejection of value	106
5.	Inclusion in or exclusion from value of certain expenditure or costs	106
6.	Cases in which the commission, costs, etc. will be included or excluded	107

8 Point of Taxation Rules, 2011

109

Rule No.	Particulars	Page No.
1.	Short title and commencement	110
2.	Definitions	110
2A.	Date of Payment	110
3.	Determination of point of taxation	110
4.	Determination of point of taxation in case of change of effective rate of tax	111
5.	Payment of tax in cases of new services	111
6.	Omitted	111
7.	Determination of point of taxation in case of specified services or persons	112
8.	Determination of point of taxation in case of Copyrights, etc.	112
8A.	Determination of point of taxation in other cases	112
9.	Transitional provisions	112
10.	Additional Rule to Rule 7	112

9 Service Tax Voluntary Compliance Engagement Rules, 2013

113

10 Effective service tax rates after abatement

115

11 Service Tax (Compounding of Offences) Rules, 2012

120

12 Service Tax (Settlement of Cases) Rules, 2012

123

13 Mega Exemption Notification

126

14 Notification on Reverse Charge Mechanism

135

15 Definitions / Service Categories (Applicable till 30 June 2012)

138

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
1	Advertising agency's services	65(105)(e)	1 November 1996	(iii)	139
2	Airport services	65(105)(zzm)	10 September 2004	(ii)	139
3	Air travel agent's services	65(105)(l)	1 July 1997	(ii)	139
4	Architect's services	65(105)(p)	16 October 1998	(i)	140
5	Asset management service	65(105)(zzzco)	1 June 2007	(iii)	140
6	Auctioneer's service	65(105)(zzzr)	1 May 2006	(i) or (iii)	140
7	Authorised service station's services	65(105)(zo)	16 July 2001	(ii)	141
8	Automated Teller Machines (ATM) operations, maintenance or management services	65(105)(zzzk)	1 May 2006	(iii)	141
9	Banking and other financial services	65(105)(zm) & (zzk)	16 July 2001	(iii)	141
10	Beauty treatment service	65(105)(zq)	16 August 2002	(ii)	144
11	Broadcasting services	65(105)(zk)	16 July 2001	(iii)	144
12	Business auxiliary services	65(105)(zzb)	1 July 2003	(iii)	145
13	Business exhibition services	65(105)(zzo)	10 September 2004	(ii)	146
14	Business support services	65(105)(zzzq)	1 May 2006	(iii)	147
15	Cable services	65(105)(zs)	16 August 2002	(iii)	147
16	Cargo handling service	65(105)(zr)	16 August 2002	(ii)	147
17	Chartered accountant's services	65(105)(s)	16 October 1998	(iii)	148
18	Cleaning activity service	65(105)(zzzd)	16 June 2005	(ii)	148
19	Clearing and forwarding agent's services	65(105)(j)	16 July 1997	(ii)	148
20	Club or association service	65(105)(zzze)	16 June 2005	(ii)	148
21	Commercial or industrial construction services	65(105)(zzq)	10 Sept 2004	(i)	149
22	Commercial training or coaching service	65(105)(zzc)	1 July 2003	(ii)	149
23	Commodity exchange service	65(105)(zzzzh)	16 May 2008	(ii)	150

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
24	Company secretary's services	65(105)(u)	16 October 1998	(iii)	150
25	Computer network services (On-line information and database access or retrieval services)	65(105)(zh)	16 July 2001	(iii)	151
26	Construction of complex service	65(105)(zzzh)	16 June 2005	(i)	151
27	Consulting engineer's services	65(105)(g)	7 July 1997	(iii)	152
28	Convention services	65(105)(zc)	16 July 2001	(ii)	153
29	Copyright Service	65(105)(zzzzt)	1 July 2010	(iii)	153
30	Cosmetic and plastic surgery service	65(105)(zzzzk)	1 September 2009	(ii)	153
31	Cost accountant's services	65(105)(t)	16 October 1998	(iii)	153
32	Courier service	65(105)(f)	1 November 1996	(ii)	154
33	Credit card, debit card, charge card or other payment card service	65(105)(zzzw)	1 May 2006	(iii)	154
34	Credit rating agency's services	65(105)(x)	16 October 1998	(iii)	154
35	Custom house agent's services	65(105)(h)	15 June 1997	(ii)	155
36	Design services	65(105)(zzzzd)	1 June 2007	(iii)	155
37	Development and supply of contents service	65(105)(zzzzb)	1 June 2007	(iii)	155
38	Dredging service	65(105)(zzzb)	16 June 2005	(l)	156
39	Dry cleaning services	65(105)(zt)	16 August 2002	(ii)	156
40	Electricity Exchanges services	65(105)(zzzzs)	1 July 2010	(iii)	156
41	Erection, commissioning or installation service	65(105)(zzd)	1 July 2003	(ii)	156
42	Event management service	65(105)(zu)	16 August 2002	(ii)	157
43	Fashion designing service	65(105)(zv)	16 August 2002	(ii)	157
44	Forward contract service	65(105)(zzy)	10 September 2004	(ii)	157
45	Franchise service	65(105)(zze)	1 July 2003	(iii)	158
46	General insurance service	65(105)(d)	1 July 1994	(i) or (iii)	158
47	Health and fitness services	65(105)(zw)	16 August 2002	(ii)	159
48	Hospitals, Nursing Homes And Multi-Specialty Clinics services	65(105)(zzzzo)	1 July 2010	(ii)	159

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
49	Information technology software service	65(105)(zzzze)	16 May 2008	(iii)	160
50	Insurance auxiliary services	65(105)(zl)	16 July 2001	(iii)	160
51	Intellectual property services	65(105)(zzr)	10 September 2004	(iii)	161
52	Interior decorator's services	65(105)(q)	16 October 1998	(i)	162
53	Internet cafe service	65(105)(zzf)	1 July 2003	(ii)	162
54	Internet telecommunication services	65(105)(zzzu)	1 May 2006	(iii)	162
55	Legal consultancy service	65(105)(zzzzm)	1 September 2009	(i) or (iii)	162
56	Life insurance service	65(105)(zx)	16 August 2002	(iii)	163
57	Mailing list compilation and mailing service	65(105)(zzzg)	16 June 2005	(iii)	163
58	Management or Business consultant's services	65(105)(r)	16 October 1998	(iii)	164
59	Management, maintenance or repair service	65(105)(zzg)	1 July 2003	(ii)	164
60	Management of investment under ULIP service	65(105)(zzzzf)	16 May 2008	(iii)	164
61	Mandap keeper's services	65(105)(m)	1 July 1997	(i)	165
62	Manpower recruitment or supply agency's services	65(105)(k)	7 July 1997	(iii)	165
63	Market research agency's services	65(105)(y)	16 October 1998	(iii)	166
64	Mining of mineral, oil or gas service	65(105)(zzzy)	1 June 2007	(i)	166
65	Opinion poll services	65(105)(zzs)	10 September 2004	(iii)	166
66	Other port services	65(105)(zzl)	1 July 2003	(ii)	166
67	Outdoor caterer's service	65(105)(zzt)	10 September 2004	(ii)	167
68	Packaging activity services	65(105)(zzzf)	16 June 2005	(ii)	167
69	Pandal or shamiana contractor's service	65(105)(zzw)	10 September 2004	(ii)	167
70	Permitting commercial use or exploitation of any event services	65(105)(zzzzr)	1 July 2010	(iii)	168
71	Photography services	65(105)(zb)	16 July 2001	(ii)	168
72	Port services	65(105)(zn)	16 July 2001	(ii)	168

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
73	Preferential location service	65(105)(zzzzu)	1 July 2010	(i)	169
74	Processing and clearing house service	65(105)(zzzzi)	16 May 2008	(ii)	169
75	Programme producer's services	65(105)(zzu)	10 September 2004	(iii)	169
76	Promotion, marketing and organizing of games of chance including lottery service	65(105)(zzzzn)	1 July 2010	(iii)	169
77	Promotion or Marketing of Brand service	65(105)(zzzzq)	1 July 2010	(iii)	170
78	Public relation management service	65(105)(zzzs)	1 May 2006	(iii)	170
79	Rail travel agent's services	65(105)(zz)	16 August 2002	(ii)	170
80	Real estate agent's services	65(105)(v)	16 October 1998	(i)	170
81	Renting of immovable property service	65(105)(zzzz)	1 June 2007	(i)	171
82	Recovery agent's service	65(105)(zzzl)	1 May 2006	(iii)	171
83	Registrar to an issue's service	65(105)(zzzi)	1 May 2006	(iii)	172
84	Rent-a-cab scheme operator's service	65(105)(o)	1 April 2000	(ii)	172
85	Sale of space or time for advertisement services	65(105)(zzzm)	1 May 2006	(iii)	173
86	Scientific or technical consultancy services	65(105)(za)	16 July 2001	(iii)	173
87	Security agency's services	65(105)(w)	16 October 1998	(ii)	173
88	Services by Air-conditioned restaurants having license to serve liquor	65(105)(zzzzv)	1 May 2011	(i)	174
89	Share transfer agent's service	65(105)(zzzj)	1 May 2006	(iii)	174
90	Ship management services	65(105)(zzzt)	1 May 2006	(iii)	174
91	Short-term accommodation in hotels/inns/clubs/guest houses etc. service	65(105)(zzzzw)	1 May 2011	(i)	175
92	Site formation and clearance, excavation and earth moving and demolition services	65(105)(zzza)	16 June 2005	(i)	175
93	Sound recording studio or agency services	65(105)(zj)	16 July 2001	(ii)	175

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
94	Sponsorship services	65(105)(zzzn)	1 May 2006	(iii)	175
95	Steamer agent's services	65(105)(ii)	15 June 1997	(ii)	176
96	Stock broker's services	65(105)(a)	1 July 1994	(ii)	176
97	Stock Exchange service	65(105)(zzzzg)	16 May 2008	(ii)	177
98	Storage and warehousing service	65(105)(zza)	16 August 2002	(ii)	177
99	Storing of medical records service	65(105)(zzzzp)	1 July 2010	(iii)	177
100	Supply of tangible goods service	65(105)(zzzzj)	16 May 2008	(iii)	178
101	Survey and exploration of mineral, oil and gas service	65(105)(zzv)	10 September 2004	(ii)	178
102	Survey and map-making service	65(105)(zzzc)	16 June 2005	(i) or (iii)	178
103	Technical inspection and certification service	65(105)(zzi)	1 July 2003	(ii)	178
104	Technical testing and analysis service	65(105)(zzh)	1 July 2003	(iii)	179
105	Telecommunication service	65(105)(zzzx)	1 June 2007	(iii)	179
106	Tour operator's service	65(105)(n)	1 April 2000	(ii)	180
107	Transport of coastal goods; and goods transported through inland water service	65(105)(zzzzl)	1 September 2009	(ii)	181
108	Transport of goods by air service	65(105)(zzn)	10 September 2004	(iii)	182
109	Transport of goods by rail service	65(105)(zzzp)	1 May 2006	(iii)	182
110	Transport of goods by road service	65(105)(zzp)	1 January 2005	(iii)	182
111	Transport of goods, other than water, through pipeline or other conduit service	65(105)(zzz)	16 June 2005	(iii)	183
112	Transport of passengers by air service	65(105)(zzzo)	1 May 2006 1 July 2010	-	183
113	Transport of persons embarking from port in India by cruise ship service	65(105)(zzzv)	1 May 2006	-	184
114	Travel agent's service	65(105)(zzx)	10 September 2004	(ii)	184
115	Underwriter's service	65(105)(z)	16 October 1998	(ii)	184
116	Video production agency's services	65(105)(zi)	16 July 2001	(ii)	184

Sr. No.	Service category	Section No.	Date of Introduction	Category under export / import	Page No.
117	Works contract service	65(105)(zzzza)	1 June 2007	(i)	185
118	Miscellaneous definitions				185

Notes: Category under erstwhile export/import of service rules

- (i) - Category pertains to services related to immovable property
- (ii) - Category pertains to services based on performance
- (iii) - Category pertains to place of business of service recipient

16 Accounting Codes

1.

Glossary

A

Abatement

Effective service tax rates after abatement	Abatements	115
Accounting Codes	Accounting Codes	188

Advance Rulings

Applicability	Advance Rulings	52
Application	Advance Rulings	51
To be void in certain circumstances	Advance Rulings	52

Appeals

Appeals to the Commissioner of Central Excise (Appeals) under directions of Commissioner	Finance Act, 1994	41
Appeals to the Commissioner of Central Excise (Appeals)	Finance Act, 1994	42
Appeals to Appellate Tribunal	Finance Act, 1994	42
Form of Appeals to Appellate Tribunal	Service Tax Rules, 1994	69
Form of Appeals to Commissioner of Central Excise (Appeals)	Service Tax Rules, 1994	69
Access to a registered premises	Service Tax Rules, 1994	64
Application of certain provisions of Act 1 of 1944 (Central Excise)	Finance Act, 1994	41
Appointment of officers	Service Tax Rules, 1994	61
Actionable claim	Interpretations	23
Advertisement	Interpretations	23
Agriculture	Interpretations	23
Agricultural extension	Interpretations	23
Agricultural produce	Interpretations	23
Agricultural Produce Marketing Committee or Board	Interpretations	23
Aircraft	Interpretations	23
Airport	Interpretations	23
Amusement facility	Interpretations	23
Appellate Tribunal	Interpretations	23
Approved vocational education course	Interpretations	23

Assessee	Interpretations	23
Associated enterprise	Interpretations	23
Authorised dealer of foreign exchange	Interpretations	23

B

Best judgement assessment	Finance Act, 1994	32
Banking company	Service Tax Rules, 1994	59
Betting or gambling	Interpretations	23
Board	Interpretations	23
Body corporate	Service Tax Rules, 1994	59
Business entity	Interpretations	23

C

CENVAT credit

CENVAT credit	CENVAT Credit Rules, 2004	71
Cognizance of offences	Finance Act, 1994	46
Conditions for allowing CENVAT Credit	CENVAT Credit Rules, 2004	80
Confiscation and penalty	CENVAT Credit Rules, 2004	96

Charge

Charge of service tax on an after Finance Act, 2012	Finance Act, 1994	28
---	-------------------	----

Consideration

Cases in which the commission, costs, etc. will be included or excluded	Service tax (Determination of Value) Rules, 2006	107
Central Electricity Authority	Interpretations	24
Central Transmission Utility	Interpretations	24
Courier agency	Interpretations	24
Consequential amendment	Finance Act, 1994	50
Customs station	Interpretations	24
Cognizance of offence	Finance Act, 1994	46

D

Delay

Amount to be paid for delay in furnishing the prescribed return	Service Tax Rules, 1994	69
Date of payment	Point of Taxation Rules, 2011	110
Declared service	Interpretations	24
Determination of value of service portion in the execution of works contract	Service tax (Determination of Value) Rules, 2006	103
Determination of value of service portion involved in supply of food or any other article of human consumption or any drink in a restaurant or as outdoor catering	Service tax (Determination of Value) Rules, 2006	105
Determination of place of provision of service	Finance Act, 1994	28
Determination of Rate of exchange	Service Tax Rules, 1994	70
Disclosure of information in the application for settlement of cases	Service Tax (Settlement of Cases) Rules, 2012	124
Distribution of credit on inputs by the office or any other premises of output service provider	CENVAT Credit Rules, 2004	88
Documents and accounts	CENVAT Credit Rules, 2004	89

E

Exports

Export of services	Service Tax Rules, 1994	68
Electricity transmission or distribution utility	Interpretations	24
Entertainment event	Interpretations	24
Extent of Finance Act, 1994	Finance Act, 1994	22

F

Fee for copies of reports	Service Tax (Settlement of Cases) Rules, 2012	125
Financial institution	Service Tax Rules, 1994	59
Form and manner of Application	Service Tax (Settlement of Cases) Rules, 2012	124

G

Goods	Interpretations	24
Goods transport agency	Interpretations	24
Goods carriage	Service Tax Rules, 1994	59

I

Interest

Interest on amount collected in excess	Finance Act, 1994	36
Interest on delayed payment of service tax	Finance Act, 1994	38
Inclusion in or exclusion from value of certain expenditure or costs	Service tax (Determination of Value) Rules, 2006	106
Information technology software	Interpretations	24
India	Interpretations	24
Inland waterway	Interpretations	24
Interest	Interpretations	24
Intermediary	Place of Provisions of Services Rules, 2012	98
Insurance agent	Service Tax Rules, 1994	59
Issue of consignment note	Service Tax Rules, 1994	63

L

Local authority	Interpretations	25
Legal service	Service Tax Rules, 1994	59
Life insurance business	Service Tax Rules, 1994	59

M

Manner of determination of value	Service tax (Determination of Value) Rules, 2006	105
Manner of distribution of credit by input service distributor	CENVAT Credit Rules, 2004	88
Manner of provisional attachment of property	Service Tax (Settlement of Cases) Rules, 2012	125
Metered cab	Interpretations	25
Money	Interpretations	25

N

Negative list	Interpretations	25
Non-taxable territory	Interpretations	25
Non banking financial company	Service Tax Rules, 1994	59
Notification	Interpretations	25

O

Obligation of a manufacturer or producer of final products and a provider of output service	CENVAT Credit Rules, 2004	83
---	---------------------------	----

P

Payment

Payment of service tax	Finance Act, 1994	31
Payment of service tax	Service Tax Rules, 1994	64
Payment of tax in case of new services	Point of Taxation Rules, 2011	111

Penalty

General penalty	CENVAT Credit Rules, 2004	96
Penalty for contravention of any provision for which no penalty is provided	Finance Act, 1994	39
Penalty for failure to pay service tax	Finance Act, 1994	38
Penalty for suppressing value of taxable service	Finance Act, 1994	39
Penalty not to be imposed in certain cases	Finance Act, 1994	40
Place of provision generally	Place of Provision of Services Rules, 2012	99
Place of provision of goods transport services	Place of Provision of Services Rules, 2012	101
Place of provision of passenger transportation services	Place of Provision of Services Rules, 2012	101
Place of provision of performance based services	Place of Provision of Services Rules, 2012	99
Place of provision of services provided at more than one location	Place of Provision of Services Rules, 2012	100
Place of provision of services provided on board a conveyance	Place of Provision of Services Rules, 2012	101
Place of provision of services relating to events	Place of Provision of Services Rules, 2012	100
Place of provision of services relating to immovable property	Place of Provision of Services Rules, 2012	100
Place of provision of services where provider and recipient are located in taxable territory	Place of Provision of Services Rules, 2012	100
Place of provision of specified services	Place of Provision of Services Rules, 2012	100
Place of Removal	CENVAT Credit Rules, 2004	75

Powers

Power of adjudication	Finance Act, 1994	41
Power to arrest	Finance Act, 1994	46
Power to grant exemption from service tax	Finance Act, 1994	46
Power to grant rebate	Finance Act, 1994	46
Power to make rules	Finance Act, 1994	47
Power to remove difficulties	Finance Act, 1994	48
Power to search premises	Finance Act, 1994	41
Power of Authority	Advance Rulings	52
Power of Central Government to make rules	Advance Rulings	52
Power of Central Government to notify goods for deemed CENVAT credit	CENVAT Credit Rules, 2004	95
Power to impose restrictions in certain type of cases	CENVAT Credit Rules, 2004	95
Power to issue supplementary instructions	Service Tax Rules, 1994	96

Procedure

Partnership firm	Service Tax Rules, 1994	59
Person liable for paying service tax	Service Tax Rules, 1994	59
Person	Interpretations	25
Place of provision	Service Tax Rules, 1994	60
Port	Interpretations	25
Prescribed	Interpretations	25
Principles of interpretation of specified descriptions of services or bundled services	Finance Act, 1994	30
Procedure and Facilities for Large Taxpayer	Service Tax Rules, 1994	70
Procedure and facilities for large tax payer	CENVAT Credit Rules, 2004	93
Procedure of Authority	Advance Rulings	52
Procedure on receipt of application	Advance Rulings	51
Process amounting to manufacture or production of goods	Interpretations	25
Provisional attachment to protect revenue in certain cases	Finance Act, 1994	37
Publication of information in respect of persons in certain cases	Finance Act, 1994	37

R

Recovery

Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded	Finance Act, 1994	33
Recovery of CENVAT credit wrongly taken or erroneously refunded	CENVAT Credit Rules, 2004	96

Refund

Refund of CENVAT credit	CENVAT Credit Rules, 2004	82
Refund of CENVAT credit to units in specified areas	CENVAT Credit Rules, 2004	83
Refund of CENVAT credit to service providers providing services taxed on reverse charge basis	CENVAT Credit Rules, 2004	83

Registration

Registration	Finance Act, 1994	31
Registration	Service Tax Rules, 1994	61

Returns

Furnishing of returns	Finance Act, 1994	32
Records	Service Tax Rules, 1994	64
Rectification of mistake	Finance Act, 1994	37
Rejection of value	Service tax (Determination of Value) Rules, 2006	106
Renting	Interpretations	26
Renting of immovable property	Service Tax Rules, 1994	61
Reserve Bank of India	Interpretations	26
Returns	Service Tax Rules, 1994	68
Returns in case of taxable service provided by goods transport operators and clearing and forwarding agents	Service Tax Rules, 1994	68
Revision of Return	Service Tax Rules, 1994	68

S

Scheme for submission of returns through service tax return preparers	Finance Act, 1994	32
Securities	Interpretations	26
Service	Interpretations	26

Service tax collected from any person to be deposited with Central Government	Finance Act, 1994	36
Special audit	Finance Act, 1994	33
Special Economic Zone	Interpretations	26
Special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim	CENVAT Credit Rules, 2004	93
Special Provision for exemption in certain cases relating to management, etc, of non-commercial Government buildings	Advance Rulings	53
Special Provision for exemption in certain cases relating to management, etc, of roads	Advance Rulings	53
Special Provision for taxable services provided by Indian railways	Finance Act, 1994	53
Stage carriage	Interpretations	26
State Electricity Board	Interpretations	26
State Transmission Utility	Interpretations	26
Storage of input outside the factory of the manufacturer	CENVAT Credit Rules, 2004	88
Supplementary provision	CENVAT Credit Rules, 2004	96
Supply of manpower	Service Tax Rules, 1994	61
Support services	Interpretations	27

T

Taxable service to be provided or Credit to be distributed on invoice, Bill or Challan	Service Tax Rules, 1994	62
Tax	Interpretations	27
Taxable service	Interpretations	27
Taxable territory	Interpretations	27
Transfer of CENVAT credit	CENVAT Credit Rules, 2004	91
Transfer of CENVAT credit of additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act	CENVAT Credit Rules, 2004	91
Transitional provision	CENVAT Credit Rules, 2004	92

V

Vacancies, etc., not to invalidate proceedings	Advance Rulings	50
Valuation of taxable services for charging service tax	Finance Act, 1994	30
Vessel	Interpretations	27

Voluntary Compliance Encouragement Scheme, 2013	Chapter VI of Finance Act, 2013	55
Voluntary Compliance Encouragement Rules, 2013	Notification No. 10/2013 S.T. Dated 13 May 2013	114

W

Works contract	Interpretations	27
----------------	-----------------	----

2.

Key Provisions at a Glance

Particulars	Effective date																								
Chapter V - Finance Act, 1994																									
Made effective under Notification No. 1/94 S.T. dated June 20, 1994	1 July 1994																								
Negative list regime introduced 'Service' defined (Section 65B). Includes 'declared' services New charging section (Section 66B) – levy on all services except 'negative list' Principles of interpretation of specified descriptions of services or bundled services (Section 66F) Declared Services (Section 66E) Date of determination of rate of tax, value of taxable service and rate of exchange.	1 July 2012																								
Section 66B - Charge of service tax on and after Finance Act, 2012 <table><tr><th>Basic</th><th>Education Cess</th><th>SHE Cess</th></tr><tr><td>12%</td><td>2%</td><td>1%</td></tr><tr><td>10%</td><td>2%</td><td>1%</td></tr><tr><td>12%</td><td>2%</td><td>1%</td></tr><tr><td>12%</td><td>2%</td><td>-</td></tr><tr><td>10%</td><td>2%</td><td>-</td></tr><tr><td>8%</td><td>-</td><td>-</td></tr><tr><td>5%</td><td>-</td><td>-</td></tr></table>	Basic	Education Cess	SHE Cess	12%	2%	1%	10%	2%	1%	12%	2%	1%	12%	2%	-	10%	2%	-	8%	-	-	5%	-	-	1 April 2012 24 February 2009 11 May 2007 18 April 2006 10 September 2004 14 May 2003 1 July 1994
Basic	Education Cess	SHE Cess																							
12%	2%	1%																							
10%	2%	1%																							
12%	2%	1%																							
12%	2%	-																							
10%	2%	-																							
8%	-	-																							
5%	-	-																							
Section 75 - Interest on Delayed Payment of Service Tax <table><tr><th>Sr. No. (1)</th><th>Period of delay (2)</th><th>Rate of simple interest (3)</th></tr><tr><td>1</td><td>Up to six months</td><td>18 per cent.</td></tr><tr><td>2</td><td>More than six months and up to one year</td><td>18 per cent. for the first six months of delay and 24 per cent. for the delay beyond six months.</td></tr><tr><td>3</td><td>More than one year</td><td>18 per cent. for the first six months of delay; 24 per cent. for the period beyond six months up to one year and 30 per cent. for any delay beyond one year.</td></tr></table> <div>-18% p.a. -13% p.a. -15% p.a. -24% p.a. -1 ½% per month or part thereof</div>	Sr. No. (1)	Period of delay (2)	Rate of simple interest (3)	1	Up to six months	18 per cent.	2	More than six months and up to one year	18 per cent. for the first six months of delay and 24 per cent. for the delay beyond six months.	3	More than one year	18 per cent. for the first six months of delay; 24 per cent. for the period beyond six months up to one year and 30 per cent. for any delay beyond one year.	1 October 2014 1 April 2011 10 September 2004 16 August 2002 16 July 2001 1 July 1994												
Sr. No. (1)	Period of delay (2)	Rate of simple interest (3)																							
1	Up to six months	18 per cent.																							
2	More than six months and up to one year	18 per cent. for the first six months of delay and 24 per cent. for the delay beyond six months.																							
3	More than one year	18 per cent. for the first six months of delay; 24 per cent. for the period beyond six months up to one year and 30 per cent. for any delay beyond one year.																							
Explanation to Section 65(105) i.e. Definition of taxable services expanded to include services provided by a non-resident service provider The above provision is not effective from 1 July 2012	16 June 2005																								
Section 66A - Charge of service tax on services received from outside India The above provision is not effective from 1 July 2012	18 April 2006																								
Jurisdiction of Service tax law extended to include construction and operation of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oils and natural gas in the exclusive economic zone and continental shelf of India and supply of any goods connected with these activities	27 February 2010																								

Particulars	Effective date
Section 67A - Exchange Rates for determining value of service for computation of service tax linked to rate under Customs Act	28 May 2012
Rule 11 introduced - With effect from 1 October 2014, the rate of exchange shall be applicable as per the generally accepted accounting principles	1 October 2014
Section 78A - Imposes penalty on directors and officials for specified offences in cases of willful actions	10 May 2013
Mandatory fixed pre-deposit prescribed for filing appeals as follows (Maximum upto Rs.10 crore): a) 7.5% of the demand for filing appeal with the Commissioner (Appeals) or the Tribunal at the first stage; and b) 10% of the demand for filing second stage appeal before the Tribunal (Section 83 of Finance Act, 1994 read with Section 35F of Central Excise Act, 1944)	6 August 2014
Section 89 - Offences and Penalties Stringent penalty in the form of imprisonment for the period upto 3 years introduced for commitment of specified offences	8 April 2011
Section 91 - Power to arrest has been provided to the Commissioner of Central Excise for committing specified offences	10 May 2013
Section 96A – Advance Ruling is being extended to Resident Private Limited Companies	11 July 2014
Chapter VI - Finance Act, 2013 Voluntary Compliance Encouragement Scheme (VCES) introduced The Scheme Provides Waiver in respect of interest, penalty and immunity from prosecution for tax defaults on payment of applicable taxes within the specified period.	13 May 2013
Service Tax Rules, 1994	
Service Tax Rules, 1994 Brought into existence by Notification No.2 / 94 S.T. dated June 28, 1994	1 July 1994
Rule 2(1)(d)(i) - person liable for paying service tax – Additional services in respect of which service tax is to be paid on reverse charge basis	1 July 2012
Rule 6(1) – Payment of Service tax - E-payment of service tax made mandatory - Payment by electronic mode in case tax liability of Rs. 1 lac or more in the preceding financial year - Payment by electronic mode in case tax liability of Rs. 10 lacs or more in the preceding financial year - To be paid by the 6th of the succeeding month / quarter, in case of electronic payments of service tax - To be paid by the 5th of the succeeding month / quarter (except for March) - For the month of March – to be paid by 31st March - To be paid by 25th of the succeeding month / quarter - To be paid by 15th of the succeeding month / quarter Rule 6(1) - Service tax payable on accrual basis on transactions with associated enterprises Rule 6(4B) - Adjustment of excess Service Tax paid	1 October 2014 1 January 2014 1 April 2010 12 September 2007 1 April 2005 1 January 2005 16 October 1998 1 July 1994 10 May 2008 1 April 2012

Particulars	Effective date
Rule 6A - Export of services - provision of any service provided or agreed to be provided shall be treated as export of service when,- (a) the provider of service is located in the taxable territory , (b) the recipient of service is located outside India, (c) the service is not a service specified in the section 66D of the Act, (d) the place of provision of the service is outside India, (e) the payment for such service has been received by the provider of service in convertible foreign exchange, and (f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 2 of clause (44) of section 65B of the Act	1 July 2012
Filing of Return Electronic Return - Every assessee shall submit the half-yearly return electronically. To be filled by an assessee in case the total service tax paid, including the amount paid by utilization of CENVAT credit is of Rupees ten lakh or more	1 October 2011 1 April 2010
Rule 7 - Original Return - Six monthly Return – Within a period of 25 days from the end of the half year - Quarterly Return – Within a period of 25 days from the end of the quarter	16 October 1998 1 July 1994
Rule 7B - Revised Return Within a period of ninety days from the date of submission of the return under Rule 7 Adjustment of excess payment of service tax on account of non provision / part provision of services to be carried out by issuance of credit note or refund of value of service	1 March 2008 1 April 2011
CENVAT Credit Rules, 2004	
- Cenvat credit on inputs and input services available only within six months from the date of issue of relevant document. - Under the reverse charge mechanism, where service recipient is wholly liable to pay service tax, it can avail cenvat credit on payment of service tax, whether the payment to the vendor is made or not. - LTU not permitted to transfer the CENVAT credit from one registered manufacturing premises to another registered premises which are taken on or after 10 July, 2014 - Definition of exempted services aligned in line with the new negative list based taxation of services - Refund of Service tax : Provision amended to allow refund of CENVAT Credit without necessitating the adjustment against the output service tax liability - Refund to Service Provider where service tax payable on reverse charge - Proportionate method to be followed for transfer of credit through ISD - CENVAT credit on input services available on accrual basis (payment to be made within 3 months) - CENVAT rules amended to allow credit on input services, input and capital goods when used in providing output services. - CENVAT rules amended to allow credit on any input service when used in providing any output service - CENVAT rules introduced allowing credit when input and output services belonged to the same service category. - Refund available to Service Providers on Exports	1 September 2014 11 July 2014 11 July 2014 1 July 2012 1 July 2012 1 July 2012 1 July 2012 1 April 2011 10 September 2004 14 May 2003 16 August 2002 14 March 2006

Particulars	Effective date
<p>Rule 6(3) – Options provided for utilization of credit</p> <p>To pay service tax @6% of the value of exempted goods and exempted services</p> <p>In case of transportation of goods or passengers by rail the amount required to be paid shall be @2% of the value of exempted services.</p> <p>Options provided for utilization of credit</p> <p>Trading services considered as Exempt Services</p> <p>For reversal of credit, specific value defined for goods, services and trading turnover</p> <p>To pay service tax @5% of the value of exempted goods and exempted services</p> <p>To pay service tax @ 6% of the value of exempted services or to pay 5% of the value of exempted goods</p> <p>To pay an amount equal to CENVAT credit attributable to the inputs/ input services used in exempt services</p>	<p>1 April 2012</p>
<p>Rule 6(3) – Options provided for utilisation of credit</p> <p>To pay service tax @ 8% of the value of exempted services or pay 10% of the value of exempted goods</p> <p>To pay an amount equal to CENVAT credit attributable to the inputs/ input services used in exempt services</p>	<p>1 April 2011</p>
<p>Rule 6(3B) - A banking company and a financial institution including a non-banking financial company shall avail Cenvat Credit only upto 50% of the available credit</p>	<p>7 July 2009</p>
<p>Rule 6(5) – Credit for common services removed</p>	<p>1 April 2008</p>
<p>Rule 10A - Transfer of CENVAT credit of additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act.</p>	<p>1 April 2011</p>
	<p>1 April 2011</p>
	<p>1 April 2012</p>
Service Tax (Determination of Value) Rules, 2006	
<p>Brought into existence by Notification No 12 / 2006 S.T. dated April 19, 2006</p> <p>Rule 2A (ii) The person liable to pay tax on the service portion involved in the execution of the works contract shall determine the tax payable in the following manner:</p> <p>(a) For execution of original works- service tax payable on 40% of the total amount charged</p> <p>(b) For maintenance or repair or reconditioning or restoration or servicing of any goods- service tax payable on 70% of the total amount charged</p> <p>(c) in cases not covered under (a) and (b), including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property- service tax payable on 60% of the total amount charged</p>	<p>19 April 2006</p> <p>1 July 2012</p>
<p>Only two categories for works contract under Rule 2A for levy of service tax -</p> <p>(i) Category A – covering original works, civil construction of building etc - 40% as service portion</p> <p>(ii) Category B – covering activities relating to repair and others - 70% as service portion</p>	<p>1 October 2014</p>
<p>Rule 2C - Determination of value of service portion involved in supply of food or any other article of human consumption or any drink in a restaurant or as outdoor catering</p>	<p>1 July 2012</p>

Particulars	Effective date
Export of Service Rules, 2005	
Not Applicable/ withdrawn vide notification No NTF. NO. 28/2012-ST, DT. 20/06/2012	1 July 2012
Foreign Exchange exemption withdrawn under Notification No.10/2005 - S.T. dated March 3, 2005	15 March 2005
Brought into existence by Notification No 9 / 2005 S.T. dated March 3, 2005	15 March 2005
Rule 5 – Rebate allowed of service tax paid on exempted services (Notification No. 11/2005 – S.T. dated April 19, 2005)	19 April 2005
Refund allowed of service tax paid on input services (Notification No.12/2005 – S.T. dated April 19, 2005)	19 April 2005
Amendment to Export of Service Rules, 2005	
Condition – Service to be provided from India and used outside India applicable for all the categories (Notification No. 2/2007-S.T. dated 1 March, 2007)	1 March 2007
Above condition omitted (Notification No.6/2010 – S.T. dated February 27, 2010)	27 February 2010
Import of Service Rules, 2006	
Not Applicable / withdrawn vide notification No NTF. NO. 28/2012-ST, DT. 20/06/2012	1 July 2012
Brought into existence by Notification No.11 / 2006 19-April-2006 S.T. dated April 19, 2006	19 April 2006
Works Contract (Composition Scheme for payment of Service Tax) Rules, 2007	
Not Applicable / withdrawn vide notification No. NTF. NO. 35/2012-ST, DT. 20/06/2012	1 July 2012
Composition rate of tax increased to 4%	1 March 2008
Brought into existence by Notification No.32/2007S.T. dated May 22, 2007 - Composition rate of tax under this scheme is 2%	1 June 2007
Point of Taxation Rules, 2011	
Date of payment for the purposes of these rules shall be earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax Provided that - (A) the date of payment shall be the date of credit in the bank account when — (i) there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account; and (ii) the credit in the bank account is after four working days from the date when there is change in effective rate of tax or a service is taxed for the first time; and (iii) the payment is made by way of an instrument which is credited to a bank account, (B) if any rule requires determination of the time or date of payment received, the expression “date of payment” shall be construed to mean such date on which the payment is received	1 April 2012

Particulars	Effective date
Point of Taxation Rules, 2011 introduced to determine the point in time when the services shall be deemed to be provided	1 April 2011 (optional upto 30 June 2011)
Point of taxation for services will be deemed to be (for the services which are not a continuous services) –	
– Issue of invoice (in case, invoice is not issued within 30 days then the date of completion of service)	1 April 2012
– Issue of invoice (in case, invoice is not issued within 14 days of the completion of service, then the date of completion of service); or	1 April 2011
– Receipt of payment whichever is earlier	
Transaction where the service is continuous supply of service	
– Issue of invoice (in case, invoice is not issued 30 days of the completion of service, then the 'date of completion of service' which is based on completion of event or milestone as per the contract)	1 April 2012
– Issue of invoice (in case, invoice is not issued within 14 days of the completion of service, then the 'date of completion of service' which is based on completion of event or milestone as per the contract) ; or	1 April 2011
– Receipt of payment whichever is earlier	
Transaction where the service tax is payable by service recipient (under reverse charge mechanism)	
– When payment for such service has been made to the service provider	
In case of services liable to service tax under the reverse charge mechanism where payments are not made within three months from the date of invoice, Point of taxation shall be the date immediately following three months from the date of invoice	1 October 2014
Transaction with Associated Enterprise located outside India (i.e. service received from group entity located outside India)	
– Date of credit in the books of accounts of service receiver; or	
– Date of making the payment whichever is earlier	
Determination of point of taxation in case of copyrights, etc would be	
– Date of receipt as consideration; or	
– Issuance of invoice whichever is earlier	
If point of taxation cannot be determined as per these rules as the date of invoice or the date of payment or both are not available the Central Excise officer, may determine the point of taxation to the best of his judgment.	1 April 2012

Particulars	Effective date
Place of provision of services rules 2012	
<p>Rule 3 - Place of provision generally - Shall be the location of the recipient of service</p> <p>Rule 4 - Place of provision of performance based services - Shall be the location where the services are actually performed:</p> <p>(a) Services provided in respect of goods that are required to be made physically available by the recipient</p> <p>(b) Services provided to an individual represented either as the recipient of service or a person acting on behalf of the recipient which require the physical presence of the receiver or the person acting on his behalf with the provider.</p> <p>No service tax applicable on repair services provided on goods temporarily imported into India for such repair and exported thereafter. Earlier, such exemption was also available in respect of goods that are imported for reconditioning or reengineering.</p> <p>Rule 5 - Place of provision of services relating to immovable property - Services provided directly in relation to an immovable property shall be the place where the immovable property is located or intended to be located</p> <p>Rule 6 - Place of provision of services relating to events.- Services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be the place where the event is actually held.</p> <p>Rule 7 - Place of provision of services provided at more than one location - Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in the taxable territory, its place of provision shall be the location in the taxable territory where the greatest proportion of the service is provided</p> <p>Rule 8 - Place of provision of services where provider and recipient are located in taxable territory - where the location of the provider of service as well as that of the recipient of service is in the taxable territory,, shall be the location of the recipient of service</p> <p>Rule 9 - Place of provision of specified services-The place of provision of following services shall be the location of the service provider:-</p> <p>(a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;</p> <p>(b) Online information and database access or retrieval services</p> <p>(c) Intermediary services</p> <p>(d) Service consisting of hiring of all means of transport other than,-</p> <p>(i) aircrafts, and</p> <p>(ii) vessels except yachts,</p> <p>upto a period of one month</p> <p>Rule 10 - Place of provision of goods transportation services - services of transportation of goods, other than by way of mail or courier, shall be the place of destination of the goods Provided that the place of provision of services of goods transportation agency shall be the location of the person liable to pay tax</p> <p>Rule 11 - Place of provision of passenger transportation service - shall be the place where the passenger embarks on the conveyance for a continuous journey</p> <p>Rule 12 - Place of provision of services provided on board a conveyance - for services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey</p>	<p>1 July 2012</p> <p>1 October 2014</p>

Particulars	Effective date
Threshold limit for service tax payment Rs. 10,00,000 - Notification No.8 / 2008 - S.T. dated March 1, 2008 Rs. 8,00,000 - Notification No.4 / 2007 - S.T. dated March 1, 2007 Rs. 4,00,000 - Notification No.6 / 2005 - S.T. dated March 1, 2005	1 April 2008 1 April 2007 1 April 2005
General Exemption The notifications mentioned below have been rescinded with effect from 1st July, 2012 and are now covered under Mega exemption notification and Negative list. Full exemption from Service tax has been granted to the following services provided by any service provider <ul style="list-style-type: none"> Services provided to United Nations or an International Organization - Notification No.16/2002 - S.T., dated 2 August, 2002 Services provided to foreign diplomatic mission or consular post in India and to family members of diplomatic agents/ career consular officers - Notification No.33 and 34/2007-S.T., dated 23 May, 2007 	2 August 2002 23 May 2007
SEZ Exemption Notification No. 07/2014-ST, dated 11 July, 2014 – Exemption provided on the basis of Form A-1 submitted for authorization (subject to conditions) and the term ‘exclusively for authorized operations’ clarified. Notification No. 15/2013-ST, dated 21 November, 2013 – A quarterly statement in Form A-3 furnishing details of specified services received without payment of tax to be submitted by 30th of the month following the particular quarter. Notification No. 12/2013-ST, dated July 01, 2013 – Ab-initio exemption for specified services which are used “exclusively” for authorized operations by SEZ unit/ developer. Earlier, under Notification No. 40/2012, this exemption was available on services ‘wholly consumed within the SEZ Notification No. 40/2012-ST, dated June 20, 2012-Exemption on services provided to SEZ authorized operations Notification No. 17/2011 – S.T. dated March 1, 2011 – Specific mechanism provided for exemption / refund in regard to services provided to SEZ unit. The term ‘wholly consumed’ aligned as per Export of Services Rules Notification No.15/2009 - S.T. dated May 20, 2009 - Exemption and refund to apply partially Notification No.9/2009 - S.T. dated March 3, 2009 - Exemption by way of refund Notification No.4/2004 - S.T. dated March 31, 2004 - Outright exemption	11 July 2014 21 November 2013 1 July 2013 1 July 2012 1 March 2011 20 May 2009 3 March 2009 31 March 2004
Mega Notification - Providing exemption from levy of service tax for various services	1 July 2012
Notification No. 03/2014 dated 3 February, 2014 Service tax payable on the services provided by an authorised person or sub-broker to the member of a recognised association or a registered association, in relation to a forward contract, shall not be required to be paid during the period commencing from the 10th day of September 2004 and ending with the 30th day of June 2012.	3 February 2014

Particulars	Effective date
<p>Service tax exemption against duty credit scrip vide Notification No. 6/7/8 2013-ST, dated 18 April 2013</p> <p>Exemption granted from Service tax on taxable services provided to a holder of scrip issued under Focus Product Scheme ('FPS'), Focus Market Scheme ('FMS') and Vishesh Krishi and Gram Udyog Yojana Scheme ('VKGUY').</p> <p>In terms of these notifications, the holder of scrip located is required to present the scrip with the Customs Authority, along with specified details and invoice issued by the service provider, to get the amount of Service tax leviable debited to the said scrip. The date of debit on such scrip would be considered as the date of discharge of such Service tax liability. The notifications also specify the procedures and conditions to be followed for claiming such exemption.</p> <p>Additional categories which are not eligible for benefits under the above schemes are listed vide Notification No. 17/2013-ST, dated 26 December, 2013 and Notification No. 05/2014-ST, dated 24 February, 2014.</p>	<p>18 April 2013</p> <p>26 December 2013 24 February 2014</p>

Note: With effect from 6 August 2014, in Chapter V of the Finance Act, 1994 or in any other law for the time being in force, the reference to "Chief Commissioner of Central Excise" shall be substituted by reference to "Principal Chief Commissioner of Central Excise Or Chief Commissioner of Central Excise" and the reference to "Commissioner of Central Excise" shall be substituted by reference to Principal Commissioner of Central Excise Or Commissioner of Central Excise (**Notification No. 16/2014 dated 6 August 2014**).

3.

Finance Act, 1994

Chapter V of the Finance Act, 1994

64. EXTENT, COMMENCEMENT AND APPLICATION

- 1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.
- 2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 3) It shall apply to taxable services provided on or after the commencement of this Chapter.

65. DEFINITIONS*

Please refer to definitions Section at Page No. **138** to **187**

65A. CLASSIFICATION OF TAXABLE SERVICES*

- 1) For the purposes of this Chapter, classification of taxable services shall be determined according to the terms of the sub-clauses of clause (105) of section 65.
- 2) When for any reason, a taxable service is, prima facie, classifiable under two or more sub-clauses of clause (105) of section 65, classification shall be effected as follows :-
 - a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;
 - b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;
 - c) when a service cannot be classified in the manner specified in clause (a) or clause (b), it shall be classified under the sub-clause which occurs first among the sub-clauses which equally merit consideration.

***The Provisions of this section are not applicable from 1st July 2012.**

65B. INTERPRETATIONS

In this Chapter, unless the context otherwise requires,—

- 1) **"actionable claim"** shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882 (4 of 1882);
- 2) **"advertisement"** means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;
- 3) **"agriculture"** means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;
- 4) **"agricultural extension"** means application of scientific research and knowledge to agricultural practices through farmer education or training;
- 5) **"agricultural produce"** means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;
- 6) **"Agricultural Produce Marketing Committee or Board"** means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;
- 7) **"aircraft"** has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);
- 8) **"airport"** has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994);
- 9) **"amusement facility"** means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided;
- 10) **"Appellate Tribunal"** means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);
- 11) **"approved vocational education course"** means,—
 - i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State council for vocational training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
 - ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment;
- 12) **"assessee"** means a person liable to pay tax and includes his agent;
- 13) **"associated enterprise"** shall have the meaning assigned to it in section 92A of the Income-tax Act, 1961 (43 of 1961);
- 14) **"authorised dealer of foreign exchange"** shall have the meaning assigned to "authorized person" in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- 15) **"betting or gambling"** means putting on stake something of value, particularly money, with consciousness of risk and hope of gain on the outcome of a game or a contest, whose result may be determined by chance or accident, or on the likelihood of anything occurring or not occurring;
- 16) **"Board"** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
- 17) **"business entity"** means any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession;

- 18) **"Central Electricity Authority"** means the authority constituted under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948);
- 19) **"Central Transmission Utility"** shall have the meaning assigned to it in clause (10) of section 2 of the Electricity Act, 2003 (36 of 2003);
- 20) **"courier agency"** means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;
- 21) **"customs station"** shall have the meaning assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);
- 22) **"declared service"** means any activity carried out by a person for another person for consideration and declared as such under section 66E;
- 23) **"electricity transmission or distribution utility"** means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government;
- 24) **"entertainment event"** means an event or a performance which is intended to provide recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or programme;
- 25) **"goods"** means every kind of movable property other than actionable claim and money; and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;
- 26) **"goods transport agency"** means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;
- 27) **"India"** means,-
 - a) the territory of the Union as referred to in clauses (2) and (3) of article 1 of the Constitution;
 - b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);
 - c) the seabed and the subsoil underlying the territorial waters;
 - d) the air space above its territory and territorial waters; and
 - e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;
- 28) **"information technology software"** means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment;
- 29) **"inland waterway"** means national waterways as defined in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985) or other waterway on any inland water, as defined in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);
- 30) **"interest"** means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;

- 31) **"local authority"** means-
- a Panchayat as referred to in clause (d) of article 243 of the Constitution;
 - a Municipality as referred to in clause (e) of article 243P of the Constitution;
 - a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;
 - a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006);
 - a regional council or a district council constituted under the Sixth Schedule to the Constitution;
 - a development board constituted under article 371 of the Constitution; or
 - a regional council constituted under article 371A of the Constitution;
- 32) **"metered cab"** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under but does not include radio taxi;
- 33) **"money"** means legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument but shall not include any currency that is held for its numismatic value;
- 34) **"negative list"** means the services which are listed in section 66D;
- 35) **"non-taxable territory"** means the territory which is outside the taxable territory;
- 36) **"notification"** means notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;
- 37) **"person"** includes,-
- an individual,
 - a Hindu undivided family,
 - a company,
 - a society,
 - a limited liability partnership,
 - a firm,
 - an association of persons or body of individuals, whether incorporated or not,
 - Government,
 - a local authority, or
 - every artificial juridical person, not falling within any of the preceding sub-clauses;
- 38) **"port"** has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963) or in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- 39) **"prescribed"** means prescribed by rules made under this Chapter;
- 39a) **"print media"** means,—
- "book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;
 - "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867;
- 40) **"process amounting to manufacture or production of goods"** means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944) or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force;

- 41) **"renting"** means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;
- 42) **"Reserve Bank of India"** means the bank established under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);
- 43) **"securities"** has the meaning assigned to it in clause (h) of section 2 of the Securities Contract (Regulation) Act, 1956 (42 of 1956);
- 44) **"service"** means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—
 - A) an activity which constitutes merely,—
 - i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
 - ii) such transfer, delivery or supply of any goods which is deemed to be sale within the meaning of clause (29A) of article 366 of the Constitution; or
 - iii) a transaction in money or actionable claim;
 - B) a provision of service by an employee to the employer in the course of or in relation to his employment;
 - C) fees taken in any Court or tribunal established under any law for the time being in force.

Explanation 1 - For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,-

- a) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or
- b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

Explanation 2 - For the purposes of this clause, transaction in money shall not include any activity relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Explanation 3.- For the purposes of this Chapter,-

- a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
- b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.

Explanation 4 - A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;

- 45) **"Special Economic Zone"** has the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
- 46) **"stage carriage"** shall have the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- 47) **"State Electricity Board"** means the Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948);
- 48) **"State Transmission Utility"** shall have the meaning assigned to it in clause (67) of section 2 of the Electricity Act, 2003 (36 of 2003);

- 49) **"support services"** means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis;
- 50) **"tax"** means service tax leviable under the provisions of this Chapter;
- 51) **"taxable service"** means any service on which service tax is leviable under section 66B;
- 52) **"taxable territory"** means the territory to which the provisions of this Chapter apply;
- 53) **"vessel"** has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);
- 54) **"works contract"** means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property ;
- 55) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.

66. CHARGE OF SERVICE TAX*

There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzk), (ztl), (zlm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx), (zzy), (zzz), (zza), (zzb), (zzc), (zdd), (zze), (zzf), (zzg), (zzh), (zzi), (zzj), (zzk), (zll), (zzm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx), (zzy), (zzz), (zza), (zzb), (zzc), (zdd), (zze), (zzf), (zzg), (zzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg), (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg), (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw) of clause (105) of section 65 and collected in such manner as may be prescribed:

66A. CHARGE OF SERVICE TAX ON SERVICES RECEIVED FROM OUTSIDE INDIA*

- (1) Where any service specified in clause (105) of section 65 is, -
- provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and
 - received by a person (hereinafter referred to as the recipient) who has his place of business, fixed establishment, permanent address or usual place of residence, in India,
- such service shall, for the purposes of this section, be taxable service, and such taxable service shall be treated as if the recipient had himself provided the service in India, and accordingly all the provisions of this Chapter shall apply :

Provided that where the recipient of the service is an individual and such service received by him is otherwise than for the purpose of use in any business or commerce, the provisions of this sub-section shall not apply :

Provided further that where the provider of the service has his business establishment both in that country and elsewhere, the country, where the establishment of the provider of service directly concerned with the provision of service is located, shall be treated as the country from which the service is provided or to be provided.

*The Provisions of this section are not applicable from 1st July 2012.

- (2) Where a person is carrying on a business through a permanent establishment in India and through another permanent establishment in a country other than India, such permanent establishments shall be treated as separate persons for the purposes of this section.

Explanation 1 - A person carrying on a business through a branch or agency in any country shall be treated as having a business establishment in that country.

Explanation 2 - Usual place of residence, in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.]

66B. CHARGE OF SERVICE TAX ON AND AFTER FINANCE ACT, 2012

There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

66BA. REFERENCE TO SECTION 66 TO BE CONSTRUED AS REFERENCE TO SECTION 66B

- (1) For the purpose of levy and collection of service tax, any reference to section 66 in the Finance Act, 1994 or any other Act for the time being in force, shall be construed as reference to section 66B thereof.
- (2) The provisions of this section shall be deemed to have come into force on the 1st day of July, 2012.

66C. DETERMINATION OF PLACE OF PROVISION OF SERVICE

- (1) The Central Government may, having regard to the nature and description of various services, by rules made in this regard, determine the place where such services are provided or deemed to have been provided or agreed to be provided or deemed to have been agreed to be provided.
- (2) Any rule made under sub-section (1) shall not be invalid merely on the ground that either the service provider or the service receiver or both are located at a place being outside the taxable territory.

(For Place of Provision of Service Rules, 2012 please refer Page No. **97**)

66D. NEGATIVE LIST OF SERVICE

The negative list shall comprise of the following services, namely:-

- a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—
- i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;
 - ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
 - iii) transport of goods or passengers; or
 - iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;
- b) services by the Reserve Bank of India;
- c) services by a foreign diplomatic mission located in India;
- d) services relating to agriculture or agricultural produce by way of—
- i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
 - ii) supply of farm labour;
 - iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning,

- trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
 - v) loading, unloading, packing, storage or warehousing of agricultural produce;
 - vi) agricultural extension services;
 - vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;
 - e) trading of goods;
 - f) any process amounting to manufacture or production of goods;
 - g) selling of space for advertisements in print media;
 - h) service by way of access to a road or a bridge on payment of toll charges;
 - i) betting, gambling or lottery;
 - j) admission to entertainment events or access to amusement facilities;
 - k) transmission or distribution of electricity by an electricity transmission or distribution utility;
 - l) services by way of—
 - i) pre-school education and education up to higher secondary school or equivalent;
 - ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
 - iii) education as a part of an approved vocational education course;
 - m) services by way of renting of residential dwelling for use as residence;
 - n) services by way of—
 - i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
 - ii) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers;
 - o) service of transportation of passengers, with or without accompanied belongings, by-
 - i) a stage carriage;
 - ii) railways in a class other than-
 - A) first class; or
 - B) an airconditioned coach;
 - iii) metro, monorail or tramway;
 - iv) inland waterways;
 - v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
 - vi) metered cabs or auto rickshaws;
 - p) services by way of transportation of goods—
 - i) by road except the services of-
 - A) a goods transportation agency; or
 - B) a courier agency;
 - ii) by an aircraft or a vessel from a place outside India to the customs station of clearance in India; or
 - iii) by inland waterways;
 - q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

66E. DECLARED SERVICES

The following shall constitute declared services, namely:-

- a) renting of immovable property;
- b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion certificate by the competent authority;

Explanation.— For the purposes of this clause,-

- I) the expression "competent authority" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non- requirement of such certificate from such authority, from any of the following, namely:-
 - A) architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or
 - B) chartered engineer registered with the Institution of Engineers (India); or
 - C) licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- II) the expression "construction" includes additions, alterations, replacements or remodeling of any existing civil structure;
- c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- f) transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
- g) activities in relation to delivery of goods on hire purchase or any system of payment by instalments;
- h) service portion in the execution of a works contract;
- i) service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.

66F. PRINCIPLES OF INTERPRETATION OF SPECIFIED DESCRIPTIONS OF SERVICES OR BUNDLED SERVICES

- (1) Unless otherwise specified, reference to a service (herein referred to as main service) shall not include reference to a service which is used for providing main service.
- (2) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.
- (3) Subject to the provisions of sub-section (2), the taxability of a bundled service shall be determined in the following manner, namely:-
 - a) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character;
 - b) if various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax.

Explanation - For the purposes of sub-section (3), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.

67. VALUATION OF TAXABLE SERVICES FOR CHARGING SERVICE TAX

- (1) Subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall, -
 - i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;
 - ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration;
 - iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

- (2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.
- (3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.
- (4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation - For the purposes of this section, -

- (a) "consideration" includes any amount that is payable for the taxable services provided or to be provided;
- (b) Omitted from 1st July
- (c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

(For Valuation Rules, please refer Page No. 102)

67A. DATE OF DETERMINATION OF RATE OF TAX, VALUE OF TAXABLE SERVICE AND RATE OF EXCHANGE.

The rate of service tax, value of a taxable service and rate of exchange, if any, shall be the rate of service tax or value of a taxable service or rate of exchange, as the case may be, in force or as applicable at the time when the taxable service has been provided or agreed to be provided.

***[Explanation.** - For the purposes of this section, "rate of exchange" means the rate of exchange determined in accordance with such rules as may be prescribed.]

68. PAYMENT OF SERVICE TAX

- (1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66B in such manner and within such period as may be prescribed.
- (2) Notwithstanding anything contained in sub-section (1), in respect of such taxable services as may be notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified in section 66B and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service.

Provided that the Central Government may notify the service and the extent of service tax which shall be payable by such person and the provisions of this Chapter shall apply to such person to the extent so specified and the remaining part of the service tax shall be paid by the service provider.

69. REGISTRATION

- (1) Every person liable to pay the service tax under this Chapter or the rules made thereunder shall, within such time and in such manner and in such form as may be prescribed, make an application for registration to the Superintendent of Central Excise.

***Please refer Rule 11 & 12 of Service Tax Rules, 1994 at Page No. 70**

- (2) The Central Government may, by notification in the Official Gazette, specify such other person or class of persons, who shall make an application for registration within such time and in such manner and in such form as may be prescribed.

70. FURNISHING OF RETURNS

- (1) Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency and with such late fee not exceeding twenty thousand rupees, for delayed furnishing of return, as may be prescribed.
- (2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

71. SCHEME FOR SUBMISSION OF RETURNS THROUGH SERVICE TAX RETURNS PREPARERS

- (1) Without prejudice to the provisions of section 70, the Board may, by notification in the Official Gazette, frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70, and authorise a Service Tax Return Preparer to act as such under the Scheme.
- (2) A Service Tax Return Preparer shall assist the person or class of persons to prepare and furnish the return in such manner as may be specified in the Scheme framed under this section.
- (3) For the purposes of this section,-
- (a) "Service Tax Return Preparer" means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;
 - (b) "person or class of persons" means such person, as may be specified in the Scheme, who is required to furnish a return required to be filed under section 70.
- (4) The Scheme framed by the Board under this section may provide for the following, namely :-
- (a) the manner in which and the period for which the Service Tax Return Preparer shall be authorised under sub section (1);
 - (b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Service Tax Return Preparer;
 - (c) the code of conduct for the Service Tax Return Preparer;
 - (d) the duties and obligations of the Service Tax Return Preparer;
 - (e) the circumstances under which the authorisation given to a Service Tax Return Preparer may be withdrawn;
 - (f) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.

72. BEST JUDGMENT ASSESSMENT

If any person, liable to pay service tax,-

- (a) fails to furnish the return under section 70;
- (b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder,

the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered,

shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

72A. SPECIAL AUDIT

- (1) If the Commissioner of Central Excise, has reasons to believe that any person liable to pay service tax (herein referred to as "such person"),-
 - (i) has failed to declare or determine the value of a taxable service correctly; or
 - (ii) has availed and utilised credit of duty or tax paid-
 - (a) which is not within the normal limits having regard to the nature of taxable service provided, the extent of capital goods used or the type of inputs or input services used, or any other relevant factors as he may deem appropriate; or
 - (b) by means of fraud, collusion, or any wilful misstatement or suppression of facts; or
 - (iii) has operations spread out in multiple locations and it is not possible or practicable to obtain a true and complete picture of his accounts from the registered premises falling under the jurisdiction of the said Commissioner, he may direct such person to get his accounts audited by a chartered accountant or cost accountant nominated by him, to the extent and for the period as may be specified by the Commissioner.
- (2) The chartered accountant or cost accountant referred to in sub-section (1) shall, within the period specified by the said Commissioner, submit a report duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified by him.
- (3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of such person have been audited under any other law for the time being in force.
- (4) The person liable to pay tax shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding under the provisions of this Chapter or rules made thereunder.

Explanation.- For the purposes of this section,—

- (i) "chartered accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949);
- (ii) "cost accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959)

73. RECOVERY OF SERVICE TAX NOT LEVIED OR PAID OR SHORT-LEVIED OR SHORT- PAID OR ERRONEOUSLY REFUNDED

- (1) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, Central Excise Officer may, within eighteen months from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice :

Provided that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of -

- (a) fraud; or
- (b) collusion; or
- (c) wilful mis-statement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words "eighteen months"; the words "five years" had been substituted.

Explanation. - Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of eighteen months or five years, as the case may be.

(1A) Notwithstanding anything contained in sub-section (1) (except the period of eighteen months of serving the notice for recovery of service tax), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.

(2) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(2A) Where any appellate authority or tribunal or court concludes that the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of,—

(a) fraud; or

(b) collusion; or

(c) wilful misstatement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or the rules made thereunder with intent to evade payment of service tax,

has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of eighteen months, as if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1).

(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 "eighteen months " referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation -

1) 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.

2) For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service tax under this sub-section and interest thereon.

- (4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of -
- (a) fraud; or
 - (b) collusion; or
 - (c) wilful mis-statement; or
 - (d) suppression of facts; or
 - (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax.

(4A) Notwithstanding anything contained in sub-section (4), where during the course of any audit, investigation or verification, it is found that any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, but the true and complete details of transactions are available in the specified records, the person chargeable to service tax or to whom erroneous refund has been made, may pay the service tax in full or in part, as he may accept to be the amount of tax chargeable or erroneously refunded along with interest payable thereon under section 75 and penalty equal to one per cent of such tax, for each month, for the period during which the default continues, up to a maximum of twenty-five per cent of the tax amount, before service of notice on him 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 and proceedings in respect of the said amount of service tax shall be deemed to have been concluded :

Provided that the Central Excise Officer may determine the amount of service tax, if any, due from such person, which in his opinion remains to be paid by such person and shall proceed to recover such amount in the manner specified in sub-section (1).

Explanation - For the purposes of this sub-section and section 78, "specified records" means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.

- (4B) The Central Excise Officer shall determine the amount of service tax due under subsection (2) -
- (a) within six months from the date of notice where it is possible to do so, in respect of cases whose limitation is specified as eighteen months in sub-section (1)
 - (b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A).
- (5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003.
- (6) For the purposes of this section, "relevant date" means, -
- (i) in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid —
 - (a) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;
 - (b) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;
 - (c) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;
 - (ii) in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof;
 - (iii) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.

73A. SERVICE TAX COLLECTED FROM ANY PERSON TO BE DEPOSITED WITH CENTRAL GOVERNMENT

- (1) Any person who is liable to pay service tax under the provisions of this Chapter or the rules made thereunder, and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service under the provisions of this Chapter or the rules made thereunder from the recipient of taxable service in any manner as representing service tax, shall forthwith pay the amount so collected to the credit of the Central Government.
- (2) Where any person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, such person shall forthwith pay the amount so collected to the credit of the Central Government.
- (3) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) or sub-section (2) and the same has not been so paid, the Central Excise Officer shall serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.
- (4) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (3), determine the amount due from such person, not being in excess of the amount specified in the notice, and thereupon such person shall pay the amount so determined.
- (5) The amount paid to the credit of the Central Government under sub-section (1) or sub-section (2) or sub-section (4), shall be adjusted against the service tax payable by the person on finalisation of assessment or any other proceeding for determination of service tax relating to the taxable service referred to in sub-section (1).
- (6) Where any surplus amount is left after the adjustment under sub-section (5), such amount shall either be credited to the Consumer Welfare Fund referred to in section 12C of the Central Excise Act, 1944 (1 of 1944) or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 11B of the said Act and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Central Excise Officer for the refund of such surplus amount.

73B. INTEREST ON AMOUNT COLLECTED IN EXCESS

Where an amount has been collected in excess of the tax assessed or determined and paid for any taxable service under this Chapter or the rules made thereunder from the recipient of such service, the person who is liable to pay such amount as determined under sub-section (4) of section 73A, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent and not exceeding twenty-four per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Chapter, but for the provisions contained in sub-section (4) of section 73A, till the date of payment of such amount :

Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B of the Central Excise Act, 1944 (1 of 1944), and such amount payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases, the interest shall be payable on the whole amount, including the amount already paid.

Provided further that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice issued under sub-section (3) of section 73A or during the last preceding financial year, as the case may be, such rate of interest shall be reduced by three per cent. per annum.

Explanation 1. - Where the amount determined under sub-section (4) of section 73A is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under this section shall be on such reduced amount.

Explanation 2. - Where the amount determined under sub-section (4) of section 73A is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under this section shall be on such increased amount.

73C. PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES

- (1) Where, during the pendency of any proceeding under section 73 or section 73A, the Central Excise Officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Central Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 73 or sub-section (3) of section 73A, as the case may be, in such manner as may be prescribed.
- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Chief Commissioner of Central Excise may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

73D. PUBLICATION OF INFORMATION IN RESPECT OF PERSONS IN CERTAIN CASES

- (1) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings under this Chapter in respect of such person, it may cause to be published such names and particulars in such manner as may be prescribed.
- (2) No publication under this section shall be made in relation to any penalty imposed under this Chapter until the time for presenting an appeal to the Commissioner (Appeals) under section 85 or the Appellate Tribunal under section 86, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation - In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, shall also be published if, in the opinion of the Central Government, circumstances of the case justify it.

74. RECTIFICATION OF MISTAKE

- (1) With a view to rectifying any mistake apparent from the record, the Central Excise Officer who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.
- (2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the Central Excise Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

- (3) Subject to the other provisions of this section, the Central Excise Officer concerned -
 - (a) may make an amendment under sub-section (1) of his own motion; or
 - (b) shall make such amendment if any mistake is brought to his notice by the assessee or the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals).
- (4) An amendment, which has the effect of enhancing the liability of the assessee or reducing a refund, shall not be made under this section unless the Central Excise Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.
- (5) Where an amendment is made under this section, an order shall be passed in writing by the Central Excise Officer concerned.
- (6) Subject to the other provisions of this Chapter where any such amendment has the effect of reducing the liability of an assessee or increasing the refund, the Central Excise Officer shall make any refund which may be due to such assessee.
- (7) Where any such amendment has the effect of enhancing the liability of the assessee or reducing the refund already made, the Central Excise Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

75. INTEREST ON DELAYED PAYMENT OF SERVICE TAX

Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest at such rate not below ten per cent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification* in the Official Gazette for the period by which such crediting of the tax or any part thereof is delayed.

Provided that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be, such rate of interest, shall be reduced by three per cent per annum.

75A. PENALTY FOR FAILURE OF REGISTRATION

Omitted

76. PENALTY FOR FAILURE TO PAY SERVICE TAX

Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made under this Chapter, who fails to pay such tax, shall pay, in addition to such tax and the interest on that tax in accordance with the provisions of section 75, a penalty which shall not be less than one hundred rupees for every day during which such failure continues or at the rate of one per cent of such tax, per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax :

Provided that the total amount of the penalty payable in terms of this section shall not exceed fifty per cent of the service tax payable.

Illustration

X, an assessee, fails to pay service tax of ten lakh rupees payable by the 5th March. X pays the amount on the 15th March. The default has continued for ten days. The penalty payable by X is computed as follows :-

- 1% of the amount of default for 10 days = $\frac{1}{100} \times 10,00,000 \times \frac{10}{31}$ = Rs. 3,225.80
- Penalty calculated @ Rs. 100 per day for 10 days = Rs. 1,000
- Penalty liable to be paid is Rs.3,226.00.

*Please refer Notification No. 12/2014 dated 11 July 2014.

77. PENALTY FOR CONTRAVENTION OF RULES AND PROVISIONS OF ACT FOR WHICH NO PENALTY IS SPECIFIED ELSEWHERE

- (1) Any person,-
- (a) who is liable to pay service tax or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to a penalty which may extend to ten thousand rupees;
 - (b) who fails to keep, maintain or retain books of account and other documents as required in accordance with the provisions of this Chapter or the rules made thereunder, shall be liable to a penalty which may extend to ten thousand rupees;
 - (c) who fails to –
 - (i) furnish information called by an officer in accordance with the provisions of this Chapter or rules made thereunder; or
 - (ii) produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder; or
 - (iii) appear before the Central Excise Officer, when issued with a summon for appearance to give evidence or to produce a document in an inquiry,
 shall be liable to a penalty which may extend to ten thousand rupees or two hundred rupees for everyday during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;
 - (d) who is required to pay tax electronically, through internet banking, fails to pay the tax electronically, shall be liable to a penalty which may extend to ten thousand rupees;
 - (e) who issues invoice in accordance with the provisions of the Act or rules made thereunder, with incorrect or incomplete details or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to ten thousand rupees.
- (2) Any person, who contravenes any of the provisions of this Chapter or any rules made thereunder for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to ten thousand rupees.

78. PENALTY FOR SUPPRESSING, ETC., OF VALUE OF TAXABLE SERVICES

- (1) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of -
- (a) fraud; or
 - (b) collusion; or
 - (c) wilful mis-statement; or
 - (d) suppression of facts; or
 - (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

the person, liable to pay such service tax or erroneous refund, as determined under sub-section (2) of section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him, which shall be equal to the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded:

Provided that where true and complete details of the transactions are available in the specified records, penalty shall be reduced to fifty per cent. of the service tax so not levied or paid or short-levied or short-paid or erroneously refunded :

Provided further that where such service tax and the interest payable thereon is paid within thirty days from the date of communication of order of the Central Excise Officer determining such service tax, the amount of penalty liable to be paid by such person under the first proviso shall be twenty-five per cent. of such service tax :

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that in case of a service provider whose value of taxable services does not exceed sixty lakh rupees during any of the years covered by the notice or during the last preceding financial year, the period of thirty days shall be extended to ninety days.

- (2) Where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account :

Provided that in case where the service tax to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the second proviso to sub-section (1), shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days or ninety days, as the case may be, of communication of the order by which such increase in service tax takes effect :

Provided further that if the penalty is payable under this section, the provisions of section 76 shall not apply.

Explanation. — For the removal of doubts, it is hereby declared that any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the second proviso to sub-section (1) or the first proviso to sub-section (2) shall be adjusted against the total amount due from such person.

78A. PENALTY FOR OFFENCES BY DIRECTION, ETC. OF COMPANY

where a company has committed any of the following contraventions, namely:-

- (a) evasion of service tax; or
- (b) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules made under the provisions of this Chapter; or
- (c) availment and utilisation of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or
- (d) failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due, then any director, manager, secretary or other officer of such company, who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of business of such company and was knowingly concerned with such contravention, shall be liable to a penalty which may extend to one lakh rupees.

79. PENALTY FOR FAILURE TO COMPLY WITH NOTICE

Omitted

80. PENALTY NOT TO BE IMPOSED IN CERTAIN CASES

- 1) Notwithstanding anything contained in the provisions of section 76, or section 77, no penalty shall be imposable on the assessee for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure.

- 2) Notwithstanding anything contained in the provisions of section 76 or section 77 or section 78, no penalty shall be imposed for failure to pay service tax payable, as on the 6th day of March, 2012, on the taxable service referred to in sub-clause (zzzz) of clause (105) of section 65, subject to the condition that the amount of service tax along with interest is paid in full within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

81. OFFENCES BY COMPANIES

Omitted

82. POWER TO SEARCH PREMISES

- (1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise officer as may be notified by the Board has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Chapter, are secreted in any place, he may authorise in writing any Central Excise officer to search for and seize or may himself search and seize such documents or books or things.
- (2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code.

83. APPLICATION OF CERTAIN PROVISIONS OF ACT 1 OF 1944

The provisions of the following sections of the [Central Excise Act, 1944 (10 of 1944)], as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise :-

sub-section (2A) of section 5A, sub-section (2) of section 9A, 9AA, 9B, 9C, 9D, 9E, 11B, 11BB, 11C, 12, 12A, 12B, 12C, 12D, [12E, 14, 15, 15A, 15B, 31, 32, 32A to 32P, 33A, 34A, 35EE, 35F], [35FF] to 35O (both inclusive), 35Q, [35R,] 36, 36A, 36B, 37A, 37B, 37C, 37D [38A] and 40.

83A. POWER OF ADJUDICATION

Where under this Chapter or the rules made thereunder any person is liable to a penalty, such penalty may be adjudged by the Central Excise Officer conferred with such power as the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, by notification in the Official Gazette, specify.

84. APPEALS TO COMMISSIONER OF CENTRAL EXCISE (APPEALS)

- (1) The Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Commissioner of Central Excise in his order.
- (2) Every order under sub-section (1) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

- (3) Where in pursuance of an order under sub-section (1), the adjudicating authority or any other officer authorised in this behalf makes an application to the Commissioner of Central Excise (Appeals) within a period of one month from the date of communication of the order under sub-section (1) to the adjudicating authority, such application shall be heard by the Commissioner of Central Excise (Appeals), as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Chapter regarding appeals shall apply to such application.

Explanation - For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the Commissioner of Central Excise immediately before the commencement of clause (C) of section 113 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Commissioner of Central Excise as if this section had not been substituted.

85. APPEALS TO THE COMMISSIONER OF CENTRAL EXCISE (APPEALS)

- (1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).
- (2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.
- (3) An appeal shall be presented within three months from the date of receipt of the decision or order of such adjudicating authority, relating to service tax, interest or penalty under this Chapter made before the date on which the Finance Bill, 2012 receives the assent of the President:

Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

- (3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 receives the assent of the President, relating to service tax, interest or penalty under this Chapter:

Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.

- (4) The Commissioner of Central Excise (Appeals) shall hear and determine the appeal and, subject to the provisions of this Chapter, pass such orders as he thinks fit and such orders may include an order enhancing the service tax, interest or penalty :

Provided that an order enhancing the service tax, interest or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

- (5) Subject to the provisions of this Chapter, in hearing the appeals and making order under this section, the Commissioner of Central Excise (Appeals) shall exercise the same powers and follow the same procedure as he exercises and follows in hearing the appeals and making orders under the Central Excise Act, 1944 (1 of 1944).

86. APPEALS TO APPELLATE TRIBUNAL

- (1) Any assessee aggrieved by an order passed by a Commissioner of Central Excise under section 73 or section 83A or an order passed by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order within three months of the date of receipt of the order.
- (1A) (i) The Board may, by order, constitute such Committees as may be necessary for the purposes of this Chapter.
- (ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.

- (2) The Committee of Chief Commissioners of Central Excise may, if it objects to any order passed by the Commissioner of Central Excise under section 73 or section 83A, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order :

Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion against the order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if it is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

- (2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order :

[Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner who shall, after considering the facts of the order, if it is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order.

Explanation - For the purposes of this sub-section, “jurisdictional Chief Commissioner” means the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter.

- (3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Chief Commissioners or, as the case may be, the Committee of Commissioners
- (4) The Commissioner of Central Excise or any Central Excise Officer subordinate to him or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).
- (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, —
- where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
 - where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;
 - where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees :

Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2) or sub-section (2A) or a memorandum of cross-objections referred to in sub-section (4).

- (6A) Every application made before the Appellate Tribunal, -
- (a) in an appeal or for rectification of mistake or for any other purpose; or
 - (b) for restoration of an appeal or an application,
- shall be accompanied by a fee of five hundred rupees;

Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be under this sub-section.

- (7) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing the appeals and making orders under the Central Excise Act, 1944 (1 of 1944).

87. RECOVERY OF ANY AMOUNT DUE TO CENTRAL GOVERNMENT

Where any amount payable by a person to the credit of the Central Government under any of the provisions of this Chapter or of the rules made thereunder is not paid, the Central Excise Officer shall proceed to recover the amount by one or more of the modes mentioned below :-

- (a) the Central Excise Officer may deduct or may require any other Central Excise Officer or any officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the said Central Excise Officer or any officer of customs;
- (b) (i) the Central Excise Officer may, by notice in writing, require any other person from whom money is due or may become due to such person, or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held or at or within the time specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;
- (ii) every person to whom a notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;
- (iii) in a case where the person to whom a notice under this section is sent, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and all the consequences of this Chapter shall follow;
- (c) the Central Excise Officer may, on an authorisation by the Commissioner of Central Excise, in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

Provided that where the person (hereinafter referred to as predecessor) from whom the service tax or any other sums of any kind, as specified in this section, is recoverable or due, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, in the custody or possession of the person so succeeding may also be attached and sold by such officer empowered by the Central Board of Excise and Customs, after obtaining the written approval of the Commissioner of Central Excise, for the purposes of recovering such service tax or other sums recoverable or due from such predecessor at the time of such transfer or otherwise disposal or change.

- (d) the Central Excise Officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

88. LIABILITY UNDER ACT TO BE FIRST CHARGE

Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of tax, penalty, interest, or any other sum payable by an assessee or any other person under this Chapter, shall, save as otherwise provided in section 529A of the Companies Act, 1956 (1 of 1956) and the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 (51 of 1993) and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002), be the first charge on the property of the assessee or the person as the case may be.

89. OFFENCES AND PENALTIES

(1) Whoever commits any of the following offences, namely :-

- (a) knowingly evades the payment of service tax under this Chapter; or
- (b) avails and utilises credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or
- (c) maintains false books of account or fails to supply any information which he is required to supply under this Chapter or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
- (d) collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due, shall be punishable, -

- (i) in the case of an offence specified in clauses (a), (b) or (c) where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months;

- (ii) in the case of the offence specified in clause (d), where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to seven years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months;

- (iii) in the case of any other offences, with imprisonment for a term, which may extend to one year.

(2) If any person is convicted of an offence punishable under—

- (a) clause (i) or clause (iii), then, he shall be punished for the second and for every subsequent offence with imprisonment for a term which may extend to three years;
- (b) clause (ii), then, he shall be punished for the second and for every subsequent offence with imprisonment for a term which may extend to seven years.

(3) For the purposes of sub-sections (1) and (2), the following shall not be considered as special and adequate reasons for awarding a sentence of imprisonment for a term of less than six months, namely :-

- (i) the fact that the accused has been convicted for the first time for an offence under this Chapter;
- (ii) the fact that in any proceeding under this Act, other than prosecution, the accused has been ordered to pay a penalty or any other action has been taken against him for the same act which constitutes the offence;

- (iii) the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of the offence;
 - (iv) the age of the accused.
- (4) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Chief Commissioner of Central Excise.

90. COGNIZANCE OF OFFENCES

- (1) An offence under clause (ii) of sub-section (1) of section 89 shall be cognizable.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences, except the offences specified in sub-section (1), shall be non-cognizable and bailable.

91. POWER TO ARREST

- (1) If the Commissioner of Central Excise has reason to believe that any person has committed an offence specified in clause (i) or clause (ii) of sub-section (1) of section 89, he may, by general or special order, authorise any officer of Central Excise, not below the rank of Superintendent of Central Excise, to arrest such person.
- (2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall, inform such person of the grounds of arrest and produce him before a magistrate within twenty-four hours.
- (3) In the case of a non-cognizable and bailable offence, the Assistant Commissioner, or the Deputy Commissioner, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer in charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973 (2 of 1974).
- (4) All arrests under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrests.

92. OMITTED

93. POWER TO GRANT EXEMPTION FROM SERVICE TAX

- (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.
- (2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order.

93A. POWER TO GRANT REBATE

Where any goods or services are exported, the Central Government may grant rebate of service tax paid on taxable services which are used as input services for the manufacturing or processing or removal or export of such goods or for providing any taxable services and such rebate shall be subject to such extent and manner as may be prescribed :

Provided that where any rebate has been allowed on any goods or services under this section and the sale proceeds in respect of such goods or consideration in respect of such services are not received by or on behalf of the exporter in India within the time allowed by the Reserve Bank of India under section 8 of the Foreign Exchange Management Act, 1999 (42 of 1999), such rebate shall except under such circumstances or conditions as may be prescribed, be deemed never to have been allowed and the Central Government may recover or adjust the amount of such rebate in such manner as may be prescribed.

93B. RULES MADE UNDER SECTION 94 TO BE APPLICABLE TO SERVICES OTHER THAN TAXABLE SERVICES.

All rules made under section 94 and applicable to the taxable services shall also be applicable to any other service in so far as they are relevant to the determination of any tax liability, refund, credit of service tax or duties paid on inputs and input services or for carrying out the provisions of Chapter V of the Finance Act, 1994 (32 of 1994).

94. POWER TO MAKE RULES

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-
 - (a) collection and recovery of service tax under sections 66 and 68;
 - (aa) the determination of amount and value of taxable service under section 67;
 - (b) the time and manner and the form in which application for registration shall be made under sub-sections (1) and (2) of section 69;
 - (c) the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70;
 - (cc) the manner of provisional attachment of property under sub-section (1) of section 73C;
 - (ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D;
 - (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;
 - (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;
 - (eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service;
 - (eeee) the manner of recovery of any amount due to the Central Government under section 87;
 - (f) provisions for determining export of taxable services;
 - (g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;
 - (h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;
 - (hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;
 - (hhh) the date for determination of rate of service tax and the place of provision of taxable service under section 66C;
 - (i) provide for the amount to be paid for compounding and the manner of compounding of offences;

- (j) provide for the settlement of cases, in accordance with sections 31, 32 and 32A to 32P (both inclusive), in Chapter V of the Central Excise Act, 1944 (1 of 1944) as made applicable to service tax vide section 83;
 - (k) imposition, on persons liable to pay service tax, for the proper levy and collection of the tax, of duty of furnishing information, keeping records and the manner in which such records shall be verified;
 - (l) make provisions for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on provider of taxable service or exporter, for dealing with evasion of tax or misuse of CENVAT credit;
 - (m) authorisation of the Central Board of Excise and Customs or Chief Commissioners of Central Excise to issue instructions, for any incidental or supplemental matters for the implementation of the provisions of this Act;
 - (n) any other matter which by this Chapter is to be or may be prescribed.
- (3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.
- (4) Every rule made under this Chapter, Scheme framed under section 71 and every notification issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

95. POWER TO REMOVE DIFFICULTIES

- (1) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2002, the Central Government may, by order published in the Official Gazette, which is not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of the Finance Act, 2002 incorporating such taxable services in this Chapter come into force.

- (1A) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2003, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of the Finance Act, 2003 incorporating such taxable services in this Chapter come into force.

- (1B) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance (No. 2) Act, 2004, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the Finance (No. 2) Bill, 2004 receives the assent of the President.

- (1C) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2006 (21 of 2006), the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2006 receives the assent of the President.

(1D) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2007, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2007 receives the assent of the President.

(1E) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2008, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2008 receives the assent of the President.

(1F) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance (No. 2) Act, 2009, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President.

(1G) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2010, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2010 receives the assent of the President.

(1H) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2011, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2011 receives the assent of the President.;

(1I) If any difficulty arises in giving effect to section 143 of the Finance Act, 2012, in so far as it relates to insertion of sections 65B, 66B, 66C, 66D, 66E and section 66F in Chapter V of the Finance Act, 1994 (32 of 1994), the Central Government may, by order published in the Official Gazette, which is not inconsistent with the provisions of this Chapter, make such provisions, as may be necessary or expedient for the purpose of removing the difficulty from such date, which shall include the power to give retrospective effect from a date not earlier than the date of coming into force of the Finance Act, 2012:

Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of these provisions.

(1J) If any difficulty arises in giving effect to section 93 of the Finance Act, 2013, in so far as it relates to amendments made by the Finance Act, 2013 in Chapter V of the Finance Act, 1994 (32 of 1994), the Central Government may, by an order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2013 receives the assent of the President.

(1K) If any difficulty arises in giving effect to section 106 of the Finance (No. 2) Act, 2014, in so far as it relates to amendments made by the said Act, in this Chapter, the Central Government may, by an order, published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the Parliament.

96. CONSEQUENTIAL AMENDMENT

In the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), in the Schedule, after entry 7 relating to the Central Excise Act, 1944 (1 of 1944), the following entry shall be inserted, namely :-

“7A. Chapter V of the Finance Act, 1994”

Chapter VA-Advance Rulings

96A. DEFINITIONS

In this Chapter, unless the context otherwise requires,-

- (a) “advance ruling” means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;
- (b) “applicant” means, -
 - (i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or
 - (b) a resident setting up a joint venture in India in collaboration with a non-resident; or
 - (c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company, who or which, as the case may be, proposes to undertake any business activity in India;
 - (ii) a joint venture in India; or
 - (iii) a resident falling within any such class or category of persons, as the Central Government may, by notification* in the Official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 96C;
- Explanation** - For the purposes of this clause, “joint venture in India” means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;
- (c) “application” means an application made to the Authority under sub-section (1) of section 96C;
- (d) “Authority” means the Authority for Advance Rulings, constituted under sub-section (1), or authorised by the Central Government under sub-section (2A), of section 28F of the Customs Act, 1962 (52 of 1962).
- (e) “non-resident”, “Indian company” and “foreign company” have the meanings respectively assigned to them in clauses (30), (26) and (23A) of section 2 of the Income-tax Act, 1961 (43 of 1961);
- (f) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise.

96B. VACANCIES, ETC., NOT TO INVALIDATE PROCEEDINGS

No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

96C. APPLICATION FOR ADVANCE RULING

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

*Please refer Notification No. 14/2014 dated 11 July 2014.

- (2) The question on which the advance ruling is sought shall be in respect of, -
- (a) classification of any service as a taxable service under Chapter V;
 - (b) the valuation of taxable services for charging service tax;
 - (c) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V;
 - (d) applicability of notifications issued under Chapter V;
 - (e) admissibility of credit of duty or tax in terms of the rules made in this regard;
 - (f) determination of the liability to pay service tax on a taxable service under the provisions of Chapter V.
- (3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.
- (4) An applicant may withdraw an application within thirty days from the date of the application.

96D. PROCEDURE ON RECEIPT OF APPLICATION

- (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.

- (2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application where the question raised in the application is, -

- (a) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any Court;
- (b) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Central Excise.

- (4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

- (5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation - For the purposes of this sub-section, "authorised representative" has the meaning assigned to it in sub section (2) of section 35Q of the Central Excise Act, 1944 (1 of 1944).

- (6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.
- (7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Central Excise, as soon as may be, after such pronouncement.

96E. APPLICABILITY OF ADVANCE RULING

- (1) The advance ruling pronounced by the Authority under section 96D shall be binding only -
 - (a) on the applicant who had sought it;
 - (b) in respect of any matter referred to in sub-section (2) of section 96C;
 - (c) on the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.
- (2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

96F. ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES

- (1) Where the Authority finds, on a representation made to it by the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section (4) of section 96D has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Chapter shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.
- (2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner of Central Excise.

96G. POWERS OF AUTHORITY

- (1) The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).
- (2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code (45 of 1860).

96H. PROCEDURE OF AUTHORITY

The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

96I. POWER OF CENTRAL GOVERNMENT TO MAKE RULES

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-
 - (a) the form and manner for making application under sub-section (1) of section 96C;
 - (b) the manner of certifying a copy of advanced ruling pronounced by the Authority under sub-section (7) of section 96D;
 - (c) any other matter which, by this Chapter, is to be or may be prescribed.

- (3) Every rule made under this Chapter shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

96J. SPECIAL EXEMPTION FROM SERVICE TAX IN CERTAIN CASES

- (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of membership fee collected by a club or association formed for representing industry or commerce, during the period on and from the 16th day of June, 2005 to the 31st day of March, 2008 (both days inclusive).
- (2) Refund shall be made of all such service tax which has been collected but which would not have been so collected if sub-section (1) had been in force at all material times.
- (3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance Bill, 2011 receives the assent of the President.

97. SPECIAL PROVISION FOR EXEMPTION IN CERTAIN CASES RELATING TO MANAGEMENT, ETC., OF ROADS.

- (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16th day of June, 2005 to the 26th day of July, 2009 (both days inclusive).
- (2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.
- (3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

98. SPECIAL PROVISION FOR EXEMPTION IN CERTAIN CASES RELATING TO MANAGEMENT, ETC., OF NON COMMERCIAL GOVERNMENT BUILDINGS.

- (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of non-commercial Government buildings, during the period on and from the 16th day of June, 2005 till the date on which section 66B comes into force.
- (2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.
- (3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

99. SPECIAL PROVISION FOR TAXABLE SERVICES PROVIDED BY INDIAN RAILWAYS.

- (1) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July 2012, or in section 66B, no service tax shall be levied or collected in respect of taxable services provided by the Indian Railways during the period prior to the 1st day of October, 2012.
- (2) No refund shall be made of service tax paid in respect of taxable services provided by the Indian Railways during the said period prior to the 1st day of October, 2012

100. SERVICES PROVIDED BY EMPLOYEES' STATE INSURANCE CORPORATION

Notwithstanding anything contained in section 66 as it stood prior to the 1st day of July, 2012, no service tax shall be levied or collected in respect of taxable services provided by the Employees' State Insurance Corporation set up under the Employees' State Insurance Act, 1948, during the period prior to the 1st day of July, 2012.

Chapter VI of the Finance Act, 2013

104. SHORT TITLE.

This scheme may be called the service tax voluntary compliance encouragement scheme, 2013.

105. DEFINITIONS

- (1) In this Scheme, unless the context otherwise requires,-
- (a) "Chapter" means Chapter V of the Finance Act, 1994;
 - (b) "declarant" means any person who makes a declaration under sub-section (1) of section 97;
 - (c) "designated authority" means an officer not below the rank of Assistant Commissioner of Central Excise as notified by the Commissioner of Central Excise for the purposes of this Scheme;
 - (d) "prescribed" means prescribed by rules made under this Scheme;
 - (e) "tax dues" means the service tax due or payable under the Chapter or any other amount due or payable under section 73A thereof, for the period beginning from the 1st day of October, 2007 and ending on the 31st day of December, 2012 including a cess leviable thereon under any other Act for the time being in force, but not paid as on the 1st day of March, 2013.
- (2) Words and expressions used herein and not defined but defined in the Chapter or the rules made thereunder shall have the meanings respectively assigned to them in the Chapter or the rules made thereunder.

106. PERSON WHO MAY MAKE DECLARATION OF TAX DUES.

- (1) Any person may declare his tax dues in respect of which no notice or an order of determination under section 72 or section 73 or section 73A of the Chapter has been issued or made before the 1st day of March, 2013:

Provided that any person who has furnished return under section 70 of the Chapter and disclosed his true liability, but has not paid the disclosed amount of service tax or any part thereof, shall not be eligible to make declaration for the period covered by the said return:

Provided further that where a notice or an order of determination has been issued to a person in respect of any period on any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period.

- (2) Where a declaration has been made by a person against whom,-
- (a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or short-paid has been initiated by way of—
 - (i) search of premises under section 82 of the Chapter; or
 - (ii) issuance of summons under section 14 of the Central Excise Act, 1944, as made applicable to the Chapter under section 83 thereof; or
 - (iii) requiring production of accounts, documents or other evidence under the Chapter or the rules made thereunder; or
 - (b) an audit has been initiated,
- and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration.

107. PROCEDURE FOR MAKING DECLARATION AND PAYMENT OF TAX DUES.

- (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2013 in such form and in such manner as may be prescribed.
- (2) The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.
- (3) The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent. of the tax dues so declared under sub-section (1) and submit proof of such payment to the designated authority.
- (4) The tax dues or part thereof remaining to be paid after the payment made under sub-section (3) shall be paid by the declarant on or before the 30th day of June, 2014:

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

- (5) Notwithstanding anything contained in sub-section (3) and sub-section (4), any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.
- (6) The declarant shall furnish to the designated authority details of payment made from time to time under this Scheme along with a copy of acknowledgement issued to him under sub-section (2).
- (7) On furnishing the details of full payment of declared tax dues and the interest, if any, payable under the proviso to sub-section (4), the designated authority shall issue an acknowledgement of discharge of such dues to the declarant in such form and in such manner as may be prescribed.

108. IMMUNITY FROM PENALTY, INTEREST AND OTHER PROCEEDING.

- (1) Notwithstanding anything contained in any provision of the Chapter, the declarant, upon payment of the tax dues declared by him under sub-section (1) of section 97 and the interest payable under the proviso to sub-section (4) thereof, shall get immunity from penalty, interest or any other proceeding under the Chapter.
- (2) Subject to the provisions of section 101, a declaration made under sub-section (1) of section 97 shall become conclusive upon issuance of acknowledgement of discharge under sub-section (7) of section 97 and no matter shall be reopened thereafter in any proceedings under the Chapter before any authority or court relating to the period covered by such declaration.

109. NO REFUND OF AMOUNT PAID UNDER THE SCHEME

Any amount paid in pursuance of a declaration made under sub-section (1) of section 97 shall not be refundable under any circumstances.

110. TAX DUES DECLARED BUT NOT PAID

Where the declarant fails to pay the tax dues, either fully or in part, as declared by him, such dues along with interest thereon shall be recovered under the provisions of section 87 of the Chapter.

111. FAILURE TO MAKE TRUE DECLARATION

- (1) Where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid.

- (2) No action shall be taken under sub-section (1) after the expiry of one year from the date of declaration.
- (3) The show cause notice issued under sub-section (1) shall be deemed to have been issued under section 73, or as the case may be, under section 73A of the Chapter and the provisions of the Chapter shall accordingly apply.

112. REMOVAL OF DOUBTS

For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 98. Immunity

113. POWER TO REMOVE DIFFICULTIES

- (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

114. POWER TO MAKE RULES.

- (1) The Central Government may, by notification* in the Official Gazette, make rules for carrying out the provisions of this Scheme.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the form and the manner in which a declaration may be made under subsection (1) of section 97;
 - (b) the form and the manner of acknowledging the declaration under sub-section (2) of section 97;
 - (c) the form and the manner of issuing the acknowledgement of discharge of tax dues under sub-section (7) of section 97;
 - (d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Note: The Central Government hereby appoints 1 October, 2012, as the date on which the provisions of above clauses (a), (b) and (c) shall come into force.

- (3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4.

Service Tax Rules, 1994

NOTIFICATION NO. 2/94-S.T., DATED 28 JUNE 1994 (as amended)

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules for the purpose of the assessment and collection of service tax, namely: -

1. SHORT TITLE AND COMMENCEMENT

- (1) These rules may be called the Service Tax Rules, 1994.
- (2) They shall come into force on the 1st day of July, 1994.

2. DEFINITIONS

- (1) In these rules, unless the context otherwise requires, -
 - (a) **"Act"** means the Finance Act, 1994 (32 of 1994);
 - (b) **"assessment"** includes self-assessment of service tax by the assessee, reassessment, provisional assessment, best judgment assessment and any order of assessment in which the tax assessed is nil; determination of the interest on the tax assessed or reassessed;
 - (bb) **"banking company"** has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);
 - (bc) **"body corporate"** has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);
 - (bd) **"financial institution"** has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
 - (c) **"Form"** means a Form appended to these rules;
 - (c1a) **"goods carriage"** has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
 - (ca) **"Half-year"** means the period between 1st April to 30th September or 1st October to 31st March of a financial year;
 - (cb) **"input service distributor"** has the meaning assigned to it in clause (m) of Rule 2 of the CENVAT Credit Rules, 2004;
 - (cba) **"insurance agent"** has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938)
 - (cc) **"large taxpayer"** shall have the meaning assigned to it in the Central Excise Rules, 2002;
 - (cca) **"legal service"** means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;
 - (ccb) **"life insurance business"** has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);
 - (ccc) **"non banking financial company"** has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
 - (cd) **"Partnership firm"** includes a limited liability partnership;
 - (d) **"Person liable for paying service tax",-**
 - (i) in respect of the taxable services notified under sub-section (2) of section 68 of the Act, means,-
 - (A) in relation to service provided or agreed to be provided by an insurance agent to any person carrying on the insurance business, the recipient of the service.;

- (AA) in relation to service provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company, the recipient of the service;
- (B) in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—
 - (I) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
 - (II) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
 - (III) any co-operative society established by or under any law;
 - (IV) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
 - (V) any body corporate established, by or under any law; or
 - (VI) any partnership firm whether registered or not under any law including association of persons;
 any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage:

Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.

- (C) in relation to service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, the recipient of such service;
- (D) in relation to service provided or agreed to be provided by,—
 - (I) an arbitral tribunal, or
 - (II) an individual advocate or a firm of advocates by way of legal services,
 to any business entity located in the taxable territory, the recipient of such service;
- (E) in relation to support services provided or agreed to be provided by Government or local authority except,—
 - (a) renting of immovable property, and
 - (b) services specified sub-clauses (I), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994,
 to any business entity located in the taxable territory, the recipient of such service;
- (EE) in relation to service provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate, the recipient of such service;
- (F) in relation to services provided or agreed to be provided by way of :—
 - (a) renting of a motor vehicle designed to carry passengers, to any person who is not engaged in a similar business; or
 - (b) supply of manpower for any purpose or security services; or
 - (c) service portion in execution of a works contract—
 - by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as a body corporate, located in the taxable territory, both the service provider and the service recipient to the extent notified under sub-section (2) of section 68 of the Act, for each respectively;
- (G) in relation to any taxable service provided or agreed to be provided by any person which is located in a non taxable territory and received by any person located in the taxable territory, the recipient of such service;
- (ii) in a case other than sub-clause (I), means the provider of service.
- (dd) **“place of provision”** shall be the place as determined by Place of Provision of Services Rules, 2012;
- (e) **“quarter”** means the period between 1st January to 31st March or 1st April to 30th June or 1st July to 30th September or 1st October to 31st December of a financial year;

- (f) **“renting of immovable property”** means any service provided or agreed to be provided by renting of immovable property or any other service in relation to such renting;
 - (fa) **“security services”** means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity;
 - (g) **“supply of manpower”** means supply of manpower, temporarily or otherwise, to another person to work under his superintendence or control.
- (2) All words and expressions used but not defined in these rules but defined in the Central Excise Act, 1944 (1 of 1944) and the Rules made thereunder shall have the meanings assigned to them in that Act and rules.

3. APPOINTMENT OF OFFICERS

The Central Board of Excise and Customs may appoint such Central Excise Officers as it thinks fit for exercising the powers under Chapter V of the Act within such local limits as it may assign to them as also specify the taxable service in relation to which any such Central Excise Officer shall exercise his powers.

4. REGISTRATION

- (1) Every person liable for paying the service tax shall make an application to the concerned Superintendent of Central Excise in Form ST-1 for registration within a period of thirty days from the date on which the service tax under section 66B of the Finance Act, 1994 (32 of 1994) is levied:

Provided that where a person commences the business of providing a taxable service after such service has been levied, he shall make an application for registration within a period of thirty days from the date of such commencement:

Provided further that a person liable for paying the service tax in the case of taxable services referred to in sub-section (4) or sub-section (5) of section 66 of the Finance Act, 1994 (32 of 1994) may make an application for registration on or before the 31st day of December, 1998:

Provided also that a person liable for paying the service tax in the case of taxable services referred to in sub-clause (zzp) of clause (105) of section 65 of the Act may make an application for registration on or before the 31st day of March, 2005.

- (1A) For the purposes of sub-rule (1), the Central Board of Excise and Customs may, by an order specify the documents which are to be submitted by the assessee alongwith the application within such period, as may be specified in the said order.
- (2) Where a person, liable for paying service tax on a taxable service,
- (i) provides such service from more than one premises or offices; or
 - (ii) receives such service in more than one premises or offices; or
 - (iii) is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax,
- and has centralised billing system or centralised accounting system in respect of such service, and such centralised billing or centralised accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralised billing or centralised accounting systems are located.
- (3) The registration under sub-rule (2), shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralised billing or accounting is done, are located:
- Provided that** nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralised billing or centralised accounting systems, prior to the 2nd day of November, 2006.

- (3A) Where an assessee is providing a taxable service from more than one premises or offices, and does not have any centralized billing systems or centralized accounting systems, as the case may be, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise.
- (4) Where an assessee is providing more than one taxable service, he may make a single application, mentioning therein all the taxable services provided by him, to the concerned Superintendent of Central Excise.
- (5) The Superintendent of Central Excise shall after due verification of the application form or an intimation under sub rule (5A), as the case may be, grant a certificate of registration in Form ST-2 within seven days from the date of receipt of the application or the intimation. If the registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted.
- (5A) Where there is a change in any information or details furnished by an assessee in Form ST-1 at the time of obtaining registration or he intends to furnish any additional information or detail, such change or information or details shall be intimated, in writing, by the assessee, to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, within a period of thirty days of such change.
- (6) Where a registered assessee transfers his business to another person, the transferee shall obtain a fresh certificate of registration.
- (7) Every registered assessee, who ceases to provide the taxable service for which he is registered, shall surrender his registration certificate immediately to the Superintendent of Central Excise.
- (8) On receipt of the certificate under sub-rule (7), the Superintendent of Central Excise shall ensure that the assessee has paid all monies due to the Central Government under the provisions of the Act, and the rules and the notifications issued thereunder, and thereupon cancel the registration certificate.

4A. TAXABLE SERVICE TO BE PROVIDED OR CREDIT TO BE DISTRIBUTED ON INVOICE, BILL OR CHALLAN

- (1) Every person providing taxable service, not later than thirty days from the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier, shall issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorised by him in respect of such taxable service provided or agreed to be provided and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely: -
- (i) the name, address and the registration number of such person;
 - (ii) the name and address of the person receiving taxable service;
 - (iii) description and value of taxable service provided or agreed to be provided; and
 - (iv) the service tax payable thereon:

Provided that in case the provider of taxable service is a banking company or a financial institution including a non-banking financial company providing service to any person, an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered, and whether or not containing address of the person receiving taxable service but containing other information in such documents as required under this sub-rule :

Provided further that in case the provider of taxable service is a goods transport agency, providing service to any person, in relation to transport of goods by road in a goods carriage, an invoice, a bill or, as the case may be, a challan shall include any document, by whatever name called, which shall contain the details of the consignment note number and date, gross weight of the consignment and also contain other information as required under this sub-rule:

Provided also that in case of continuous supply of service, every person providing such taxable service shall issue an invoice, bill or challan, as the case may be, within thirty days of the date when each event specified in the contract, which requires the service receiver to make any payment to service provider, is completed.

Provided also that in case the provider of taxable service is a banking company or a financial institution including a non-banking financial company providing service to any person, the period within which the invoice, bill or challan, as the case may be, is to be issued, shall be forty-five days:

Provided that in case the provider of taxable service is providing the service of transport of passenger, an invoice, a bill or as the case may be, challan shall include ticket in any form by whatever name called and whether or not containing registration number of the provider of service and address of the recipient of service but containing other information in such documents as required under this sub-rule.

Provided also that wherever the provider of taxable service receives an amount upto rupees one thousand in excess of the amount indicated in the invoice and the provider of taxable service has opted to determine the point of taxation based on the option as given in Point of Taxation Rules, 2011, no invoice is required to be issued to such extent.

(2) Every input service distributor distributing credit of taxable services shall, in respect of credit distributed, issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorised by him, for each of the recipient of the credit distributed, and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely: -

- (i) the name, address and registration number of the person providing input services and the serial number and date of invoice, bill, or as the case may be, challan issued under sub-rule (1);
- (ii) the name and address of the said input service distributor;
- (iii) the name and address of the recipient of the credit distributed;
- (iv) the amount of the credit distributed:

Provided that in case the input service distributor is an office of a banking company or a financial institution including a non-banking financial company providing service to any person an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered but containing other information in such documents as required under this sub-rule:

4B. ISSUE OF CONSIGNMENT NOTE

Any goods transport agency which provides service in relation to transport of goods by road in a goods carriage shall issue a consignment note to the recipient of service:

Provided that where any taxable service in relation to transport of goods by road in a goods carriage is wholly exempted under section 93 of the Act, the goods transport agency shall not be required to issue the consignment note.

Explanation - For the purposes of this rule and the second proviso to rule 4A, “consignment note” means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.

5. RECORDS

- (1) The records including computerised data as maintained by an assessee in accordance with the various laws in force from time to time shall be acceptable.
- (2) Every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time or the 31st day of January, 2008, whichever is later, a list in duplicate, of-
 - (i) all the records prepared or maintained by the assessee for accounting of transactions in regard to,
 - (a) providing of any service;
 - (b) receipt or procurement of input services and payment for such input services;
 - (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) other activities, such as manufacture and sale of goods, if any.
 - (ii) all other financial records maintained by him in the normal course of business.
- (3) All such records shall be preserved at least for a period of five years immediately after the financial year to which such records pertain.

5A. ACCESS TO A REGISTERED PREMISES

- (1) an officer authorised by the Commissioner in this behalf shall have access to any premises registered under these rules for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.
- (2) Every assessee shall, on demand, make available to the officer authorised under sub-rule (1) or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, within a reasonable time not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by such officer or the audit party, as the case may be,-
 - (i) the records as mentioned in sub-rule (2) of rule 5;
 - (ii) trial balance or its equivalent; and
 - (iii) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961), for the scrutiny of the officer or audit party, as the case may be.

6. PAYMENT OF SERVICE TAX

- (1) The service tax shall be paid to the credit of the Central Government,-
 - (i) by the 6th day of the month, if the duty is deposited electronically through internet banking; and
 - (ii) by the 5th day of the month, in any other case,immediately following the calendar month in which the service is deemed to be provided as per the Rules framed in this regard:

Provided that where the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the credit of the Central Government by the 6th day of the month if the duty is deposited electronically through internet banking, or, in any other case, the 5th day of the month, as the case may be, immediately following the quarter in which the service is deemed to be provided as per the Rules framed in this regard:

Provided further that the service tax on the service deemed to be provided in the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

Provided also that in case of individuals and partnership firms whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year, the service provider shall have the option to pay tax on taxable services provided or agreed to be provided by him up to a total of rupees fifty lakhs in the current financial year, by the dates specified in this sub-rule with respect to the month or quarter, as the case may be, in which payment is received.

- (1A) Without prejudice to the provisions contained in sub-rule (1), every person liable to pay service tax, may, on his own volition, pay an amount as service tax in advance, to the credit of the Central Government and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period:

Provided that the assessee shall,-

- (i) intimate the details of the amount of service tax paid in advance, to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the date of such payment; and
- (ii) indicate the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70 of the Act.

- (2) Every assessee shall electronically pay the service tax payable by him, through internet banking:

Provided that the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction, may for reasons to be recorded in writing, allow the assessee to deposit the service tax by any mode other than internet banking.

- (2A) For the purpose of this rule, if the assessee deposits the service tax by cheque, the date of presentation of cheque to the bank designated by the Central Board of Excise and Customs for this purpose shall be deemed to be the date on which service tax has been paid subject to realization of that cheque.

- (3) Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason, or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee,-

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or
- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

- (4) Where an assessee is, for any reason, unable to correctly estimate, on the date of deposit, the actual amount payable for any particular month or quarter, as the case may be, he may make a request in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, giving reasons for payment of service tax on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, on receipt of such request, may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him and the provisions of the Central Excise (No. 2) Rules, 2001, relating to provisional assessment except so far as they relate to execution of bond, shall, so far as may be, apply to such assessment.

- (4A) Notwithstanding anything contained in sub-rule (4), where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter, as the case may be.

- (4B) The adjustment of excess amount paid, under sub-rule (4A), shall be subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, valuation or applicability of any exemption notification.

(4C) Notwithstanding anything contained in sub-rules (4), (4A) and (4B), where the person liable to pay service tax in respect of service of renting of immovable property has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, on account of non-availment of deduction of property tax paid in terms of Notification No. 29/2012-Service Tax, dated the 20th June, 2012, from the gross amount charged for renting of the immovable property for the said period at the time of payment of service tax, the assessee may adjust such excess amount paid by him against his service tax liability within one year from the date of payment of such property tax and the details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of fifteen days from the date of such adjustment.

(5) Where an assessee under sub-rule (4) requests for a provisional assessment he shall file a statement giving details of the difference between the service tax deposited and the service tax liable to be paid for each month in a memorandum in Form ST-3A accompanying the quarterly or half - yearly return, as the case may be.

(6) Where the assessee submits a memorandum in Form ST-3A under sub-rule (5), it shall be lawful for the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, to complete the assessment, wherever he deems it necessary, after calling such further documents or records as he may consider necessary and proper in the circumstances of the case.

Explanation - For the purposes of this rule and rule 7, "Form TR-6" means a memorandum or challan referred to in rule 92 of the Treasury Rules of the Central Government.

(6A) Where an amount of service tax payable has been self-assessed under sub-section (1) of section 70 of the Act, but not paid, either in full or part, the same, shall be recoverable alongwith interest in the manner prescribed under section 87 of the Act.

(7) The person liable for paying the service tax in relation to the services of booking of tickets for travel by air provided by an air travel agent, shall have the option, to pay an amount calculated at the rate of 0.6% of the basic fare in the case of domestic bookings, and at the rate of 1.2% of the basic fare in the case of international bookings, of passage for travel by air, during any calendar month or quarter, as the case may be, towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66B of Chapter V of the Act and the option, once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.

Explanation - For the purposes of this sub-rule, the expression "basic fare" means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

(7A) An insurer carrying on life insurance business shall have the option to pay tax:

(i) on the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

(ii) in all other cases, 3 per cent. of the premium charged from policy holder in the first year and 1.5 per cent. of the premium charged from policy holder in the subsequent years;

towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66B of Chapter V of the said Act:

Provided that such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

(7B) The person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, shall have the option to pay an amount calculated at the following rate towards discharge of his service tax liability instead of paying service tax at the rate specified in section 66B of Chapter V of the Act, namely :

(a) 0.12 per cent of the gross amount of currency exchanged for an amount upto rupees 1,00,000, subject to the minimum amount of rupees 30;

- (b) rupees 120 and 0.06 per cent of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000; and
- (c) rupees 660 and 0.012 per cent of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 6,000:

Provided that the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(7C) The distributor or selling agent, liable to pay service tax for the taxable service of promotion, marketing, organising or in any other manner assisting in organising lottery, shall have the option to pay an amount at the rate specified in column (2) of the Table given below, subject to the conditions specified in the corresponding entry in column (3) of the said Table, instead of paying service tax at the rate specified in section 66B of Chapter V of the said Act:

Sl. No.	Rate	Condition
(1)	(2)	(3)
1.	Rs 7000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%
2.	Rs 11,000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%:

Provided that in case of online lottery, the aggregate face value of lottery tickets for the purpose of this sub-rule shall be taken as the aggregate value of tickets sold, and service tax shall be calculated in the manner specified in the said Table:

Provided further that the distributor or selling agent shall exercise such option within a period of one month of the beginning of each financial year and such option shall not be withdrawn during the remaining part of the financial year:

Provided also that the distributor or selling agent shall exercise such option for financial year 2010-11, within a period of one month of the publication of this sub-rule in the Official Gazette or, in the case of new service provider, within one month of providing of such service and such option shall not be withdrawn during the remaining part of that financial year.

Explanation - For the purpose of this sub-rule-

- (i) **“distributor or selling agent”** shall have the meaning assigned to them in clause (c) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010 and shall include distributor or selling agent authorised by the lottery organising State;
- (ii) **“draw”** shall have the meaning assigned to it in clause (d) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010;
- (iii) **“online lottery”** shall have the meaning assigned to it in clause (e) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010;
- (iv) **“organising state”** shall have the meaning assigned to it in clause (f) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010.

6A. EXPORT OF SERVICES

- (1) The provision of any service provided or agreed to be provided shall be treated as export of service when,-
 - (a) the provider of service is located in the taxable territory ,
 - (b) the recipient of service is located outside India,
 - (c) the service is not a service specified in the section 66D of the Act,
 - (d) the place of provision of the service is outside India,
 - (e) the payment for such service has been received by the provider of service in convertible foreign exchange, and
 - (f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 3 of clause (44) of section 65B of the Act
- (2) Where any service is exported, the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs, as the case may be, used in providing such service and the rebate shall be allowed subject to such safeguards, conditions and limitations, as may be specified, by the Central Government, by notification.

7. RETURNS

- (1) Every assessee shall submit a half-yearly return in Form 'ST-3' or 'ST-3A', as the case may be, along with a copy of the Form TR-6, in triplicate for the months covered in the half-yearly return.
- (2) Every assessee shall submit the half - yearly return by the 25th of the month following the particular half-year:

Provided that the Form 'ST-3' required to be submitted by the 25th day of October, 2012 shall cover the period between 1st April to 30th June, 2012 only

Provided further that the Form ST-3 for the period between the 1st day of July 2012 to the 30th day of September 2012, shall be submitted by the 25th day of March, 2013
- (3) Every assessee shall submit the half- yearly return electronically.
- (4) The Central Board of Excise and Customs may, by an order extend the period referred to in sub-rule(2) by such period as deemed necessary under circumstances of special nature to be specified in such order.

7A. RETURNS IN CASE OF TAXABLE SERVICE PROVIDED BY GOODS TRANSPORT OPERATORS AND CLEARING AND FORWARDING AGENTS

Notwithstanding anything contained in rule 7, an assessee, in case of service provided by -

- (a) goods transport operator for the period commencing on and from the 16th day of November, 1997 to 2nd day of June, 1998; and
- (b) clearing and forwarding agents for the period commencing on and from the 16th day of July, 1997 to 16th day of October, 1998,

shall furnish a return within a period of six months from the 13th day of May, 2003, in 'Form ST-3B' alongwith copy of Form TR-6 in triplicate, failing which the interest and penal consequences as provided in the Act shall follow.

7B. REVISION OF RETURN

An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of ninety days from the date of submission of the return under rule 7.

Explanation - Where an assessee submits a revised return, the 'relevant date' for the purpose of recovery of service tax, if any, under section 73 of the Act shall be the date of submission of such revised return.

7C. AMOUNT TO BE PAID FOR DELAY IN FURNISHING THE PRESCRIBED RETURN

Where the return prescribed under rule 7 is furnished after the date prescribed for submission of such return, the person liable to furnish the said return shall pay to the credit of the Central Government, for the period of delay of-

- (i) fifteen days from the date prescribed for submission of such return, an amount of five hundred rupees;
- (ii) beyond fifteen days but not later than thirty days from the date prescribed for submission of such return, an amount of one thousand rupees; and
- (iii) beyond thirty days from the date prescribed for submission of such return an amount of one thousand rupees plus one hundred rupees for every day from the thirty first day till the date of furnishing the said return:

Provided that the total amount payable in terms of this rule, for delayed submission of return, shall not exceed the amount specified in section 70 of the Act:

Provided further that where the assessee has paid the amount as prescribed under this rule for delayed submission of return, the proceedings, if any, in respect of such delayed submission of return shall be deemed to be concluded:

Provided also that where the gross amount of service tax payable is nil, the Central Excise Officer may, on being satisfied that there is sufficient reason for not filing the return, reduce or waive the penalty.

Explanation - It is hereby declared that any pending proceedings under section 77 for delayed submission or non-submission of return that has been initiated before the date on which the Finance Bill, 2007 receives the assent of the President, shall also be deemed to be concluded if the amount specified for delay in furnishing the return is paid by the assessee within sixty days from the date of assent to the said Finance Bill.

8. FORM OF APPEALS TO COMMISSIONER OF CENTRAL EXCISE (APPEALS)

- (1) An appeal under section 85 of the Act to the Commissioner of Central Excise (Appeals) shall be in Form ST-4.
- (2) The appeal shall be filed in duplicate and shall be accompanied by a copy of order appealed against.

9. FORM OF APPEALS TO APPELLATE TRIBUNAL

- (1) An appeal under sub-section (1) of section 86 of the Act to the Appellate Tribunal shall be made in Form ST-5 in quadruplicate and shall be accompanied by a copy of the Order appealed against (one of which shall be a certified copy).
- (2) An appeal under sub-section (2) of section 86 of the Act to the Appellate Tribunal shall be made in Form ST-7 in quadruplicate and shall be accompanied by a copy of the order of the Commissioner of Central Excise (one of which shall be a certified copy) and a copy of the order passed by the Central Board of Excise and Customs directing the Commissioner of Central Excise to apply to the Appellate Tribunal.
- (2A) An appeal under sub-section (2A) of section 86 of the Act to the Appellate Tribunal shall be made in Form ST-7 in quadruplicate and shall be accompanied by a copy of the order of the Commissioner of Central Excise (Appeals) (one of which shall be a certified copy) and a copy of the order passed by the Commissioner of Central Excise directing the Assistant Commissioner of Central Excise or as the case may be, the Deputy Commissioner of Central Excise to apply to the Appellate Tribunal; and
- (3) A Memorandum of cross-objections under sub-section (4) of section 86 of the Act, shall be made in Form ST-6 in quadruplicate.

10. PROCEDURE AND FACILITIES FOR LARGE TAXPAYER

Notwithstanding anything contained in these rules, the following shall apply to a large taxpayer,-

- (1) A large taxpayer shall submit the returns, as prescribed under these rules, for each of the registered premises.

Explanation - A large taxpayer who has obtained a centralized registration under sub-rule (2) of rule 4, shall submit a consolidated return for all such premises.

- (2) A large taxpayer, on demand, may be required to make available the financial, stores and CENVAT credit records in electronic media, such as, compact disc or tape for the purposes of carrying out any scrutiny and verification, as may be necessary.
- (3) A large taxpayer may, with intimation of at least thirty days in advance, opt out to be a large taxpayer from the first day of the following financial year.
- (4) Any notice issued but not adjudged by any of the Central Excise officer administering the Act or rules made thereunder immediately before the date of grant of acceptance by the Chief Commissioner of Central Excise, Large Taxpayer Unit, shall be deemed to have been issued by Central Excise officers of the said unit.
- (5) Provisions of these rules, in so far as they are not inconsistent with the provisions of this rule shall mutatis mutandis apply in case of a large taxpayer.

11. DETERMINATION OF RATE OF EXCHANGE

The rate of exchange for determination of value of taxable service shall be the applicable rate of exchange as per the generally accepted accounting principles on the date when point of taxation arises in terms of the Point of Taxation Rules, 2011.

12. POWER TO ISSUE SUPPLEMENTARY INSTRUCTIONS

The Board or the Chief Commissioners of Central Excise may issue instructions for any incidental or supplemental matters for the implementation of the provisions of the Act.

5.

CENVAT Credit Rules, 2004

NOTIFICATION NO 23/2004-C.E. (N.T.) DATED 10 SEPTEMBER 2004

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), and in supersession of the CENVAT Credit Rules, 2002 and the Service Tax Credit Rules, 2002, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely: -

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- 1) These rules may be called the CENVAT Credit Rules, 2004.
- 2) They extend to the whole of India:

Provided that nothing contained in these rules relating to availment and utilization of credit of service tax shall apply to the State of Jammu and Kashmir.

- 3) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS

In these rules, unless the context otherwise requires,-

- (a) **“capital goods”** means: -

(A) the following goods, namely:-

- (i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act;
- (ii) pollution control equipment;
- (iii) components, spares and accessories of the goods specified at (i) and (ii);
- (iv) moulds and dies, jigs and fixtures;
- (v) refractories and refractory materials;
- (vi) tubes and pipes and fittings thereof;
- (vii) storage tank; and
- (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers

used –

- (1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or

(1A) outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory; or

- (2) for providing output service,

(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for –

- (i) providing an output service of renting of such motor vehicle; or
- (ii) transportation of inputs and capital goods used for providing an output service; or
- (iii) providing an output service of courier agency;

(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of-

- (i) transportation of passengers; or
- (ii) renting of such motor vehicle; or
- (iii) imparting motor driving skills;

(D) Components, spares and accessories of motor vehicles which are capital goods for the assessee;

(b) **“Customs Tariff Act”** means the Customs Tariff Act, 1975 (51 of 1975);

(c) **“Excise Act”** means the Central Excise Act, 1944 (1 of 1944);

(d) **“exempted goods”** means excisable goods which are exempt from the whole of the duty of excise leviable thereon, and includes goods which are chargeable to “Nil” rate of duty and goods in respect of which the benefit of an exemption under Notification No.1/2011-CE, dated 1 March, 2011 or under entries at serial numbers 67 and 128 of Notification No. 12/2012-CE, dated the 17 March, 2012 is availed;

(e) **“exempted service”** means a -

- (1) taxable service which is exempt from the whole of the service tax leviable thereon; or
 - (2) service, on which no service tax is leviable under section 66B of the Finance Act; or
 - (3) taxable service whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken;
- but shall not include a service which is exported in terms of rule 6A of the Service Tax Rules, 1994.

(f) **“Excise Tariff Act”** means the Central Excise Tariff Act, 1985 (5 of 1986);

(g) **“Finance Act”** means the Finance Act, 1994 (32 of 1994);

(h) **“Final products”** means excisable goods manufactured or produced from input, or using input service;

(ij) **“First stage dealer”** means a dealer, who purchases the goods directly from, -

- (i) the manufacturer under the cover of an invoice issued in terms of the provisions of Central Excise Rules, 2002 or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice; or
- (ii) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice;

(k) **“input”** means -

- (i) all goods used in the factory by the manufacturer of the final product; or
- (ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or
- (iii) all goods used for generation of electricity or steam for captive use; or
- (iv) all goods used for providing any output service;

but excludes -

(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) any goods used for-

- (a) construction or execution of works contract of a building or a civil structure or a part thereof; or
- (b) laying of foundation or making of structures for support of capital goods, except for the provision of service portion in the execution of a works contract or construction *[service as listed under clause (b) of section 66E of the Act];

(C) capital goods except when used as parts or components in the manufacture of a final product;

(D) motor vehicles;

*Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion certificate by the competent authority

(E) any goods, such as food items, goods used in a guest house, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and

(F) any goods which have no relationship whatsoever with the manufacture of a final product.

Explanation – For the purpose of this clause, “free warranty” means a warranty provided by the manufacturer, the value of which is included in the price of the final product and is not charged separately from the customer;

(l) **“input service”** means any service, -

- (i) used by a provider of output service for providing an output service; or
- (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,

and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes,-

(A) service portion in the execution of a works contract and construction services including *[service listed under clause (b) of section 66E of the Finance Act] (herein referred as specified services) in so far as they are used for –
(a) construction or execution of works contract of a building or a civil structure or a part thereof; or
(b) laying of foundation or making of structures for support of capital goods,
except for the provision of one or more of the specified services; or

(B) services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods; or

(BA)service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by –

- (a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or
- (b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or

(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee.

(m) **“input service distributor”** means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be;

(n) **“job work”** means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression “job worker” shall be construed accordingly;

(na) **“large taxpayer”** shall have the meaning assigned to it in the Central Excise Rules, 2002;

(naa) **“manufacturer”** or **“producer”**:-

- (i) in relation to articles of jewellery or other articles of precious metals falling under heading 7113 or 7114 as the case may be, of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub-rule (1) of rule 12AA of the Central Excise Rules, 2002;

*Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion certificate by the competent authority

- (ii) in relation to goods falling under Chapters 61, 62 or 63 of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub-rule (1A) of rule 4 of the Central Excise Rules, 2002;
- (o) **"notification"** means the notification published in the Official Gazette;
- (p) **"output service"** means any service provided by a provider of service located in the taxable territory but shall not include a service-
 - (1) specified in section 66D of the Finance Act; or
 - (2) where the whole of service tax is liable to be paid by the recipient of service.
- (q) **"person liable for paying service tax"** has the meaning as assigned to it in clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994;
- (qa) **"place of removal"** means-
 - (i) a factory or any other place or premises of production or manufacture of the excisable goods;
 - (ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty;
 - (iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory, from where such goods are removed;
- (r) **"provider of taxable service"** include a person liable for paying service tax;
- (s) **"second stage dealer"** means a dealer who purchases the goods from a first stage dealer;
- (t) words and expressions used in these rules and not defined but defined in the Excise Act or the Finance Act shall have the meanings respectively assigned to them in those Acts.

3. CENVAT CREDIT

- (1) A manufacturer or producer of final products or a provider of output service shall be allowed to take credit (hereinafter referred to as the CENVAT Credit) of -
 - (i) the duty of excise specified in the First Schedule to the Excise Tariff Act, leviable under the Excise Act:

Provided that CENVAT credit of such duty of excise shall not be allowed to be taken when paid on any goods

 - a) in respect of which the benefit of an exemption under notification No.1/2011- CE, dated the 1 March 2011 is availed.
 - b) Specified in serial numbers 67 and 128 in respect of which the benefit of an exemption under Notification No. 12/2012 - CE, dated the 17th March, 2012 is availed;
 - (ii) the duty of excise specified in the Second Schedule to the Excise Tariff Act, leviable under the Excise Act;
 - (iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);
 - (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);
 - (v) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);
 - (vi) the Education Cess on excisable goods leviable under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004);
 - (via) the Secondary and Higher Education Cess on excisable goods leviable under section 136 read with section (138) of the Finance Act, 2007 (22 of 2007);
 - (vii) the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under clauses (I), (ii), (iii), (iv), (v),(vi) and (via):

Provided that CENVAT credit shall not be allowed in excess of eighty-five per cent. of the additional duty of customs paid under sub-section (1) of section 3 of the Customs Tariff Act, on ships, boats and other floating structures for breaking up falling under tariff item 8908 00 00 of the First Schedule to the Customs Tariff Act;

(vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act:

Provided that the provider of output Service shall not be eligible to take credit of such additional duty;

(viii) the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);

(ix) the service tax leviable under section 66 of the Finance Act;

(ixa) the Service Tax leviable under section 66A of the Finance Act;

(ixb) the Service Tax leviable under section 66B of the Finance Act;

(x) the Education Cess on taxable services leviable under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004); and

(xa) the Secondary and Higher Education Cess on taxable services leviable under section 136 read with section 140 of the Finance Act, 2007 (22 of 2007); and

(xi) the additional duty of excise leviable under Section 85 of the Finance Act, 2005 (18 of 2005), paid on -

(i) any input or capital goods received in the factory of manufacturer of final product or by the provider of output service on or after the 10th day of September, 2004; and

(ii) any input service received by the manufacturer of final product or by the provider of output services on or after the 10th day of September, 2004,

including the said duties, or tax, or cess paid on any input or input service, as the case may be, used in the manufacture of intermediate products, by a job-worker availing the benefit of exemption specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.214/86-Central Excise, dated the 25th March, 1986, published in the Gazette of India vide number G.S.R. 547 (E), dated the 25th March, 1986, and received by the manufacturer for use in, or in relation to, the manufacture of final product, on or after the 10th day of September, 2004:

Provided that the CENVAT credit shall be allowed to be taken of the amount equal to central excise duty paid on the capital goods at the time de-bonding of the unit in terms of the para 8 of notification No.22/2003-Central Excise, published in the Gazette of India, part II, Section 3, sub-section (i), vide number G.S.R. 265(E), dated, the 31st March 2003.

Explanation - For the removal of doubts it is clarified that the manufacturer of the final products and the provider of output service shall be allowed CENVAT credit of additional duty leviable under section 3 of the Customs Tariff Act on goods falling under heading 98.01 of the First Schedule to the Customs Tariff Act.

- (2) Notwithstanding anything contained in sub-rule (1), the manufacturer or producer of final products shall be allowed to take CENVAT credit of the duty paid on inputs lying in stock or in process or inputs contained in the final products lying in stock on the date on which any goods manufactured by the said manufacturer or producer cease to be exempted goods or any goods become excisable.
- (3) Notwithstanding anything contained in sub-rule (1), in relation to a service which ceases to be an exempted service, the provider of the output service shall be allowed to take CENVAT credit of the duty paid on the inputs received on and after the 10th day of September, 2004 and lying in stock on the date on which any service ceases to be an exempted service and used for providing such service.
- (4) The CENVAT credit may be utilized for payment of-
 - (a) any duty of excise on any final product; or
 - (b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or
 - (c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or
 - (d) an amount under sub-rule (2) of rule 16 of Central Excise Rules, 2002; or
 - (e) service tax on any output service:

Provided that while paying duty of excise or service tax, as the case may be, the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, as the case may be, for payment of duty or tax relating to that month or the quarter, as the case may be:

Provided further that CENVAT credit shall not be utilised for payment of any duty of excise on goods in respect of which the benefit of an exemption under notification No. 1/2011-CE, dated the 1 March 2011 is availed:

Provided also that the CENVAT credit of the duty, or service tax, paid on the inputs, or input services, used in the manufacture of final products cleared after availing of the exemption under the following notifications of Government of India in the Ministry of Finance (Department of Revenue), -

- (i) No.32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];
 - (ii) No.33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];
 - (iii) No.39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565(E), dated the 31st July, 2001];
 - (iv) No.56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
 - (v) No.57/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 765(E), dated the 14th November, 2002];
 - (vi) No.56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513(E), dated the 25th June, 2003]; and
 - (vii) No.71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717(E), dated the 9th September, 2003],
- shall, respectively, be utilized only for payment of duty on final products, in respect of which exemption under the said respective notifications is availed of:

Provided also that no credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, shall be utilised for payment of service tax on any output service:

Provided also that the CENVAT credit of any duty specified in sub-rule (1), except the National Calamity Contingent duty in item (v) thereof, shall not be utilized for payment of the said National Calamity Contingent duty on goods falling under tariff items 8517 12 10 and 8517 12 90 respectively of the First Schedule of the Central Excise Tariff:

Provided also that the CENVAT credit of any duty specified in sub-rule (1) shall not be utilized for payment of the Clean Energy Cess leviable under section 83 of the Finance Act, 2010 (14 of 2010):

Provided also that the CENVAT credit of any duty mentioned in sub-rule (1), other than credit of additional duty of excise leviable under section 85 of Finance Act, 2005 (18 of 2005), shall not be utilised for payment of said additional duty of excise on final products.

Explanation.- CENVAT credit cannot be used for payment of service tax in respect of services where the person liable to pay is the service recipient.

- (5) When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, or premises of the provider of output service, the manufacturer of the final products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9:

Provided that such payment shall not be required to be made where any inputs or capital goods are removed outside the premises of the provider of output service for providing the output service:

Provided further that such payment shall not be required to be made where any inputs are removed outside the factory for providing free warranty for final products:

- (5A) (a) If the capital goods, on which CENVAT credit has been taken, are removed after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT Credit, namely:-
- (i) for computers and computer peripherals :
 - for each quarter in the first year @ 10%
 - for each quarter in the second year @ 8%
 - for each quarter in the third year @ 5%
 - for each quarter in the fourth and fifth year @ 1%

(iii) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

Provided that if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.

(b) If the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value."

(5B) If the value of any,

(i) input, or

(ii) capital goods before being put to use,

on which CENVAT credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods:

Provided that if the said input or capital goods is subsequently used in the manufacture of final products or the provision of output services, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules.

(5C) Where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods shall be reversed.

Explanation 1 - The amount payable under sub-rules (5), (5A), (5B) and (5C), unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

Explanation 2 - If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A), (5B) and (5C), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken and utilised.

(6) The amount paid under sub-rule (5) and sub-rule (5A) shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods under sub-rule (5) and sub-rule (5A).

(7) Notwithstanding anything contained in sub-rule (1) and sub-rule (4),-

(a) CENVAT credit in respect of inputs or capital goods produced or manufactured, by a hundred per cent export-oriented undertaking or by a unit in an Electronic Hardware Technology Park or in a Software Technology Park other than a unit which pays excise duty levied under section 3 of the Excise Act read with serial numbers 3, 5, 6 and 7 of notification No.23/2003- Central Excise, dated the 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003] and used in the manufacture of the final products or in providing an output service, in any other place in India, in case the unit pays excise duty under section 3 of the Excise Act read with serial number 2 of the notification No.23/2003-Central Excise, dated the 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003], shall be admissible equivalent to the amount calculated in the following manner, namely: -

Fifty per cent of $[X \text{ multiplied by } \{(1 + \text{BCD}/100) \text{ multiplied by } (\text{CVD}/100)\}]$, where BCD and CVD denote ad valorem rates, in per cent, of basic customs duty and additional duty of customs leviable on the inputs or the capital goods respectively and X denotes the assessable value:

Provided that the CENVAT credit in respect of inputs and capital goods cleared on or after 1st March, 2006 from an export oriented undertaking or by a unit in Electronic Hardware Technology Park or in a Software Technology Park, as the case may be, on which such unit pays excise duty under Section 3 of Excise Act read with serial number 2 of Notification No.23/2003 - Central Excise, dated 31st March, 2003 [G.S.R. 226(E) dt the 31st March, 2003] shall be equal to X multiplied by $\{(1 + \text{BCD}/200) \text{ multiplied by } (\text{CVD}/100)\}$:

Provided further that the CENVAT credit in respect of inputs and capital goods cleared on or after the 7th September, 2009 from an export-oriented undertaking or by a unit in Electronic Hardware Technology Park or in a Software Technology Park, as the case may be, on which such undertaking or unit has paid -

- A) excise duty leviable under section 3 of the Excise Act read with serial number 2 of the notification no. 23/2003-Central Excise, dated 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003]; and
- B) the Education Cess leviable under section 91 read with section 93 of the Finance (No. 2) Act, 2004 and the Secondary and Higher Education Cess leviable under section 136 read with section 138 of the Finance Act, 2007, on the excise duty referred to in (A),

shall be the aggregate of –

- I) that portion of excise duty referred to in (A), as is equivalent to –
- i) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, which is equal to the duty of excise under clause (a) of sub-section (1) of section 3 of the Excise Act;
 - ii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act; and
- II) the Education Cess and the Secondary and Higher Education Cess referred to in (B).

(b) CENVAT credit in respect of –

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);
- (ii) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);
- (iii) the education cess on excisable goods leviable under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004);
- (iiia) the Secondary and Higher Education Cess on excisable goods leviable under section 136 read with section 138 of the Finance Act, 2007 (22 of 2007);
- (iv) the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under items (i) , (ii) and (iii) above;
- (v) the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);
- (vi) the education cess on taxable services leviable under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004); and
- (via) the Secondary and Higher Education Cess on taxable services leviable under section (136) read with section 140 of the Finance Act, 2007 (22 of 2007); and
- (vii) the additional duty of excise leviable under Section 85 of the Finance Act, 2005 (18 of 2005),

shall be utilized towards payment of duty of excise or as the case may be, of service tax leviable under the said Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 or the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), or the education cess on excisable goods leviable under section 91 read with section 93 of the said Finance (No.2) Act, 2004 (23 of 2004), or the Secondary and Higher Education Cess on excisable goods leviable under section 136 read with section (138) of the Finance Act, 2007 (22 of 2007) or the additional duty of excise leviable under section 157 of the Finance Act, 2003, (32 of 2003), or the education cess on taxable services leviable under section 91 read with section 95 of the said Finance (No.2) Act, 2004, (23 of 2004), or the Secondary and Higher Education Cess on taxable services leviable under Section 136 read with section 140 of the Finance Act, 2007 (22 of 2007), or the additional duty of excise leviable under Section 85 of the Finance Act, 2005 (18 of 2005), respectively, on any final products manufactured by the manufacturer or for payment of such duty on inputs themselves, if such inputs are removed as such or after being partially processed or on any output service:

Provided that the credit of the education cess on excisable goods and the education cess on the taxable services can be utilised, either for payment of the education cess on excisable goods or for the payment of the education cess on taxable services:

Provided further that the credit of the Secondary and Higher Education Cess on excisable goods and the Secondary and Higher Education Cess on taxable services can be utilised, either for payment of the Secondary and Higher Education Cess on excisable goods or for the payment of the Secondary and Higher Education Cess on taxable services.

Explanation - For the removal of doubts, it is hereby declared that the credit of the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) paid on or after the 1st day of April, 2000, may be utilised towards payment of duty of excise leviable under the First Schedule or the Second Schedule to the Excise Tariff Act;

- (c) the CENVAT credit, in respect of additional duty leviable under section 3 of the Customs Tariff Act, paid on marble slabs or tiles falling under tariff items 2515 12 20 and 2515 12 90 respectively of the First Schedule to the Excise Tariff Act shall be allowed to the extent of thirty rupees per square meter.

Explanation - Where the provisions of any other rule or notification provide for grant of whole or part exemption on condition of non-availability of credit of duty paid on any input or capital goods, or of service tax paid on input service, the provisions of such other rule or notification shall prevail over the provisions of these rules.

4. CONDITIONS FOR ALLOWING CENVAT CREDIT

- (1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service:

Provided that in respect of final products, namely, articles of jewellery or other articles of precious metals falling under heading 7113 or 7114 as the case may be, of the First Schedule to the Excise Tariff Act, the CENVAT credit of duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who get such final products manufactured on his behalf, on job work basis, subject to the condition that the inputs are used in the manufacture of such final product by the job worker.

Provided further that the CENVAT credit in respect of inputs may be taken by the provider of output service when the inputs are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the inputs.

Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after six months of the date of issue of any of the documents specified in sub-rule (1) of rule 9.

- (2) (a) The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service or outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent of the duty paid on such capital goods in the same financial year:

Provided that the CENVAT credit in respect of capital goods shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year if such capital goods are cleared as such in the same financial year:

Provided further that the CENVAT credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, in respect of capital goods shall be allowed immediately on receipt of the capital goods in the factory of a manufacturer.

Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, the CENVAT credit in respect of capital goods received by such assessee shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year.

Provided also that the CENVAT credit in respect of capital goods may be taken by the provider of output service when the capital goods are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the capital goods.

Explanation - For the removal of doubts, it is hereby clarified that an assessee shall be "eligible" if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.

- (b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory

materials, moulds and dies and goods falling under heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.

Illustration - A manufacturer received machinery on the 16th day of April, 2002 in his factory. CENVAT of two lakh rupees is paid on this machinery. The manufacturer can take credit upto a maximum of one lakh rupees in the financial year 2002-2003, and the balance in subsequent years.

- (3) The CENVAT credit in respect of the capital goods shall be allowed to a manufacturer, provider of output service even if the capital goods are acquired by him on lease, hire purchase or loan agreement, from a financing company.
- (4) The CENVAT credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer or provider of output service claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).
- (5) (a) The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, re-conditioning, or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or provider of output service taking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are not received back within one hundred eighty days, the manufacturer or provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer or provider of output service can take the CENVAT credit again when the inputs or capital goods are received back in his factory or in the premises of the provider of output service.
- (b) The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to, -
 - (i) another manufacturer for the production of goods; or
 - (ii) a job worker for the production of goods on his behalf, according to his specifications.
- (6) The Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job- worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker.
- (7) The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received:

Provided that in respect of input service where whole of the service tax is liable to be paid by the recipient of service, credit shall be allowed after the service tax is paid:

Provided further that in respect of an input service, where the service recipient is liable to pay a part of service tax and the service provider is liable to pay the remaining part, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9:

Provided also that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9, except in respect of input service where the whole of the service tax is liable to be paid by the recipient of service, is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules:

Provided also that if any payment or part thereof, made towards an input service is refunded or a credit note is received by the manufacturer or the service provider who has taken credit on such input service, he shall pay an amount equal to the CENVAT credit availed in respect of the amount so refunded or credited:

Provided also that CENVAT credit in respect of an invoice, bill or, as the case may be, challan referred to in rule 9, issued before the 1st day of April, 2011 shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9.

Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after six months of the date of issue of any of the documents specified in sub-rule (1) of rule 9.

Explanation I - The amount mentioned in this sub-rule, unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March.

Explanation II - If the manufacturer of goods or the provider of output service fails to pay the amount payable under this sub-rule, it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.

Explanation III - In case of a manufacturer who avails the exemption under a notification based on the value of clearances in a financial year and a service provider who is an individual or proprietary firm or partnership firm, the expressions, "following month" and "month of March" occurring in sub-rule (7) shall be read respectively as "following quarter" and "quarter ending with the month of March".

5. REFUND OF CENVAT CREDIT

- (1) A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette:

$$\text{Refund amount} = \frac{(\text{Export turnover of goods} + \text{Export turnover of services}) \times \text{Net CENVAT credit}}{\text{Total turnover}}$$

Where,-

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net CENVAT credit" means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period;
- (C) "Export turnover of goods" means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking;
- (D) "Export turnover of services" means the value of the export service calculated in the following manner, namely:-
Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period – advances received for export services for which the provision of service has not been completed during the relevant period;
- (E) "Total turnover" means sum total of the value of -
 - (a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported;
 - (b) export turnover of services determined in terms of clause (D) of sub-rule (1) above and the value of all other services, during the relevant period; and
 - (c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed.

(2) This rule shall apply to exports made on or after the 1st April, 2012:

Provided that the refund may be claimed under this rule, as existing, prior to the commencement of the CENVAT Credit (Third Amendment) Rules, 2012, within a period of one year from such commencement:

Provided further that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the Service Tax Rules, 1994 in respect of such tax.

Explanation 1.- For the purposes of this rule,-

(1) "export service" means a service which is provided as per rule 6A of the Service Tax Rules, 1994;

(2) "relevant period" means the period for which the claim is filed.

Explanation 2.- For the purposes of this rule, the value of services, shall be determined in the same manner as the value for the purposes of sub-rule (3) and (3A) of rule 6 is determined.

5A. REFUND OF CENVAT CREDIT TO UNITS IN SPECIFIED AREAS:

Notwithstanding anything contrary contained in these rules, where a manufacturer has cleared final products in terms of notification of the Government of India in the Ministry of Finance (Department of Revenue) No.20/2007-Central Excise, dated the 25th April, 2007 and is unable to utilize the CENVAT credit of duty taken on inputs required for manufacture of final products specified in the said notification, other than final products which are exempt or subject to nil rate of duty, for payment of duties of excise on said final products, then the Central Government may allow the refund of such credit subject to such procedure, conditions and limitations, as may be specified by notification.

Explanation: For the purposes of this rule, "duty" means the duties specified in sub-rule (1) of rule 3 of these rules.

5B. REFUND OF CENVAT CREDIT TO SERVICE PROVIDERS PROVIDING SERVICES TAXED ON REVERSE CHARGE BASIS:

A provider of service providing services notified under sub-section (2) of section 68 of the Finance Act and being unable to utilize the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilized CENVAT credit subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette.

6. OBLIGATION OF A MANUFACTURER OR PRODUCER OF FINAL PRODUCTS AND A PROVIDER OF OUTPUT SERVICE

(1) The CENVAT credit shall not be allowed on such quantity of input used in or in relation to the manufacture of exempted goods or for provision of exempted services, or input service used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services, except in the circumstances mentioned in sub-rule (2):

Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.

(2) Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for -

(a) the receipt, consumption and inventory of inputs used -

- (i) in or in relation to the manufacture of exempted goods;
- (ii) in or in relation to the manufacture of dutiable final products excluding exempted goods;
- (iii) for the provision of exempted services;
- (iv) for the provision of output services excluding exempted services; and

(b) the receipt and use of input services -

- (i) in or in relation to the manufacture of exempted goods and their clearance upto the place of removal;
 - (ii) in or in relation to the manufacture of dutiable final products, excluding exempted goods, and their clearance upto the place of removal;
 - (iii) for the provision of exempted services; and
 - (iv) for the provision of output services excluding exempted services,
- and shall take CENVAT credit only on inputs under sub-clauses (ii) and (iv) of clause (a) and input services under sub-clauses (ii) and (iv) of clause (b).

(3) Notwithstanding anything contained in sub-rules (1) and (2), the manufacturer of goods or the provider of output service, opting not to maintain separate accounts, shall follow any one of the following options, as applicable to him, namely:-

- (i) pay an amount equal to six per cent of value of the exempted goods and exempted services; or
- (ii) pay an amount as determined under sub-rule (3A); or
- (iii) maintain separate accounts for the receipt, consumption and inventory of inputs as provided for in clause (a) of sub-rule (2), take CENVAT credit only on inputs under sub clauses (ii) and (iv) of said clause (a) and pay an amount as determined under sub-rule (3A) in respect of input services. The provisions of sub-clauses (i) and (ii) of clause (b) and sub clauses (i) and (ii) of clause (c) of sub-rule (3A) shall not apply for such payment:

Provided that if any duty of excise is paid on the exempted goods, the same shall be reduced from the amount payable under clause (I):

Provided further that if any part of the value of a taxable service has been exempted on the condition that no CENVAT credit of inputs and input services, used for providing such taxable service, shall be taken then the amount specified in clause (i) shall be six per cent. of the value so exempted.

Provided also that in case of transportation of goods or passengers by rail the amount required to be paid under clause (i) shall be an amount equal to 2 per cent of value of the exempted services.

Explanation I - If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of the financial year.

Explanation II - For removal of doubt, it is hereby clarified that the credit shall not be allowed on inputs used exclusively in or in relation to the manufacture of exempted goods or for provision of exempted services and on input services used exclusively in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services.

Explanation III - No CENVAT credit shall be taken on the duty or tax paid on any goods and services that are not inputs or input services.

(3A) For determination and payment of amount payable under clause (ii) of sub-rule (3), the manufacturer of goods or the provider of output service shall follow the following procedure and conditions, namely:-

- (a) while exercising this option, the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the following particulars, namely:-
 - (i) name, address and registration No. of the manufacturer of goods or provider of output service;
 - (ii) date from which the option under this clause is exercised or proposed to be exercised;
 - (iii) description of dutiable goods or output services;

- (iv) description of exempted goods or exempted services;
- (v) CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;
- (b) the manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month,-
 - (i) the amount equivalent to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, denoted as A;
 - (ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services (provisional) = $(B/C) \times D$, where B denotes the total value of exempted services provided during the preceding financial year, C denotes the total value of dutiable goods manufactured and removed plus the total value of output services provided plus the total value of exempted services provided, during the preceding financial year and D denotes total CENVAT credit taken on inputs during the month minus A;
 - (iii) the amount attributable to input services used in or in relation to manufacture of exempted goods and their clearance upto the place of removal or provision of exempted services (provisional) = $(E/F) \times G$, where E denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the preceding financial year, F denotes total value of output and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the preceding financial year, and G denotes total CENVAT credit taken on input services during the month;
- (c) the manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year in the following manner, namely:-
 - (i) the amount of CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods, on the basis of total quantity of inputs used in or in relation to manufacture of said exempted goods, denoted as H;
 - (ii) the amount of CENVAT credit attributable to inputs used for provision of exempted services = $(J/K) \times L$, where J denotes the total value of exempted services provided during the financial year, K denotes the total value of dutiable goods manufactured and removed plus the total value of output services provided plus the total value of exempted services provided, during the financial year and L denotes total CENVAT credit taken on inputs during the financial year minus H;
 - (iii) the amount attributable to input services used in or in relation to manufacture of exempted goods and their clearance upto place of removal or provision of exempted services = $(M/N) \times P$, where L denotes total value of exempted services provided plus the total value of exempted goods manufactured and removed during the financial year, M denotes total value of output and exempted services provided, and total value of dutiable and exempted goods manufactured and removed, during the financial year, and N denotes total CENVAT credit taken on input services during the financial year;
- (d) the manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between the aggregate amount determined as per condition (c) and the aggregate amount determined and paid as per condition (b), on or before the 30th June of the succeeding financial year, where the amount determined as per condition (c) is more than the amount paid;
- (e) the manufacturer of goods or the provider of output service, shall, in addition to the amount short-paid, be liable to pay interest at the rate of twenty-four per cent per annum from the due date, i.e., 30th June till the date of payment, where the amount short-paid is not paid within the said due date;
- (f) where the amount determined as per condition (c) is less than the amount determined and paid as per condition (b), the said manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount;

- (g) the manufacturer of goods or the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of payment or adjustment, as per condition (d) and (f) respectively, the following particulars, namely:-
- (i) details of CENVAT credit attributable to exempted goods and exempted services, monthwise, for the whole financial year, determined provisionally as per condition (b),
 - (ii) CENVAT credit attributable to exempted goods and exempted services for the whole financial year, determined as per condition (c),
 - (iii) amount short paid determined as per condition (d), alongwith the date of payment of the amount short-paid,
 - (iv) interest payable and paid, if any, on the amount short-paid, determined as per condition (e), and
 - (v) credit taken on account of excess payment, if any, determined as per condition (f);
- (h) where the amount equivalent to CENVAT credit attributable to exempted goods or exempted services cannot be determined provisionally, as prescribed in condition (b), due to reasons that no dutiable goods were manufactured and no output service was provided in the preceding financial year, then the manufacturer of goods or the provider of output service is not required to determine and pay such amount provisionally for each month, but shall determine the CENVAT credit attributable to exempted goods or exempted services for the whole year as prescribed in condition (c) and pay the amount so calculated on or before 30th June of the succeeding financial year.
- (i) where the amount determined under condition (h) is not paid within the said due date, i.e., the 30th June, the manufacturer of goods or the provider of output service shall, in addition to the said amount, be liable to pay interest at the rate of twenty four per cent per annum from the due date till the date of payment.
- (3B) Notwithstanding anything contained in sub-rules (1), (2) and (3), a banking company and a financial institution including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances, shall pay for every month an amount equal to fifty per cent. of the CENVAT credit availed on inputs and input services in that month.

(3C) Ommited

- (3D) Payment of an amount under sub-rule (3) shall be deemed to be CENVAT credit not taken for the purpose of an exemption notification wherein any exemption is granted on the condition that no CENVAT credit of inputs and input services shall be taken.

Explanation I - "Value" for the purpose of sub-rules (3) and (3A),-

- (a) shall have the same meaning as assigned to it under section 67 of the Finance Act, read with rules made there under or, as the case may be, the value determined under section 3, 4 or 4A of the Excise Act, read with rules made thereunder;
- (b) in the case of a taxable service, when the option available under sub-rules (7), (7A), (7B) or (7C) of rule 6 of the Service Tax Rules, 1994, has been availed, shall be the value on which the rate of service tax under section 66B of the Finance Act, read with an exemption notification, if any, relating to such rate, when applied for calculation of service tax results in the same amount of tax as calculated under the option availed; or
- (c) in case of trading, shall be the difference between the sale price and the cost of goods sold (determined as per the generally accepted accounting principles without including the expenses incurred towards their purchase) or ten percent of the cost of goods sold, whichever is more.
- (d) in case of trading of securities, shall be the difference between the sale price and the purchase price of the securities traded or one per cent of the purchase price of the securities traded, whichever is more.
- (e) shall not include the value of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation II - The amount mentioned in sub-rules (3), (3A), and (3B) , unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March.

Explanation III - If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rule (3), (3A), and (3B), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken.

Explanation IV - In case of a manufacturer who avails the exemption under a notification based on the value of clearances in a financial year and a service provider who is an individual or proprietary firm or partnership firm, the expressions, “following month” and “month of March” occurring in sub-rules (3) and (3A) shall be read respectively as “following quarter” and “quarter ending with the month of March”.

- (4) No CENVAT credit shall be allowed on capital goods which are used exclusively in the manufacture of exempted goods or in providing exempted services, other than the final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year.
- (5) Omitted
- (6) The provisions of sub-rules (1), (2), (3) and (4) shall not be applicable in case the excisable goods removed without payment of duty are either-
 - (i) cleared to a unit in a special economic zone; or to a developer of a special economic zone for their authorised operations; or
 - (ii) cleared to a hundred per cent export-oriented undertaking; or
 - (iii) cleared to a unit in an Electronic Hardware Technology Park or Software Technology Park; or
 - (iv) supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No.108/95-Central Excise, dated the 28th August, 1995, number G.S.R. 602 (E), dated the 28th August, 1995; or
 - (iva) supplied for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents in terms of the provisions of notification No. 12/2012-Central Excise, dated the 17 March, 2012, number G.S.R. 163(E), dated 17 March, 2012; or
 - (v) cleared for export under bond in terms of the provisions of the Central Excise Rules, 2002; or
 - (vi) gold or silver falling within Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or zinc by smelting; or
 - (vii) all goods which are exempt from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under sub section (1) of section 3 of the said Customs Tariff Act when imported into India and are supplied,-
 - (a) against International Competitive Bidding; or
 - (b) to a power project from which power supply has been tied up through tariff based competitive bidding; or
 - (c) to a power project awarded to a developer through tariff based competitive bidding.
 in terms of Notification No. 12/2012- Central Excise, dated the 17 March, 2012.
 - (viii) supplies made for setting up of solar power generation projects or facilities.
- (7) The provisions of sub-rules (1), (2), (3) and (4) shall not be applicable in case the taxable services are provided, without payment of service tax, to a unit in a Special Economic Zone or to a developer of a Special Economic Zone for their authorized operations or when a service is exported,
- (8) For the purpose of this rule, a service provided or agreed to be provided shall not be an exempted service when:-
 - (a) the service satisfies the conditions specified under rule 6A of the Service Tax Rules, 1994 and the payment for the service is to be received in convertible foreign currency; and
 - (b) such payment has not been received for a period of six months or such extended period as maybe allowed from time-to-time by the Reserve Bank of India, from the date of provision.

Provided that if such payment is received after the specified or extended period allowed by the Reserve Bank of India but within one year from such period, the service provider shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier in terms of sub rule (3) to the extent it relates to such payment, on the basis of documentary evidence of the payment so received.

7. MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR

The input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions, namely:-

- (a) the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon;
- (b) credit of service tax attributable to service used by one or more units exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed;
- (c) credit of service tax attributable to service used wholly by a unit shall be distributed only to that unit; and
- (d) credit of service tax attributable to service used by more than one unit shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.

Explanation 1 - For the purposes of this rule, "unit" includes the premises of a provider of output service and the premises of a manufacturer including the factory, whether registered or otherwise.

Explanation 2 - For the purposes of this rule, the total turnover shall be determined in the same manner as determined under rule 5.

Explanation 3 - For the purposes of this rule, the 'relevant period' shall be,-

- (a) If the assessee has turnover in the 'financial year' preceding to the year during which credit is to be distributed for month or quarter, as the case may be, the said financial year; or
- (b) If the assessee does not have turnover for some or all the units in the preceding financial year, the last quarter for which details of turnover of all the units are available, previous to the month or quarter for which credit is to be distributed.

7A. DISTRIBUTION OF CREDIT ON INPUTS BY THE OFFICE OR ANY OTHER PREMISES OF OUTPUT SERVICE PROVIDER

- (1) A provider of output service shall be allowed to take credit on inputs and capital goods received, on the basis of an invoice or a bill or a challan issued by an office or premises of the said provider of output service, which receives invoices, issued in terms of the provisions of the Central Excise Rules, 2002, towards the purchase of inputs and capital goods.
- (2) The provisions of these rules or any other rules made under the Central Excise Act, 1944, as made applicable to a first stage dealer or a second stage dealer, shall mutatis mutandis apply to such office or premises of the provider of output service.

8. STORAGE OF INPUT OUTSIDE THE FACTORY OF THE MANUFACTURER

The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of such manufacturer, by an order, permit such manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify:

Provided that where such input is not used in the manner specified in these rules for any reason whatsoever, the manufacturer of the final products shall pay an amount equal to the credit availed in respect of such input.

9. DOCUMENTS AND ACCOUNTS

(1) The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely:-

- (a) an invoice issued by -
 - (i) a manufacturer for clearance of -
 - (I) inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;
 - (II) inputs or capital goods as such;
 - (ii) an importer;
 - (iii) an importer from his depot or from the premises of the consignment agent of the said importer if the said depot or the premises, as the case may be, is registered in terms of the provisions of Central Excise Rules, 2002;
 - (iv) a first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; or
- (b) a supplementary invoice, issued by a manufacturer or importer of inputs or capital goods in terms of the provisions of Central Excise Rules, 2002 from his factory or depot or from the premises of the consignment agent of the said manufacturer or importer or from any other premises from where the goods are sold by, or on behalf of, the said manufacturer or importer, in case additional amount of excise duties or additional duty leviable under section 3 of the Customs Tariff Act, has been paid, except where the additional amount of duty became recoverable from the manufacturer or importer of inputs or capital goods on account of any non-levy or short-levy by reason of fraud, collusion or any wilful mis-statement or suppression of facts or contravention of any provisions of the Excise Act, or of the Customs Act, 1962 (52 of 1962) or the rules made thereunder with intent to evade payment of duty.

Explanation - For removal of doubts, it is clarified that supplementary invoice shall also include challan or any other similar document evidencing payment of additional amount of additional duty leviable under section 3 of the Customs Tariff Act; or

- (bb) a supplementary invoice, bill or challan issued by a provider of output service, in terms of the provisions of Service Tax Rules, 1994 except where the additional amount of tax became recoverable from the provider of service on account of non-levy or non-payment or short-levy or short-payment by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of the Finance Act or of the rules made thereunder with the intent to evade payment of service tax; or
- (c) a bill of entry; or
- (d) a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office; or
- (e) a challan evidencing payment of service tax, by the service recipient as the person liable to pay service tax; or
- (f) an invoice, a bill or challan issued by a provider of input service on or after the 10th day of, September, 2004; or
- (fa) a Service Tax Certificate for Transportation of goods by Rail (herein after referred to as STTG Certificate) issued by the Indian Railways, along with the photocopies of the railway receipts mentioned in the STTG Certificate; or
- (g) an invoice, bill or challan issued by an input service distributor under rule 4A of the Service Tax Rules, 1994:

Provided that the credit of additional duty of customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) shall not be allowed if the invoice or the supplementary invoice, as the case may be, bears an indication to the effect that no credit of the said additional duty shall be admissible.

- (2) No CENVAT credit under sub-rule (1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document:

Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, assessable value, Central Excise or Service Tax registration number of the person issuing the invoice, as the case may be, name and address of the factory or warehouse or premises of first or second stage dealers or provider of output service, and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit;

- (3) Omitted

- (4) The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such first stage dealer or second stage dealer, as the case may be, has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.

- (5) The manufacturer of final products or the provider of output service shall maintain proper records for the receipt, disposal, consumption and inventory of the input and capital goods in which the relevant information regarding the value, duty paid, CENVAT credit taken and utilized, the person from whom the input or capital goods have been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

- (6) The manufacturer of final products or the provider of output service shall maintain proper records for the receipt and consumption of the input services in which the relevant information regarding the value, tax paid, CENVAT credit taken and utilized, the person from whom the input service has been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

- (7) The manufacturer of final products shall submit within ten days from the close of each month to the Superintendent of Central Excise, a monthly return in the form specified, by notification, by the Board:

Provided that where a manufacturer is availing exemption under a notification based on the value or quantity of clearances in a financial year, he shall file a quarterly return in the form specified, by notification, by the Board within ten days after the close of the quarter to which the return relates.

- (8) A first stage dealer or a second stage dealer or a registered importer, as the case may be, shall submit within fifteen days from the close of each quarter of a year to the Superintendent of Central Excise, a return in the form specified, by notification, by the Board:

Provided that the first stage dealer or second stage dealer or registered importer, as the case may be, shall submit the said return electronically.

- (9) The provider of output service availing CENVAT credit, shall submit a half yearly return in form specified, by notification, by the Board to the Superintendent of Central Excise, by the end of the month following the particular quarter or half year.

- (10) The input service distributor, shall furnish a half yearly return in such form as may be specified, by notification, by the board, giving the details of credit received and distributed during the said half year to the Jurisdictional Superintendent of Central Excise, not later than last day of the month following the half year period.

- (11) The provider of output service, availing CENVAT credit referred to in sub-rule (9) or the input service distributor referred to in sub-rule (10), as the case may be, may submit a revised return to correct a mistake or omission within a period of sixty days from the date of submission of the return under sub-rule (9) or sub-rule (10), as the case may be.

9A. INFORMATION RELATING TO PRINCIPAL INPUTS

- (1) A manufacturer of final products shall furnish to the Superintendent of Central Excise, annually by 30th April of each Financial Year, a declaration in the Form specified, by a notification, by the Board, in respect of each of the excisable goods manufactured or to be manufactured by him, the principal inputs and the quantity of such principal inputs required for use in the manufacture of unit quantity of such final products:

Provided that for the year 2004-05, such information shall be furnished latest by 31st December, 2004:

- (2) If a manufacturer of final products intends to make any alteration in the information so furnished under sub-rule (1), he shall furnish information to the Superintendent of Central Excise together with the reasons for such alteration before the proposed change or within 15 days of such change in the Form specified by the Board under sub-rule (1).
- (3) A manufacturer of final products shall submit, within ten days from the close of each month, to the Superintendent of Central Excise, a monthly return in the Form specified, by a notification, by the Board, in respect of information regarding the receipt and consumption of each principal inputs with reference to the quantity of final products manufactured by him:
- (4) The Central Government may, by notification and subject to such conditions or limitations, as may be specified in such notification, specify manufacturers or class of manufacturers who may not be required to furnish declaration mentioned in sub-rule (1) or monthly return mentioned in sub-rule (3).
- (5) Every assessee shall file electronically, the declaration or the return, as the case may be, specified in this rule.

Explanation - For the purposes of this rule, “principal inputs”, means any input which is used in the manufacture of final products where the cost of such input constitutes not less than 10% of the total cost of raw materials for the manufacture of unit quantity of a given final products.

10. TRANSFER OF CENVAT CREDIT

- (1) If a manufacturer of the final products shifts his factory to another site or the factory is transferred on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with the specific provision for transfer of liabilities of such factory, then, the manufacturer shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated factory.
- (2) If a provider of output service shifts or transfers his business on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the business to a joint venture with the specific provision for transfer of liabilities of such business, then, the provider of output service shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated business.
- (3) The transfer of the CENVAT credit under sub-rules (1) and (2) shall be allowed only if the stock of inputs as such or in process, or the capital goods is also transferred along with the factory or business premises to the new site or ownership and the inputs, or capital goods, on which credit has been availed of are duly accounted for to the satisfaction of the Deputy Commissioner of Central Excise or, as the case may be, the Assistant Commissioner of Central Excise.

10A. TRANSFER OF CENVAT CREDIT OF ADDITIONAL DUTY LEVIABLE UNDER SUB-SECTION (5) OF SECTION 3 OF THE CUSTOMS TARIFF ACT.-

- (1) A manufacturer or producer of final products, having more than one registered premises, for each of which registration under the Central Excise Rules, 2002 has been obtained on the basis of a common Permanent Account Number under the Income-tax Act, 1961 (43 of 1961), may transfer unutilised CENVAT credit of additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, lying in balance with one of his registered premises at the end of a quarter, to his other registered premises by—

- (i) making an entry for such transfer in the documents maintained under rule 9;
- (ii) issuing a transfer challan containing registration number, name and address of the registered premises transferring the credit and receiving such credit, the amount of credit transferred and the particulars of such entry as mentioned in clause (I),

and such recipient premises may take CENVAT credit on the basis of the transfer challan

Provided that nothing contained in this sub-rule shall apply if the transferring and recipient registered premises are availing the benefit of the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), namely:-

- (i) No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated the 8th July, 1999];
- (ii) No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated the 8th July, 1999];
- (iii) No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];
- (iv) No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
- (v) No. 57/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 765(E), dated the 14th November, 2002];
- (vi) No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003];
- (vii) No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003];
- (viii) No.20/2007-Central Excise, dated the 25th April, 2007 [G.S.R. 307 (E), dated the 25th April, 2007]; and
- (ix) No. 1/2010-Central Excise dated the 6th February, 2010 [G.S.R. 62 (E), dated the 6th February, 2010].

- (2) The manufacturer or producer shall submit the monthly return, as specified under these rules, separately in respect of transferring and recipient registered premises.

11. TRANSITIONAL PROVISION

- (1) Any amount of credit earned by a manufacturer under the CENVAT Credit Rules, 2002, as they existed prior to the 10th day of September, 2004 or by a provider of output service under the Service Tax Credit Rules, 2002, as they existed prior to the 10th day of September, 2004, and remaining unutilized on that day shall be allowed as CENVAT credit to such manufacturer or provider of output service under these rules, and be allowed to be utilized in accordance with these rules.
- (2) A manufacturer who opts for exemption from the whole of the duty of excise leviable on goods manufactured by him under a notification based on the value or quantity of clearances in a financial year, and who has been taking CENVAT credit on inputs or input services before such option is exercised, shall be required to pay an amount equivalent to the CENVAT credit, if any, allowed to him in respect of inputs lying in stock or in process or contained in final products lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export.
- (3) A manufacturer or producer of a final product shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for use in the manufacture of the said final product and is lying in stock or in process or is contained in the final product lying in stock, if,-
 - (i) he opts for exemption from whole of the duty of excise leviable on the said final product manufactured or produced by him under a notification issued under section 5A of the Act; or
 - (ii) the said final product has been exempted absolutely under section 5A of the Act, and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any other final product whether cleared for home consumption or for export, or for payment of service tax on any output service, whether provided in India or exported.

- (4) A provider of output service shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for providing the said service and is lying in stock or is contained in the taxable service pending to be provided, when he opts for exemption from payment of whole of the service tax leviable on such taxable service under a notification issued under section 93 of the Finance Act, 1994(32 of 1994) and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export or for payment of service tax on any other output service, whether provided in India or exported.

12. SPECIAL DISPENSATION IN RESPECT OF INPUTS MANUFACTURED IN FACTORIES LOCATED IN SPECIFIED AREAS OF NORTH EAST REGION, KUTCH DISTRICT OF GUJARAT, STATE OF JAMMU AND KASHMIR AND STATE OF SIKKIM

Notwithstanding anything contained in these rules, but subject to the provision to clause (i) of sub-rule (1) of rule 3, where a manufacturer has cleared any inputs or capital goods, in terms of notifications of the Government of India in the Ministry of Finance (Department of Revenue) No.32/99- Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated the 8th July, 1999] or No.33/99 - Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated the 8th July, 1999] or No.39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565(E), dated the 31st July, 2001] or notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No.56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated 14th November, 2002] or No.57/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 765(E), dated the 14th November, 2002] or notification of the Government of India in the Ministry of Finance (Department of Revenue) No.56/2003- Central Excise, dated the 25th June, 2003 [G.S.R. 513(E), dated the 25th June, 2003] or 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717(E), dated the 9th September, 2003] or No.20/2007-Central Excise, dated the 25th April, 2007 [G.S.R. 307 (E), dated the 25th April, 2007] or No.1/2010-Central Excise, dated the 6th February, 2010 [G.S.R. 62(E), dated the 6th February, 2010] the CENVAT credit on such inputs or capital goods shall be admissible as if no portion of the duty paid on such inputs or capital goods was exempted under any of the said notifications.

12A. PROCEDURE AND FACILITIES FOR LARGE TAXPAYER

Notwithstanding anything contained in these rules, the following procedure shall apply to a large taxpayer,-

- (1) A large taxpayer may remove inputs, except motor spirit, commonly known as petrol, high speed diesel and light diesel oil or capital goods, as such, on which CENVAT credit has been taken, without payment of an amount specified in sub-rule (5) of rule 3 of these rules, under the cover of a transfer challan or invoice, from any of his registered premises (hereinafter referred to as the sender premises) to his other registered premises, other than a premises of a first or second stage dealer (hereinafter referred to as the recipient premises), for further use in the manufacture or production of final products in recipient premises subject to condition that -
- the final products are manufactured or produced using the said inputs and cleared on payment of appropriate duties of excise leviable thereon within a period of six months, from the date of receipt of the inputs in the recipient premises; or
 - the final products are manufactured or produced using the said inputs and exported out of India, under bond or letter of undertaking within a period of six months, from the date of receipt of the input goods in the recipient premises,

and that any other conditions prescribed by the Commissioner of Central Excise, Large Taxpayer Unit in this regard are satisfied.

Explanation 1 - The transfer challan or invoice shall be serially numbered and shall contain the registration number, name, address of the large taxpayer, description, classification, time and date of removal, mode of transport and vehicle registration number, quantity of the goods and registration number and name of the consignee:

Provided that if the final products manufactured or produced using the said inputs are not cleared on payment of appropriate duties of excise leviable thereon or are not exported out of India within the said period of six months from the date of receipt of the input goods in the recipient premises, or such inputs are cleared as such from the recipient premises, an amount equal to the credit taken in respect of such inputs by the sender premises shall be paid by the recipient premises with interest in the manner and rate specified under rule 14 of these rules:

Provided further that if such capital goods are used exclusively in the manufacture of exempted goods, or such capital goods are cleared as such from the recipient premises, an amount equal to the credit taken in respect of such capital goods by the sender premises shall be paid by the recipient premises with interest in the manner and rate specified under rule 14 of these rules.

Explanation 2 - If a large taxpayer fails to pay any amount due in terms of the first and second proviso, it shall be recovered along with interest in the manner as provided under rule 14 of these rules:

Provided also that nothing contained in this sub-rule shall be applicable if the recipient premises is availing following notifications of Government of India in the Ministry of Finance (Department of Revenue), -

- (i) No.32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];
- (ii) No.33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];
- (iii) No.39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];
- (iv) No.56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
- (v) No.57/2002-Central Excise, dated 14th November, 2002 [G.S.R. 765(E), dated the 14th November, 2002];
- (vi) No.56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003]; and
- (vii) No.71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003];
- (viii) No.20/2007-Central Excise, dated the 25th April, 2007 [G.S.R. 307 (E), dated the 25th April, 2007];
- (viii) No.20/2007-Central Excise, dated the 25th April, 2007 [G.S.R. 307 (E), dated the 25th April, 2007]; and
- (ix) No. 1/2010-Central Excise, dated the 6th February, 2010 [G.S.R. 62 (E), dated the 6th February, 2010]

Provided also that nothing contained in this sub-rule shall be applicable to a export oriented unit or a unit located in a Electronic Hardware Technology Park or Software Technology Park.

- (2) The first recipient premises may take CENVAT credit of the amount paid under first proviso to sub-rule(1) as if it was a duty paid by the sender premises who removed such goods on the basis of a document showing payment of such duties.
- (3) CENVAT credit of the specified duties taken by a sender premises shall not be denied or varied in respect of any inputs or capital goods:-
 - (a) removed as such under sub-rule (1) on the ground that the said inputs or the capital goods have been removed without payment of an amount specified in sub-rule (5) of rule 3 of these rules; or
 - (b) on the ground that the said inputs or capital goods have been used in the manufacture of any intermediate goods removed without payment of duty under sub-rule (1) of rule 12BB of Central Excise Rules, 2002.

Explanation - For the purpose of this sub-rule "intermediate goods" shall have the same meaning assigned to it in sub-rule (1) of rule 12BB of the Central Excise Rules, 2002.

- (4) A large taxpayer may transfer, CENVAT credit taken, on or before the 10th July, 2014, by one of his registered manufacturing premises or premises providing taxable service to his other such registered premises by,-
 - (i) making an entry for such transfer in the record maintained under rule 9;
 - (ii) issuing a transfer challan containing registration number, name and address of the registered premises transferring the credit as well as receiving such credit, the amount of credit transferred and the particulars of such entry as mentioned in clause (i),

and such recipient premises can take CENVAT credit on the basis of such transfer challan as mentioned in clause(ii):

Provided that such transfer or utilisation of CENVAT credit shall be subject to the limitations prescribed under clause (b) of sub-rule (7) of rule 3:

Provided further that nothing contained in this sub-rule shall be applicable if the registered manufacturing premises is availing following notifications of Government of India in the Ministry of Finance (Department of Revenue), -

- (i) No.32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];
 - (ii) No.33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];
 - (iii) No.39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];
 - (iv) No.56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
 - (v) No.57/2002-Central Excise, dated the 14th November, 2002 [G.S.R.. 765(E), dated the 14th November, 2002];
 - (vi) No.56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003];
 - (vii) No.71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003].
 - (viii) No.20/2007-Central Excise, dated the 25th April, 2007 [G.S.R. 307 (E), dated the 25th April, 2007]; and
 - (ix) No. 1/2010-Central Excise, dated the 6th February, 2010 [G.S.R. 62 (E), dated the 6th February, 2010]
- (5) A large taxpayer shall submit a monthly return, as prescribed under these rules, for each of the registered premises.
- (6) Any notice issued but not adjudged by any of the Central Excise Officer administering the Act or rules made thereunder immediately before the date of grant of acceptance by the Chief Commissioner of Central Excise, Large Taxpayer Unit, shall be deemed to have been issued by Central Excise Officers of the said Unit.
- (7) Provisions of these rules, in so far as they are not inconsistent with the provisions of this rule shall mutatis mutandis apply in case of a large taxpayer.

12AAA. POWER TO IMPOSE RESTRICTIONS IN CERTAIN TYPES OF CASES

Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer, provider of taxable service or an exporter, may by notification in the Official Gazette, specify the nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

Explanation - For the purposes of this rule, it is hereby clarified that every proposal initiated in terms of the procedure specified under notification no. 05/2012-CE (N.T.) dated the 12th March, 2012 published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 140(E), dated the 12th March, 2012, which is pending, shall be treated as initiated in terms of the procedure specified under this rule and shall be decided accordingly.

13. POWER OF CENTRAL GOVERNMENT TO NOTIFY GOODS FOR DEEMED CENVAT CREDIT

Notwithstanding anything contained in rule 3, the Central Government may, by notification, declare the input or input service on which the duties of excise, or additional duty of customs or service tax paid, shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in that notification and allow CENVAT credit of such duty or tax deemed to have been paid in such manner and subject to such conditions as may be specified in that notification even if, in the case of input, the declared input, or in the case of input service, the declared input service, as the case may be, is not used directly by the manufacturer of final products, or as the case may be, by the provider of output service, declared in that notification, but contained in the said final products, or as the case may be, used in providing the output service.

14. RECOVERY OF CENVAT CREDIT WRONGLY TAKEN OR ERRONEOUSLY REFUNDED

Where the CENVAT credit has been taken and utilized wrongly or has been erroneously refunded, the same along with interest shall be recovered from the manufacturer or the provider of the output service and the provisions of sections 11A and 11 AA of the Excise Act or sections 73 and 75 of the Finance Act, shall apply mutatis mutandis for effecting such recoveries.

15. CONFISCATION AND PENALTY

- (1) If any person, takes or utilizes CENVAT credit in respect of input or capital goods, or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater.
- (2) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilized wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11 AC of the Excise Act.
- (3) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilise wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then, the provider of output service shall also be liable to pay penalty in terms of the provisions of the section 78 of the Finance Act.
- (4) Any order under sub-rule (1), sub-rule (2), sub-rule (3) shall be issued by the Central Excise Officer following the principles of natural justice.

15A. GENERAL PENALTY

Whoever contravenes the provisions of these rules for which no penalty has been provided in the rules, he shall be liable to a penalty which may extend to five thousand rupees.

16. SUPPLEMENTARY PROVISION

- (1) Any notification, circular, instruction, standing order, trade notice or other order issued under the CENVAT Credit Rules, 2002 or the Service Tax Credit Rules, 2002, by the Central Government, the Central Board of Excise and Customs, the Chief Commissioner of Central Excise or the Commissioner of Central Excise, and in force at the commencement of these rules, shall, to the extent it is relevant and consistent with these rules, be deemed to be valid and issued under the corresponding provisions of these rules.
- (2) References in any rule, notification, circular, instruction, standing order, trade notice or other order to the CENVAT Credit Rules, 2002 and any provisions thereof or, as the case may be, the Service Tax Credit Rules, 2002 and any provision thereof shall, on the commencement of these rules, be construed as references to the CENVAT Credit Rules, 2004 and any corresponding provision thereof.

6.

Place of Provision of Services Rules, 2012

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- (1) These rules may be called the Place of Provision of Services Rules, 2012.
- (2) They shall come into force on 1st day of July, 2012.

2. DEFINITIONS

In these rules, unless the context otherwise requires,-

- (a) **“Act”** means the Finance Act, 1994 (32 of 1994);
- (b) **“account”** means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;
- (c) **“banking company”** has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (d) **“continuous journey”** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by one service provider or through one agent acting on behalf of more than one service provider, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued;
- (e) **“financial institution”** has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
- (f) **“intermediary”** means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the ‘main’ service) or a supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account;
- (g) **“leg of journey”** means a part of the journey that begins where passengers embark or disembark the conveyance, or where it is stopped to allow for its servicing or refueling, and ends where it is next stopped for any of those purposes;
- (h) **“location of the service provider”** means-
 - (a). where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
 - (b). where the service provider is not covered under sub-clause (a):
 - (i) the location of his business establishment; or
 - (ii) where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
 - (iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and
 - (iv) in the absence of such places, the usual place of residence of the service provider.
- (i) **“location of the service receiver”** means:-
 - (a) where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
 - (b) where the recipient of service is not covered under sub-clause (a):
 - (i) the location of his business establishment; or
 - (ii) where services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
 - (iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and
 - (iv) in the absence of such places, the usual place of residence of the recipient of service.

Explanation 1: For the purposes of clauses (h) and (l), “usual place of residence” in case of a body corporate means the place where it is incorporated or otherwise legally constituted.

Explanation 2: For the purpose of clause (l), in the case of telecommunication service, the usual place of residence shall be the billing address.

- (j) **“means of transport”** means any conveyance designed to transport goods or persons from one place to another;
- (k) **“non-banking financial company”** means-
 - (i) a financial institution which is a company; or
 - (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or
 - (iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette specify;
- (l) **“online information and database access or retrieval services”** means providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
- (m) **“person liable to pay tax”** shall mean the person liable to pay service tax under section 68 of the Act or under sub-clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994;
- (n) **“provided”** includes the expression “to be provided”;
- (o) **“received”** includes the expression “to be received”;
- (p) **“registration”** means the registration under rule 4 of the Service Tax Rules, 1994;
- (q) **“telecommunication service”** means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means but shall not include broadcasting services.;
- (r) words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. PLACE OF PROVISION GENERALLY.- THE PLACE OF PROVISION OF A SERVICE SHALL BE THE LOCATION OF THE RECIPIENT OF SERVICE:

Provided that in case the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service.

4. PLACE OF PROVISION OF PERFORMANCE BASED SERVICES.-

The place of provision of following services shall be the location where the services are actually performed, namely:-

- (a) services provided in respect of goods that are required to be made physically available by the recipient of service to the provider of service, or to a person acting on behalf of the provider of service, in order to provide the service:

Provided that when such services are provided from a remote location by way of electronic means the place of provision shall be the location where goods are situated at the time of provision of service:

Provided further that this clause shall not apply in the case of a service provided in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any use in the taxable territory, other than that which is required for such repair;

- (b) services provided to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the receiver or the person acting on behalf of the receiver, with the provider for the provision of the service.

5. PLACE OF PROVISION OF SERVICES RELATING TO IMMOVABLE PROPERTY.-

The place of provision of services provided directly in relation to an immovable property, including services provided in this regard by experts and estate agents, provision of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

6. PLACE OF PROVISION OF SERVICES RELATING TO EVENTS.-

The place of provision of services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be the place where the event is actually held.

7. PLACE OF PROVISION OF SERVICES PROVIDED AT MORE THAN ONE LOCATION.-

Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in the taxable territory, its place of provision shall be the location in the taxable territory where the greatest proportion of the service is provided.

8. PLACE OF PROVISION OF SERVICES WHERE PROVIDER AND RECIPIENT ARE LOCATED IN TAXABLE TERRITORY.-

Place of provision of a service, where the location of the provider of service as well as that of the recipient of service is in the taxable territory, shall be the location of the recipient of service.

9. PLACE OF PROVISION OF SPECIFIED SERVICES.-

The place of provision of following services shall be the location of the service provider:-

- (a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;
- (b) Online information and database access or retrieval services;
- (c) Intermediary services;
- (d) Service consisting of hiring of all means of transport other than,
 - (i) aircrafts, and
 - (ii) vessels except yachts,upto a period of one month

10. PLACE OF PROVISION OF GOODS TRANSPORTATION SERVICES.-

The place of provision of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of the goods:

Provided that the place of provision of services of goods transportation agency shall be the location of the person liable to pay tax.

11. PLACE OF PROVISION OF PASSENGER TRANSPORTATION SERVICE.-

The place of provision in respect of a passenger transportation service shall be the place where the passenger embarks on the conveyance for a continuous journey.

12. PLACE OF PROVISION OF SERVICES PROVIDED ON BOARD A CONVEYANCE.-

Place of provision of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

13. POWERS TO NOTIFY DESCRIPTION OF SERVICES OR CIRCUMSTANCES FOR CERTAIN PURPOSES.-

In order to prevent double taxation or non-taxation of the provision of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of provision shall be the place of effective use and enjoyment of a service.

14. ORDER OF APPLICATION OF RULES.-

Notwithstanding anything stated in any rule, where the provision of a service is, prima facie, determinable in terms of more than one rule, it shall be determined in accordance with the rule that occurs later among the rules that merit equal consideration.

7.

Service Tax (Determination of Value) Rules, 2006 – Valuation Rules

NOTIFICATION NO. 12/2006 S.T. DATED 19 APRIL 2006

In exercise of the powers conferred by clause (aa) of sub-section (2) of section 94 the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely: -

1. SHORT TITLE AND COMMENCEMENT

- (1) These rules may be called the Service Tax (Determination of Value) Rules, 2006.
- (2) They shall come into force on the 19 April 2006.

2. DEFINITIONS

In these rules, unless the context otherwise requires, -

- (a) **“Act”** means the Finance Act, 1994 (32 of 1994);
- (b) **“section”** means the section of the Act;
- (c) **“value”** shall have the meaning assigned to it in section 67;
- (d) words and expressions used in these rules and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

2A. DETERMINATION OF VALUE OF SERVICE PORTION IN THE EXECUTION OF A WORKS CONTRACT

Subject to the provisions of section 67, the value of service portion in the execution of a works contract, referred to in clause (h) of section 66E of the Act, shall be determined in the following manner, namely:-

- (i) Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.

Explanation- For the purposes of this clause,-

- (a) gross amount charged for the works contract shall not include Value Added Tax or sales tax, as the case may be, paid or payable, if any, on transfer of property in goods involved in the execution of the said works contract;
- (b) value of works contract service shall include,-
 - (i) labour charges for execution of the works;
 - (ii) amount paid to a sub-contractor for labour and services;
 - (iii) charges for planning, designing and architect's fees;
 - (iv) charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;
 - (v) cost of consumables such as water, electricity, fuel, used in the execution of the works contract;
 - (vi) cost of establishment of the contractor relatable to supply of labour and services;
 - (vii) other similar expenses relatable to supply of labour and services; and
 - (viii) profit earned by the service provider relatable to supply of labour and services;

- (c) Where value added tax or sales tax has been paid or payable on the actual value of property in goods transferred in the execution of the works contract, then, such value adopted for the purposes of payment of value added tax or sales tax, shall be taken as the value of property in goods transferred in the execution of the said works contract for determination of the value of service portion in the execution of works contract under this clause.
- (ii) Where the value has not been determined under clause (I), the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the service tax payable in the following manner, namely:-
- (A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty per cent of the total amount charged for the works contract;
- (B) in case of works contract, not covered under sub-clause (A), including works contract entered into for,-
- (i) maintenance or repair or reconditioning or restoration or servicing of any goods; or
 - (ii) maintenance or repair or completion and finishing services such as glazing or plastering or floor and wall tiling or installation of electrical fittings of immovable property,
- service tax shall be payable on seventy per cent. of the total amount charged for the works contract

Explanation 1 - For the purposes of this rule,-

(a) "original works" means-

- (i) all new constructions;
 - (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
 - (iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;
- (b) "total amount" means the sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting-
- (i) the amount charged for such goods or services, if any; and
 - (ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

Explanation 2 - For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004.

2B. DETERMINATION OF VALUE OF SERVICE IN RELATION TO MONEY CHANGING

Subject to the provisions of section 67, the value of taxable service provided for the services so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:-

For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Example I - US\$1000 are sold by a customer at the rate of Rupees 45 per US\$.

RBI reference rate for US\$ is Rupees 45.50 for that day.

The taxable value shall be Rupees 500.

Example II - INR70000 is changed into Great Britain Pound (GBP) and the exchange rate offered is Rupees 70, thereby giving GBP 1000.

RBI reference rate for that day for GBP is Rupees 69.

The taxable value shall be Rupees 1000.

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

2C. DETERMINATION OF VALUE OF SERVICE PORTION INVOLVED IN SUPPLY OF FOOD OR ANY OTHER ARTICLE OF HUMAN CONSUMPTION OR ANY DRINK IN A RESTAURANT OR AS OUTDOOR CATERING.-

Subject to the provisions of section 67, the value of service portion, in an activity wherein goods being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity at a restaurant or as outdoor catering, shall be the specified percentage of the total amount charged for such supply, in terms of the following Table, namely:-

Sr. No.	Description	Percentage of the total amount
1)	Service portion in an activity wherein goods, being food or any other article of human consumption or any drink(whether or not intoxicating) is supplied in any manner as a part of the activity, at a restaurant	40
2)	Service portion in outdoor catering wherein goods, being food or any other article of human consumption or any drink(whether or not intoxicating) is supplied in any manner as a part of such outdoor catering	60

Explanation 1.- For the purposes of this rule, "total amount" means the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink(whether or not intoxicating), whether or not supplied under the same contract or any other contract, after deducting-

- (i) the amount charged for such goods or services, if any; and
- (ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

Explanation 2.- For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986).

3. MANNER OF DETERMINATION OF VALUE

Subject to the provisions of section 67, the value of taxable service, where such value is not ascertainable, shall be determined by the service provider in the following manner :-

- (a) the value of such taxable service shall be equivalent to the gross amount charged by the service provider to provide similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration;
- (b) where the value cannot be determined in accordance with clause (a), the service provider shall determine the equivalent money value of such consideration which shall, in no case be less than the cost of provision of such taxable service.

4. REJECTION OF VALUE

- (1) Nothing contained in rule 3 shall be construed as restricting or calling into question the power of the Central Excise Officer to satisfy himself as to the accuracy of any information furnished or document presented for valuation.
- (2) Where the Central Excise Officer is satisfied that the value so determined by the service provider is not in accordance with the provisions of the Act or these rules, he shall issue a notice to such service provider to show cause why the value of such taxable service for the purpose of charging service tax should not be fixed at the amount specified in the notice.
- (3) The Central Excise Officer shall, after providing reasonable opportunity of being heard, determine the value of such taxable service for the purpose of charging service tax in accordance with the provisions of the Act and these rules.

5. INCLUSION IN OR EXCLUSION FROM VALUE OF CERTAIN EXPENDITURE OR COSTS

- (1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

Explanation - For the removal of doubts, it is hereby clarified that for the value of telecommunication service shall be the gross amount paid by the person to whom telecommunication service is actually provided.

- (2) Subject to the provisions of sub-rule (1), the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely: -
 - (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;
 - (ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;
 - (iii) the recipient of service is liable to make payment to the third party;
 - (iv) the recipient of service authorises the service provider to make payment on his behalf;
 - (v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;
 - (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
 - (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and
 - (viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation 1 . - For the purposes of sub-rule (2), "pure agent" means a person who -

- (a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;
- (b) neither intends to hold nor holds any title to the goods or services so procured or provided as pure agent of the recipient of service;
- (c) does not use such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services.

Explanation 2 - For the removal of doubts it is clarified that the value of the taxable service is the total amount of consideration consisting of all components of the taxable service and it is immaterial that the details of individual components of the total consideration is indicated separately in the invoice.

Illustration 1. - X contracts with Y, a real estate agent to sell his house and thereupon Y gives an advertisement in television. Y billed X including charges for Television advertisement and paid service tax on the total consideration billed. In such a case, consideration for the service provided is what X pays to Y. Y does not act as an agent on behalf of X when obtaining the television advertisement even if the cost of television advertisement is mentioned separately in the invoice issued by X. Advertising service is an input service for the estate agent in order to enable or facilitate him to perform his services as an estate agent.

Illustration 2. - In the course of providing a taxable service, a service provider incurs costs such as traveling expenses, postage, telephone, etc., and may indicate these items separately on the invoice issued to the recipient of service. In such a case, the service provider is not acting as an agent of the recipient of service but procures such inputs or input service on his own account for providing the taxable service. Such expenses do not become reimbursable expenditure merely because they are indicated separately in the invoice issued by the service provider to the recipient of service.

Illustration 3. - A contracts with B, an architect for building a house. During the course of providing the taxable service, B incurs expenses such as telephone charges, air travel tickets, hotel accommodation, etc., to enable him to effectively perform the provision of services to A. In such a case, in whatever form B recovers such expenditure from A, whether as a separately itemised expense or as part of an inclusive overall fee, service tax is payable on the total amount charged by B. Value of the taxable service for charging service tax is what A pays to B.

Illustration 4. - Company X provides a taxable service of rent-a-cab by providing chauffeur-driven cars for overseas visitors. The chauffeur is given a lump sum amount to cover his food and overnight accommodation and any other incidental expenses such as parking fees by the Company X during the tour. At the end of the tour, the chauffeur returns the balance of the amount with a statement of his expenses and the relevant bills. Company X charges these amounts from the recipients of service. The cost incurred by the chauffeur and billed to the recipient of service constitutes part of gross amount charged for the provision of services by the company X.

6. CASES IN WHICH THE COMMISSION, COSTS, ETC., WILL BE INCLUDED OR EXCLUDED

- (1) Subject to the provisions of section 67, the value of the taxable services shall include, -
 - (i) the commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;
 - (ii) the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;
 - (iii) the amount of premium charged by the insurer from the policy holder;
 - (iv) the commission received by the air travel agent from the airline;
 - (v) the commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;
 - (vi) the reimbursement received by the authorised service station, from manufacturer for carrying out any service of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;
 - (vii) the commission or any amount received by the rail travel agent from the Railways or the customer;
 - (viii) the remuneration or commission, by whatever name called, paid to such agent by the client engaging such agent for the services provided by a clearing and forwarding agent to a client rendering services of clearing and forwarding operations in any manner;
 - (ix) the commission, fee or any other sum, by whatever name called, paid to such agent by the insurer appointing such agent in relation to insurance auxiliary services provided by an insurance agent; and
 - (x) the amount realised as demurrage or by any other name whatever called for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service.

- (2) Subject to the provisions contained in sub-rule (1), the value of any taxable service, as the case may be, does not include -
- i) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for leased circuit;
 - ii) the airfare collected by air travel agent in respect of service provided by him;
 - iii) the rail fare collected by rail travel agent in respect of service provided by him;
 - iv) interest on delayed payment of any consideration for the provision of services or sale of property, whether moveable or immoveable;
 - v) the taxes levied by any Government on any passenger traveling by air, if shown separately on the ticket, or the invoice for such ticket, issued to the passenger; and
 - vi) accidental damages due to unforeseen actions not relatable to the provision of service and
 - vii) subsidies and grants disbursed by the Government, not directly affecting the value of service.

8.

Point Of Taxation Rules, 2011

NOTIFICATION NO. 18/2011 – S.T., DATED 1 MARCH, 2011 as amended

In exercise of the powers conferred under clause (a) and clause (hhh) of sub-section (2) of section 94 of the Finance Act, 1994, The Central Government has notified the following rules for the purpose of collection of service tax and determination of rate of service tax, namely,-

1. SHORT TITLE AND COMMENCEMENT

- (1) These rules shall be called the Point of Taxation Rules, 2011.
- (2) They shall come into force on the 1st day of April, 2011.

2. DEFINITIONS

In these rules, unless the context otherwise requires,-

- (a) **“Act”** means the Finance Act, 1994 (32 of 1994);
- (ba) **“change in effective rate of tax”** shall include a change in the portion of value on which tax is payable in terms of a notification issued in the Official Gazette under the provisions of the Act, or rules made thereunder;
- (c) **“continuous supply of service”** means any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time, or where the Central Government, by a notification in the Official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition;
- (d) **“invoice”** means the invoice referred to in rule 4A of the Service Tax Rules, 1994 and shall include any document as referred to in the said rule;
- (e) **“point of taxation”** means the point in time when a service shall be deemed to have been provided;

2A. DATE OF PAYMENT

For the purposes of these rules, “date of payment” shall be the earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax:

Provided that —

- (A) the date of payment shall be the date of credit in the bank account when —
 - (i) there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account; and
 - (ii) the credit in the bank account is after four working days from the date when there is change in effective rate of tax or a service is taxed for the first time; and
 - (iii) the payment is made by way of an instrument which is credited to a bank account,
- (B) if any rule requires determination of the time or date of payment received, the expression “date of payment” shall be construed to mean such date on which the payment is received.

3. DETERMINATION OF POINT OF TAXATION

For the purposes of these rules, unless otherwise provided, “point of taxation” shall be,-

- (a) the time when the invoice for the service provided or agreed to be provided is issued:

Provided that where the invoice is not issued within the time period specified in rule 4A of the Service Tax Rules, 1994, the point of taxation shall be the date of completion of provision of the service;

(b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.:

Provided that for the purposes of clauses (a) and (b), —

- (i) in case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service;
- (ii) wherever the provider of taxable service receives a payment up to rupees one thousand in excess of the amount indicated in the invoice, the point of taxation to the extent of such excess amount, at the option of the provider of taxable service, shall be determined in accordance with the provisions of clause (a).

Explanation - For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

4. DETERMINATION OF POINT OF TAXATION IN CASE OF CHANGE IN EFFECTIVE RATE OF TAX

Notwithstanding anything contained in rule 3, the point of taxation in cases where there is a change in effective rate of tax in respect of a service, shall be determined in the following manner, namely:-

- (a) in case a taxable service has been provided before the change in effective rate of tax,-
 - (i) where the invoice for the same has been issued and the payment received after the change in effective rate of tax, the point of taxation shall be date of payment or issuing of invoice, whichever is earlier; or
 - (ii) where the invoice has also been issued prior to change in effective rate of tax but the payment is received after the change in effective rate of tax, the point of taxation shall be the date of issuing of invoice; or
 - (iii) where the payment is also received before the change in effective rate of tax, but the invoice for the same has been issued after the change in effective rate of tax, the point of taxation shall be the date of payment;
- (b) in case a taxable service has been provided after the change in effective rate of tax,-
 - (i) where the payment for the invoice is also made after the change in effective rate of tax but the invoice has been issued prior to the change in effective rate of tax, the point of taxation shall be the date of payment; or
 - (ii) where the invoice has been issued and the payment for the invoice received before the change in effective rate of tax, the point of taxation shall be the date of receipt of payment or date of issuance of invoice, whichever is earlier; or
 - (iii) where the invoice has also been raised after the change in effective rate of tax but the payment has been received before the change in effective rate of tax, the point of taxation shall be date of issuing of invoice.

5. PAYMENT OF TAX IN CASES OF NEW SERVICES

Where a service is taxed for the first time, then,-

- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.

6. Omitted

7. DETERMINATION OF POINT OF TAXATION IN CASE OF SPECIFIED SERVICES OR PERSONS

Notwithstanding anything contained in rules 3, 4, or 8, the point of taxation in respect of the persons required to pay tax as recipients of service under the rules made in this regard in respect of services notified under sub-section (2) of section 68 of the Act, shall be the date on which payment is made:

Provided that where the payment is not made within a period of three months of the date of invoice, the point of taxation shall be the date immediately following the said period of three months:

Provided further that in case of “associated enterprises”, where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier.

8. DETERMINATION OF POINT OF TAXATION IN CASE OF COPYRIGHTS, ETC.

In respect of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever is earlier.

8A. DETERMINATION OF POINT OF TAXATION IN OTHER CASES.-

Where the point of taxation cannot be determined as per these rules as the date of invoice or the date of payment or both are not available, the Central Excise officer, may, require the concerned person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account such material and the effective rate of tax prevalent at different points of time, shall, by an order in writing, after giving an opportunity of being heard, determine the point of taxation to the best of his judgment.

9. TRANSITIONAL PROVISIONS

Nothing contained in these rules shall be applicable, –

- (i) where the provision of service is completed; or
- (ii) where invoices are issued

prior to the date on which these rules come into force.

Provided that services for which provision is completed on or before 30th day of June, 2011 or where the invoices are issued upto the 30th day of June, 2011, the point of taxation shall, at the option of the taxpayer, be the date on which the payment is received or made as the case may be.

10. Notwithstanding anything contained in the first proviso to rule 7, if the invoice in respect of a service, for which Point of Taxation is determinable under rule 7 has been issued before the 1st day of October, 2014 but payment has not been made as on the said day, the Point of Taxation shall,–

- (a) if payment is made within a period of six months of the date of invoice, be the date on which payment is made;
- (b) if payment is not made within a period of six months of the date of invoice, be determined as if rule 7 and this rule do not exist.

9.

Service Tax Voluntary Compliance Encouragement Rules, 2013

Notification No. 10/2013-Service Tax

G.S.R.....(E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 114 of the Finance Act, 2013 (17 of 2013), the Central Government hereby makes the following rules regarding the form and manner of declaration, form and manner of acknowledgement of declaration, manner of payment of tax dues and form and manner of issuing acknowledgement of discharge of tax dues under the Service Tax Voluntary Compliance Encouragement Scheme, 2013, namely:-

1) Short title and commencement.-

- (1) These rules may be called the Service Tax Voluntary Compliance Encouragement Rules, 2013.
- (2) They shall come into force on the date of its publication in the Gazette of India.

2) Definitions. –

- (1) In these rules, unless the context otherwise requires, -
 - (a) “Act” means the Finance Act, 2013;
 - (b) “Form” means the Forms annexed to these rules.
 - (c) “Scheme” means the Service Tax Voluntary Compliance Encouragement Scheme, 2013 as specified in the Act;
- (2) Words and expressions used but not defined in these rules but defined in the Scheme shall have the meanings respectively assigned to them in the Scheme.

3) Registration. –

Any person, who wishes to make a declaration under the Scheme, shall, if not already registered, take registration under rule 4 of the Service Tax Rules, 1994.

4) Form of declaration.-

The declaration under sub-section (1) of section 107 of the Act, in respect of tax dues under the Scheme shall be made in Form VCES -1.

5) Form of acknowledgment of declaration.-

The designated authority on receipt of declaration shall issue an acknowledgement thereof, in Form VCES -2, within a period of seven working days from the date of receipt of the declaration.

6) Payment of tax dues.-

- (1) The tax dues payable under the Scheme along with interest, if any, under section 107 of the Act shall be paid to the credit of the Central Government in the manner prescribed for the payment of service tax under the Service Tax Rules, 1994.
- (2) The CENVAT credit shall not be utilised for payment of tax dues under the Scheme.

7) Form of acknowledgement of discharge.-

- (1) The designated authority shall issue an acknowledgement of discharge under sub-section (7) of section 107 of the Act, in Form VCES - 3.
- (2) The acknowledgement of discharge shall be issued within a period of seven working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant.

10.

Effective service tax rates after abatement

Sr. No.	Description of taxable service	Conditions	Percentage amount of value on which Service tax is required to be paid
1	Services in relation to financial leasing including hire purchase	Nil	10
2	Transport of goods by rail	Nil	30
3	Transport of passengers, with or without accompanied belongings by rail	Nil	30
4	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	(i) CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	70
5	Transport of passengers by air, with or without accompanied belongings	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	40
6	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	Same as above.	60
7	Services of goods transport agency in relation to transportation of goods.	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.	25
8	Services provided in relation to chit	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	70

Sr. No.	Description of taxable service	Conditions	Percentage amount of value on which Service tax is required to be paid
9	Renting of motorcab*	<p>(i) CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004;</p> <p>(ii) CENVAT credit on input service of renting of motorcab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner:</p> <p>(a) Full CENVAT credit of such input service received from a person who is paying service tax on forty percent of the value; or</p> <p>(b) Up to forty percent CENVAT credit of such input service received from a person who is paying service tax on full value;</p> <p>(iii) CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p>	40
9A	Transport of passengers, with or without accompanied belongings, by- a) a contract carriage other than motorcab b) a radio taxi	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004	40
10	Transport of goods in a vessel	Same as above.	40**
11	Services by a tour operator in relation to,- (i) a package tour	<p>(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.</p>	25

*Upto 30 September 2014, the entry read as "Renting of any motor vehicle designed to carry passengers"

**Upto 30 September 2014, it is "50"

Sr. No.	Description of taxable service	Conditions	Percentage amount of value on which Service tax is required to be paid
	<p>(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour</p> <p>(iii) any services other than specified at (i) and (ii) above.</p>	<p>(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation.</p> <p>(iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.</p> <p>(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.</p>	<p>10</p> <p>40</p>
12	<p>Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority</p> <p>(a) for residential unit satisfying both the following conditions, namely:-</p> <p>(i) the carpet area of the unit is less than 2000 square feet; and</p> <p>(ii) the amount charged for the unit is less than rupees one crore;</p> <p>(b) for other than the (a) above.</p>	<p>(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The value of land is included in the amount charged from the service receiver.</p>	<p>25</p> <p>30</p>

Explanation. –

A) For the purposes of exemption at Serial number 1 -

- i) The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installments paid towards repayment of the lease amount and the principal amount contained in such installments;
- ii) the exemption shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee, which shall be added to the amount calculated in terms of (i) above.

B) For the purposes of exemption at Serial number 4 -

The amount charged shall be the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink (whether or not intoxicating) and whether or not supplied under the same contract or any other contract, after deducting-

- i) the amount charged for such goods or services supplied to the service provider, if any; and
- ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

C) For the purposes of exemption at Serial number 12 –

The amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract, after deducting-

- i) the amount charged for such goods or services supplied to the service provider, if any; and
- ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

2) For the purposes of this notification, unless the context otherwise requires,-

- a) “chit” means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,
- b) “package tour” means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour,
- c) “tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.

Note: The above abatement rates have been notified wide Notification No. 26/2012 dated 20 June, 2012 and further amended by Notification No. 02/2013 dated 1 March 2013, Notification No. 09/2013 dated 8 May 2013 and Notification No. 08/2014 dated 11 July 2014.

11.

Service Tax (Compounding of Offences) Rules, 2012

Notification No. 17/2012 - Service Tax

G.S.R. (E).- In exercise of the powers conferred by clause (i) of sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as "the Act") read with sub-section (2) of section 9A of the Central Excise Act, 1944 (1 of 1944), made applicable to service tax vide section 83 of the Act, the Central Government hereby makes the following rules, namely :

1) **Short title and commencement.-**

- (1) These rules may be called the Service Tax (Compounding of Offences) Rules, 2012.
- (2) They shall come into force on the date of publication in the Official Gazette.

2) **Definitions.-** In these rules, unless the context otherwise requires,-

- (a) "Act" means Chapter V of the Finance Act, 1994 (32 of 1994);
- (b) "applicant" means any assessee or any other person, but shall not include officers of Central Excise appointed for exercising the powers under the Act under rule 3 of the Service Tax Rules, 1994;
- (c) "compounding authority" means the Chief Commissioner of Central Excise, having jurisdiction over the place where the offence under the Act, have been or alleged to have been committed;
- (d) "Excise Act" means the Central Excise Act, 1944 (1 of 1944);
- (e) "form" means the form appended to these rules;
- (f) "reporting authority" means, the Commissioner of Central Excise or Commissioner of Service Tax, having jurisdiction over the place where the offences under the Act have been or are alleged to have been committed or any other officer as may be authorised in this regard by the Chief Commissioner of Central Excise having jurisdiction over the place where such offences under the Act, have been or are alleged to have been committed;
- (g) "section" means a section of the Act; and
- (h) words and expressions used in these rules and not defined but defined in the Act or Central Excise Act, 1944 shall have the respective meanings assigned to them in the Act or Central Excise Act, 1944, as the case may be.

3) **Form and manner of application.-** An applicant may, either before or after the institution of prosecution, make an application under sub-section (2) of section 9A of Excise Act, made applicable to service tax vide section 83 of the Act, in the form appended to these rules, to the compounding authority to compound the offence.

Explanation.- Where an offence under the Act has been committed at more than one place falling under the jurisdiction of more than one compounding authority, then the Chief Commissioner of Central Excise having jurisdiction over such place where the amount of service tax evaded is more than the others, shall be the competent authority.

4) **Procedure on receipt of application under rule 3.-**

- (1) On receipt of an application under rule 3, the compounding authority shall call for a report from the reporting authority with reference to the particulars furnished in the application, or any other information, which may be considered relevant for examination of such application.
- (2) Such report shall be furnished by the reporting authority within a period of one month or within such extended period as may be allowed by the compounding authority, from the date of receipt of communication from the compounding authority.
- (3) The compounding authority, after taking into account the contents of the said application, may, by order, either allow the application indicating the compounding amount in terms of rule 5 and grant him immunity from prosecution in terms of rule 6 or reject such application:

Provided that application shall not be rejected unless an opportunity has been given to the applicant of being heard and the grounds of such rejection are mentioned in such order:

Provided further that application shall not be allowed unless the service tax, penalty and interest liable to be paid have been paid for the case for which application has been made.

(4) A copy of every order under sub-rule (3) shall be sent to the applicant.

(5) The applicant shall, within a period of thirty days from the date of receipt of order under sub-rule (3) allowing the compounding of offences, pay the compounding amount, as ordered to be paid by the compounding authority and shall furnish the proof of such payment to the compounding authority.

(6) The compounding amount once paid shall not be refunded except in cases where the court rejects grant of immunity from prosecution.

(7) The applicant shall not claim, as of right, that his offence be compounded.

- 5) **Fixation of the compounding amount.** - For the purpose of compounding of offences under the provisions of the Act, the compounding amount shall be as provided in the following Table, namely:-

Sr. No.	Offence	Compounding amount
1	Offence specified under section 89 (1)(a) of the Act	Up to fifty per cent. of the amount of service tax evasion, subject to minimum of ten per cent. of amount of tax evaded
2	Offence specified under section 89 (1)(b) of the Act	Upto fifty per cent. of the amount of CENVAT Credit wrongly taken or utilised, subject to minimum of ten per cent. of said amount.
3	Offence specified under section 89 (1)(c) of the Act	Rupees fifty thousand for the first offence and to be increased by hundred per cent. of this amount for each subsequent offence
4	Offence specified under section 89 (1)(d) of the Act	Upto twenty five per cent. of the amount of service tax not deposited subject to a minimum of two per cent. for each month for which the amount has not been so deposited.

Provided that if a person has committed offences falling under more than one category specified above and where the amount of service tax evasion or amount of CENVAT Credit wrongly taken or utilised is the same for all such offences, the compounding amount, in such cases, shall be the amount as determined for the offence for which a higher compounding amount has been prescribed.

- 6) **Power of compounding authority to grant immunity from prosecution.**- The compounding authority, if he is satisfied that any person who has made the application for compounding of offence under these rules has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, grant such person, subject to such conditions as he may think fit to impose, immunity from prosecution for any offence under the Act, with respect to the case covered by the compounding of offence.

- 7) **Withdrawal of immunity from prosecution in certain conditions.** -

(1) An immunity granted to a person under rule 6 shall stand withdrawn if such person fails to pay any sum specified in the order of compounding passed by the compounding authority, under sub-rule (3) of rule 4 within the time specified in the order or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of the Act, shall apply as if no such immunity had been granted.

(2) An immunity granted to a person under sub-rule (1) may, at any time, be withdrawn by the compounding authority, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars, or had given false evidence, and thereupon the person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and, thereupon, the provisions of the Act, shall apply as if no such immunity had been granted.

12.

Service Tax (Settlement of Cases) Rules, 2012

Notification No. 16/2012 - Service Tax

G.S.R. (E). - In exercise of the powers conferred by clause (j) of sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as "the Act"), read with sections 31, 32 and 32A to 32P of the Central Excise Act, 1944 (1 of 1944) made applicable to service tax vide section 83 of the Act, 1994, the Central Government hereby makes the following rules, namely:-

1) **Short title and commencement.-**

- (1) These rules may be called the Service Tax (Settlement of Cases) Rules, 2012.
- (2) They shall come into force on the date of publication in the Official Gazette.

2) **Definitions.-** In these rules, unless the context otherwise requires,-

- (a) "Act" means Chapter V of the Finance Act, 1994 (32 of 1994);
- (b) "Excise Act" means the Central Excise Act, 1944 (1 of 1944);
- (c) "Form SC(ST)-1" means the form appended to these rules;
- (d) "section" means a section of the Act ;
- (e) words and expressions used herein and not defined but defined in the Act or Excise Act, shall have the respective meanings assigned to them in those Acts.

3) **Form and manner of application.-**

- (1) An application under sub-section (1) of section 32E of Excise Act, made applicable to service tax vide section 83 of the Act, shall be made in the Form SC(ST)-1.
- (2) The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be signed,-
 - (a) in the case of an individual, by the individual himself or where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
 - (b) in the case of a Hindu undivided family, by the Karta of such family and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by the senior most adult member of the family available;
 - (c) in the case of a company or local authority, by the principal officer thereof;
 - (d) in the case of a firm, by any partner thereof, not being a minor;
 - (e) in case of any other association, by any member of the association or the principal officer thereof; and
 - (f) in the case of any other person, by that person or some person competent to act on his behalf.
- (3) Every application in the Form SC(ST)-1 shall be filed in quintuplicate and shall be accompanied by a fee of one thousand rupees.
- (4) The additional amount of service tax accepted by the applicant along with interest due thereon, shall be deposited by him in any of the authorised bank under TR-6, referred to in the Service Tax Rules, 1994 (hereinafter referred to as TR-6 Challan) in quintuplicate, or G.A.R.-7 and shall be disclosed by him in the Form.

4) **Disclosure of information in the application for settlement of cases.-**

The Settlement Commission shall, while calling for a report from the Commissioner of Central Excise having jurisdiction or Commissioner of Service Tax having jurisdiction, under sub-section (3) of section 32F of Excise Act, made applicable to service tax vide section 83 of the Act, forward a copy of the application referred to in sub-rule (1) of rule 3 along with the annexure to the application and the statements and other documents accompanying such annexure.

5) **Manner of provisional attachment of property. -**

- (1) Where the Settlement Commission orders attachment of property under sub-section (1) of section 32G of Excise Act, made applicable to service tax vide section 83 of the Act, it shall send a copy of such order to the Commissioner of Central Excise or Commissioner of Service Tax having jurisdiction over the place in which the applicant owns any movable or immovable property or resides or carries on his business or has his bank account.
 - (2) On receipt of the order referred to in sub-rule (1), the Commissioner may authorise any officer subordinate to him and not below the rank of an Assistant Commissioner of Central Excise or Service Tax to take steps to attach such property of the applicant.
 - (3) The officer authorised under sub-rule (2) shall prepare an inventory of the property attached and specify in it, in the case of the immovable property, the description of such property sufficient to identify it and in case of the movable property, the place where such property is lodged or kept and shall hand over a copy of the same to the applicant or to the person from whose charge the property is attached.
 - (4) The officer authorised under sub-rule (2) shall send a copy of the inventory so prepared each to the Commissioner of Central Excise and the Settlement Commission.
- 6) **Fee for copies of reports. –** Any person who makes an application under section 32J of Excise Act, made applicable to service tax vide section 83 of the Act, for obtaining copies of reports made by any Central Excise Officer, shall pay a fee of five rupees per page of each report or part thereof.

13.

Mega Exemption Notification

Notification No. 25/2012-Service Tax

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012- Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely:-

- 1) Services provided to the United Nations or a specified international organization;
- 2) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
- 2A) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation;
- 2B) Services provided by operators of the Common Bio-medical Waste Treatment Facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto;
- 3) Services by a veterinary clinic in relation to health care of animals or birds;
- 4) Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
- 5) Services by a person by way of-
 - (a) renting of precincts of a religious place meant for general public; or
 - (b) conduct of any religious ceremony;
- 5A) Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement;
- 6) Services provided by-
 - (a) an arbitral tribunal to -
 - (i) any person other than a business entity; or
 - (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year;
 - (b) an individual as an advocate or a partnership firm of advocates by way of legal services to,-
 - (i) an advocate or partnership firm of advocates providing legal services ;
 - (ii) any person other than a business entity; or
 - (iii) a business entity with a turnover up to rupees ten lakh in the preceding financial year; or
 - (c) a person represented on an arbitral tribunal to an arbitral tribunal;
- 7) Omitted w.e.f. 11 July 2014
- 8) Services by way of training or coaching in recreational activities relating to arts, culture or sports;
- 9) Services provided,-
 - (a) by an educational institution to its students, faculty and staff;
 - (b) to an educational institution, by way of,-
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Government;
 - (iii) security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;
- 9A) Any services provided by, -
 - (i) the National Skill Development Corporation set up by the Government of India;
 - (ii) a Sector Skill Council approved by the National Skill Development Corporation;
 - (iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
 - (iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council

in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation.

- 10) Services provided to a recognised sports body by-
- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
 - (b) another recognised sports body;
- 11) Services by way of sponsorship of sporting events organised,-
- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
 - (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - (c) by Central Civil Services Cultural and Sports Board;
 - (d) as part of national games, by Indian Olympic Association; or
 - (e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme;
- 12) Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -
- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
 - (d) canal, dam or other irrigation works;
 - (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or
 - (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;
- 13) Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-
- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public;
 - (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;
 - (c) a building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;
 - (d) a pollution control or effluent treatment plant, except located as a part of a factory; or
 - a structure meant for funeral, burial or cremation of deceased;
- 14) Services by way of construction, erection, commissioning, or installation of original works pertaining to,-
- (a) an airport, port or railways, including monorail or metro;
 - (b) a single residential unit otherwise than as a part of a residential complex;
 - (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
 - (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
 - (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;
- 15) Services provided by way of temporary transfer or permitting the use or enjoyment of a copyright,-
- (a) covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical or artistic works; or
 - (b) of cinematograph films for exhibition in a cinema hall or cinema theatre;

- 16) Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
- 17) Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
- 18) Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent;
- 19) Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year.
- 19A) Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 (63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year.
- 20) Services by way of transportation by rail or a vessel from one place in India to another of the following goods -
 - (a) Omitted;
 - (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - (c) defence or military equipments;
 - (d) Omitted;
 - (e) Omitted;
 - (f) newspaper or magazines registered with the Registrar of Newspapers;
 - (g) railway equipments or materials;
 - (h) agricultural produce;
 - (i) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
 - (j) chemical fertilizer, organic manure and oil cakes;
 - (k) cotton, ginned or baled;
- 21) Services provided by a goods transport agency by way of transport in a goods carriage of. -
 - (a) agricultural produce;
 - (b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
 - (c) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;
 - (d) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages;
 - (e) chemical fertilizer, organic manure and oil cakes;
 - (f) newspaper or magazines registered with the Registrar of Newspapers;
 - (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
 - (h) defence or military equipments;
 - (i) cotton, ginned or baled;
- 22) Services by way of giving on hire -
 - (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
 - (b) to a goods transport agency, a means of transportation of goods;
- 23) Transport of passengers, with or without accompanied belongings, by -
 - (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
 - (b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or;
 - (c) ropeway, cable car or aerial tramway;
- 24) Omitted;

- 25) Services provided to Government, a local authority or a governmental authority by way of -
- (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and up gradation; or;
 - (b) repair or maintenance of a vessel;
- 26) Services of general insurance business provided under following schemes -
- (a) Hut Insurance Scheme;
 - (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
 - (c) Scheme for Insurance of Tribals;
 - (d) Janata Personal Accident Policy and Gramin Accident Policy;
 - (e) Group Personal Accident Policy for Self-Employed Women;
 - (f) Agricultural Pumpset and Failed Well Insurance;
 - (g) premia collected on export credit insurance;
 - (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
 - (i) Jan Arogya Bima Policy;
 - (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
 - (k) Pilot Scheme on Seed Crop Insurance;
 - (l) Central Sector Scheme on Cattle Insurance;
 - (m) Universal Health Insurance Scheme;
 - (n) Rashtriya Swasthya Bima Yojana; or
 - (o) Coconut Palm Insurance Scheme;
- 26A) Services of life insurance business provided under following schemes –
- (a) Janashree Bima Yojana (JBY); or
 - (b) Aam Aadmi Bima Yojana (AABY);
 - (c) life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees.
- 27) Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-
- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and
 - (b) a period of three years has not been elapsed from the date of entering into an agreement as an incubatee;
- 28) Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -
- (a) as a trade union;
 - (b) for the provision of carrying out any activity which is exempt from the levy of service tax; or
 - (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
- 29) Services by the following persons in respective capacities -
- (a) sub-broker or an authorised person to a stock broker;
 - (b) authorised person to a member of a commodity exchange;
 - (c) mutual fund agent to a mutual fund or asset management company;
 - (d) distributor to a mutual fund or asset management company;
 - (e) selling or marketing agent of lottery tickets to a distributor or a selling agent;
 - (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;
 - (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or
 - (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

- 30) Carrying out an intermediate production process as job work in relation to -
 - (a) agriculture, printing or textile processing;
 - (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);
 - (c) any goods on which appropriate duty is payable by the principal manufacturer; or
 - (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
 - 31) Services by an organiser to any person in respect of a business exhibition held outside India;
 - 32) Services by way of making telephone calls from -
 - (a) departmentally run public telephone;
 - (b) guaranteed public telephone operating only for local calls; or
 - (c) free telephone at airport and hospital where no bills are being issued;
 - 33) Services by way of slaughtering of animals;
 - 34) Services received from a provider of service located in a non-taxable territory by -
 - (a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
 - (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; or
 - (c) a person located in a non-taxable territory;
 - 35) Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material;
 - 36) Services by Employees' State Insurance Corporation to persons governed under the Employees' Insurance Act, 1948 (34 of 1948);
 - 37) Services by way of transfer of a going concern, as a whole or an independent part thereof;
 - 38) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets;
 - 39) Services by a governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.
 - 40) Services by way of loading, unloading, packing, storage or warehousing of rice, cotton, ginned or baled;
 - 41) Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves;
 - 42) Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
- 2) Definitions. - For the purpose of this notification, unless the context otherwise requires, -
 - (a) "Advocate" has the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961);
 - (b) "appropriate duty" means duty payable on manufacture or production under a Central Act or a State Act, but shall not include 'Nil' rate of duty or duty wholly exempt;
 - (c) "arbitral tribunal" has the meaning assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996 (26 of 1996);
 - (d) "authorised medical practitioner" means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognized by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

- (e) “authorised person” means any person who is appointed as such either by a stock broker (including trading member) or by a member of a commodity exchange and who provides access to trading platform of a stock exchange or a commodity exchange as an agent of such stock broker or member of a commodity exchange;
- (f) Omitted
- (g) “banking company” has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (h) “brand ambassador” means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person;
- (i) “business facilitator or business correspondent” means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by Reserve Bank of India;
- (j) “clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;
- (k) “charitable activities” means activities relating to -
 - (i) public health by way of -
 - (a) care or counseling of (i) terminally ill persons or persons with severe physical or mental disability, (ii) persons afflicted with HIV or AIDS, or (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (b) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion or spirituality;
 - (iii) advancement of educational programmes or skill development relating to,-
 - (a) abandoned, orphaned or homeless children;
 - (b) physically or mentally abused and traumatized persons;
 - (c) prisoners; or
 - (d) persons over the age of 65 years residing in a rural area;
 - (iv) preservation of environment including watershed, forests and wildlife;
 - (v) Omitted;
- (l) “commodity exchange” means an association as defined in section 2 (j) and recognized under section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952);
- (m) “contract carriage” has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (n) “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit;
- (o) “distributor or selling agent” has the meaning assigned to them in clause (c) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (I), vide number G.S.R. 278(E), dated the 1st April, 2010 and shall include distributor or selling agent authorised by the lottery- organising State;
- (oa) “educational institution” means an institution providing services specified in clause (I) of section 66D of the Finance Act, 1994 (32 of 1994);
- (p) “general insurance business” has the meaning assigned to it in clause (g) of section 3 of General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

- (q) “general public” means the body of people at large sufficiently defined by some common quality of public or impersonal nature;
- (r) “goods carriage” has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (s) “governmental authority” means an authority or a board or any other body;
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;
- (t) “health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;
- (u) “incubatee” means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products;
- (v) “insurance company” means a company carrying on life insurance business or general insurance business;
- (w) “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;
- (x) “life insurance business” has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (xa) “life micro-insurance product” shall have the meaning assigned to it in clause (e) of regulation 2 of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005;
- (y) “original works” means has the meaning assigned to it in Rule 2A of the Service Tax (Determination of Value) Rules, 2006;
- (z) “principal manufacturer” means any person who gets goods manufactured or processed on his account from another person;
- (za) “radio taxi” means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
- (zaa) “recognised sports body” means – (i) the Indian Olympic Association, (ii) Sports Authority of India, (iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliated federations, (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government, (v) the International Olympic Association or a federation recognised by the International Olympic Association or (vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;
- (zab) “religious place” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;
- (zbc) “residential complex” means any complex comprising of a building or buildings, having more than one single residential unit;

- (zd) "rural area" means the area comprised in a village as defined in land revenue records, excluding-
the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or
any area that may be notified as an urban area by the Central Government or a State Government;
- (ze) "single residential unit" means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family;
- (zf) "specified international organization" means an international organization declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply;
- (zfa) "specified organisation" shall mean,-
a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
b) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002);
- (zg) "state transport undertaking" has the meaning assigned to it in clause (42) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (zh) "sub-broker" has the meaning assigned to it in sub-clause (gc) of clause 2 of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992;
- (zi) "trade union" has the meaning assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926).

3) This notification shall come into force on the 1st day of July, 2012.

14.

Notification on Reverse Charge Mechanism

Notification No. 30/2012-Service Tax

GSR.....(E).—In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), and in supersession of (i) notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 15/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 213(E), dated the 17th March, 2012, and (ii) notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2004-Service Tax, dated the 31st December, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 849 (E), dated the 31st December, 2004, except as respects things done or omitted to be done before such supersession, the Central Government hereby notifies the following taxable services and the extent of service tax payable thereon by the person liable to pay service tax for the purposes of the said sub-section, namely:—

- I) The taxable services,—
- (A) (i) provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;
- (ia) provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non banking financial company;
- (ii) provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—
- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons;
- (iii) provided or agreed to be provided by way of sponsorship to anybody corporate or partnership firm located in the taxable territory;
- (iv) provided or agreed to be provided by,—
- (A) an arbitral tribunal, or
- (B) an individual advocate or a firm of advocates by way of legal services, or
- (C) Government or local authority by way of support services excluding,—
- (1) renting of immovable property, and
- (2) services specified in sub-clauses (I), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994, to any business entity located in the taxable territory;
- (iva) provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate;
- (v) provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose or security services or service portion in execution of works contract by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory;
- (B) provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory;
- II) The extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (I) shall be as specified in the following Table, namely:—

Sr. No.	Description of a service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
(1)	(2)	(3)	(4)
1	in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business	Nil	100%
1A	in respect of services provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company	Nil	100%
2	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	Nil	100%
3	in respect of services provided or agreed to be provided by way of sponsorship	Nil	100%
4	in respect of services provided or agreed to be provided by an arbitral tribunal	Nil	100%
5	in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services	Nil	100%
5A	in respect of services provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate	Nil	100%
6	in respect of services provided or agreed to be provided by Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994	Nil	100%
7	(a) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business (b) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business -Prior to 1 October, 2014 -Post 1 October, 2014	Nil	100%
		60%	40%
		50%	50%
8	in respect of services provided or agreed to be provided by way of supply of manpower for any purpose or security services	25%	75%
9	in respect of services provided or agreed to be provided in service portion in execution of works contract	50%	50%
10	in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory	Nil	100%

Explanation-I. - The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Explanation-II. - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

2. This notification shall come into force on the 1st day of July, 2012.

15.

Definitions / Service Categories (Applicable till 30 June 2012)

ADVERTISING AGENCY'S SERVICES

Section 65(105)(e)

"taxable service" means any service provided, or to be provided to any person , by an advertising agency in relation to advertisements, in any manner and the term "service provider" shall be construed accordingly.

Section 65(2)

"advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas.

Section 65(3)

"advertising agency" means any person engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant.

AIRPORT SERVICES

Section 65(105)(zzm)

"taxable service" means any service provided or to be provided to any person, by airports authority or by any other person, in any airport or a civil enclave and the term "service provider" shall be construed accordingly.

Provided that the provisions of section 65(A) shall not apply to any service when the same is rendered wholly within the airport or civil enclave.

Section 65(3c)

"airport" has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994).

Section 65(3d)

"airports authority" means the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994) and also includes any person having the charge of management of an airport or a civil enclave.

Section 65(24a)

"civil enclave" has the meaning assigned to it in clause (i) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994).

Airport Authority of India Act, 1994

Section 2(b)

"airport" means a landing and taking off area for aircraft, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934.

Section 2(i)

"civil enclave" means the area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area.

AIR TRAVEL AGENT'S SERVICES

Section 65(105)(l)

"taxable service" means any service provided or to be provided to any person , by an air travel agent in relation to the booking of passage for travel by air and the term "service provider" shall be construed accordingly.

Section 65(4)

“air travel agent” means any person engaged in providing any service connected with the booking of passage for travel by air.

ARCHITECT'S SERVICES

Section 65(105)(p)

“taxable service” means any service provided or to be provided to any person, by an architect in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(6)

“architect” means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972), and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture.

ASSET MANAGEMENT INCLUDING PORTFOLIO MANAGEMENT AND ALL FORMS OF FUND MANAGEMENT SERVICE

Section 65(105)(zzzzc)

“taxable service” means any service provided or to be provided to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm), in relation to asset management including portfolio management and all forms of fund management and the term “service provider” shall be construed accordingly.”

The Securities and Exchange Board of India (Portfolio Managers) Rules, 1993

Rule 2 (e)

“Portfolio Manager” means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (Whether as a discretionary Portfolio Manager or otherwise) the management or administration as a Portfolio securities or the funds of the client, as the case may be.

AUCTIONEER'S SERVICE

Section 65(105)(zzzr)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government and the term “service provider” shall be construed accordingly.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “auction by the Government” means the Government property being auctioned by any person acting as auctioneer.

Section 65(7a)

“auction of property” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property.

AUTHORISED SERVICE STATION'S SERVICES

Section 65(105)(zo)

"taxable service" means any service provided or to be provided to any person , by any other person, in relation to any service for repair, reconditioning, restoration or decoration or any other similar services, of any motor vehicle other than three wheeler scooter, auto – rickshaw and motor vehicle meant for goods carriage.

Section 65(73)

"motor vehicle" has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

The Motor Vehicles Act, 1988

Section 2(28)

"motor vehicle" or **"vehicle"** means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres.

AUTOMATED TELLER MACHINE (ATM) OPERATIONS, MAINTENANCE OR MANAGEMENT SERVICES

Section 65(105)(zzzk)

"taxable service" means any service provided or to be provided to any person, by any other person, in relation to automated teller machine operations, maintenance or management service, in any manner and the term "service provider" shall be construed accordingly.

Section 65(9a)

"automated teller machine" means an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions.

Section 65(9b)

"automated teller machine operations, maintenance or management service" means any service provided in relation to automated teller machines and includes site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value-added services.

BANKING AND OTHER FINANCIAL SERVICES

Section 65(105)(zm)

"taxable service" means any service provided or to be provided to any person, by a banking company or a financial institution including a non-banking financial company, or any other body corporate or commercial concern, in relation to banking and other financial services and the term "service provider" shall be construed accordingly.

Section 65(105)(zzk)

"taxable service" means any service provided or to be provided to any person, by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorised money changer, other than a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm) and the term "service provider" shall be construed accordingly.

Section 65(8)

"authorised dealer of foreign exchange" has the meaning assigned to "authorised person" in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Section 65(9c)

“banker to an issue” means a bank included in the Second schedule to the Reserve Bank of India Act, 1934 (2 of 1934), carrying on the activities relating to an issue including acceptance of application, application money, allotment money and call money, refund of application money, payment of dividend and interest warrants.

Section 65(10)

“banking” has the meaning assigned to it in clause (b) of section 5 of the Banking Regulation Act, 1949 (10 of 1949).

Section 65(11)

“banking company” has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934).

Section 65(12)

“banking and other financial services” means -

- (a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern namely:-
- (i) financial leasing services including equipment leasing and hire-purchase;
Explanation - For the purposes of this item, “financial leasing” means a lease transaction where
 - (i) contract for lease is entered into between two parties for leasing of a specified asset;
 - (ii) such contract is for use and occupation of the asset by the lessee;
 - (iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and
 - (iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;
 - (ii) omitted;
 - (iii) merchant banking services;
 - (iv) securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing;
 - (v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services;
 - (vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy;
 - (vii) provision and transfer of information and data processing;
 - (viii) Banker to an issue services; and
 - (ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange; transfer of money including telegraphic transfer, mail transfer and electronic transfer; providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults; operation of bank accounts;
- (b) foreign exchange broking and purchase or sale of foreign currency, including money changing provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer, other than those covered under sub-clause (a).

Explanation – For the purposes of this clause, it is hereby declared that “purchase or sale of foreign currency, including money changing” includes purchase or sale of foreign currency, whether or not the consideration for such purchase or sale, as the case may be, is specified separately.

Section 65(14)

“body corporate” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956).

Section 65(45)

“financial institution” has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934).

Section 65(46)

“foreign exchange broker” includes any authorised dealer of foreign exchange.

Section 65(74)

“non-banking financial company” has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934).

The Banking Regulation Act, 1949

Section 5(b)

“banking” means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise.

The Reserve Bank of India Act, 1934

Section 45A(a)

“banking company” means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes the State Bank of India, any Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), and any other financial institution notified by the Central Government in this behalf.”

Section 45-I(c)

“financial institution” means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:-

- (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
- (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a government or local authority or other marketable securities of a like nature;
- (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972 (26 of 1972);
- (iv) the carrying on of any class of insurance business;
- (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;
- (vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, but does not include any institution, which carries on as its principal business,-

(a) agricultural operations; or

(aa) industrial activity; or

(b) the purchase, or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so, however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation - For the purposes of this clause, “industrial activity” means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964).

Section 45-I(f)

“non-banking financial company” (NBFC) means -

- (i) a financial institution which is a company;
- (ii) a non banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
- (iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

The Companies Act, 1956

Section 2(7)

“body corporate” or **“corporation”** includes a company incorporated outside India, but does not include —

- (a) a corporate sole;
- (b) a co-operative society registered under any law relating to co-operative societies; and
- (c) any other body corporate (not being a company as defined in the Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Foreign Exchange Management Act, 1999

Section 2(c)

“authorised person” means an authorised dealer, money changer, offshore banking unit or any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities.

BEAUTY TREATMENT SERVICE

Section 65(105)(zq)

“taxable service” means any service provided or to be provided to any person, by a beauty parlour in relation to beauty treatment and the term “service provider” shall be construed accordingly.

Section 65(17)

“beauty treatment” includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services.

Section 65(18)

“beauty parlour” means any establishment providing beauty treatment services.

BROADCASTING SERVICES

Section 65(105)(zk)

“taxable service” means any service provided or to be provided to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency or organisation and the term “service provider” shall be construed accordingly.

Explanation - For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall

be a taxable service in relation to broadcasting, even if the encryption of the signals or beaming thereof through the satellite might have taken place outside India.

Section 65(15)

“broadcasting” has the meaning assigned to it in clause (c) of section 2 of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990 (25 of 1990) and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multi-system operator or any other person on behalf of the said agency or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner.

Section 65(16)

“broadcasting agency or organisation” means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multi-system operator or any other person on behalf of the said agency or organisation.

The Prasar Bharati (Broadcasting Corporation of India) Act, 1990

Section 2(c)

“broadcasting” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variation and cognate expressions shall be construed accordingly.

BUSINESS AUXILIARY SERVICES

Section 65(105)(zzb)

“taxable service” means any service provided or to be provided to a client, by any person in relation to business auxiliary service and the term “service provider” shall be construed accordingly.

Section 65(19)

“business auxiliary service” means any service in relation to -

- (i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or
- (ii) promotion or marketing of service provided by the client;
- (iii) any customer care service provided on behalf of the client; or
- (iv) procurement of goods or services, which are inputs for the client; or

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “inputs” means all goods or services intended for use by the client;

- (v) production or processing of goods for, or on behalf of, the client; or
- (vi) provision of service on behalf of the client; or
- (vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or

recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision, and includes services as a commission agent, but does not include any activity that amounts to manufacture of excisable goods.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this clause, -

- (a) **"commission agent"** means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person –
 - (i) deals with goods or services or documents of title to such goods or services; or
 - (ii) collects payment of sale price of such goods or services; or
 - (iii) guarantees for collection or payment for such goods or services; or
 - (iv) undertakes any activities relating to such sale or purchase of such goods or services;
- (b) **"excisable goods"** has the meaning assigned to it in clause (d) of section 2 of the Central Excise Act, 1944;
- (c) **"manufacture"** has the meaning assigned to it in clause (f) of section 2 of the Central Excise Act, 1944.

The Central Excise Act, 1944

Section 2(d)

"excisable goods" means goods specified in the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as being subject to a duty of excise and includes salt.

Section 2(f)

"manufacture" includes any process -

- (i) incidental or ancillary to the completion of a manufactured product;
- (ii) which is specified in relation to any goods in the Section or Chapter notes of the first schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture; or
- (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer, and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.

BUSINESS EXHIBITION SERVICES

Section 65(105)(zz)

"taxable service" means any service provided or to be provided to an exhibitor, by the organiser of a business exhibition, in relation to business exhibition and the term "service provider" shall be construed accordingly.

Section 65(19a)

"business exhibition" means an exhibition, -

- (a) to market; or
- (b) to promote; or
- (c) to advertise; or
- (d) to showcase,

any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be.

BUSINESS SUPPORT SERVICES

Section 65(105)(zzzq)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to support services of business or commerce, in any manner and the term “service provider” shall be construed accordingly.

Section 65(104c)

“support services of business or commerce” means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational or administrative assistance in any manner, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation - For the purposes of this clause, the expression “infrastructural support services” includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security.

CABLE SERVICES

Section 65(105)(zs)

“taxable service” means any service provided or to be provided to any person, by a cable operator, including multi-system operator in relation to cable services and the term “service provider” shall be construed accordingly.

Section 65(21)

“cable operator” has the meaning assigned to it in clause (aa) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).

Section 65(22)

“cable service” has the meaning assigned to it in clause (b) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).

The Cable Television Networks (Regulation) Act, 1995

Section 2(aa)

“cable operator” means any person who provides cable service through a television network or otherwise controls or is responsible for the management and operation of a cable television network.

Section 2(b)

“cable service” means the transmission by cables of programme including re-transmission by cable of any broadcast television signals.

CARGO HANDLING SERVICE

Section 65(105)(zr)

“taxable service” means any service provided or to be provided to any person, by a cargo handling agency in relation to cargo handling services and the term “service provider” shall be construed accordingly.

Section 65(23)

“cargo handling service” means loading, unloading, packing or unpacking of cargo and includes,-

- (a) cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service incidental to freight; and

- (b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking
but does not include, handling of export cargo or passenger baggage or mere transportation of goods.

CHARTERED ACCOUNTANT'S SERVICES

Section 65(105)(s)

"taxable service" means any service provided or to be provided to any person, by a practising chartered accountant in his professional capacity, in any manner and the term "service provider" shall be construed accordingly.

Section 65(83)

"practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy.

CLEANING ACTIVITY SERVICE

Section 65(105)(zzzd)

"taxable service" means any service provided or to be provided to any person, by any other person, in relation to cleaning activity.

Section 65(24b)

"cleaning activity" means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of -

- (i) commercial or industrial buildings and premises thereof; or
 - (ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof
- but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying.

CLEARING AND FORWARDING AGENT'S SERVICES

Section 65(105)(j)

"taxable service" means any service provided or to be provided to any person, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner and the term "service provider" shall be construed accordingly.

Section 65(25)

"clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent.

CLUB OR ASSOCIATION SERVICE

Section 65(105)(zzze)

"taxable service" means any service provided or to be provided to its members or any other person, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount and the term "service provider" shall be construed accordingly.

Section 65(25a)

“club or association” means any person or body of persons providing services, facilities or advantages, primarily to its members, for a subscription or any other amount, but does not include -

- (i) any body established or constituted by or under any law for the time being in force; or
- (ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or
- (iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or
- (iv) any person or body of persons associated with press or media.

COMMERCIAL OR INDUSTRIAL CONSTRUCTION SERVICES

Section 65(105)(zzq)

“taxable service” means any service provided to any person, by any other person, in relation to commercial or industrial construction and the term “service provider” shall be construed accordingly.

Explanation - For the purposes of this sub-clause, the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer.

Section 65(25b)

“commercial or industrial construction” means -

- (a) construction of a new building or a civil structure or a part thereof; or
- (b) construction of pipeline or conduit; or
- (c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or
- (d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit,

which is -

- (i) used, or to be used, primarily for; or
- (ii) occupied, or to be occupied, primarily with; or
- (iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

COMMERCIAL TRAINING OR COACHING SERVICE

Section 65(105)(zzc)

“taxable service” means any service provided or to be provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching and the term “service provider” shall be construed accordingly.

Explanation - For the removal of doubts, it is hereby declared that the expression “commercial training or coaching centre” occurring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in the force and carrying

on its activity with or without profit motive and the expression “commercial training or coaching” shall be construed accordingly.

Section 65(26)

“commercial training or coaching” means any training or coaching provided by a commercial training or coaching centre.

Section 65(27)

“commercial training or coaching centre” means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes

COMMODITY EXCHANGE SERVICE

Section 65(105)(zzzzh)

“taxable service” means any service provided or to be provided to any person, by a recognised association or a registered association in relation to assisting, regulating or controlling the business of the sale or purchase of any goods or forward contracts and includes services provided in relation to trading, processing, clearing and settlement of transactions in goods or forward contracts and the term “service provider” shall be construed accordingly.

Section 65(89a) and (89b)

(89a) 'recognised association' has the meaning assigned to it in clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)

(89b) 'registered association' has the meaning assigned to it in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)

The Forward Contracts (Regulation) Act, 1952

Section 2 (j)

“recognised association” means an association to which recognition for the time being has been granted by the Central Government under section 6 in respect of goods or classes of goods specified in such recognition;

Section 2 (jj)

“registered association” means an association to which for the time being a certificate of registration has been granted by the Commission under section 14B.

COMPANY SECRETARY'S SERVICES

Section 65(105)(u)

“taxable service” means any service provided or to be provided to any person, by a practising company secretary in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(85)

“practising company secretary” means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship.

COMPUTER NETWORK SERVICES (On-line information and database access or retrieval services)

Section 65(105)(zh)

“taxable service” means any service provided or to be provided to any person, by any person, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner and the term “service provider” shall be construed accordingly.

Section 65(30)

“computer network” has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(36)

“data” has the meaning assigned to it in clause (o) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(39)

“electronic form” has the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(53)

“information” has the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(75)

“online information and database access or retrieval” means providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network.

Information Technology Act, 2000

Section 2(1)(j)

“computer network” means the interconnection of one or more computers through -

- (i) the use of satellite, microwave, terrestrial line or other communication media; and
- (ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained.

Section 2(1)(o)

“data” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts, magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer.

Section 2(1)(r)

“electronic form” with reference to information means any information generated, sent, received or stored in a media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device.

Section 2(1)(v)

“information” includes data, text, images, sounds, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche.

CONSTRUCTION OF COMPLEX SERVICE

Section 65(105)(zzzh)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to construction of complex.

Explanation- For this purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder, before the grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer.

Section 65(30a)

“Construction of complex” means -

- (a) construction of a new residential complex or a part thereof; or
- (b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or
- (c) repair, alteration, renovation or restoration of, or similar services in relation to, 'residential complex'.

Section 65(91a)

“residential complex” means any complex comprising of -

- (i) a building or buildings, having more than twelve residential units;
- (ii) a common area; and
- (iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this clause, -

- (a) **“personal use”** includes permitting the complex for use as residence by another person on rent or without consideration;
- (b) **“residential unit”** means a single house or a single apartment intended for use as a place of residence

CONSULTING ENGINEER'S SERVICES

Section 65(105)(g)

“taxable service” means any service provided or to be provided to any person , by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering including the discipline of computer hardware engineering.

Explanation - For the purposes of this sub-clause, it is hereby declared that services provided by a consulting engineer in relation to advice, consultancy or technical assistance in the disciplines of both computer hardware engineering and computer software engineering shall also be classifiable under this sub-clause.

Section 65(31)

“consulting engineer” means any professionally qualified engineer or any body corporate or any other firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to any person in one or more disciplines of engineering.

CONVENTION SERVICES

Section 65(105)(zc)

“taxable service” means any service provided or to be provided to any person, by any person in relation to holding of a convention, in any manner and the term “service provider” shall be construed accordingly.

Section 65(32)

“convention” means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation.

COPYRIGHT SERVICE

Section 65(105)(zzzzt)

“taxable service” means any service provided or to be provided to any person, by any other person, for –

(a) transferring temporarily; or

(b) permitting the use or enjoyment of,

any copyright defined in the Copyright Act, 1957, except the rights covered under sub-clause (a) of clause (1) of section 13 of the said Act.

Copyright Act, 1957

Section 13(1)(a)

13. Works in which copyright subsists

(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works that is to say -

(a) original literary, dramatic, musical and artistic works;

COSMETIC AND PLASTIC SURGERY SERVICE

Section 65(105)(zzzzk)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to cosmetic surgery or plastic surgery, but does not include any surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma.

COST ACCOUNTANT'S SERVICES

Section 65(105)(t)

“taxable service” means any service provided or to be provided to any person, by practising cost accountant in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(84)

“practising cost accountant” means a person who is member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy.

COURIER SERVICE

Section 65(105)(f)

“taxable service” means any service provided or to be provided to any person, by a courier agency in relation to door-to-door transportation of time sensitive documents, goods or articles and the term “service provider” shall be construed accordingly.

Section 65(33)

“courier agency” means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

CREDIT CARD, DEBIT CARD, CHARGE CARD OR OTHER PAYMENT CARD SERVICE

Section 65(105)(zzzw)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to credit card, debit card, charge card or other payment card service, in any manner and the term “service provider” shall be construed accordingly.

Section 65(33a)

“credit card, debit card, charge card or other payment card service” includes any service provided, -

- (i) by a banking company, financial institution including non-banking financial company or any other person (hereinafter referred to as the issuing bank), issuing such card to a card holder;
- (ii) by any person to an issuing bank in relation to such card business, including receipt and processing of application, transfer of embossing data to issuing bank's personalisation agency, automated teller machine personal identification number generation, renewal or replacement of card, change of address, enhancement of credit limit, payment updation and statement generation;
- (iii) by any person, including an issuing bank and an acquiring bank, to any other person in relation to settlement of any amount transacted through such card.

Explanation - For the purposes of this sub-clause, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card;

- (iv) in relation to joint promotional cards or affinity cards or co-branded cards;
- (v) in relation to promotion and marketing of goods and services through such card;
- (vi) by a person, to an issuing bank or the holder of such card, for making use of automated teller machines of such person; and
- (vii) by the owner of trade marks or brand name to the issuing bank under an agreement, for use of the trade mark or brand name and other services in relation to such card, whether or not such owner is a club or association and the issuing bank is a member of such club or association.

Explanation - For the purposes of this sub-clause, an issuing bank and the owner of trade marks or brand name shall be treated as separate persons.

CREDIT RATING AGENCY'S SERVICES

Section 65(105)(x)

“taxable service” means any service provided or to be provided to any person, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security and the term “service provider” shall be construed accordingly.

Section 65(34)

“credit rating agency” means any person engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal.

CUSTOM HOUSE AGENT'S SERVICES

Section 65(105)(h)

“taxable service” means any service provided or to be provided to any person, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods and the term “service provider” shall be construed accordingly.

Section 65(35)

“custom house agent” means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962).

Section 65(35a)

“customs airport” means an airport appointed as such under clause (a) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962).

Section 65(50)

“goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

The Sale of Goods Act, 1930

Section 2(7)

“goods” means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

DESIGN SERVICES

Section 65(105)(zzzzd)

“taxable services” means any service provided or to be provided to any person, by any other person in relation to design services, but does not include service provided by -

- (i) an interior decorator referred to in sub-clause (q) of section 65(105), and
- (ii) a fashion designer in relation to fashion designing referred to in sub-clause (zv) of section 65(105) and the term “service provider” shall be construed accordingly.

Section 65(36b)

“design services” includes services provided in relation to designing of furniture, consumer products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models.

DEVELOPMENT AND SUPPLY OF CONTENT SERVICES

Section 65(105)(zzzzb)

“taxable service” means any service provided or to be provided to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line

information and database access or retrieval services and the term “service provider” shall be construed accordingly.

Section 65(36c)

“development and supply of content” includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films.

DREDGING SERVICE

Section 65(105)(zzzb)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to dredging and the term “service provider” shall be construed accordingly.

Section 65(36a)

“dredging” includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary.

DRY CLEANING SERVICES

Section 65(105)(zt)

“taxable service” means any service provided or to be provided to any person, by a dry cleaner in relation to dry cleaning and the term “service provider” shall be construed accordingly.

Section 65(37)

“dry cleaning” includes dry cleaning of apparels, garments or other textile, fur or leather articles.

Section 65(38)

“dry cleaner” means any person providing service in relation to dry cleaning.

ELECTRICITY EXCHANGE SERVICE

Section 65(105)(zzzs)

“taxable service” means any service provided or to be provided to any person, by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003, in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contracts.

ERECTION, COMMISSIONING OR INSTALLATION SERVICE

Section 65(105)(zzd)

“taxable service” means any service provided or to be provided to any person, by a commissioning and installation agency in relation to erection, commissioning or installation and the term “service provider” shall be construed accordingly.

Section 65(29)

“commissioning and installation agency” means any agency providing service in relation to erection, commissioning or installation.

Section 65(39a)

“erection, commissioning or installation” means any service provided by a commissioning and installation agency, in relation to, -

- (i) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise; or
- (ii) installation of -
 - (a) electrical and electronic devices, including wirings or fittings therefore; or
 - (b) plumbing, drain laying or other installations for transport of fluids; or
 - (c) heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work; or
 - (d) thermal insulation, sound insulation, fire proofing or water proofing; or
 - (e) lift and escalator, fire escape staircases or travelators; or
 - (f) such other similar services.

EVENT MANAGEMENT SERVICE

Section 65(105)(zu)

“taxable service” means any service provided or to be provided to any person, by an event manager in relation to event management and the term “service provider” shall be construed accordingly.

Section 65(40)

“event management” means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports, marriage or any other event and includes any consultation provided in this regard.

Section 65(41)

“event manager” means any person who is engaged in providing any service in relation to event management in any manner.

FASHION DESIGNING SERVICE

Section 65(105)(zv)

“taxable service” means any service provided or to be provided to any person, by a fashion designer in relation to fashion designing and the term “service provider” shall be construed accordingly.

Section 65(43)

“fashion designing” includes any activity relating to conceptualising, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto.

Section 65(44)

“fashion designer” means any person engaged in providing service in relation to fashion designing.

FORWARD CONTRACT SERVICE

Section 65(105)(zzy)

“taxable service” means any service provided or to be provided to any person, by a member of a recognised association or a registered association, in relation to a forward contract and the term “service provider” shall be construed accordingly.

Section 65(46a)

“forward contract” has the meaning assigned to it in clause (c) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Section 65(89a)

“recognised association” has the meaning assigned to it in clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Section 65(89b)

“registered association” has the meaning assigned to it in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Forward Contracts (Regulation) Act, 1952

Section 2(c)

“forward contract” means a contract for the delivery of goods and which is not a ready delivery contract.

Section 2(j)

“recognised association” means an association to which recognition for the time being has been granted by the Central Government under section 6 in respect of goods or classes of goods specified in such recognition.

Section 2(jj)

“registered association” means an association to which for the time being a certificate of registration has been granted by the Commission under section 14B.

FRANCHISE SERVICE

Section 65(105)(zze)

“taxable service” means any service provided or to be provided to a franchisee, by the franchisor in relation to franchise and the term “service provider” shall be construed accordingly.

Section 65(47)

“franchise” means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved.

Section 65(48)

“franchisor” means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term “franchisee” shall be construed accordingly.

GENERAL INSURANCE SERVICE

Section 65(105)(d)

“taxable service” means any service provided or to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on general insurance business in relation to general insurance business and the term “service provider” shall be construed accordingly.

Section 65(49)

“general insurance business” has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972).

Section 65(58)

“insurer” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“policy holder” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The General Insurance Business (Nationalisation) Act, 1972

Section 3(g)

“general insurance business” means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business & annuity certain business.

The Insurance Act, 1938

Section 2(2)

“policy holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

HEALTH AND FITNESS SERVICES

Section 65(105)(zw)

“taxable service” means any service provided or to be provided to any person, by a health club and fitness centre in relation to health and fitness services and the term “service provider” shall be construed accordingly.

Section 65(51)

“health and fitness service” means service for physical well-being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service.

Section 65(52)

“health club and fitness centre” means any establishment, including a hotel or a resort, providing health and fitness service.

HOSPITALS, NURSING HOMES AND MULTI-SPECIALTY CLINICS SERVICES

Section 65(105)(zzzzz)

“taxable service” means any service provided or to be provided to any person, -

- (i) by a clinical establishment; or
- (ii) by a doctor, not being an employee of a clinical establishment, who provides services from such premises for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine.

Section 25(a)

“clinical establishment” means –

- (i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, owned, established, administered or managed by any person or body of persons, whether incorporated or not, having in its establishment the facility of central air-conditioning either in whole or in part of its premises and having more than twenty-five beds for in-patient treatment at any time during the financial year, offering services for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine; or
- (ii) an entity owned, established, administered or managed by any person or body of persons, whether incorporated

or not, either as an independent entity or as a part of any clinical establishment referred to I sub-clause (i), which carries out diagnosis of diseases through pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment,

but does not include an establishment, owned or controlled by –

- (a) the Government; or
- (b) a local authority;

INFORMATION TECHNOLOGY SOFTWARE SERVICE

Section 65(105)(zzzze)

“taxable services” means any service provided or to be provided to any person, by any other person in relation to information technology software including,-

- (i) development of information technology software,
- (ii) study, analysis, design and programming of information technology software,
- (iii) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,
- (iv) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software,
- (v) providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,
- (vi) providing the right to use information technology software supplied electronically

and the term “service provider” shall be construed accordingly.

Section 65(53a)

“information technology software” means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment.

INSURANCE AUXILIARY SERVICES

Section 65(105)(zl)

“taxable service” means any service provided or to be provided to a policy holder or any person or insurer, including re-insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business and the term “service provider” shall be construed accordingly.

Section 65(105)(zy)

“taxable service” means any service provided or to be provided to a policy holder or any person or insurer, including re-insurer by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business and the term “service provider” shall be construed accordingly.

Section 65(1)

“actuary” has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(54)

“insurance agent” has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(55)

“insurance auxiliary service” means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment.

Section 65(56)

“intermediary or insurance intermediary” has the meaning assigned to it in clause (f) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

Section 65(58)

“insurer” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“policy holder” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The Insurance Act, 1938

Section 2(1)

“actuary” means an actuary possessing such qualifications as may be.

Section 2(10)

“Insurance agent” means an insurance agent licensed under section 42 who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance.

Section 2(2)

“policy-holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

The Insurance Regulatory and Development Authority Act, 1999

Section 2(1)(f)

“intermediary or insurance intermediary” includes insurance brokers, re-insurance brokers, insurance consultants, surveyors and loss assessors.

INTELLECTUAL PROPERTY SERVICES

Section 65(105)(zzr)

“taxable service” means any service provided or to be provided to any person, by the holder of intellectual property right, in relation to intellectual property service and the term “service provider” shall be construed accordingly.

Section 65(55a)

“intellectual property right” means any right to intangible property, namely, trade marks, designs, patents or any other similar intangible property, under any law for the time being in force, but does not include copyright.

Section 65(55b)

“intellectual property service” means, -

- (a) transferring temporarily; or
- (b) permitting the use or enjoyment of, any intellectual property right.

INTERIOR DECORATOR'S SERVICES

Section 65(105)(q)

“taxable service” means any service provided or to be provided to any person, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner and the term “service provider” shall be construed accordingly.

Section 65(59)

“interior decorator” means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer.

INTERNET CAFÉ SERVICE

Section 65(105)(zzf)

“taxable service” means any service provided or to be provided to any person, by an internet cafe in relation to access of internet and the term “service provider” shall be construed accordingly.

Section 65(57)

“internet café” means a commercial establishment providing facility for accessing internet.

INTERNET TELECOMMUNICATION SERVICES

Section 65(105)(zzzu)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to internet telecommunication service and the term “service provider” shall be construed accordingly.

Section 65(57a)

“internet telecommunication service” includes,-

- (i) internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider,
- (ii) internet access services, including provision of a direct connection to the internet and space for the customer's web page,
- (iii) provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet.

Section 65(56b)

“internet” means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancement or upgradations and is able to support communications using the Transmission Control Protocol or Internet Protocol suite or its subsequent enhancements or upgradations and all other Internet Protocol compatible protocols.

LEGAL CONSULTANCY SERVICE

Section 65(105)(zzzzm)

“taxable service” means any service provided or to be provided

- (i) to any person, by a business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner;
- (ii) to any business entity, by any person, in relation to representational services before any court, tribunal or authority;

(iii) to any business entity, by an arbitral tribunal, in respect of arbitration.

Explanation - For the purposes of this item, the expressions “arbitration” and “arbitral tribunal” shall have the meanings respectively assigned to them in the Arbitration and Conciliation Act, 1996.

Section 65(19b)

“business entity” includes an association of persons, body of individuals, company or firm but does not include an individual.

LIFE INSURANCE SERVICE

Section 65(105)(zx)

“taxable service” means any service provided or to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on life insurance business.

Section 65(61)

“life insurance business” has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(58)

“insurer” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“policy holder” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The Insurance Act, 1938

Section 2(11)

“life insurance business” means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include -

- (a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance,
- (b) the granting of annuities upon human life and;
- (c) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such person.

Section 2(2)

“policy-holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

MAILING LIST COMPILATION AND MAILING SERVICE

Section 65(105)(zzzg)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to mailing list compilation and mailing and the term “service provider” shall be construed accordingly.

Section 65(63a)

“mailing list compilation and mailing” means any service in relation to -

- (i) compiling and providing list of name, address and any other information from any source; or

- (ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing, for, or on behalf of, the client.

MANAGEMENT OR BUSINESS CONSULTANT'S SERVICES

Section 65(105)(r)

"taxable service" means any service provided or to be provided to any person, by a management or business consultant in connection with the management of any organisation or business, in any manner and the term "service provider" shall be construed accordingly.

Section 65(65)

"management or business consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organization or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management.

MANAGEMENT, MAINTENANCE OR REPAIR SERVICE

Section 65(105)(zzg)

"taxable service" means any service provided or to be provided, to any person, by any person in relation to management, maintenance or repair and the term "service provider" shall be construed accordingly.

Section 65(64)

"management, maintenance or repair" means any service provided by -

- (i) any person under a contract or an agreement; or
- (ii) a manufacturer or any person authorised by him,

in relation to, -

- (a) management of properties, whether immovable or not;
- (b) maintenance or repair of properties, whether immovable or not; or
- (c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this clause:-

- (a) **"goods"** includes computer software;
- (b) **"properties"** includes information technology software.

MANAGEMENT OF INVESTMENT UNDER ULIP SERVICE

Section 65(105)(zzzzf)

"taxable services" means any service provided or to be provided to a policy holder, by an insurer carrying on life insurance business, in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme and the term "service provider" shall be construed accordingly.

Explanation - For the purposes of this sub-clause,-

- (i) management of segregated fund of unit linked insurance business by the insurer shall be deemed to be the service provided by the insurer to the policy holder in relation to management of investment under unit linked insurance business; and

- (ii) the gross amount charged by the insurer from the policy holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999, as fund management charges for unit linked insurance plan or the actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher.

Section 65(80)

“policy holder” shall have the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938.

The Insurance Act, 1938

Section 2(2)

“policy-holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

MANDAP KEEPER'S SERVICES

Section 65(105)(m)

“taxable service” means any service provided or to be provided to any person, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided or to be provided to such person in relation to such use and also the services, if any, provided or to be provided as a caterer and the term “service provider” shall be construed accordingly.

Section 65(66)

“mandap” means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882) and includes any furniture, fixtures, light fittings and floor coverings therein let out for a consideration for organising any official, social or business function.

Explanation - For the purposes of this clause, social function includes marriage.

Section 65(67)

“mandap keeper” means a person who allows temporary occupation of a mandap for a consideration for organising any official, social or business function.

Explanation - the purposes of this clause, “social function” includes marriage.

The Transfer of Property Act, 1882

Section 3

“immovable property” does not include standing timber, growing crops or grass.

MANPOWER RECRUITMENT OR SUPPLY AGENCY'S SERVICES

Section 65(105)(k)

“taxable service” means any service provided or to be provided to any person, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner and the term “service provider” shall be construed accordingly.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, recruitment or supply of manpower includes services in relation to pre-recruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate.

Section 65(68)

“manpower recruitment or supply agency” means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to any other person.

MARKET RESEARCH AGENCY'S SERVICES

Section 65(105)(y)

"taxable service" means any service provided or to be provided to any person , by a market research agency in relation to market research of any product, service or utility, in any manner and the term "service provider" shall be construed accordingly.

Section 65(69)

"market research agency" means any person engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services.

MINING OF MINERAL, OIL OR GAS SERVICE

Section 65(105)(zzzy)

"taxable service" means any service provided or to be provided, to any person, by any other person in relation to mining of mineral, oil or gas and the term "service provider" shall be construed accordingly.

OPINION POLL SERVICES

Section 65(105)(zzs)

"taxable service" means any service provided or to be provided to any person, by an opinion poll agency, in relation to opinion poll and the term "service provider" shall be construed accordingly.

Section 65(75a)

"opinion poll" means any service designed to secure information on public opinion regarding social, economic, political or other issues.

Section 65(75b)

"opinion poll agency" means any person engaged in providing any service in relation to opinion poll.

OTHER PORT SERVICES

Section 65(105)(zzl)

"taxable service" means any service provided or to be provided to any person, by any other person, in relation to port services in other port, in any manner;

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within other port.

Section 65(76)

"other port" has the meaning assigned to 'port' in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908), but does not include the port defined in clause (80).

Section 65(82)

"port service" means any service rendered within a port or other port, in any manner.

Section 65(118)

"vessel" has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

The Indian Ports Act, 1908

Section 3(4)

“port” includes also any part of a river or channel in which this act is for the time being in force.

The Major Port Trusts Act, 1963

Section 2(z)

“vessel” includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.

OUTDOOR CATERER'S SERVICE

Section 65(105)(zzt)

“taxable service” means any service provided or to be provided to any person , by an outdoor caterer and the term “service provider” shall be construed accordingly.

Section 65(76a)

“outdoor caterer” means a caterer engaged in providing services in connection with catering at a place other than his own but including a place provided by way of tenancy or otherwise by the person receiving such services.

PACKAGING ACTIVITY SERVICES

Section 65(105)(zzzf)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to packaging activity and the term “service provider” shall be construed accordingly.

Section 65(76b)

“packaging activity” means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to 'manufacture' within the meaning of clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

PANDAL OR SHAMIANA CONTRACTOR'S SERVICE

Section 65(105)(zzw)

“taxable service” means any service provided or to be provided to any person , by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer and the term “service provider” shall be construed accordingly.

Section 65(77a)

“pandal or shamiana” means a place specially prepared or arranged for organising an official, social or business function.

Explanation - For the purposes of this clause, “social function” includes marriage.

Section 65(77b)

“pandal or shamiana contractor” means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein.

PERMITTING COMMERCIAL USE OR EXPLOITATION OF ANY EVENT SERVICES

Section 65(105)(zzzzr)

“taxable service” means any service provided or to be provided to any person, by any other person, by granting the right or permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person.

PHOTOGRAPHY SERVICES

Section 65(105)(zb)

“taxable service” means any service provided or to be provided to any person, by a photographer studio or agency in relation to photography, in any manner and the term “service provider” shall be construed accordingly.

Section 65(78)

“photography” includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography.

Section 65(79)

“photography studio or agency” means any professional photographer or any person engaged in the business of rendering service relating to photography.

PORT SERVICES

Section 65(105)(zn)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to port services in a port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port.

Section 65(81)

“port” has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

Section 65(118)

“vessel” has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

Section 65(82)

“port service” means any service rendered within a port or other port, in any manner.

The Major Port Trusts Act, 1963

Section 2(q)

“port” means any major port to which this Act applies within such limits as may, from time to time, be defined by the Central Government for the purposes of this Act by notification in the Official Gazette, and, until a notification is so issued, within such limits as may have been defined by the Central Government under the provisions of the Indian Ports Act.

Section 2(z)

“vessel” includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.

PREFERENTIAL LOCATION SERVICE

Section 65(105)(zzzzu)

“taxable service” means any service provided or to be provided to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but does not include services covered under sub-clauses (zzg), (zzq), (zzzh) and in relation to parking place.

Explanation - For the purposes of this sub-clause, “preferential location” means any location having extra advantage which attracts extra payments over and above basic sale price.

PROCESSING AND CLEARING HOUSE SERVICE

Section 65(105)(zzzzi)

“taxable services” means any service provided or to be provided to any person, by a processing and clearing house in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts including any other matter incidental to , or connected with, such securities, goods and forward contracts and the term “service provider” shall be construed accordingly.

Section 65(86d)

“Processing and clearing house” means any person including the clearing corporation authorised or assigned by a recognised stock exchange, recognised association or a registered association to perform the duties and functions of a clearing house in relation to,-

- (i) the periodical settlement of contracts for, or relating to, the sale or purchase of securities, goods or forward contracts and differences thereunder;
- (ii) the delivery of, and payment for, securities, goods or forward contracts;
- (iii) any other matter incidental to, or connected with, securities, goods and forward contracts.

PROGRAMME PRODUCER'S SERVICES

Section 65(105)(zzu)

“taxable service” means any service provided or to be provided to any person, by a programme producer, in relation to a programme and the term “service provider” shall be construed accordingly.

Section 65(86a)

“programme” means any audio or visual matter, live or recorded, which is intended to be disseminated by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations.

Section 65(86b)

“programme producer” means any person who produces a programme on behalf of another person.

PROMOTION, MARKETING AND ORGANIZING OF GAMES OF CHANCE INCLUDING LOTTERY

Section 65(105)(zzzzn)

“taxable service” means any service provided or to be provided to any person, by any other person, for promotion, marketing, organising or in any other manner assisting in organising games of chance , including lottery, Bingo or Lotto in

(zzg) Management, maintenance or repair service
(zzq) Commercial or industrial construction service
(zzzh) Construction of complex service

whatever form or by whatever name called, whether or not conducted through internet or other electronic networks and the term “service provider” shall be construed accordingly.

PROMOTION OR MARKETING OF A BRAND SERVICE

Section 65(105)(zzzzq)

“taxable service” means any service provided or to be provided to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotion activity for such goods, service or event and the term “service provider” shall be construed accordingly.

Explanation - For the purposes of this sub-clause, “brand” includes symbol, monogram, label, signature or invented words which indicate connection with said goods, service, event or business entity.

PUBLIC RELATION MANAGEMENT SERVICE

Section 65(105)(zzzs)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to managing the public relations of such person, in any manner and the term “service provider” shall be construed accordingly.

Section 65(86c)

“public relations” includes strategic counselling based on industry, media and perception research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotions, events and communications and crisis communications.

RAIL TRAVEL AGENT'S SERVICES

Section 65(105)(zz)

“taxable service” means any service provided or to be provided to any person, by a rail travel agent in relation to booking of passage for travel by rail and the term “service provider” shall be construed accordingly.

Section 65(87)

“rail travel agent” means any person engaged in providing any service connected with booking of passage for travel by rail.

REAL ESTATE AGENT'S SERVICES

Section 65(105)(v)

“taxable service” means any service provided or to be provided to any person, by a real estate agent in relation to real estate and the term “service provider” shall be construed accordingly.

Section 65(88)

“real estate agent” means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant.

Section 65(89)

“real estate consultant” means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate.

RENTING OF IMMOVABLE PROPERTY SERVICE

Section 65(105)(zzzz)

“taxable service” means any service provided, or to be provided to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course of or, for furtherance of, business or commerce and the term “service provider” shall be construed accordingly.

Explanation 1 - For the purposes of this sub-clause, “immovable property” includes -

- (i) building and part of a building, and the land appurtenant thereto;
- (ii) land incidental to the use of such building or part of a building;
- (iii) the common or shared areas and facilities relating thereto;
- (iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate, and
- (v) vacant land, given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce.

but does not include-

- (a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;
- (b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;
- (c) land used for educational, sports, circus, entertainment and parking purposes; and
- (d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

Explanation 2 - For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce.

Section 65(90a)

“renting of immovable property” includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

- (i) renting of immovable property by a religious body or to a religious body; or
- (ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

Explanation 1 - For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings.

Explanation 2 - For the removal of doubts, it is hereby declared that for the purposes of this clause “renting of immovable property” includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property.

RECOVERY AGENT'S SERVICE

Section 65(105)(zzzl)

“taxable service” means any service provided or to be provided to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner and the term “service provider” shall be construed accordingly.

REGISTRAR TO AN ISSUE'S SERVICE

Section 65(105)(zzzi)

"taxable service" means any service provided or to be provided to any person, by a registrar to an issue, in relation to sale or purchase of securities and the term "service provider" shall be construed accordingly.

Section 65(89c)

"registrar to an issue" means any person carrying on the activities in relation to an issue including collecting application forms from investors, keeping a record of applications and money received from investors or paid to the seller of securities, assisting in determining the basis of allotment of securities, finalising the list of persons entitled to allotment of securities and processing and despatching allotment letters, refund orders or certificates and other related documents.

Section 65(59a)

"issue" means an offer of sale or purchase of securities to, or from, the public or the holder of securities.

RENT-A-CAB SCHEME OPERATOR'S SERVICE

Section 65(105)(o)

"taxable service" means any service provided or to be provided to any person, by a rent-a-cab scheme operator in relation to the renting of a cab and the term "service provider" shall be construed accordingly.

Section 65(20)

"cab" means –

- (i) a motorcab, or
- (ii) a maxicab or
- (iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

Provided that the maxicab referred to in sub-clause (ii) or motor vehicle referred to in sub-clause (iii) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab.

Section 65(70)

"maxicab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(71)

"motorcab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(91)

"rent-a-cab scheme operator" means any person engaged in the business of renting of cabs.

The Motor Vehicles Act, 1988

Section 2(22)

"maxicab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward.

Section 2(25)

"motorcab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward.

SALE OF SPACE OR TIME FOR ADVERTISEMENT SERVICES

Section 65(105)(zzzm)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to sale of space or time for advertisement, in any manner; but does not include sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organisation and the term “service provider” shall be construed accordingly.

Explanation 1 - For the purposes of this sub-clause, “sale of space or time for advertisement” includes,-

- (i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet;
- (ii) selling of time slots on radio or television by a person, other than a broadcasting agency or organisation; and
- (iii) aerial advertising.

Explanation 2 - For the purposes of this sub-clause, “print media” means,—

- (i) “newspaper” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);
- (ii) “book” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, (25 of 1867) but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.

The Press and Registration of Books Act, 1867.

Section 1(1)

In this Act, unless there shall be something repugnant in the subject or context, -

“book” includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed.

“newspaper” means any printed periodical work containing public news or comments on public news.

SCIENTIFIC OR TECHNICAL CONSULTANCY SERVICES

Section 65(105)(za)

“taxable service” means any service provided or to be provided to any person, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy and the term “service provider” shall be construed accordingly.

Section 65(92)

“scientific or technical consultancy” means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to any person, in one or more disciplines of science or technology.

SECURITY AGENCY'S SERVICES

Section 65(105)(w)

“taxable service” means any service provided or to be provided to any person, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity and the term “service provider” shall be construed accordingly.

Section 65(94)

“security agency” means any person engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel.

SERVICES BY AIR - CONDITIONED RESTAURANTS HAVING LICENCE TO SERVE LIQUOR

Section 65(105)(zzzzv)

“taxable service” means any service provided or to be provided to any person, by a restaurant, by whatever name called, having the facility of air-conditioning in any part of the establishment, at any time during the financial year, which has licence to serve alcoholic beverages, in relation to serving of food or beverage, including alcoholic beverages or both, in its premises and the term “service provider” shall be construed accordingly.

SHARE TRANSFER AGENT'S SERVICE

Section 65(105)(zzzj)

“taxable service” means any service provided or to be provided to any person, by a share transfer agent, in relation to securities and the term “service provider” shall be construed accordingly.

Section 65(95a)

“share transfer agent” means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto.

SHIP MANAGEMENT SERVICES

Section 65(105)(zzzt)

“taxable service” means any service provided or to be provided to any person, under a contract or an agreement, by any other person, in relation to ship management service and the term “service provider” shall be construed accordingly.

Section 65(96a)

“ship management service” includes,—

- (i) the supervision of the maintenance, survey and repair of ship;
- (ii) engagement or providing of crews;
- (iii) receiving the hire or freight charges on behalf of the owner;
- (iv) arrangements for loading and unloading;
- (v) providing for victualling or storing of ship;
- (vi) negotiating contracts for bunker fuel and lubricating oil;
- (vii) payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- (viii) the entry of ship in a protection or indemnity association;
- (ix) dealing with insurance, salvage and other claims; and
- (x) arranging of insurance in relation to ship.

SHORT TERM ACCOMODATION IN HOTELS / INNS / CLUBS / GUEST HOUSES ETC.

Section 65(105)(zzzzw)

“taxable service” means any service provided or to be provided to any person by a hotel, inn, guest house, club or campsite, by whatever name called, for providing of accommodation for a continuous period of less than three months and the term “service provider” shall be construed accordingly.

SITE FORMATION AND CLEARANCE, EXCAVATION AND EARTH MOVING AND DEMOLITION SERVICES

Section 65(105)(zzza)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities and the term “service provider” shall be construed accordingly.

Section 65(97a)

“site formation and clearance, excavation and earthmoving and demolition” includes, -

- (i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or
- (ii) soil stabilization; or
- (iii) horizontal drilling for the passage of cables or drain pipes; or
- (iv) land reclamation work; or
- (v) contaminated top soil stripping work; or
- (vi) demolition and wrecking of building, structure or road,

but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies.

SOUND RECORDING STUDIO OR AGENCY SERVICES

Section 65(105)(zj)

“taxable service” means any service provided or to be provided to any person, by a sound recording studio or agency in relation to any kind of sound recording and the term “service provider” shall be construed accordingly.

Section 65(63)

“magnetic storage device” includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording.

Section 65(98)

“sound recording” means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity.

Section 65(99)

“sound recording studio or agency” means any person engaged in the business of rendering any service relating to sound recording.

SPONSORSHIP SERVICES

Section 65(105)(zzzn)

“taxable service” means any service provided or to be provided to any person, by any other person receiving

sponsorship, in relation to such sponsorship, in any manner and the term “service provider” shall be construed accordingly.

Section 65(99a)

“sponsorship” includes naming an event after the sponsor, displaying the sponsor's company logo or trading name, giving the sponsor exclusive or priority booking rights, sponsoring prizes or trophies for competition; but does not include any financial or other support in the form of donations or gifts, given by the donors subject to the condition that the service provider is under no obligation to provide anything in return to such donors.

STEAMER AGENT'S SERVICES

Section 65(105)(i)

“taxable service” means any service provided or to be provided to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services and the term “service provider” shall be construed accordingly.

Section 65(96)

“ship” means a sea-going vessel and includes a sailing vessel.

Section 65(97)

“shipping line” means any person who owns or charter a ship and includes an enterprise which operates or manages the business of shipping.

Section 65(100)

“steamer agent” means any person who undertakes, either directly or indirectly, -

- (i) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or
- (ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or
- (iii) to provide container feeder service for or on behalf of a shipping line.

STOCK BROKER'S SERVICES

Section 65(105)(a)

“taxable service” means any service provided or to be provided to any person by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange and the term “service provider” shall be construed accordingly.

Section 65(90)

“recognised stock exchange” has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Section 65(93)

“securities” has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Section 65(101)

“stock broker” means a person, who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Securities Contracts (Regulation) Act, 1956

Section 2(f)

“recognised stock exchange” means a stock exchange which is for the time being recognised by the Central Government under section 4.

Section 2(h)

“Securities” includes

- (i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- (ia) derivative;
- (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- (ic) security received as defined in clause (zg) of section 2 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002;
- (id) units or any other such instrument issued to the investors under any mutual fund scheme;
- (ii) Government securities;
- (iia) such other instruments as may be declared by the Central Government to be securities; and
- (iii) rights or interests in securities.

STOCK EXCHANGE SERVICE

Section 65(105)(zzzzg)

“taxable services” means any service provided or to be provided to any person, by a recognized stock exchange in relation to assisting, regulating or controlling the business of buying, selling or dealing in securities and includes services provided in relation to trading, processing, clearing and settlement of transactions in securities and the term “service provider” shall be construed accordingly.

Section 65 (90)

“recognized stock exchange” has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.

Securities Contracts (Regulation) Act, 1956

Section 2(f)

“recognized stock exchange” means a stock exchange which is for the time being recognised by the Central Government under section 4.

STORAGE AND WAREHOUSING SERVICE

Section 65(105)(zza)

“taxable service” means any services provided or to be provided to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods and the term “service provider” shall be construed accordingly.

Section 65(102)

“storage and warehousing” includes storage and warehousing services for goods including liquids and gases but does not include any services provided for storage of agricultural produce or any service provided by a cold storage.

STORING OF MEDICAL RECORDS SERVICES

Section 65(105)(zzzzp)

“taxable service” means any service provided or to be provided to any business entity, by any other person, in relation

to storing, keeping or maintaining of medical records of employees of a business entity and the term “service provider” shall be construed accordingly.

SUPPLY OF TANGIBLE GOODS SERVICE

Section 65(105)(zzzzj)

“taxable services” means any service provided or to be provided to any person, by any other person in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances and the term “service provider” shall be construed accordingly.

Section 65 (50)

“goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930.

The sale of Goods Act, 1930

“goods” means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

SURVEY AND EXPLORATION OF MINERAL, OIL AND GAS SERVICE

Section 65(105)(zzv)

“taxable service” means any service provided or to be provided to any person, by any person, in relation to survey and exploration of mineral and the term “service provider” shall be construed accordingly.

Section 65(104a)

“survey and exploration of mineral” means geological, geophysical or other prospecting, surface or sub-surface surveying or map-making service, in relation to location or exploration of deposits of mineral, oil or gas.

SURVEY AND MAP-MAKING SERVICE

Section 65(105)(zzzc)

“taxable service” means any service provided or to be provided to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making and the term “service provider” shall be construed accordingly.

Section 65(104b)

“survey and map-making” means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral.

TECHNICAL INSPECTION AND CERTIFICATION SERVICE

Section 65(105)(zzi)

“taxable service” means any service provided or to be provided to any person, by a technical inspection and certification agency, in relation to technical inspection and certification and the term “service provider” shall be construed accordingly.

Section 65(108)

“technical inspection and certification” means inspection or examination of goods or process or material or

information technology software or any immovable property to certify that such goods or process or material or information technology software or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels.

Section 65(109)

“technical inspection and certification agency” means any agency or person engaged in providing service in relation to technical inspection and certification.

TECHNICAL TESTING AND ANALYSIS SERVICE

Section 65(105)(zzh)

“taxable service” means any service provided or to be provided, to any person, by a technical testing and analysis agency, in relation to technical testing and analysis and the term “service provider” shall be construed accordingly.

Section 65(106)

“technical testing and analysis” means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or information technology software or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals.

Explanation - For the removal of doubts, it is hereby declared that for the purposes of this clause, “technical testing and analysis” includes testing and analysis undertaken for the purpose of clinical testing of drugs and formulations; but does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals.

Section 65(107)

“technical testing and analysis agency” means any agency or person engaged in providing service in relation to technical testing and analysis.

TELECOMMUNICATION SERVICES

Section 65(105)(zzzx)

“taxable service” means any service provided or to be provided to any person, by the telegraph authority in relation to telecommunication service and the term “service provider” shall be construed accordingly.

Section 65(109a)

“telecommunication service” means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) and includes -

- (i) voice mail, data services, audio tex services, video tex services, radio paging;
- (ii) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;
- (iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;
- (iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities

including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

- (v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menus and video conferencing;
 - (vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;
 - (vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and
 - (viii) communication through facsimile, pager, telegraph and telex,
- but does not include service provided by-
- (a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105);
 - (b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and
 - (c) any person in relation to internet telecommunication service referred to in sub-clause (zzzu) of clause (105).

TOUR OPERATOR'S SERVICE

Section 65(105)(n)

"taxable service" means any service provided or to be provided to any person, by a tour operator, in relation to a tour and the term "service provider" shall be construed accordingly.

Section 65(113)

"tour" means a journey from one place to another irrespective of the distance between such places.

Section 65(114)

"tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(115)

"tour operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sight seeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by a permit, other than a stage carriage permit, granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder.

Explanation - For the purposes of this clause, the expression "tour" does not include a journey organized or arranged for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field;

The Motor Vehicles Act, 1988

Section 2(43)

"tourist vehicle" means contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf.

Section 2(7)

"contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether express or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-

- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another,

and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey,

and includes-

- (i) a maxi-cab; and
- (ii) a motor-cab notwithstanding that separate fares are charged for its passengers.

TRANSPORT OF COASTAL GOODS; GOODS TRANSPORTED THROUGH INLAND WATER SERVICE

Section 65(105)(zzzzl)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to transport of -

- (i) coastal goods;
- (ii) goods through national waterway; or
- (iii) goods through inland water.

Explanation - For the purposes of this sub-clause, -

- (a) “coastal goods” has the meaning assigned to it in clause (7) of section 2 of the Customs Act, 1962 (52 of 1962).
- (b) “national waterway” has the meaning assigned to it in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985).
- (c) “inland water” has the meaning assigned to it in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917).

Customs Act, 1962

Section 2(7)

“coastal goods” means goods, other than imported goods, transported in a vessel from one port in India to another.

The Inland Waterways Authority of India Act, 1985

Section 2(h)

“national waterway” means the inland waterway declared by section 2 of the National Waterway (Allahabad-Haldia Stretch of the Ganga-Bhagirathi-Hooghly River) Act, 1982 (49 of 1982), to be a national waterway.

Explanation - If Parliament declares by law any other waterway to be a national waterway, then from the date on which such declaration takes effect, such other waterway -

- (i) shall be deemed also to be a national waterway within the meaning of this clause; and
- (ii) the provisions of this Act shall, with necessary modifications (including modifications for construing any reference to the commencement of this Act as a reference to the date aforesaid), apply to such national waterway.

The Inland Vessels Act, 1917

Section 2(b)

“inland water” means any canal, river, lake or other navigable water.

- (i) any canal, river, lake or other navigable water within a State,
- (ii) any area of any tidal water deemed to be the inland water as defined by the Central Government under section 70,
- (iii) waters declared by the Central Government to be smooth and partially smooth waters under clause (41) of the section 3 of the Merchant Shipping Act, 1958.

TRANSPORT OF GOODS BY AIR SERVICE

Section 65(105)(zzn)

“taxable service” means any service provided to any person, by an aircraft operator, in relation to transport of goods by aircraft and the term “service provider” shall be construed accordingly.

Section 65(3a)

“aircraft” has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934).

Section 65(3b)

“aircraft operator” means any person who provides the service of transport of goods or passengers by aircraft.

Section 65(50)

“goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

The Aircraft Act, 1934

Section 2(1)

“aircraft” means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines.

The Sale of Goods Act, 1930

Section 2(7)

“goods” means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

TRANSPORT OF GOODS BY RAIL SERVICE

Section 65(105)(zzzp)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to transport of goods by rail, in any manner and the term “service provider” shall be construed accordingly.

TRANSPORT OF GOODS BY ROAD SERVICE

Section 65(105)(zzp)

“taxable service” means any service provided or to be provided to any person, by a goods transport agency, in relation to transport of goods by road in a goods carriage and the term “service provider” shall be construed accordingly.

Section 65(50a)

“goods carriage” has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(50b)

“goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

Section 65(50)

“goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

Sale of Goods Act, 1930

Section 2(7)

“goods” means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Motor Vehicles Act, 1988

Section 2(14)

“goods carriage” means any motor vehicle constructed or adapted for use solely for the carriage of goods or any motor vehicle not so constructed or adapted when used for carriage of goods.

TRANSPORT OF GOODS OTHER THAN WATER THROUGH PIPELINE OR OTHER CONDUIT SERVICE

Section 65(105)(zzz)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit and the term “service provider” shall be construed accordingly.

TRANSPORT OF PASSENGERS BY AIR SERVICE

Section 65(105)(zzzo)

“taxable service” means any service provided or to be provided to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey and the term “service provider” shall be construed accordingly.

Section 65(56a)

“international journey”, in relation to a passenger, means his journey from any customs airport on board any aircraft to a place outside India.

Section 65(35a)

“customs airport” means an airport appointed as such under clause (a) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962).

Section 65(77c)

“passenger” means any person boarding an aircraft in India for performing domestic journey or international journey.

Section 65(3a)

“aircraft” has the meaning assigned to it in clause (1) of Section 2 of the Aircraft Act, 1934 (22 of 1934).

Section 65(3b)

“aircraft operator” means any person who provides the service of transport of goods or passengers by aircraft.

The Customs Act, 1962

Customs Airport

(a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods.

The Aircraft Act, 1934

Section 2(1)

“aircraft” means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines.

TRANSPORT OF PERSONS EMBARKING FROM PORT IN INDIA BY CRUISE SHIP SERVICE

Section 65(105)(zzzv)

“taxable service” means any service provided or to be provided to any person, by any other person, in relation to transport of such person embarking from any port or other port in India, by a cruise ship.

Explanation - For the purposes of this sub-clause, “cruise ship” means a ship or vessel used for providing recreational or pleasure trips, but does not include a ship or vessel used for private purposes or a ship or vessel of, or less than, fifteen net tonnage.

TRAVEL AGENT'S SERVICE

Section 65(105)(zzx)

“taxable service” means any service provided or to be provided to any person, by a travel agent, in relation to the booking of passage for travel and the term “service provider” shall be construed accordingly.

Section 65(115a)

“travel agent” means any person engaged in providing any service connected with booking of passage for travel but does not include air travel agent and rail travel agent.

UNDERWRITER'S SERVICE

Section 65(105)(z)

“taxable service” means any service provided or to be provided to any person, by an underwriter in relation to underwriting in any manner and the term “service provider” shall be construed accordingly.

Section 65(116)

“underwriter” has the meaning assigned to it in clause (f) of rule 2 of Securities and Exchange Board of India (Underwriters) Rules, 1993.

Section 65(117)

“underwriting” has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993.

Securities and Exchange Board of India (Underwriters) Rules, 1993

Rule 2(f)

“underwriter” means a person, who engages in the business of underwriting of an issue of securities of a body corporate.

Rule 2(g)

“underwriting” means an agreement with or without condition to subscribe to the securities of a body corporate when the existing shareholders of body corporate or the public do not subscribe to the securities offered to them.

VIDEO PRODUCTION AGENCY'S SERVICES

Section 65(105)(zi)

“taxable service” means any service provided or to be provided to any person, by a video production agency in relation to video-tape production, in any manner and the term “service provider” shall be construed accordingly.

Section 65(119)

“video production agency” means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production.

Section 65(120)

“video-tape production” means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner.

WORKS CONTRACT SERVICE

Section 65(105)(zzzza)

“taxable service” means any service provided or to be provided to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams and the term “service provider” shall be construed accordingly.

Explanation - For the purposes of this sub-clause, “works contract” means a contract wherein,—

- (i) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and
- (ii) such contract is for the purposes of carrying out,—
 - (a) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or
 - (b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or
 - (c) construction of a new residential complex or a part thereof; or
 - (d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or
 - (e) turnkey projects including engineering, procurement and construction or commissioning (EPC) projects.

MISCELLANEOUS DEFINITIONS

Section 65(5)

“Appellate Tribunal” means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962).

Section 65(7)

“assessee” means a person liable to pay the service tax and includes his agent.

Section 65(7a)

“auction of property” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property.

Section 65(7b)

“associated enterprise” has the meaning assigned to it in section 92A of the Income-tax Act, 1961.

Income Tax Act, 1961

Section 92A

- (1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, “associated enterprise,” in relation to another enterprise, means an enterprise
- (a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or
 - (b) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.
- (2) [For the purposes of sub-section (1), two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,]
- (a) one enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the other enterprise; or
 - (b) any person or enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in each of such enterprises; or
 - (c) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent of the book value of the total assets of the other enterprise; or
 - (d) one enterprise guarantees not less than ten per cent of the total borrowings of the other enterprise; or
 - (e) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or
 - (f) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or
 - (g) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or
 - (h) ninety per cent or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or
 - (i) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or
 - (j) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or
 - (k) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family or by a relative of a member of such Hindu undivided family or jointly by such member and his relative; or
 - (l) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent interest in such firm, association of persons or body of individuals; or
 - (m) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

Section 65(13)

“board” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).

Section 65(14)

“body corporate” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956).

Section 65(24)

“caterer” means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion.

Section 65(86)

“prescribed” means prescribed by rules made under this Chapter.

Section 65(95)

“service tax” means tax leviable under the provisions of this Chapter.

Section 65(95a)

“share transfer agent” means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto.

Section 65(121)

Words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.

Explanation - For the purposes of this section, taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.

16.

Accounting Codes

DESCRIPTIONS OF TAXABLE SERVICES AND ACCOUNTING CODES FOR PAYMENT OF SERVICE TAX

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a)	Stockbroker service	00440008	00440009	00441298	00440121
2	(d)	General insurance service	00440005	00440006	00441297	00440120
3	(e)	Advertising agency services	00440013	00440016	00441299	00440017
4	(f)	Courier agency service	00440014	00440018	00441300	00440019
5	(g)	Consulting engineer services	00440057	00440058	00441310	00440059
6	(h)	Custom House Agent service	00440026	00440027	00441302	00440028
7	(l)	Steamer agent services	00440029	00440030	00441303	00440031
8	(j)	Clearing and forwarding agent services	00440045	00440046	00441306	00440047
9	(k)	Manpower recruitment / supply agency service	00440060	00440061	00441311	00440062
10	(l)	Air travel agent services	00440032	00440033	00441304	00440034
11	(m)	Mandap keeper service	00440035	00440036	00441305	00440037
12	(n)	Tour operator services	00440063	00440064	00441312	00440065
13	(o)	Rent-a-cab scheme operator services	00440048	00440049	00441307	00440050
14	(p)	Architect services	00440072	00440073	00441314	00440074
15	(q)	Interior decoration/ Designer services	00440076	00440077	00441315	00440078
16	(r)	Management or business consultant service	00440116	00440117	00441325	00440118
17	(s)	Chartered accountant services	00440092	00440093	00441319	00440094
18	(t)	Cost accountant service	00440096	00440097	00441320	00440098
19	(u)	Company secretary service	00440100	00440101	00441321	00440102
20	(v)	Real estate agent service	00440104	00440105	00441322	00440106
21	(w)	Security/ detective agency service	00440108	00440109	00441323	00440110
22	(x)	Credit rating agency service	00440088	00440089	00441318	00440090
23	(y)	Market research agency service	00440112	00440113	00441324	00440114
24	(z)	Underwriter service	00440084	00440085	00441317	00440086
25	(za)	Scientific & technical consultancy services	00440125	00440126	00441326	00440127

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
26	(zb)	Photography service	00440129	00440130	00441327	00440131
27	(zc)	Convention service	00440133	00440134	00441328	00440135
28	(zh)	Online information and database access service and/ or retrieval service through computer network	00440153	00440154	00441333	00440155
29	(zi)	Video production agency/ video tape production service	00440157	00440158	00441334	00440159
30	(zj)	Sound recording studio or agency services	00440161	00440162	00441335	00440163
31	(zk)	Broadcasting service	00440165	00440166	00441336	00440167
32	(zl)	Insurance auxiliary service in relation to general insurance	00440169	00440170	00441338	00440171
33	(zm)	Banking and other Financial services	00440173	00440174	00441339	00440175
34	(zn)	Port service (major ports)	00440177	00440178	00441341	00440179
35	(zo)	Service for repair, reconditioning, restoration, or decoration or any other similar services, of any motor vehicle[(zz) omitted w.e.f 16.6.05]	00440181	00440182	00441343	00440183
36	(zq)	Beauty parlours /beauty treatment	00440209	00440210	00441361	00440211
37	(zr)	Cargo handling service	00440189	00440190	00441348	00440191
38	(zs)	Cable operators	00440217	00440218	00441366	00440219
39	(zt)	Dry cleaning service	00440221	00440222	00441369	00440223
40	(zu)	Event management	00440197	00440198	00441353	00440199
41	(zv)	Fashion design	00440213	00440214	00441363	00440215
42	(zw)	Health club and fitness centre service	00440205	00440206	00441358	00440207
43	(zx)	Life insurance service	00440185	00440186	00441346	00440187
44	(zy)	Insurance auxiliary service concerning life insurance business	00440185	00440186	00441346	00440187
45	(zz)	Rail travel agent's service	00440201	00440202	00441356	00440203
46	(zza)	Storage and warehousing services	00440193	00440194	00441350	00440195
47	(zzb)	Business auxiliary service	00440225	00440226	00441371	00440227
48	(zzc)	Commercial training or coaching	00440229	00440230	00441374	00440231
49	(zzd)	Erection, commissioning and installation	00440233	00440234	00441376	00440235

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
50	(zze)	Franchise service	00440237	00440238	00441384	00440239
51	(zzf)	Internet café	00440241	00440242	00441386	00440243
52	(zzg)	Maintenance or repair service	00440245	00440246	00441388	00440247
53	(zzh)	Technical testing and analysis service	00440249	00440250	00441389	00440251
54	(zzi)	Technical inspection and certification agency service	00440249	00440250	00441389	00440251
55	(zzk)	Foreign exchange broker service	00440173	00440174	00441339	00440175
56	(zzl)	Other port (minor port) service	00440177	00440178	00441341	00440179
57	(zzm)	Airport services by airport authority	00440258	00440259	00441391	00440260
58	(zzn)	Transport of goods by air	00440266	00440267	00441393	00440268
59	(zzo)	Business exhibition service	00440254	00440255	00441390	00440256
60	(zzp)	Transport of goods by road/goods transport agency service	00440262	00440263	00441392	00440264
61	(zzq)	Construction services other than residential complex, including commercial/industrial buildings or civil structures	00440290	00440291	00441399	00440292
62	(zzr)	Services by holder of intellectual property right providing intellectual property services other than copyright	00440278	00440279	00441396	00440280
63	(zss)	Opinion poll agency service	00440274	00440275	00441395	00440276
64	(zzt)	Outdoor catering	00440051	00440052	00441308	00440053
65	(zzu)	Services by a programme producer	00440286	00440287	00441398	00440288
66	(zzv)	Survey and exploration of mineral	00440270	00440271	00441394	00440272
67	(zzw)	Pandal or shamiana service	00440054	00440055	00441309	00440056
68	(zzx)	Travel agent for booking of passage(other than air/rail travel agents)	00440294	00440295	00441400	00440296
69	(zzy)	Services provided by recognised/registered associations in relation to forward contracts	00440282	00440283	00441397	00440284
70	(zzz)	Transport of goods through pipeline or other conduit	00440302	00440303	00441430	00440304

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
71	(zzza)	Site formation and clearance, excavation, earth moving and demolition services	00440306	00440307	00441431	00440308
72	(zzzb)	Dredging of rivers, ports harbours, backwaters, estuaries, etc.	00440310	00440311	00441432	00440312
73	(zzzc)	Survey and map making service	00440314	00440315	00441433	00440316
74	(zzzd)	Cleaning services	00440318	00440319	00441434	00440320
75	(zzze)	Club or association service	00440322	00440323	00441435	00440324
76	(zzzf)	Packaging service	00440326	00440327	00441436	00440328
77	(zzzg)	Mailing list compilation and mailing service	00440330	00440331	00441437	00440332
78	(zzzh)	Construction of residential complex service	00440334	00440335	00441438	00440336
79	(zzzi)	Service provided by a registrar to an issue	00440338	00440339	00441439	00440340
80	(zzzj)	Service provided by a share transfer agent	00440342	00440343	00441440	00440344
81	(zzzk)	Automated Teller Machine operations, maintenance or management service	00440346	00440347	00441441	00440348
82	(zzzl)	Service provided by a recovery agent	00440350	00440351	00441442	00440352
83	(zzzm)	Selling of space or time slots for advertisements	00440354	00440355	00441443	00440356
84	(zzzn)	Sponsorship service provided to body-corporate or firm including sports sponsorships	00440358	00440359	00441444	00440360
85	(zzzo)	Transport of passengers embarking on domestic/international journey by air	00440362	00440363	00441445	00440364
86	(zzzp)	Transport of goods by rail including transport of goods in containers by rail (for the present, transport of passengers by rail in air-conditioned class/first class also may be paid under this description/accounting code)	00440390	00440391	00441446	00440392
87	(zzzq)	Business support service	00440366	00440367	00441447	00440368
88	(zzzr)	Auction service	00440370	00440371	00441448	00440372
89	(zzzs)	Public relation management service	00440374	00440375	00441449	00440376

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
90	(zzzt)	Ship management service	00440378	00440379	00441450	00440380
91	(zzzu)	Internet telecommunication services (includes internet telephony Service which became taxable from 01.05.2006)	00440382	00440383	00441451	00440384
92	(zzzv)	Transport of persons by cruise ship	00440386	00440387	00441452	00440388
93	(zzzw)	Credit card, debit card, charge card or other payment card related services	00440394	00440395	00441453	00440396
94	(zzzx)	Services of telegraph authority in relation to telecommunication service	00440398	00440399	00441454	00440400
95	(zzzy)	Mining of mineral, oil or gas service	00440402	00440403	00441455	00440404
96	(zzzz)	Renting of immovable property services	00440406	00440407	00441456	00440408
97	(zzzza)	Works contract service	00440410	00440411	00441457	00440412
98	(zzzzb)	Development and supply of content for use in telecom services, advertising agency, etc.	00440414	00440415	00441458	00440416
99	(zzzzc)	Asset management including portfolio management and fund management	00440418	00440419	00441459	00440420
100	(zzzzd)	Design service other than interior decoration and fashion designing	00440422	00440423	00441460	00440424
101	(zzzze)	Information technology software service	00440452	00440450	00441461	00440451
102	(zzzzf)	Services provided by an insurer of life insurance under Unit Linked Insurance Plan(ULIP)	00440430	00440431	00441462	00440432
103	(zzzzg)	Services provided by a recognized stock exchange in relation to transaction in securities	00440434	00440435	00441463	00440436
104	(zzzzh)	Services provided by recognised/registered associations in relation to clearance or settlement of transactions in goods or forward contracts	00440438	00440439	00441464	00440440
105	(zzzzi)	Services provided by a processing and clearinghouse in relation to securities, goods and forward contracts	00440442	00440443	00441465	00440446

Sr. No.	Finance Act, 1994 erstwhile Section 65(105)	Description of a service	Accounting Codes			
			Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds (for use by the field formations)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
106	(zzzzj)	Services provided by any person in relation to supply of tangible goods	00440445	00440447	00441466	00440448
107	(zzzzk)	Cosmetic and plastic surgery service	00440460	00440463	00441467	00440466
108	(zzzzl)	Transport of goods by coastal shipping (services by way of transportation of goods by inland waterways is placed in the negative list)	00440470	00440473	00441468	00440476
109	(zzzzm)	Legal consultancy service	00440480	00440483	00441469	00440486
110	(zzzzn)	Promotion, marketing , organizing or assisting in organizing games of chance including lottery, etc.	00440595	00440596	00441470	00440597
111	(zzzzo)	Health services by a clinical establishment, health check-up/diagnosis , etc.	00440598	00440599	00441471	00440600
112	(zzzzp)	Maintenance of medical records	00440601	00440602	00441472	00440603
113	(zzzzq)	Service of promotion or marketing of brand of goods/services/events	00440604	00440605	00441473	00440606
114	(zzzzr)	Service of permitting commercial use or exploitation of events	00440607	00440608	00441474	00440609
115	(zzzzs)	Electricity exchange service	00440610	00440611	00441475	00440612
116	(zzzzt)	Copyright service – transfer temporarily/ permit use or enjoyment	00440613	00440614	00441476	00440615
117	(zzzzu)	Special services provided by builders	00440616	00440617	00441477	00440618
118	(zzzzv)	Restaurant service	00441067	00441068	00441478	00441069
119	(zzzzw)	Service of providing accommodation in hotels, inn, guest house, club or campsite whatever name called.	00441070	00441071	00441479	00441072
120		Other taxable services [services other than the 119 listed above]	00441480	00441481	00441485	00441482

EDUCATION CESS

Sr. No.	Description of a service	Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds
1	Primary Education Cess	00440298	00440299	00441486	00440300
2	Secondary and Higher Education Cess	00440426	00440427	00441487	00440428

ALL TAXABLE SERVICES

Sr. No.	Description of a service	Tax Collection	Other Receipts (interest)	Penalties	Deduct Refunds
1	All Taxable Services (registrations obtained under this description should be amended online by selecting appropriate description/s from the list of 120 descriptions given in this Annexure)	00441089	00441090	00441093	00441094

About KPMG in India

The Indian member firms affiliated with KPMG International Cooperative were established in September 1993. As members of a cohesive business unit, we respond to a client service environment by leveraging the resources of KPMG International Cooperative's global network of firms, providing detailed knowledge of local laws, regulations, markets and competition. Operating from eleven offices across the country in Mumbai, Delhi, Noida, Bangalore, Chennai, Hyderabad, Kolkata, Pune, Kochi, Chandigarh and Ahemdabad. KPMG in India provides services to over 2000 clients. We have access to more than 5500 Indian and expatriate professionals - many of whom are internationally trained.

At KPMG, we are committed to being the business advisor of choice. We back up our commitments with a set of shared values, a code of conduct, and consistent processes, policies, and controls. We want our clients to be successful which is why we work hard at getting the chemistry right, and look not just at isolated issues but at the whole picture, to see how we can deliver high quality services. KPMG offers its clients a full range of services including accounting, financial, and business advisory.

Indirect tax practice in India

KPMG's Indirect Tax team with their wide-ranging experience and in-depth knowledge help clients in the various aspects of indirect tax management. We provide advisory and compliance services in respect of the state level Value Added Tax (VAT)/Sales tax, Service tax, Custom and Excise duties and Foreign Trade Policy related matters. This includes services in relation to setting up a green field venture including a review of tax assumptions and analysis of tax exemptions/ concessions which could be relevant for the project and tax modeling involving analysis of tax costs and credits impacting the business models. Further, an indirect tax diagnostic review or health check is a broad-based package offered to our clients. This review helps identify areas of potential tax exposure and tap opportunities for tax savings.

We also assist our clients in making representations before the revenue authorities for obtaining tax concessions, relief and seeking clarifications at state as well as federal level.

KPMG in India

Ahmedabad

Safal Profitaire,
B4 3rd Floor, Corporate Road,
Opp. Auda Garden, Prahlad Nagar,
Ahmedabad 380 015
Tel: +91 79 4040 2200
Fax: +91 79 4040 2244

Bangalore

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala, Bangalore 560 071
Tel: +91 80 3980 6000
Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (1st Floor)
Sector 8C, Madhya Marg
Chandigarh 160 009
Tel: +91 172 393 5777/781
Fax: +91 172 393 5780

Chennai

No.10, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034
Tel: +91 44 3914 5000
Fax: +91 44 3914 5999

Delhi

Building No.10, 8th Floor
DLF Cyber City, Phase II
Gurgaon, Haryana 122 002
Tel: +91 124 307 4000
Fax: +91 124 254 9101

Hyderabad

8-2-618/2,
Reliance Humsafar, 4th Floor,
Road No.11, Banjara Hills
Hyderabad 500 034
Tel: +91 40 3046 5000
Fax: +91 40 3046 5299

Kochi

4/F, Palal Towers
M. G. Road, Ravipuram,
Kochi 682 016
Tel: +91 484 302 7000
Fax: +91 484 302 7001

Kolkata

Infinity Benchmark, Plot No. G-1
10th Floor, Block – EP & GP, Sector V
Salt Lake City, Kolkata 700 091
Tel: +91 33 44034000
Fax: +91 33 44034199

Mumbai

Lodha Excelus, Apollo Mills
N. M. Joshi Marg
Mahalaxmi, Mumbai 400 011
Tel: +91 22 3989 6000
Fax: +91 22 3983 6000

Noida

6th Floor, Tower A
Advant Navis Business Park
Plot No. 07, Sector 142,
Noida Express Way
Dist. Gautam Budh Nagar,
Noida - 201 305
Phone: +91 0120 386 8000
Fax: +91 0120 386 8999

Pune

703, Godrej Castlemaine
Bund Garden
Pune 411 001
Tel: +91 20 3058 5764/65
Fax: +91 20 3058 5775

Contact Us

Sachin Menon

COO - Tax
National Head - Indirect Tax
E: sachinmenon@kpmg.com
T: +91 22 3090 2682

Santosh Dalvi

Partner
Indirect Tax
E: sdalvi@kpmg.com
T: +91 22 3090 2685

Pratik Jain

Partner
Indirect Tax
E: pratikjain@kpmg.com
T: +91 124 334 5002

Waman Parkhi

Partner
Indirect Tax
E: wparkhi@kpmg.com
T: +91 20 3050 4149