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CHIEF COMMISSIONER

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Ministry of Finance,  
Customs & Central Excise,  
Coimbatore Zone - 641 018.

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## FOREWORD

*Service Tax was introduced in 1994 with a humble beginning of 3 services viz. Telephone, General Insurance and Stock brokers. On completion of a glorious period of 12 years, it has galloped like a Pegasus to cover 96 services. The Service Tax revenue for 2005-06 was about Rs. 23,000 Crores as against Rs.400 Crores for the year 1994-95. This success is not a destination, but a continuous journey. Many more services are likely to be brought under the Service Tax in the years to come, to enrich the exchequer of the Nation, as the service sector contributes over 50% of the GDP.*

*I am extremely delighted in bringing out the third edition of this booklet . In order to break the barriers of language and to remove the fears in the minds of the assesseees, this booklet provides answers to the frequently asked questions on Service Tax in a simple manner. I am confident that this booklet would be useful for the day to day use of the service providers, as a ready reference. I also hope that this publication would facilitate and encourage voluntary compliance.*

*I acknowledge the sincere contribution of Shri. M. Srinivas, Additional Commissioner of Central Excise, Mumbai-II Commissionerate, Shri. K. Rajendran, Superintendent (CCO) and Shri. B. Venkateswaran, Superintendent, Coimbatore, in bringing out this booklet.*

*There has been an overwhelming response in respect of the previous editions. The suggestions received are invaluable and have been incorporated. I welcome any suggestions for further improvement of this publication, which would be of immense help to the Department, for disseminating information regarding Service Tax, for the benefit of the public in general and the service providers in particular.*

Coimbatore,  
19.6.2006.

(J.M.K. SEKHAR)

# SERVICE TAX

(Frequently Asked Questions and  
Service Specific Information -  
Twenty Five Select Services and  
Fifteen New Services)

*As on 19.6.2006*

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*Please forward your views and suggestions to :*

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## **DISCLAIMER**

- *This booklet is published in the form of questions and answers and in narrative form in respect of certain service specific issues, for easy understanding. For legal purposes, the relevant statutes and the notifications issued thereunder by the Central Government, as indicated in the answer to Q.No. 1.5 - page No. 6, would alone be valid.*
- *The clarifications contained in this booklet are applicable as per the statutory provisions which are in force as on the date of publication of the booklet. The same are liable to change as per the policy decisions of the Government.*
- *Certain information and details incorporated in this booklet are illustrative in nature and cannot be considered to be exhaustive.*

# SERVICE TAX

## FREQUENTLY ASKED QUESTIONS

### 1. General

#### 1.1. What is Service Tax? Is it an Indirect Tax?

The tax levied on certain specified services by the Central Government is called Service Tax. Service Tax is levied as per Sec.66 (Chapter V) of the Finance Act, 1994 (the Act) on services specified in Sec.65 of the Act. There are 96 services liable to Service Tax including the fifteen new services, which were brought into Service Tax net w.e.f. 1.5.2006. The list of the services is furnished as Appendix I - page No. 73. For details about the fifteen new services, please see *Chapter 18 - page No. 64*.

As it is an indirect tax, the Service Tax payable/paid by the service provider can be collected from the customers receiving such services.

#### 1.2. Who is liable to pay Service Tax to the Government?

1. Generally, the 'person' who provides the taxable service is responsible for paying the Service Tax to the Government. The 'person' refers to a legal person and would include any individual, proprietary firm or partnership firm, company, trust, institution, society etc. (Sec.68 (1) of the Act)
2. However, in the following cases, the 'person' who receives the taxable service is liable to pay Service Tax. :
  - (i) In respect of Insurance Auxiliary Service by an Insurance Agent, Service Tax is to be paid by the Insurance Company.
  - (ii) In respect of the taxable services provided by a Goods Transport Agency for transport of goods by road, the person who pays or is liable to pay freight should pay Service Tax, if the consignor or consignee falls under any of the seven categories viz. (a) a factory (b) a company (c) a corporation (d) a society (e) a co-operative society (f) a registered dealer of Excisable goods (g) a body corporate or a partnership firm (For details, *please see Sl.No. 17.18 of Chapter 17 - page No. 56*).
  - (iii) In respect of the Business auxiliary services provided by Mutual Fund Distributors in relation to distribution of Mutual Fund, the Service Tax is to be paid by the Mutual Fund or the Asset Management Company receiving such service.

- (iv) In relation to sponsorship service provided to any body corporate or firm, Service Tax is to be paid by the body corporate or firm, which receives the sponsorship service.
- (v) With regard to any taxable service provided or to be provided by any person from a country other than India and received by any person in India, the person receiving such service should pay service tax. Please see Chapter 16 - page No. 43 for further details in this regard.

*(Sec.68 (2) and Sec.66A of the Act read with Rule 2(1)(d) of the STR, 1994).*

### **1.3. What is the rate of Service Tax?**

At present, the rate of Service Tax is 12% of the "value of the taxable service". In addition to this, Education Cess is payable at the rate of 2% on the Service Tax amount (Total:12.24% on the value of the taxable service).

Sec.66 of the Finance Act, 1994 (Service Tax); and  
Sec.85 of the Finance Act, 2004 (Education Cess).

### **1.4. What is meant by "value of the taxable service"?**

In General, "value of the taxable service" means, the gross amount or consideration thereof received by the service provider for the taxable service provided or to be provided by him.

For certain services, a specified percentage of abatement is allowed from the gross amount collected for providing the taxable services. For details of the admissible abatement in respect of various services, please see Appendix II - page No. 77.

### **1.5. What are the statutes governing the taxation relating to Service Tax?**

The Statutes governing the levy of Service Tax are as follows :

- (i) Finance Act, 1994 - Chapter V - Sec.64 to 96 I. (referred to as the 'Act').
- (ii) Finance Act, 2004 Chapter VI - for levy of Education Cess @ 2% on the Service Tax.
- (iii) Service Tax Rules, 1994. (referred to as the 'Rules' or STR, 1994).
- (iv) CENVAT Credit Rules, 2004.
- (v) Export of Services Rules, 2005.
- (vi) Service Tax (Registration of Special categories of persons) Rules, 2005.

(vii) Taxation of Services (Provided from outside India and received in India) Rules, 2006.

(viii) Service Tax (Determination of Value) Rules, 2006.

In addition to the above statutes, certain provisions of the Central Excise Act, 1944 are also made applicable for Service Tax matters, as per Sec.83 of the Act.

## 1.6. How to decide whether Service Tax is payable by a person?

A. If a person is engaged in providing service to any person, please check :-

- (i) Whether the service provided by the person is falling under the scope of any of the specified taxable services, as listed in the Appendix I - page No. 73.
- (ii) Whether there is a general or specific exemption available for the category of service provided under any of the notifications, as listed in Appendix III - page No. 78.
- (iii) Whether the person is entitled to the value based exemption (upto Rupees Four Lakhs in a financial year), as detailed in Chapter 4 - page No. 11.

In case the service provided by a person falls within the scope of the taxable services and if such service is not fully exempted, the Service Tax is payable on the value received for the taxable service, subject to the eligible exemptions / abatements, if any.

B. If a person is receiving the services from a service provider, please check :-

- (i) Whether the service received by the person is falling under the scope of any of the services where the recipient of the service is liable to pay Service Tax in terms of Sec. 66A and 68(2) of the Act read with Rule 2(1)(d) of the Rules (For details, please see the answer to Q.No. 1.2 - page No. 5).

In case the service received by a person is falling under the scope of any of the taxable services where the recipient of the service is liable to pay Service Tax, then the person receiving such services shall pay Service Tax, having regard to the exemptions / abatements admissible, if any.

**NOTE :** *The value based exemption for small service providers under Notification No.6/2005 ST dated 1.3.2005 is not admissible to such recipients of taxable services who are liable to pay Service Tax. (For further details, please see the answer to Q.No 4.4 - page No. 13).*

## 2. Registration

### 2.1. Who should apply for registration under Service Tax law?

All the 'persons' who are liable to pay Service Tax to the Government and the 'Input Service Distributors' are required to register themselves with the Central Excise Department.

However, the Service Providers availing the value based exemption under Notification No: 6/2005 ST dated 1.3.2005 (available to the small service providers whose receipt of value for the taxable services is less than Rupees Four Lakhs in a Financial Year), need to obtain Registration, if only the aggregate value of their taxable service in a financial year exceeds three lakh rupees although full exemption for payment of Service Tax is upto rupees four lakhs (Notfn. No.27/2005 ST dated 7.6.2005).

***NOTE :*** *The value of services exempted by any Notification other than Notfn. No.6/2005 ST dated 1.3.2005 need not be included while computing the value for the above purpose.*

### 2.2. Who should be approached for Service Tax Registration?

A prospective assessee of Service Tax may approach the jurisdictional Superintendent of Central Excise in charge of Service Tax and obtain the Registration. (The list of the Central Excise Commissionerates along with Telephone Numbers and Website addresses of Coimbatore Zone is furnished as Helplines in the first inner wrapper).

***NOTE :*** *'Assessee' means a person liable to pay Service Tax and includes his agent.*

### 2.3. What is the procedure for Registration?

A prospective Service Tax assessee (Service provider or service receiver as explained in *Q.No 1.2 - page No. 5*) seeking registration should file an application in Form ST-1 (in duplicate) before the jurisdictional Superintendent of Central Excise in charge for Service Tax within 30 days from the date of notification specifying the relevant service as a taxable service.

If such service has already been notified, the application for registration should be filed within 30 days from the date of commencement of the service [Rule 4(1) of the STR, 1994]. The brief hints for filing the application for Registration (Form ST-1) are in Appendix IV - *page No. 80*.



#### **2.4. What is the procedure for Registration, in case the taxable services are provided from more than one premises?**

In case an assessee provides taxable services from more than one premises, he may obtain a centralized registration, at his own option, provided he has centralised billing system or centralised accounting system. However, if such person does not have centralised billing system or centralised accounting system, then he will have to necessarily register at each place, separately. In case an assessee provides taxable services from more than one premises, and if such premises are located within the jurisdiction of -

- different Divisions of a Commissionerate, the Registration certificate would be issued by the Commissioner of Central Excise having jurisdiction over all such premises.
- different Commissionerates of a Central Excise Zone, the Registration Certificate would be issued by the Chief Commissioner having jurisdiction over all such premises.
- different Central Excise Zones, the Registration Certificate would be issued by the Director General of Service Tax having Office at Mumbai.

*(Rule 4(2) of the STR, 1994).*

Even if a person provides more than one taxable service from a single premises, only one Registration certificate is required to be taken.

***NOTE :*** *The aforesaid Centralised Registration will not be applicable where the liability to pay Service Tax is on the recipient of the services as per the provisions of Sec.66A and 68(2) of the Act read with Rule 2(1)(d) of the STR, 1994.*

#### **2.5. When would the Registration Certificate be issued?**

The Superintendent of Central Excise, after due verification of the application form, will grant the registration certificate in Form ST-2 within seven days from the date of receipt of the application. In case the registration certificate is not issued within seven days, the registration applied for is deemed to have been issued. *(Rule 4(5) of the STR, 1994)*

#### **2.6. Whether a service provider can make payment of Service Tax and file returns before the grant of registration ?**

Yes. A service provider can pay Service Tax and file returns immediately after applying for the registration.

**2.7. Should the PAN allotted by the Income Tax Department be furnished for obtaining Service Tax Registration?**

The Service Tax Registration number is generated based on the Permanent Account Number (PAN) issued by the Income Tax Department. However, in the absence of the PAN, a temporary Service Tax registration number would be issued till such time the assessee obtains and furnishes the PAN. Once the PAN is obtained from Income Tax Department, the assessee should obtain the PAN based Service Tax Registration number from the concerned Central Excise Authorities.

**2.8. What should be done in the event of a change in any information or details after obtaining the Registration?**

The assessee should inform the change in any information or details in writing to the jurisdictional Asst. / Deputy Commissioner of Central Excise within 30 days of such change along with the original Service Tax registration certificate for suitable amendments by the Central Excise Officer. (*Rule 4(5A) of the STR, 1994*).

**2.9. What is to be done with the Registration when a registered assessee transfers his business to another person?**

In the event of transfer of the business, the transferee should obtain a fresh certificate of Service Tax registration from the concerned Central Excise Authority, by submitting the application in Form ST-1 within thirty days from such transfer of business as detailed in *Q.No: 2.3 - page No. 8*.

**2.10. What is to be done when a registered assessee ceases to carry on the activity for which he was registered?**

In such a situation, the assessee should surrender the Service Tax Registration certificate (ST-2) to the Superintendent of Central Excise. On receipt of the certificate, the Superintendent of Central Excise will cancel the Registration Certificate after ensuring that the assessee had paid all Service Tax dues, if any, to the Government under the provisions of the Act, the rules and notifications issued thereunder.

(*Rule 4(7) and 4(8) of the STR, 1994*.)

**2.11. Is there any penal provision for non-registration?**

In case of failure to register for Service Tax purpose beyond the period mentioned in *Q.No 2.3 - page No. 8*, the person liable to pay Service Tax is liable to a penalty upto Rs.1,000/- under Sec. 77 of the Act. However, such penalty could be waived in case the assessee proves that there was a reasonable cause for such failure. (Sec. 80 of the Act). Please also see *Chapter 12 - page No. 32* for further details.

### **3. Classification of Services**

#### **3.1. How to identify the category of a taxable service provided by a service provider?**

- Generally, the category of a taxable service would be determined according to the terms of clause (105) of Section 65 of the Act, read with the definition of relevant service and terms provided under Section 65 *ibid*.
- For determination of the category of a taxable service, the service providers are required to furnish a brief description about the service(s) provided by them and/or copies of the agreement, if any, for providing such services, at the time of registration or when they intend to incorporate an additional service in the existing Service Tax registration certificate.

#### **3.2. When a taxable service rendered by a person appears to be falling under more than one category, how to decide the category under which Service Tax is payable?**

In case a taxable service appears to be falling under more than one category, the classification shall be determined as follows:-

- The sub-clause of clause (105) of Section 65 of the Act, which provides the most specific description shall be given preference than the one providing a more general description;
- Composite services consisting of a combination of different services, which can not be classified, in the manner specified above shall be classified based on the essential character of that service.
- When a service can not be classified by the above methods, it shall be classified under the sub-clause which occurs first among the sub-clauses, which equally merit consideration.

*(Sec. 65A of the Act)*

### **4. Exemptions**

#### **4.1. What are the exemptions available for Service Tax assessee?**

The following exemptions are available for the Service Tax assessee subject to the conditions specified in the respective notification.

- (i) Value based exemption upto Rupees Four Lakhs in a financial year based on certain conditions. (Notification No: 6/2005 ST dated 1.3.2005)

- (ii) Exemption for the services provided to United Nations or International Organisations (Notifn. No. 16/2002 ST dated 2.8.2002).
- (iii) Exemption for the services provided to a developer of Special Economic Zone (SEZ) or a unit of SEZ (Notifn No. 4/2004 ST dated 31.3.2004).
- (iv) Exemption from Service Tax on the value of the goods and materials sold by the service provider to the recipient of the service. (Notifn. 12/2003 ST dated 20.6.2003).
- (v) Exemption for the services, where Reserve Bank of India is otherwise liable to pay Service Tax. (Notifn. 22/2006 ST dated 31.5.2006).
- (vi) Exemption for the taxable services provided by a Banking company or a financial institution including a non-Banking financial company, or any other body corporate or a commercial concern, to the Government of India or the Government of a State, in relation to collection of any duties or taxes levied by the Government of India or the Government of a State (Notifn.No.13/2004 ST dated 10.9.04).
- (vii) Apart from the above, abatement from the value of taxable services is allowed for certain specified services, as shown in Appendix II - *page No. 77*.
- (viii) Air Travel Agents have an option to pay Service Tax at a specified rate on the basic airfare charged by the airlines, instead of paying Service Tax at the rate prescribed under Section 66 of the Act (currently 12.24%), on the taxable value (gross commission).

**4.2. Are Central / State Government organisations, Public Sector Undertakings and non-commercial organisations, exempted from the payment of the Service tax?**

All the taxable services provided by the Central/State Government Organisations, the Public sector undertakings and non-commercial organisations are liable to Service Tax like any other Service Tax assessee. However, the exceptions in this regard are as detailed at Sl.No (v) and (vi) of the reply to *Q.No. 4.1*.

**4.3. Is there any exemption from payment of Service Tax for the service provider if the recipient of the service is a Central / State Government Organisation or a Public Sector Undertaking?**

Generally, there is no exemption from payment of Service Tax in respect of the taxable services provided to the Central / State

Government Organisations or a Public sector undertaking. However, the exception in this regard is as detailed at Sl.no (vi) in the answer to Q.No: 4.1 (Notification No: 13/2004 ST dated 10.9.2004)

**4.4. What is the value based exemption available to the service providers?**

- The Notifn. No. 6/2005 ST dated 1.3.2005 provides for value based Service Tax exemption, applicable to the service providers, where aggregate receipt of value towards taxable services does not exceed Rupees Four Lakhs in a financial year.
- The said value based exemption is available in respect of all the taxable services;
- Once the specified value limit of Rupees Four Lakhs is crossed, the service provider is liable to pay service tax on the value of the taxable services, in excess of the specified limit of Rupees Four lakhs in a financial year.

**4.5. What are the conditions for availment of the value based exemption from Service Tax?**

The conditions for availment of the value based exemption by the service providers are as follows :

- (i) The value based exemption is available only to the Service Tax assessee who are the service providers. This exemption is not available to the persons who are liable to pay service tax, as recipient of the services, in terms of Section 66A and 68(2) of the Act.
- (ii) If the aggregate value of taxable services provided by a service provider, from one or more premises exceeds rupees four lakhs in the preceding financial year, the service provider is not eligible for the exemption for the subsequent year.
- (iii) The exemption shall apply to the aggregate value of all taxable services and from all premises and not separately for each premises or each service.
- (iv) The benefit of the exemption shall not apply to taxable services rendered by a person under a brand name or trade name whether registered or not, of another person.

- (v) A person availing the value based exemption, should not avail CENVAT Credit of Service Tax paid on any input services, under Rule 3 or Rule 13 of the CENVAT Credit Rules, 2004, during the exemption period.
- (vi) A person availing the value based exemption, should not avail CENVAT Credit of duties paid on the capital goods, which are received in the premises of the service provider during the exemption period.
- (vii) A person availing the value based exemption, should pay an amount equivalent to the CENVAT Credit taken by them, if any, in respect of the inputs lying in stock or in process as on the date on which the provider of taxable service starts availing the exemption. The balance credit amount, if any, shall lapse.

**4.6. Is the value based Service Tax exemption compulsory?**

No. The Service Tax assesseees have the option not to avail the value based exemption under Notifn No: 6/2005 ST dated 1.3.2005. However, such option once exercised in a financial year shall not be withdrawn during the remaining part of such financial year.

**5. Valuation**

**5.1. What is the value of taxable service?**

- (i) Where the service rendered is for a consideration in money, the value of the taxable service is the gross amount charged by the service provider for such service provided or to be provided.
- (ii) Where the service rendered is for a consideration not wholly or partly consisting of money, the value of the taxable service is equivalent to the value of the consideration. However, the total of such money and value of the consideration has to be treated as inclusive of the service tax payable thereon.
- (iii) Where the consideration for the service provided or to be provided is not ascertainable, the value of the taxable service would be determined as per the provisions of the Service Tax (Determination of Value) Rules, 2006.

*(Section 67 of the Act)*

***NOTE :*** *The inclusion or exclusion of certain expenditure or costs or commission for determining the taxable value are stipulated under Rule 5 & 6 of the Service Tax (Determination of Value) Rules, 2006.*

**5.2. How to determine the value of taxable service, where the consideration received is not wholly or partly consisting of money?**

- In such circumstances, the value of taxable service shall be equivalent to the gross amount charged by the service provider in respect of similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration.
- If the value of similar service provided by the same service provider is not available, the service provider shall determine the equivalent money value of such consideration, which shall not be less than the cost of provision of such taxable service.
- If the consideration received is partly in money and partly in non-money terms, the sum of consideration received in money and the equivalent money value of the non-money consideration determined by the service provider shall be the taxable value. However, the value so determined in the above manner shall not be less than the cost of provision of such taxable service.

(Rule 3 of the Service Tax (Determination of Value) Rules, 2006 read with Sec. 67 of the Act.)

**5.3 What are the inclusions or exclusions of expenditure or costs stipulated under the Service Tax (Determination of Value) Rules, 2006?**

- (i) Generally, any expenditure or costs incurred by the service provider in the course of providing taxable service shall be treated as consideration and the same should be included in the value of taxable service.
- (ii) The value of the taxable service is the total amount of consideration consisting of all components of the service and it is immaterial whether or not the details of individual components of the consideration are indicated separately in the invoice.
- (iii) However, the expenditure or costs incurred by the service provider as a 'pure agent' of the recipient of service shall be excluded from the value, subject to certain conditions.

**5.4 What is the meaning of the expression 'Pure agent'?**

'Pure agent' means a person who -

- 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;

- 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;
- Does not use such goods or services so procured; and
- Receives only the actual amount incurred to procure such goods or services.

*(Rule 5 of the Service Tax (Determination of Value) Rules, 2006 read with Section 67 of the Act.)*

**5.5 What are the other ingredients such as commission, costs, etc., liable to be included or excluded for determination of the value of taxable service?**

*The value of the taxable services shall include -*

- 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;
- 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;
- Amount of premium charged by the insurer from the policy holder;
- Commission received by the air travel agent from the airlines;
- Commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;
- Reimbursement received by the authorised service station, from the manufacturer for carrying out any service of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;
- Commission or any amount received by the rail travel agent from the Railways or the customer;
- 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 in any manner; and
- Commission, fee or any other sum, by whatever name called, paid to an insurance agent by the insurer in relation to insurance auxiliary services provided by such agent.



The value of taxable service, however, does not include-

- 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;
- Airfare collected by air travel agent in respect of service provided by him;
- Rail fare collected by Rail travel agent in respect of service provided by him; and interest on loans.

*(Rule 6 of the Service Tax (Determination of Value) Rules, 2006 read with Sec 67 of the Act)*

**5.6. Can the Department modify the value determined by the service provider?**

- The Central Excise Officer is empowered to verify with regard to the accuracy of any information furnished or document presented for valuation.
- Such verification can be undertaken only after the written instructions from the Divisional Asst. / Deputy Commissioner of Central Excise.
- If the value adopted by the Service Tax assessee is not acceptable in accordance with the statute, the Officer shall issue a show cause notice (SCN) proposing to determine the value as per the law.
- The SCN would be decided after providing reasonable opportunity of being heard.

*(Rule 4 the Service Tax Determination of Value) Rules, 2006 read with Sec 67 of the Act.)*

**5.7. What is the basis for determination of the value of taxable service provided from outside India?**

- The value of taxable service provided from outside India and received in India shall be such amount as is equal to the actual consideration charged for the services provided or to be provided.
- The value of certain taxable services, which are partly performed in India, shall be the total consideration paid by the recipient for such services including the value of service partly performed outside India.

*(Rule 7 of the Service Tax (Determination of Value) Rules, 2006 read with Sec 67 of the Act.)*

**NOTE :** *In view of the comprehensive provisions on value of taxable services under Section 67 of the Act and Service Tax (Determination of Value) Rules, 2006, all the circulars relating to value of taxable services issued earlier were withdrawn vide CBEC(TRU) Circular F.No : B1/4/2006 TRU dated 19.4.2006.*

## **6. Assessment**

### **6.1. What does Assessment mean?**

Assessment is the computation of tax liability. Assessment includes self assessment of services tax by the assessee, reassessment, provisional assessment, best judgement assessment and any order of assessment in which the tax assessed is nil; determination of the interest on the tax assessed or re-assessed.

### **6.2. Who is normally responsible to make assessment of the Service Tax liability?**

Normally, every person who is liable to pay service tax is responsible to make assessment of the Service Tax payable by him and furnish the half yearly return in the prescribed form (ST-3/ST-3A). Such assessment required to be made by the Service Tax assessee himself, is called 'Self Assessment' (*Sec. 70 of the Act*)

### **6.3. Can the Central Excise Officer re-assess the Service Tax liability?**

Yes. The Central Excise Officers authorized in this regard, can scrutinize all the relevant records and check as to whether the Service Tax liability was properly discharged. Wherever the Self Assessment is felt to be not acceptable, the assessee would be served a notice proposing to re-assess the Service Tax liability. Such notices proposing to re-assess the Service Tax liability would be decided by the appropriate adjudicating authority, after providing adequate opportunity of being heard in person. For further details, please refer *Chapter 11 - page No. 31.*

### **6.4. Under what circumstances, provisional assessment is resorted to? What is the procedure to be followed for provisional assessment?**

› If an assessee is unable to correctly estimate the actual amount payable for any particular month or quarter, he may make a

request in writing to the Assistant / Deputy Commissioner of Central Excise, giving reasons for payment of Service Tax on provisional basis. On receipt of such request, the authority may allow payment of Service Tax on provisional basis on such value of taxable service as may be specified by him. The provisions of the Central Excise Rules relating to provisional assessment (except execution of bond), shall apply to such assessment.

- An assessee requesting for provisional assessment 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 half yearly return in Form ST-3.

### **6.5. How is the provisional assessment finalised?**

In case the Service Tax assessee resorts to provisional assessment after following the procedure as detailed at Q.No : 6.4 and furnishes the returns in Form ST-3A along with Form ST-3, it is the responsibility of the Asst. / Deputy Commissioner of Central Excise to complete the assessment. For such completion of the assessment, the Asst / Dy.commissioner of Central Excise may call for further documents or records as he may consider necessary and proper, in the circumstances of each case.

Wherever the Asst. / Dy.Commissioner, after considering all the details / documents proposes to re-assess the Service Tax liability, the finalization of the provisional assessment would be made after providing adequate opportunity by issuing the show cause notice and opportunity of being heard in person.

## ***7. Payment of Service Tax***

### **7.1. How and where to pay the assessed Service Tax?**

- The Service Tax is required to be paid into the specified branch of a designated Bank either in cash or by Cheque, under Form TR6 Challan (Yellow in colour) specifying the account code for the taxable service(s). The details of such Banks and branches may be obtained from the nearest Central Excise Office. The account codes for the taxable services are listed in Appendix I - *page No. 73*.
- The Service Tax can also be paid through the CENVAT Credit availed on the eligible inputs, input services and Capital Goods.

## **7.2. What is the due date for payment of Service Tax?**

- If the assessee is an individual or a proprietary or partnership firm, Service Tax is to be paid on quarterly basis by the 5th day of the month following the quarter. For example, Service tax for the quarter ending 30th of June is to be paid by 5th of July.
- In respect of all other categories (Company, Society, Trust etc.), Service tax is payable on monthly basis and is to be paid by the 5th day of the succeeding month.
- However, the Service Tax for the month of March or quarter ending March should be paid by all Service Tax assesseees by 31st of March of the Calendar year.

*(Rule 6(1) of the STR, 1994).*

## **7.3. What is the Head of account into which the Service Tax is to be paid in respect of various services?**

- Service Tax has to be paid under separate 'Head of account' specified for each taxable service. The list of taxable services along with accounting code numbers (Head of Account), is in Appendix I - *page No. 73*.
- In case a taxable service appears to be falling under more than one category, the classification of the service provided shall be determined as per the provisions of Section 65A of the Act, as detailed in *Chapter 3 - page No. 11*.
- While making the payment of Service Tax to the credit of the Central Government, the Head of account which is specific to a service should be properly indicated in the TR6 challan along with the 15-digit Service Tax payer code number allotted by the Department, to avoid incorrect accounting. The Month / Quarter for which the service tax is being paid should also be indicated in the TR-6 challan.

## **7.4. What is the date of payment of Service Tax if payment is made through cheque?**

The date of deposit of the cheque is the date of payment of Service Tax. It would suffice if the cheque is presented to the bank by the due date for payment of Service Tax. However, if the cheque is dishonoured, it would mean as if the Service Tax has not been paid and the relevant penal consequences would follow.

*(Rule 6(2) of the STR, 1994).*

**7.5. What are the facilities available with regard to the payment of Service Tax for the month of March / QE March, as the Service Tax for the said period is payable by 31st of March itself as per Rule 6(1) of the STR, 1994?**

*The facilities available in this regard, are as indicated below :*

- As per rule 6 (4) of the STR, 1994 where the Service Tax assessee is unable to correctly estimate the actual amount of Service Tax payable for a particular month or quarter by the due date for payment of such Service Tax, the Service Tax assessee may request the concerned Asst./Deputy Commissioner of Central Excise seeking permission for payment of Service Tax on provisional basis. On receipt of such written request of the assessee, the authority may allow payment of Service Tax on provisional basis, on such value of taxable service as may be specified by the authority. In this regard, the provisions of Rule 7 of the Central Excise Rules, 2002 relating to provisional assessment are applicable for finalization of the Service Tax provisional assessment etc., except so far as they relate to execution of Bond.
- The assessee having centralised registration who paid excess amount of Service Tax, on account of non-receipt of details regarding the receipt of gross amount for the services at his other premises or offices, may adjust such excess amount against the Service Tax liability for the subsequent period and furnish the details of such adjustment to the jurisdictional Superintendent of Central Excise within 15 days from the date of such adjustment. (Rule 6(4A) of the STR, 1994).
- The Reserve Bank of India (RBI) has been issuing specific directive to all the authorized Banks to keep their banks/ branches open in such a manner that no assessee faces difficulty in discharging the tax liabilities on 31st of March.
- The Department, wherever the situation demands, also makes necessary arrangements to receive the TR-6 challans with the cheques at the Central Excise Offices, to facilitate payment of Service Tax till midnight on 31st of March. This facility also can be made use of, by the assessee.

**7.6. Whether the payment of Service Tax is to be made for the billed amount or for the value received?**

- The Service Tax for a particular period is payable on the gross value of taxable service *received* during that period (month or quarter as the case may be) and not on the gross amount billed to the client for the same period.
- However, the Service Tax is payable even on the advance amounts received towards the taxable services which are yet to be provided.

*(Section 67 of the Act and Rule 6(1) of the STR,1994)*

**7.7. Whether Service Tax is payable after providing the service or after the receipt of the service charges?**

Service Tax is payable once the amount/value or the consideration in respect of the taxable service is received by the service provider, for the service so provided or to be provided *(Sec.65 and 67 of the Act)*.

**7.8. Is the Service Tax payable by the assessee even in cases where his clients do not pay for the service(s) rendered or when the client pays only a part of the bill raised in this regard?**

- Service Tax is required to be paid at the applicable rate in force (at present 12.24%) only on the value/amount of taxable service received in a particular month or quarter as the case may be, and not on the gross amount billed to the client.
- However, in all such cases when the amount received is less than the gross amount charged / billed to the client, the assessee is required to amend the bills either by rectifying the existing bill or by issuing a revised bill or a credit voucher / note and by properly endorsing such change in the billed amount. In case an assessee fails to do so, his liability to pay Service Tax shall be on the amount billed by him to the client for the services rendered.

**7.9. When payment is made by a client to an assessee after deducting his Income Tax liability under the Tax deduction at source (TDS) provision, whether the Service Tax liability is on the amount actually received or on the total amount?**

- Service Tax is to be paid on the value of taxable service, which is charged by a Service Tax assessee. Income tax deducted at source is included in the charged amount. Service Tax is, therefore, payable on the total amount inclusive of the Income Tax deducted at source.

**7.10. How does one work out the Service Tax liability and pay the same to the Government, in case the customer or a client pays only the billed amount, but not the Service Tax amount mentioned, in the bill?**

- In case the Service Tax assessee receives the service charges only but not the Service Tax payable thereon, the amount so realized from the client would be treated as gross amount inclusive of Service Tax. Accordingly, the value of taxable service and the Service Tax liability are worked out as follows :-
- Assuming that a sum of Rs.1,000/- has been received and the effective rate of Service Tax is 12.24% (12% + Education Cess 2% on the ST)

$$\begin{aligned} \text{Value of taxable service (V)} &= \frac{\text{Gross Value} \times 100}{(100 + \text{Rate of Tax})} = \frac{1000 \times 100}{(100 + 12.24)} = 890.95 \\ \text{Service Tax + Edn. Cess Payable} &= \frac{V \times \text{Rate of Tax}}{100} = \frac{890.95 \times 12.24}{100} = 109.05 \\ \text{Value of Taxable Service} &= 890.95 \\ \text{Service Tax + Education Cess} &= \underline{109.05} \\ \text{Total Amount} &= \underline{1000.00} \end{aligned}$$

**7.11. Is there any interest liability for the delay in payment of Service Tax? If so, what is the rate of interest?**

- Yes. The delayed payment of Service Tax attracts simple interest at the rate specified under Sec.75 of the Finance Act, 1994. The interest rate in force at present is 13% per annum. Interest is payable for the period from the first day after the due date till the date of payment of such defaulted Service Tax amount or any part thereof.

**7.12. Is there any penal action for delayed payment of Service Tax? If so, what are the penal consequences?**

- Yes. If the Service Tax is not paid or paid after the due date, penalty is liable to be imposed at the rate of Rs. 200/- for every day of failure to pay Service Tax or at the rate of 2% of the Service Tax per month, whichever is higher. However, this penalty shall not exceed the amount of Service Tax that the assessee failed to pay. The penal liability is in addition to the tax amount and interest payable thereon as per Sec. 75 of the Act.

- If the Service Tax is not paid or short paid by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of law with intent to evade payment of Service Tax, Penalty can be imposed to an extent ranging from 100% to 200% of the Service Tax, which was not levied or paid. Such liability towards penalty would be in addition to the Service Tax amount evaded and the interest payable thereon. (Sec.76 of the Act)
- For further details regarding the penal provisions, please refer *Chapter 12 - page No. 32.*

## 8. Filing of Returns

### **8.1. Whether any return is to be filed by the Service Tax assessee? With whom the return should be filed and what is the due date for filing of return?**

- The Service Tax assesseees are required to file a half-yearly Return in Form ST-3, in triplicate.
- Where the assessment is provisional as detailed at *Q.No: 6.4 - page No. 18*, the half yearly return in Form ST-3 is required to be accompanied by the return in Form ST-3A.
- The half yearly return is required to be filed with the jurisdictional Superintendent of Central Excise incharge of Service Tax.
- The Return is to be filed within 25 days from the last day of the half year to which it relates and should be accompanied by copies of all the TR6 Challans for payment of Service Tax during the relevant period. Thus, return for the half year ending 30th September and 31st March are required to be filed by 25th October and 25th April, respectively.
- The details in respect of each month of the period, for which the return is filed, should be furnished in the Form ST-3, separately (Sec.70 of the Act and Rule 7 of the STR, 1994). The brief hints for filing of ST-3 Return are in *Appendix IV - page No. 80.*

### **8.2. Where from the Service Tax assessee can get the Forms such as ST-1, ST-3,ST-3A etc?**

The Forms are available in the websites as indicated in the Helplines (first inner wrapper). These forms can also be obtained



from the Central Excise Range / Division /Commissionerate Hqrs. Offices or from the nearest Help Centre established by the Central Excise Department.

**8.3. When an assessee provides more than one service, whether a single return is sufficient or separate returns are to be filed for each service?**

A single half yearly return would suffice even if the assessee provides more than one service. However, details in the relevant columns in Form ST-3 / ST-3A should be furnished separately for each of the taxable service for which the Service Tax assessee is liable to file the returns.

**8.4. Whether a service provider availing the value based exemption under Notification No: 6/2005 ST dated 1.3.2005, is required to file the half yearly returns?**

- The service providers availing exemption under Notification No: 6/2005 ST dated 1.3.2005, need not file half yearly returns until they are required to register themselves with the Department. Such service providers availing the value based exemption are required to register themselves, when their value of the taxable services in a financial year crosses Rupees Three Lakhs, as detailed in *Q.No.2.1 - page No. 8*, although they are eligible for the full exemption from payment of Service Tax upto Rupees Four Lakhs in a financial year.
- The service provider availing the value based exemption, who had registered in any financial year for having crossed rupees three Lakhs (value of the taxable services received) is under the statutory obligation to file half yearly returns thereafter, even though they are eligible for the value based exemption during the same or subsequent year.

**8.5 Whether the return is to be filed when an assessee had not received any amount or had not rendered any taxable service, during the period for which the ST3 return is required to be filed?**

A Service Tax assessee should file the ST-3 return within the prescribed time limit incorporating the relevant details in the respective columns, even if they had not rendered any service or not received any amount during a particular half year.

**8.6. Can the Department ask for more information than what the assessee had furnished in the statutory forms such as ST-1, ST-3 / ST-3A etc?**

Yes. If it is felt necessary, the Department can ask for additional information/documents for scrutiny, as per Rule 6(6) of the STR, 1994 and Sec. 14 of the Central Excise Act, 1944 which is made applicable to Service Tax matters as per Sec.83 of the Act.

**8.7. What is e-filing of Service Tax Returns?**

The e-filing is a facility for electronic filing of Service Tax Returns through the Internet by using a computer.

**8.8. Who is eligible for e-filing of the Service Tax Returns ?**

All Service Tax assessees having the 15-digit Service Tax payer code allotted by the Central Excise Department can avail the facility of electronic filing of their Service Tax Returns (ST-3).

**8.9. What is the procedure for e-filing?**

- The Service Tax assessees who have 15-digit Service Tax payer code allotted to them, should file an application with the jurisdictional Assistant / Deputy Commissioner requesting for the User Id and Password for e-filing of returns. They should mention a reliable e-mail address in their application, so that the Department can forward their User Id and Password for the said purpose.
- After getting the User Id and Password for e-filing of ST3 returns, they should visit the Service Tax e-filing home page by typing the address *http://servicetaxefiling.nic.in* in the address bar of the browser. Then they should log on by entering their User Id and Password in the place provided on the home page. Thus they can access the e-filing facility and file returns through e-filing system by following the instructions given therein.
- The assessees, particularly those who opted for e-filing, should necessarily indicate the 15-digit Service Tax payer code number in the TR-6 challans used by them.
- An assessee who had not mentioned the Service Tax Payer code in the TR-6 challans may submit copies of the challans manually to the Department after e-filing his Return with due mention of the 15 digit Service Tax payer code on each challan.

**8.10. Is there any penalty for non-filing or delayed filing of half yearly Returns?**

If a person fails to furnish the ST-3 Return within the due date i.e., 25th of the month following the half year, he is liable to penalty which may extend to an amount not exceeding one thousand rupees (*Sec.77 of the Act*). However, such penalty could be waived in case the assessee proves that there was reasonable cause for such delay (*Sec.80 of the Act*).

**9. Registers and Records**

**9.1. Are there any statutory registers or records prescribed for use by the Service Tax assesseees?**

- There are no separate statutory records which are required to be maintained by the Service Tax assesseees. The records including computerized data, if any, which are being maintained by an assessee on his own or as required under any other law in force, such as Income Tax, Sales Tax etc. are acceptable for the purpose of Service Tax - (Rule 5(1) of the STR, 1994).
- A list of all such accounts maintained by an assessee including the memoranda received from the branch offices shall be furnished to the Superintendent of Central Excise at the time of filing the ST-3 Return for the first time (Rule 5(2) of the STR, 1994).

**9.2. Is it mandatory to issue Invoice / Bill / Challan and when should the same be issued?**

- Issue of Invoice / Bill / Challan by a Service Tax assessee is mandatory as per Rule 4A of the STR, 1994. The same should be issued within 14 days from the date of completion of taxable service or receipt of payment towards the service, whichever is earlier.
- However, if the service is provided continuously for successive periods of time and the value of such taxable service is determined or payable periodically, the Invoice / Bill / Challan shall be issued within 14 days from the last day of the said period.

*(Proviso to Rule 4A (1) of the STR, 1994).*

### **9.3. Is there any prescribed format for the Invoice/Bill/Challan?**

- There is no prescribed format for the Invoice Bill/Challan required to be issued by the Service tax assessee. However, the Invoice/Bill/Challan should contain the following information :
  - (i) Serial Number;
  - (ii) Name, address and registration number of the service provider;
  - (iii) Name and address of the recipient of service;
  - (iv) Description, classification and value of taxable service being rendered;
  - (v) The amount of Service Tax payable (Service Tax and Education cess should be shown separately).
- If the service provider is a Banking company, the details at Sl.No. (i) and (iii) are not necessary. (Rule 4A of the STR, 1994).
- In respect of the taxable services relating to the transport of goods by road, provided by the Goods Transport Agency (GTA), the service provider (GTA) should issue a consignment note containing the following information :
  - (i) Serial number;
  - (ii) Name of the consignor and consignee;
  - (iii) Registration No. of the vehicle;
  - (iv) Details of the goods transported;
  - (v) Details of the place of origin & destination; and
  - (vi) Person liable for payment of Service Tax (consignor or consignee / GTA).

*(Rule 4B of the STR, 1994).*

### **9.4. Whether the amount of Service Tax charged from the client should be indicated separately in the Bill / Invoice / Challan?**

- Yes. It is mandatory to indicate the amount of Service Tax and the Education Cess separately in the Bills / Invoices / Challans raised on the clients, as per Sec. 12A of the Central Excise Act, 1944, which is made applicable to Service Tax under Sec.83 of the Act.

- Such mention of the Service Tax amount in the Invoice / Bill Challan would also facilitate the recipient of the service to avail the CENVAT credit of the Service Tax paid on the input services.

#### **9.5. What are the obligations of the assessee with regard to the records relating to Service Tax?**

- Every assessee should make the records relating to Service Tax available at their registered premises at all reasonable time for Inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Asst. / Deputy Commissioner of Central Excise. (Rule 5(4) of the STR, 1994)

***NOTE :*** *'Registered premises' include all premises or offices from where an assessee is providing taxable service(s).*

- The records maintained by the assessee in accordance with the provisions of any other law, which are relevant for the purpose of Service Tax, should be preserved atleast for a period of five years immediately after the financial year to which such records pertain.

## **10. Refunds**

#### **10.1. Can an assessee make any adjustment of tax liability on his own, in cases when Service Tax has been paid in excess?**

- Where an assessee has paid to the credit of the Government in respect of a taxable service, which is not so provided by him, either wholly or partially for any reason, the assessee may adjust the excess Service Tax so paid by him (calculated on a pro-rata basis) against his Service Tax liability for the subsequent period, provided the assessee has refunded the value of taxable service and the Service Tax thereon to the person from whom it was received (Rule 6(3) of the STR, 1994).
- The assessee having centralised registration who paid excess amount of Service Tax, on account of non-receipt of details regarding the receipt of gross amount for the services at his other premises or offices, may adjust such excess amount against the Service Tax liability for the subsequent period and furnish the details of such adjustment to the jurisdictional Superintendent of Central Excise within 15 days from the date of such adjustment. (Rule 6(4A) of the STR, 1994).

- In all other cases of excess payment, a proper refund claim should be filed in the prescribed form before the jurisdictional Asst./Dy. Commissioner . The refund claims would be dealt as per the provisions of Section 11B of the Central Excise Act 1944, which is made applicable to Service Tax under Section 83 of the Act.
- Any amount of Service Tax paid in excess of the actual liability, is refundable, only if it is proved that the claimant of refund had already refunded such amount to the person from whom it was received or had not collected the amount claimed as refund from any other person.

### **10.2. What is the procedure for claiming refund?**

The procedure for claiming refund for the amount due from the Department is as mentioned below :-

- Any person intending to file a claim for refund should submit an application (in triplicate) in the form (Form-R) prescribed under Sec. 11B of the Central Excise Act, 1944 before the jurisdictional Asst. / Deputy Commissioner of Central Excise.
- The application should be filed within one year from the relevant date as prescribed under Sec. 11B of the Central Excise Act, 1944 which has been made applicable to Service Tax refund matters also.
- The application should be accompanied by documentary evidence to the effect that the amount claimed as refund is the amount actually paid by him in excess of the Service Tax due and the incidence of such tax claimed as refund has not been passed on to any other person.

### **10.3. What is the ‘relevant date’ for filing refund claim relating to Service Tax?**

The 'relevant date' for the purpose of refund as per Sec.11B of the Central Excise Act, 1944 which is applicable to Service Tax also, is the date of payment of Service Tax. Therefore, the refund claim has to be filed within one year from the date of payment of the Service Tax.

## ***11. Demand of Service Tax***

### **11.1. What action would be taken by the Department for the demand of Service Tax, if there is any escapement of assessment/short payment or non-payment?**

- If the Service Tax has not been levied or paid or has been short levied or short paid or erroneously refunded, the Central Excise Officer will serve a Show Cause Notice (SCN) on the Service tax assessee, as to why the Service Tax as specified in the SCN, should not be demanded from him. (Sec. 73 of the Act.)
- This SCN will be normally issued within a period of one year from the relevant date.
- If the aforesaid demand for the service tax is warranted on account of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder, with an intent to evade payment of Service Tax, the notice can be issued by the Department within five years from the relevant date.
- The noticee will be given adequate opportunity of being heard in person before the SCN is decided by the adjudicating authority.
- After considering the representation, if any, made by the noticee, the adjudicating authority will determine the amount of Service Tax due from the noticee or the amount erroneously refunded to him and pass an appealable speaking order directing the noticee to pay the Service Tax so determined. Thereupon, the person concerned may pay the amount so determined.
- However, in case the noticee is aggrieved of the order of the adjudicating authority, he may pursue the Appellate remedies as detailed in *Chapter 13 - page No. 34*.

### **11.2. What is the 'relevant date' for the purpose of demand under Sec. 73 of the Act?**

The "relevant date" for the purpose of raising demand under Sec. 73 of the Act, means :

- The date on which the prescribed periodical return is filed.
- If the return is not filed, the last date on which such return is to be filed as per the law.

- In any other case, the date on which the Service Tax is paid.
- In respect of provisional assessment cases, the date of adjustment of the Service Tax after the final assessment.
- In respect of erroneous refunds, the date of such refund.

***NOTE :*** *While determining the relevant date 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 one year or five years, as the case may be.*

### **11.3. Can a person avoid a Show Cause Notice under Sec.73 of the Act?**

- Yes. If a person pays the entire Service Tax amount which was short paid / levied or non-paid / levied or erroneously refunded, along with the interest payable thereon (under Sec.75 of the Act), either based on his own ascertainment or on the basis of the tax ascertained by the Central Excise Officer, before the service of the SCN and inform the same in writing, the Central Excise Officer will not serve show cause notice in this regard.
- The above provision is not applicable, if the aforesaid failure is on account of fraud or collusion or wilful mis-statement or suppression of facts or contravention of the provisions of the Service Tax statute with intent to evade payment of Service Tax. *(Sec.73(3) and 73(4) of the Act)*

## ***12. Penal Provisions***

### **12.1. What are the penal provisions for various contraventions of the Service Tax Law?**

The Penal provisions for various contraventions of the Service Tax Law are as follows :-

**i) Non - registration or delayed registration :**

An amount of Rs.1,000/- is liable to be imposed as penalty under Sec. 77 of the Act, as explained in the answer to *Q.No 2.11 - page No. 10.*

**ii) Non-payment or delayed payment of Service Tax :**

A penalty of Rs.200/- is liable to be imposed for every day of failure or at the rate of 2% of the tax per month, whichever is higher, subject to a maximum of the Service Tax amount under Sec.76 of the Act, as explained in the answer to *Q.No 7.12 - page No. 23.*



**iii) Non-filing or delayed filing of returns :-**

An amount not exceeding One Thousand Rupees is liable to be imposed as penalty under Sec.77 of the Act, as explained in the answer to *Q.No 8.10 - page No. 27.*

**iv) Contravention of any of the provisions of the Act or the Rules made thereunder for which no provisions for penalty are available :**

An amount not exceeding Rs.1000/- is liable to be imposed as penalty under Sec. 77 of the Act.

**v) For non-payment or non-levy of Service Tax or erroneous refund by reason of fraud, collusion, wilful mis-statement, suppression of facts; or contravention of the Act or the rules with an intent to evade payment of Service Tax :**

Penalty can be imposed under Sec.78 of the Act, to an extent ranging from 100% to 200% of the Service Tax which was not levied or paid or erroneously refunded. Such liability towards penalty would be in addition to the Service Tax amount evaded or erroneously refunded and the interest payable thereon.

**➤ Reduced Penalty in respect of SI. no. (v) :**

If the Service Tax amount as determined by the competent authority is paid within 30 days from the date of communication of the order, along with interest, the amount of penalty liable to be paid shall only be 25% of the Service Tax amount so determined. The benefit of reduced penalty would be available only if such lesser penalty amount is also paid within the aforesaid period. (*First and second proviso to Sec.78 of the Act*).

**➤ Reduced Penalty in respect of SI.No. (v) in the event of voluntary payment :**

The person on whom show cause notice was issued for non-payment or non-levy of Service Tax or erroneous refund under the circumstances mentioned at sl. no.(v) above, may opt to pay penalty equivalent to 25% of the amount specified in the notice or the Service Tax so accepted by him besides the said Service Tax amount and the interest payable thereon under Sec 75 of the Act within 30 days of the receipt of the notice. If the amount of Service Tax specified in the notice is paid in full within the prescribed period of 30 days, further proceedings indicated in the notice would be deemed to be concluded.

(*Sec. 73(IA) of the Act*).

**12.2. Is there any provision to waive the penalty under the Service Tax law?**

The penal provisions under Service Tax are provided under Sections 76, 77 and 78 of the Finance Act, 1994. Although the penalty is liable to be imposed for the circumstances covered under the said provisions, Section 80 of the Act provides power not to impose penalty, if the Service Tax assessee proves that there was sufficient cause for such failure.

***13. Appellate Remedies***

**13.1. Who should be approached when an assessee is aggrieved by an order / decision of the Adjudicating authority subordinate to the Commissioner of Central Excise in respect of Service Tax? What is the procedure for filing the Appeal?**

An assessee aggrieved by such order/decision may file an Appeal before the Commissioner of Central Excise (Appeals) in the following manner :

- The Appeal before the Commissioner of Central Excise (Appeals) should be filed in Form ST-4, in duplicate.
- The Appeal should be filed within 3 months from the date of receipt of the Order /decision.
- A copy of the Order / decision appealed against should be enclosed.

There is no fee for filing an Appeal before the Commissioner of Central Excise (Appeals), in respect of Service Tax matters as in the case of Appeals relating to Central Excise.

*(Sec.85 of the Act and Rule 8 of the STR, 1994).*

**13.2. Can the time limit of three months for fling the appeal before the Commissioner (Appeals) be extended? If yes, under what circumstances?**

Yes. If the Commissioner (Appeals) is satisfied that the appellant was prevented from presenting the Appeal within the statutory period of three months, he may allow the Appeal to be presented within a further period of three months. The law does not provide for further extension of time beyond the said period. *(Proviso to Sec.85(3) of the Act).*

**13.3. Who should be approached to file an Appeal against the Order/decision of the Commissioner of Central Excise or Commissioner (Appeals)? What is the procedure for that?**

An assessee aggrieved by an Order / decision of the Commissioner of Central Excise or Commissioner of Central Excise(Appeals), may file an Appeal before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), in the following manner:

- The Appeal before the CESTAT should be filed within three months of the date of receipt of the order, sought to be appealed against.
- The Appeal should be filed in the prescribed Form (ST-5), in quadruplicate.
- The Form ST-5 should be accompanied by a certified copy of the order appealed against.
- The Appeal should be accompanied by the prescribed fee based on the amount of Service Tax and interest demanded and penalty levied, ie Rs.1,000/- if the amount involved is Rs. 5 lakhs or less; Rs.5,000/- if the amount involved is more than Rs.5 lakhs but not exceeding Rs.50 lakhs; and Rs.10,000/- if the amount involved is more than Rs.50 lakhs.

*(Sec. 86 of the Act and Rule 9 of the STR, 1994).*

**13.4. Can an Appeal be filed against the order / decision of the CESTAT?**

- Yes. The Appeal in respect of the matters other than Valuation or Classification of services, has to be filed within 180 days of the receipt of the relevant Order, before the jurisdictional High Court, along with a fee of Rs.200/-, in the form of a Memorandum of Appeal, precisely stating therein the question of law involved. (Sec.35G of the Central Excise Act 1944 which is made applicable to Service Tax matters vide Sec.83 of the Act)
- In respect of CESTAT orders involving the matters pertaining to Valuation and Classification, the Appeal has to be filed before the Hon'ble Supreme Court of India.
- The decisions of the High Court can also be appealed against before the Hon'ble Supreme Court of India.

## **14. CENVAT Credit Scheme**

### **14.1. What is CENVAT Credit Scheme with reference to Service Tax assessees?**

- The CENVAT credit Rules, 2004 provides for availment of the credit of the Service Tax/Central Excise duties paid on the input services/inputs/capital goods used for providing output services. Such credit amount can be utilised by an assessee, towards payment of Service Tax on their output services.
- The CENVAT credit availed by a manufacturer on the input services can also be utilised for discharging their liability towards Service Tax on output services and/or Central Excise duties.

### **14.2. What are the duties / taxes that can be availed as CENVAT credit?**

- Duties of Excise and the Countervailing Customs Duty (CVD) paid on the inputs & Capital goods and the Service Tax paid on the 'input' services can be taken as credit. Education Cess paid on the Excise duty and Service Tax can also be taken as credit. However, the credit of Education cess can be utilized only for payment of Education cess relating to output service.
- The interest, fine and penalty amounts paid by an assessee can not be taken as CENVAT credit.

### **14.3. What is meant by 'input' for a service provider?**

For service provider rendering taxable services, 'input' means all goods used for providing any output service(s), except diesel and petrol.

### **14.4. What is 'input service' for a service provider?**

In respect of a service provider, 'input service' means any service used by the service provider for providing an output service and includes services used in relation to setting up, modernization, renovation or repairs of a premises of provider of output service or an office relating to such premises, advertisement or sales promotion, market research, procurement of inputs, activities relating to business, such as accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry and security, inward transportation of inputs or capital goods.

#### **14.5. What is meant by 'capital goods' for a service provider?**

In respect of a service provider, 'capital goods' means the following goods which are used for providing the output service :-

- All goods falling under Chapter 82, 84, 85, 90, 68.02, and 6801.10;
- Pollution control equipment;
- components, spare and accessories of the above goods;
- moulds and dies, jigs and fixtures;
- refractories and refractory materials;
- tubes and pipes and fittings; and
- storage tank.

Capital goods also include motor vehicles registered in the name of the provider of output service, which are used for providing the following taxable services only :

- (i) Courier agency;
- (ii) Tour operator;
- (iii) Rent-a-cab scheme operator;
- (iv) Cargo Handling Agency;
- (v) Goods Transport Agency - by road (GTA);
- (vi) Outdoor caterer; and
- (vii) Pandal or shamiana contractor.

#### **14.6. What is meant by 'output service'?**

‘Output service’ means any taxable service provided by the provider of taxable service to a customer, client, subscriber, policy holder or any other person.

#### **14.7. Is it compulsory that the inputs/ capital goods are to be purchased only from the manufacturers / importers for the purpose of availment of CENVAT Credit?**

Not necessary. Apart from the manufacturers / importers, the inputs/ capital goods can be purchased from the First stage dealer or a second stage dealer also. Those dealers should have registered themselves with the Central Excise Department. The invoices issued by the dealers, interalia, should contain proper details about the payment of duty on those goods.

#### **14.8. What are the documents prescribed for availment of the CENVAT Credit?**

The documents on which CENVAT credit can be availed are as follows :-

- (i) Invoice issued by the manufacturers and his depot/consignment agents;
- (ii) Invoice issued by the Importer and his depot / consignment agents;
- (iii) Invoice issued by the first stage and second stage dealers registered with the Central Excise Department;
- (iv) Bill of Entry;
- (v) Invoice/Bill/Challan issued by the provider of input service(s);
- (vi) Invoice/Bill/Challan issued by the Service distributor; and
- (vii) Certificate issued by the Appraiser of Customs in respect of the goods imported through Foreign Post Office;

#### **14.9. Whether the credit can be availed immediately on receipt of the inputs, input services and capital goods along with the relevant documents?**

- The credit in respect of the input goods can be availed immediately on receipt of the inputs along with the relevant document, irrespective of the fact whether the payment towards the said inputs was made or not;
- The credit in respect of the capital goods can be availed, only to the extent of 50% of the duty indicated in the relevant document, immediately on receipt of the said capital goods along with the relevant document, irrespective of the fact whether the payment towards the said capital goods was made or not. The balance 50% of the credit on such capital goods can be availed during the subsequent financial year, provided the same are in the possession of the service provider;
- In respect of the 'input services', the credit of Service Tax can be availed, only after the payment is made by the recipient to the provider of input service, towards the value of taxable services and the Service Tax indicated in the invoice/bill/challan etc.

#### **14.10. Who is an "Input Service Distributor"?**

"Input service distributor" means an office of the manufacturer or producer of final products or provider of output service, which receives invoices relating to purchase of input services and issues documents for distribution of the credit to such manufacturer or producer or service provider.

***NOTE :*** *The credit of the tax amount so distributed to various places shall not exceed the total Service Tax amount contained in the original invoice / bill.*

#### **14.11. Whether the input service distributors should get themselves registered with the Department? Whether they have to file any Return with the Department?**

- Yes. The input service distributor should obtain the registration as per the provisions of the Service Tax (Registration of special category of persons) Rules, 2005.
- They have to maintain adequate records and file an half yearly return by the end of the month following the half year, in Form ST-3.

#### **14.12. What is the format of the invoice/bill/challan to be issued by the input service distributor?**

There is no specific format prescribed for this purpose. However, the invoice/bill/challan etc. should contain the following information :-

- (i) Name, address and Registration number of the person providing input service;
- (ii) SI.no and date of the invoice /bill;
- (iii) Name, address and registration number of the input service distributor;
- (iv) The name and address of the recipient to whom the Service Tax credit is distributed; and
- (v) The amount of credit distributed

#### **14.13. What are the registers to be maintained by the persons availing CENVAT credit?**

- There are no prescribed registers/records to be maintained for availment/utilization of CENVAT credit. However, the person

availing CENVAT Credit shall maintain proper records showing the relevant details such as receipt, disposal, consumption and inventory of inputs and capital goods, in which the relevant information regarding the value, duty paid, the amount of credit taken and utilized, the person from whom the inputs/input services/capital goods were received etc.

***NOTE :*** *The burden of proof regarding the admissibility of the CENVAT Credit shall lie upon the person availing such credit.*

**14.14. What should be done, if a Service Tax assessee is rendering both taxable services as well as exempted services, but the inputs and input services are common?**

- Separate accounts are to be maintained for the receipt, consumption and inventory of input(s) and input service(s) meant for providing taxable output service and for use in the exempted services. Credit should be taken only on that quantity of input(s)/input service(s) which are used for providing the output service on which Service Tax is payable.
- The output service providers, who have opted not to maintain separate accounts, can utilize Service Tax only to the extent of 20% of their Service Tax liability. For example, if the Service Tax liability for a specific period is Rs.1,000/- and there is a credit of Rs.500/- available with them, the credit can be utilized only to the extent of Rs.200/- (20% of Rs.1,000/-) and the balance Service Tax liability (i.e. Rs.1000 - 200=800/-) should be paid in cash / cheque. The remaining credit can be carried forward and used for the subsequent period in a similar manner.

**14.15. Whether any separate registration is required for the purpose of availing CENVAT Credit?**

Not required.

**14.16. Is CENVAT credit refundable? If so, under what circumstances?**

- Yes. Where any input or input service is used in providing output service which is exported, the CENVAT credit in respect of the input or input service so used shall be allowed to be utilized towards payment of Service Tax on output service. If such adjustment is not possible due to any reason, it will be allowed as refund subject to the safeguards, conditions and limitations specified by the Central Government.



- 'Output services which are exported' means taxable output services exported in accordance with the Export of services Rules, 2005.
- No refund of credit shall be allowed, if the provider of output service avails the benefit of drawback under the Customs and Central Excise Duties Drawback Rules, 1995, or claims a rebate of duty under the Central Excise Rules, 2002, in respect of such duty.

**14.17. Whether the recipient of the taxable services who is liable to pay Service Tax as per Sec. 66A or Sec. 68(2) of the Act, can avail and utilize the credit of the service tax paid on the services received by him?**

- The recipient of the taxable services who is liable to pay service tax as per Sec. 66A or Sec. 68(2) of the Act, can avail the credit of the service tax paid by them on such input services, as in the case of any other input services received by them.
- Further, such credit availed on the said input services, can be utilized for the payment of Central Excise Duty on the Excisable goods or for payment of Service Tax on the output service, as the case may be.
- However, the credit availed on the inputs / input services / capital goods, can not be utilized for payment of Service Tax on the services received by them, for which they are liable to pay service tax, since such services received which are liable to service tax as per the above cited provisions, can not be considered as an output service(s). In other words, the Service Tax on the input services received, payable in terms of Sec. 66A or Sec. 68(2) of the Act, can be paid only by cash/cheque, but not by utilization of the CENVAT credit.
- In fact, with reference to Service Tax payable as per the provisions of Sec.66A, the Rule 5 of the Taxation of Services (Provided from Outside India and Received in India), Rules, 2006 categorically states that such service cannot be treated as output service for the purpose of availment of credit of excise duty paid on any input or Service Tax paid on any input services, under the CENVAT Credit Rules, 2004.

***NOTE :*** *The provisions relating to the CENVAT Credit Rules, 2004 are explained in this Chapter, mainly with reference to the Service Tax Assesseees, though the provisions are applicable to both Central Excise and Service Tax.*

## ***15. Export of Services***

### **15.1. What is Export of Services?**

The taxable services shall be treated as Export, if such services are delivered outside India and used outside India and payment for such service is received in convertible foreign exchange. For the purpose of export of services, the taxable services have been categorized under Rule 3 of the *Export of Services Rules, 2005*

### **15.2. What are the benefits available for Export of services?**

- The Export of taxable services as explained above, is exempted from payment of Service Tax.
- If the services are exported after payment of Service Tax, the Service Tax paid on such taxable services exported would be admissible as Rebate.
- The Service Tax paid on the input service, and the Central Excise duty paid on the inputs that are used in providing the taxable services exported would also be granted as rebate in respect of the services exported subject to fulfillment of the conditions and limitations imposed by the Government.

*(Rule 5 of the Export of Services Rules, 2005)*

### **15.3. What is the procedure for claiming the rebate?**

The procedure and conditions for claim of rebate for export of services (except to Nepal and Bhutan) are as below:

#### **A. Rebate of Service Tax and cess paid on the services exported :**

- The rebate claim is to be filed in Form ASTR-1 with the jurisdictional Asst./Dy. Commissioner along with the relevant documents.
- The amount of rebate should not be less than Rs.500/-

*(Notification No. 11/2005 ST dated 19.04.2005)*

**B. Rebate of Service Tax and cess paid on rebate on inputs and input services used in exported services :**

- The rebate claim is to be filed in Form ASTR-2.
- The amount of rebate should not be less than Rs.500/-
- The service tax and cess should have been paid on the input services for which rebate has been claimed.
- CENVAT credit should not have been availed on the inputs and input services.
- A declaration should be filed before export, with the jurisdictional Asst./Dy. Commissioner, describing the taxable service to be exported with details of inputs and input services required for exporting the service.
- Inputs and input services should be received under proper documents.
- Inputs should be received from a registered factory or dealer.  
(Notification No. 12/2005 ST dated 19.04.2005)

## ***16. Services Provided From Outside India***

**16.1. Is there any tax liability for the services received in India, which are provided by a person from outside India?**

- Yes. All the taxable services are chargeable to service tax when the service provider is from outside India and the recipient of service is in India. However, taxable services received by an individual from outside the country other than for the purpose of use in business or commerce, are not chargeable to service tax. For this purpose, the taxable services have been categorized under Rule 3 of the Taxation of Services (Provided from Outside India and Received in India), Rules, 2006.
- If the service provider has his business establishment both in that country and elsewhere, the country where the establishment of the service provider directly concerned with the provision of service is located, shall be treated as a country from which the service is provided or to be provided.

- If a service provider carries 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 regarded as separate persons.
- 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.
- ‘Usual place of residence in respect of a body corporate’ means the place where it is legally constituted or incorporated.  
(*Sec 66A of the Act*)

**16.2. Who is liable to pay Service Tax for the services provided from outside India?**

The recipient of the taxable services which are provided from outside India and received in India is liable to pay Service Tax (*Sec 66A of the Act*).

**16.3. Who has to register and comply with the various provisions of the Service Tax law, when the services are provided by a person from outside India and received in India?**

- In such cases, the recipient of the service(s) is required to obtain registration in terms of the provisions of Rule 2(1)(d)(iv) of the STR,1994 read with Section 66A of the Act and Rule 4 of the Taxation of Services (Provided from Outside India and Received in India), Rules, 2006.
- The recipient of such services from outside India, being the Service Tax assessee, is under the statutory obligation to file half yearly returns, maintain and preserve relevant records etc.

(*Sec.66A of the Act*)

**16.4. Whether the taxable services provided from outside India and received in India can be treated as output services for the recipient, for the purpose of availment of Cenvat credit?**

Though the recipient of the service in India is liable to pay Service Tax, such service cannot be treated as an output service for the recipient for the purpose of availment of credit of Excise duty paid on any input or Service Tax paid on any input services under the CENVAT Credit Rules, 2004.

(*Rule 5 of the Taxation of Services (Provided from Outside India and Received in India), Rules, 2006*).

## **17. Information on Twenty Five Select Services**

### **17.1. OUT DOOR CATERING**

**Scope :**

- The Outdoor Catering Service covers the service involved in providing food, edible preparations, beverages etc., for any purpose or occasion at a place, other than his own. This service also covers catering from a place or premises provided, by way of tenancy or otherwise, by the person receiving such services.

**Inclusion :**

- The Outdoor Catering Service includes any other services in relation to such outdoor catering such as providing crockery, seating arrangement etc.

**Exclusion :**

- Service Tax is on catering service only. Merely providing food by a caterer outside his premises would not be covered under this category. Therefore, hotel or restaurants supplying food for home delivery, without any service charge or consideration does not attract Service Tax as the value of taxable service or consideration thereof in this case is nil.

**Exemption :**

- Abatement to the extent of 50% of the gross amount charged is admissible when the outdoor caterer also provides food and the bill issued for this purpose indicates that the gross amount charged is inclusive of the charges for supply of food. This abatement would be allowed provided the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No. 12/2003 ST dt.20.6.2003. (Notfn. No.1/2006 ST dated 1.3.2006).

### **17.2. PANDAL AND SHAMIANA**

**Scope :**

- Pandal and Shamiana Service covers the service provided or to be provided by any person in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana.
- 'Pandal' or 'shamiana' means a temporarily erected and decorated place with the help of hay, bamboo, tent or other material for organizing social functions like marriages, commercial purposes like mela, hat bazaar etc; official functions or recreational functions.

***Inclusion :***

- The pandal and shamiana service includes the services like supply of furniture, fixtures, lights and light fittings, floor coverings and other articles for use therein.

***Exemption :***

- Abatement to the extent of 30% of the gross amount charged is admissible when the pandal and shamiana contractor also provides catering service (supply of food) and the bill issued for this purpose indicates that the gross amount charged is inclusive of the charges for catering service. This abatement would be allowed provided the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No. 12/2003 ST dt.20.6.2003. (Notfn. No.1/2006-ST dated 1.3.2006).

### **17.3. TRAVEL AGENCY**

***Scope :***

- Travel Agency Service covers the service provided or to be provided by any person connected with booking of passage for travel by ships, buses or multi-modal transport; but does not include air travel agent and rail travel agent, which are covered separately.
- The Service Tax in this case is payable on the amount of service charges collected by the Travel Agency from their customers.

***Inclusion :***

- Service Tax in this case would be leviable on the service charge collected for cancellation of ticket/passage also.

***Exclusion :***

- The amount representing the actual fare can be excluded for the purpose of payment of Service Tax. Therefore, the travel agent should clearly indicate the amount charged for fare, commission and service charges collected separately.
- The Commission amount received, if any, for providing the Travel Agency service is not charged to service tax under this category. But such commission attracts Service Tax under the category of Business Auxiliary Services.

## 17.4. RAIL TRAVEL AGENT

### *Scope :*

- Any service provided or to be provided by the rail travel agent in relation to booking of tickets for journey by rail is covered under this category.
- Any person who books tickets for others on commission basis is liable to pay Service Tax on the commission amount.

### *Inclusion :*

- The Rail Travel Agent service would also include the service in relation to cancellation of the railway ticket.
- Ticket booking via Internet in which commission/facilitation amount is charged on 'per berth basis', is also an agency function for booking of rail tickets. Hence, such amounts also are includable for payment of Service Tax.
- In addition to the service charges collected from the customers, the commission received, if any, from the railways for booking of tickets for customers also forms part of the value of taxable service and attracts Service Tax under this category.

### *Exclusion :*

- The value of taxable service does not include the value of ticket i.e., rail fare. Hence the actual rail fare can be excluded/deducted from the billed amount for payment of Service Tax, if such billed amount is inclusive of the rail fare.

## 17.5. INTERNET CAFE

### *Scope :*

- Internet cafe service covers the service provided or to be provided by a commercial establishment in relation to any facility for accessing Internet.

### *Inclusion :*

- Access to Internet includes accessing e-mails.
- The criterion of taxability is access to Internet, whether such access to Internet is by the use of computer or any other specialised equipment.

***Exclusion :***

- Any services other than Internet access provided by an Internet cafe would not be chargeable to tax under this category. The amount in respect of other services and the amount towards Internet services should be clearly and separately shown in the bill.
- The tax is only on commercial establishments and thus Internet access provided by a college or school, on non-commercial basis, is not taxable.

**17.6. DRY CLEANING**

***Scope :***

- The Service provided or to be provided by any person in relation to dry cleaning of apparels, garments or other textiles, fur or leather articles is covered under the category.
- Dry cleaning is essentially a mechanical and specialized washing in which the medium of cleaning is not water.
- Dry cleaning is a process in which clothes are washed with various solvents such as Perchloroethylene, Carbon Tetrachloride, Trichloroethylene or mineral Turpentine oil etc.

***Exclusion :***

- Wet cleaning (with water) is not covered under the scope of this service. The charges for wet cleaning, if any, are to be shown separately, for the purpose of exclusion of such services from payment of service tax under this category.
- The charges for other services like dyeing/darning, if any, do not attract Service Tax under this category, as such activities are not covered under dry cleaning.

**17.7. CABLE OPERATOR**

***Scope :***

- Any service provided or to be provided to a customer by a cable operator in relation to cable services i.e., transmission of programmes by cables, including re-transmission of any broadcast television signals by cables is covered under this category.
- It also includes the services provided by a "Multi System Operator" (MSO) to a cable operator.



***Exclusion :***

- The service provided by the cable operator to a person for broadcasting of advertisements or programmes on cable network in the local channel would be covered under the category of broadcasting services. Hence such services are not charged to Service Tax under the category of 'Cable operator' services.
- The entertainment tax collected and paid to the Government will not be includable in the value of taxable service, provided the entertainment tax is clearly indicated in the bill issued to the customer by the Cable operator.

### **17.8. BEAUTY TREATMENT**

***Scope :***

- This category covers all the beauty treatment services provided by a Beauty Parlour to a customer, such as Hair cutting, Hair dyeing, Face Care and Beauty treatment, Cosmetic Treatment, Manicure, Pedicure or Counseling services on beauty, Face care or make-up or such other similar services.

***Inclusion :***

- The cost of the cosmetics and toilet preparations used for providing the above services constituting the beauty treatment are to be included in the taxable value.

***Exclusion :***

- Plastic surgery and cosmetic surgery are to be regarded as medical services and hence the same are not included under the category of this service.
- The cost of the cosmetics sold as such by the beauty parlours is also excluded.

### **17.9. CARGO HANDLING**

***Scope :***

- Cargo handling service covers any service provided to any person, in relation to handling of cargo such as loading, unloading, packing or unpacking of cargo.

- It includes cargo handling services provided for freight in special containers or for non-containerized freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport i.e., truck, rail, ship or aircraft.

***Inclusion :***

- Cargo handling service covers the services provided by the Airport Authority, Inland Container Depot, Container Corporation of India and other similar service providers.

***Exclusion :***

- Cargo handling services provided in relation to export cargo or passenger baggage or mere transportation of goods are not covered under this category.

***NOTE :*** *The above exclusion does not mean that the services relating to the transport of goods by road in respect of the export cargo are exempted. The services relating to cargo handling and the transportation of goods by road are two different services. In other words, the services relating to the transportation of goods by road pertaining to export cargo are covered under a different category of service and not under the Cargo handling service.*

***Exemption :***

- Cargo handling services provided in relation to storage of agricultural produce or goods meant to be stored in cold storage are exempted. Manufactured products such as sugar, edible oils, processed food etc. will not come under the category of agricultural produce. (Notfn. No.10/2002-ST dated 1.8.2002)

## **17.10. AUTHORISED AUTOMOBILE SERVICE STATION**

***Scope :***

- Any service in relation to the service or repair of a motor car, light motor vehicle or two-wheeled motor vehicle by an authorized service station or centre, which is authorized by the manufacturer of such automobile is covered under this category

***Inclusion :***

- The activities relating to reconditioning or restoration of a Motor car, two wheeled and light motor vehicles, carried out by such authorized automobile service station are also covered under this category.

- Free service provided by authorized service stations in respect of new vehicles during warranty period on behalf of the manufacturer, for which the service charges are reimbursed by the manufacturer, are includable under this category.

***Exclusion :***

- Repair and servicing done by mechanics or mechanic shops, which are not authorised by a manufacturer of automobiles does not come under this category.
- Pre-delivery inspection or any other service provided by the automobile dealer e.g. fitting of accessories etc., at the time of sale, would not be taxable under this category.
- Cost of any parts or accessories or consumables such as lubricants, coolants etc sold during the course of providing taxable service is not includable, provided they are shown separately in the bill.

### **17.11. PHOTOGRAPHY**

***Scope :***

- Photography service covers the services provided or to be provided in relation to photography by a photography studio or agency to a customer..
- Photography studio or agency means any professional photographer or any person engaged in the business of rendering service relating to photography.

***Inclusion :***

- Photography includes still photography, motion picture photography, aerial photography, laser photography or fluorescent photography etc.
- Services incidental or ancillary to the service of photography, e.g., a colour lab providing service of processing or developing of exposed films, would fall within the definition of photography studio or agency.
- Cost of inputs such as photographic paper, chemicals etc., used in rendering the service are not excludible from the taxable value as these materials are essential and intrinsic part of the photography service.

***Exclusion :***

- X-ray or CT scan done by the laboratories are not covered under the category of photography service.

## 17.12. TOUR OPERATOR

### *Scope :*

- Tour operator service covers the service provided or to be provided to any person in relation to tour, by a person engaged in the business of planning, scheduling, organizing or arranging tours including arrangements for accommodation, sight seeing or other similar services.
- It also includes service provided to any person, by a tour operator in relation to journey from one place to another, irrespective of the distance between such places, in a tourist vehicle covered by a permit granted under the Motor vehicles Act, 1988 or the rules made thereunder.

### *Inclusion :*

- The Tour operator service covers packaged tours of all types and journeys or tours undertaken by tourist taxis and tourist buses, having a tourist permit.
- The value of taxable service is the gross amount charged by a tour operator from the client for services in relation to a tour and includes the charges for any accommodation, food and any other facilities provided in relation to such tour.

### *Exemption :*

- Abatement to the extent of 60% is admissible for the tour operator providing a package tour if the bill issued for this purpose indicates that the gross amount charged is inclusive of the charges for such a tour. This abatement would be allowed, provided the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No.12/2003 ST dt.20.6.2003. (Notfn. No.1/2006 ST dated 1.3.2006).
- The above mentioned abatement is admissible in respect of non-package tour also, subject to the same conditions. (Notfn. No. 1/2006 ST dated 1.3.2006).
- Abatement to the extent of 90% is admissible for the tour operator providing services solely of arranging or booking accommodation provided the bill issued for this purpose indicates that the gross amount charged is inclusive of the charges for such accommodation. This abatement would be allowed provided the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No.12/2003 ST dt.20.6.2003. (Notfn. No.1/2006 ST dated 1.3.2006).

### **17.13. RENT-A-CAB OPERATOR**

**Scope :**

- The taxable service provided or to be provided to any person, by a Rent-a-cab scheme operator in relation to renting a cab i.e., maxi cab or a motor cab.
- Maxicab' means any motor vehicle constructed or adopted to carry more than six passengers but not more than twelve passengers, excluding the driver for hire or reward.
- 'Motorcab' means any motor vehicle constructed or adopted to carry not more than six passengers excluding the driver for hire or reward.

**Inclusion :**

- Maxicab or Motorcab which are engaged for transportation of persons for a certain period on payment basis, are covered under this category.

**Exclusion :**

- Rent-a-cab does not cover metered taxi or radio taxis, which are not rented as such for a period of time, but are for transportation from one place to another.

**Exemption:**

- Abatement to the extent of 60% is admissible for the rent-a-cab operator providing such services, if the service provider does not avail the benefits under Cenvat Credit Scheme or the benefits under Notification No.12/2003 ST dt.20.6.2003. (Notfn. No.1/2006 ST dated 1.3.2006).

### **17.14. MANDAP KEEPER**

**Scope :**

- This category covers the service of providing a Mandap and incidental services by a Mandap keeper.
- Mandap' means any immovable property as defined in Sec. 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein, let out for a consideration for organizing any official, social, or business function.

- 'Mandap keeper' means a person who allows temporary occupation of a Mandap for a consideration for organizing any official or social or business function.

***Inclusion :***

- Mandap covers marriage hall, banquet halls, conference halls etc.,
- Hotels and Restaurants providing such facility within their premises for organizing social, official or business function shall also be covered within the scope of this service.
- The service of catering provided along with the Mandap is also covered within the scope of this service.

***Exclusion :***

- Mere reservation of seats in a restaurant shall not attract Service Tax.

***Exemption :***

- Any Mandap service provided by a religious place is exempted from payment of Service Tax. 'Religious Place' means a place, which is meant for conducting prayers or worship pertaining to a religion. (Notfn. No.14/2003-ST dated 20.6.2003).
- Abatement to the extent of 40% of the gross amount charged is admissible when the mandap keeper also provides catering services (supply of food) provided the bill issued for this purpose indicates that the gross amount charged is inclusive of the charges for catering service. This abatement would be allowed provided the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No.12/2003-ST dt.20.6.2003. (Notfn. No.1/2006-ST dated 1.3.2006).
- The amount of abatement as mentioned above is admissible in respect of taxable services provided by a hotel as a Mandap Keeper where service provided includes catering services, subject to the above mentioned conditions. (Notfn. No.1/2006-ST dated 1.3.2006).

## **17.15. ADVERTISING AGENCY**

***Scope :***

- The taxable service provided or to be provided to a client by any person in relation to making, preparation, display or exhibition of advertisement i.e., circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas for publicity is covered under the category of Advertising agency service.

- Advertisement agency basically prepares content of the advertisement material for publicity as per the requirement of the client and / or arranges the space in any kind of media.

***Inclusion :***

- The definition of ‘advertising agency’ also covers ‘advertising consultant’.
- Market research relating to advertisement forms part of the service in relation to the advertisement.

***Exclusion :***

- Mere publishing of prepared advertisement in a paper or magazine or broadcast of prepared advertisement on electronic media by TV or Radio channel are not the functions of an advertisement agency. Hence such activities do not fall within the scope of the Advertisement agency service.

## **17.16. COURIER**

***Scope :***

- Courier service covers the service provided to a customer by a Courier agency in relation to door-to-door transportation of documents, goods or any other article.
- 'Courier agency' means any person engaged in the door-to-door transportation of time sensitive documents, goods or any article.

***Inclusion :***

- The door-to-door transportation of goods or article provided by express cargo service agencies are not different from the service provided by the conventional courier agencies. Therefore, these agencies are also liable to pay Service Tax under this category.
- The 'Speed Post' service offered by the Department of Posts also falls within the scope of this service.

## **17.17. MANAGEMENT, MAINTENANCE OR REPAIR**

***Scope :***

- Management, maintenance or repair service covers any service provided by any person under a contract or an agreement; or by a manufacturer or any person authorised by him in relation to management or maintenance or repair of immovable or movable properties.

- This service also covers maintenance or repair including reconditioning or restoration or servicing of any goods, excluding a motor vehicle.

***Inclusion :***

- Free service provided to the customers by the persons providing Management, maintenance or repair service during the warranty period, where the service charges are reimbursed by the manufacturer of the goods, also attracts Service Tax under this category.
- For the purpose of Management, maintenance or repair service, the immovable property includes roads, airports, railways, buildings, parks, electrical installations etc.,
- Any service in relation to Management, maintenance or repair or servicing of Software is covered under this category.

***Exclusion :***

- The definition of service indicates that the repair service will not be taxable, if the service is provided by a person (other than manufacturer or any person authorised by him) when there is no contract or agreement for the same.

## **17.18. GOODS TRANSPORT AGENCY - BY ROAD**

***Scope :***

- The service provided by a Goods Transport Agency (GTA) in relation to transport of goods by road is covered under this category.
- 'Goods Transport Agency' means any person who provides service in relation to goods transport by road and who issues a consignment note.
- '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 and the person liable for payment of Service Tax, whether consignor or consignee or the Goods Transport Agency.



***Person liable to pay Service Tax under GTA Service :***

In relation to taxable service provided by a Goods Transport Agency, any person who pays or is liable to pay freight either himself or through his agent would be liable to pay the Service Tax, where the consignor or consignee of goods is one of the following categories:

- (i) any Factory registered under or governed by the Factories Act, 1948;
- (ii) any Company formed or registered under the Companies Act, 1956;
- (iii) any Corporation established by or under any law;
- (iv) any Society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India;
- (v) any Co-operative Society established by or under any law;
- (vi) any dealer of Excisable goods, who is registered under the Central Excise Act, 1944 or the rules made thereunder;
- (vii) any body corporate established or a partnership firm registered, by or under any law.

In all other cases, the Service Tax is liable to be paid by the GTA.

*(Notifn. No.35/2004 ST dt. 3.12.2004 read with Rule 2(1)(d) of the STR, 1994).*

***NOTE :*** *When the recipient of GTA service is falling under any of the above mentioned seven categories, the Service tax should necessarily be paid only by the recipient of GTA service (who makes payment towards freight), and not by the provider of service (GTA).*

***Persons liable for Registration in respect of GTA service :***

Requirement of Registration is limited to persons liable to pay Service Tax. Thus, in the case of the categories (i) to (vii) mentioned above, the person liable to pay Service Tax (recipient of the service) is required to get registered. In all other cases, the Goods Transport Agency should obtain Registration.

### **Exemption :**

- Abatement to the extent of 75% of the gross amount charged for the service provided is admissible when the Goods Transport Agency does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No.12/2003-ST dt.20.6.2003. (Notfn. No.1/2006- ST dated 1.3.2006).
- In such cases, a declaration by the GTA in the consignment note issued, to the effect that neither the credit on inputs or capital goods used for provision of service has been taken nor the benefit of the Notfn. No: 12/2003 ST dt. 20-06-2003 has been taken by them, would suffice for the purpose of availment of abatement by the person liable to pay Service Tax.
- Full exemption from payment of Service Tax would be allowed if the gross amount charged on the consignments transported in a goods carriage does not exceed rupees one thousand five hundred or the gross amount charged on any individual consignment transported in a goods carriage does not exceed Rupees seven hundred and fifty.

**NOTE :** *An individual consignment means all goods transported by a Goods Transport Agency by road in a goods carriage for a consignee. (Notifn. No.34/2004 ST dated 03.12.2004).*

- Taxable service provided by a Goods Transport Agency to a customer, in relation to transport of fruits, vegetables, eggs or milk by road in a goods carriage is exempted from payment of Service Tax. (Notfn. No.33/2004 ST Dt.3.12.2004).

## **17.19. COMMERCIAL OR INDUSTRIAL CONSTRUCTION**

### **Scope :**

- The Services in relation to construction of commercial and industrial buildings are covered under this category of service. This would include shops, factories, warehouses, offices for business, shopping malls, petrol pumps etc.
- This service also includes renovation of such building or civil structure; post construction completion and finishing services for such building or civil structure; construction, repair, alteration, renovation or restoration of pipeline or conduits.

***Inclusion :***

- The service provided by any person in relation to construction, repairs, alteration or restoration of such buildings, civil construction or parts thereof which are used, occupied or engaged for the purpose of commerce and industry are includable under this category.

***Exclusion :***

- Residential buildings, offices of government, and all other non commercial buildings and structures remain out of the scope.
- Construction of Roads, Airports, Railway, transport terminals, bridge, tunnel and dams are excluded from this category of service.
- Construction of houses, schools, temples, Government building for non-commercial purposes etc. would not be covered under this category of service.

***Exemption :***

- Abatement to the extent of 67% of the gross value of the taxable services would be allowed provided the gross amount charged is inclusive of the value of goods and materials supplied or provided or used for this service. This abatement would be allowed provided the service provider does not avail the benefit under CENVAT credit scheme or the benefit of Notfn. No.12/2003-ST dated 20.6.2003. This exemption is not admissible when the taxable services provided are only completion and finishing services in relation to building or civil structure. (*Notfn. No.1/2006 ST dt.1.3.2006*).
- The services provided by any person in relation to construction of port or other port are exempted (*Notfn. No.16/2005 ST dt. 16.6.2005*).

## **17.20. BUSINESS AUXILIARY SERVICE**

***Scope :***

The Business Auxiliary Service covers any service rendered by any person in relation to :-

- Promotion and marketing or sales of goods produced or provided by or belonging to the client; or promotion or marketing of service provided by the client.

- Customer care service provided on behalf of the client.
- Procurement of goods or services, which are inputs for the client.
- Production or processing of goods for, or on behalf of the client.
- Provision of service on behalf of the client. and
- Services incidental or auxiliary to any activity specified above, 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 relations services, management or supervision,

***Inclusion :***

- The service provided by a person as a commission agent is also included under this category.
- “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;

***Exclusion :***

- Any activity that amounts to ‘manufacture’ within the meaning of Sec.2(f) of the Central Excise Act, 1944 is excluded from this category of service.
- Information Technology service is outside the purview of Business Auxiliary Services. Information Technology service means any service in relation to designing or developing of computer software or system networking or any other service primarily in relation to operation of computer systems.

***Exemption :***

- Services provided by the Commission agents of agricultural produce are exempted. (Notfn. No.13/2003 ST dated 20.6.2003).
- Services relating to procurement or production or processing of goods or service in relation to agriculture, printing, textile processing or education are, however, exempted. (Notfn.14/2004 ST dt.10.9.2004).

- Services relating to production or processing of goods for, or on behalf of, the client (other than manufacture as per Sec. 2(f) of the Central Excise Act, 1944) are exempted from payment of Service Tax, if the goods are produced or processed using the raw materials or semi-finished goods supplied by the client and the goods are returned to the client for use in or in relation to the manufacture of goods which are liable to Central Excise duty. (Notfn.8/2005 ST dated 1.3.2005).
- The services of production or processing of goods for, or on behalf of, the client in the course of manufacture of (a) cut and polished diamonds and gem stones or (b) plain and studded jewellery of gold and other precious metals falling under chapter 71 of the Central Excise Tariff Act, 1985 are exempted (Notfn. 21/2005-ST dated 7.6.2005).
- Abatement to the extent of 30% of the gross value of the taxable services would be allowed for the services in relation to production or processing of parts and accessories used in the manufacture of cycles, cycles rickshaws and hand operated sewing machines, for or on behalf of the client. For availing this abatement, the gross amount charged should be inclusive of the value of inputs and input services used for this service, whether or not supplied by the client. This abatement would be allowed provided the service provider does not avail the benefit under CENVAT credit scheme or the benefit of Notfn. No. 12/2003 ST dated 20.6.2003. (Notfn. No.1/2006 ST dt.1.3.2006).

## **17.21. MANPOWER RECRUITMENT**

### ***Scope :***

- The service provided or to be provided to a client, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower temporarily or otherwise, in any manner, is covered under this category.
- Manpower recruitment agency means any person engaged in providing the above service, directly or indirectly.

### ***Inclusion :***

The following activities are also included under this category :

- Manpower recruitment agencies such as head hunters, placement agencies etc. which provide domestic help, maids etc., to households.

- The agencies or contractors who supply manpower to different industries, units etc., for contract/temporary jobs.
- Temporary supply of manpower to business or industrial organisations for a specified period or for a project or task.
- Service Tax is to be paid on the fees charged from both the parties viz. the employer and employees.

***Inclusion :***

- Direct hiring by an organisation or business, without engaging the services of any other person is not covered under this category.

## **17.22. INTERIOR DECORATION**

***Scope :***

- The service provided or to be provided to a client, by an interior decorator in relation to planning, design, or beautification of spaces, whether man made or otherwise, in any manner, is covered under this category.
- Interior decorator means any person engaged, whether directly or indirectly, in the business of providing the above services.

***Inclusion :***

The following activities are also included under this category :

- The service relating to arrangement of layout of offices, placement and selection of furniture or upholstery, design and beautification of floor, rooms and other spaces.
- The service relating to landscape designing

## **17.23. MANAGEMENT CONSULTANT**

***Scope :***

- The service provided or to be provided to a client, by a management consultant in connection with the management of any organisation, either directly or indirectly, in any manner, is covered under this category.

***Inclusion :***

Management consultant service includes :

- Any service provided, either directly or indirectly, in connection with the management of any organization, in any manner;

- Any advice in respect of the 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.

#### **17.24. REAL ESTATE AGENT**

***Scope :***

- The service provided or to be provided to a client by a real estate agent in relation to sale, purchase, leasing or renting of real estate is covered under this category.
- A 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.
- A “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.

***Exclusion :***

- Construction of any building by builders/developers is not covered under the category of real estate agency service.

#### **17.25. SECURITY AGENCY**

***Scope :***

- The service provided or to be provided to a client, by a security agency in relation to the security of any movable or immovable property or of any person, by providing security personnel or otherwise is covered under this category.
- Security Agency means any person engaged in the business of rendering services relating to the security of any movable or immovable property, 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.

***Inclusion :***

The following activities are included under this service :

- Investigation, detection or verification of any fact or activity, services of providing security.
- Service of the detective agencies which are providing confidential services in respect of financial credibility of any person, trade mark or copyright infringements etc.

***Exclusion :***

- The services of providing safe deposit lockers/safe vaults provided by Bank or any other person in respect of movable property are excluded from the scope of this service, as such services are covered under the Banking and financial services.

***18. About the Fifteen New Services***

**(w.e.f. 1.5.2006)**

**18.1. REGISTRAR TO AN ISSUE**

***Scope :***

- The service provided or to be provided, to any person, by a registrar to an issue, in relation to sale or purchase of securities is covered under this category.
- ‘Registrar to an issue’ means any person carrying on the activities in relation to an issue of securities such as shares, debentures, debts, stock, bonds etc. The Registrar to an issue is required to be registered with the Securities and Exchange Board of India (SEBI). They are bound by the rules and regulations framed by SEBI.
- ‘Issue’ means an offer of sale or purchase of securities to, or from, the public or the holder of securities.

***Inclusion :***

The activities of the registrar to an issue include –

- collection of application forms from investors;
- maintenance of record of application and money received from investors or paid to the seller of securities;
- assistance in determination of the basis of allotment of securities;



- finalization of the list of persons entitled to allotment of securities; and
- Processing and dispatch of allotment letter, refund orders or certificates and other related documents.

## **18.2. SHARE TRANSFER AGENT**

### ***Scope :***

- The service provided or to be provided, to any person, by a Share Transfer Agent in relation to securities is covered under this category.
- ‘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.
- The share transfer agents are required to be registered with the Securities and Exchange Board of India (SEBI). They are bound by the rules and regulations framed by SEBI.

### ***Inclusion :***

The services provided by the Share transfer agents to a body corporate include-

- maintenance of the record of holders of securities;
- dealing with all matters connected with transactions or redemption of securities.
- management of the activities of trading and transfer of securities by the Share transfer agents subsequent to the issue of securities.

## **18.3. ATM OPERATIONS, MAINTENANCE OR MANAGEMENT**

### ***Scope :***

- The 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, is covered under this category.
- ‘Automated Teller Machine’ (ATM) is an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions.

***Inclusion :***

The services include –

- site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value added services.
- The outsourced activities relating to ATMs such as operations, maintenance or management of hardware and software, cash replenishment etc.,
- The comprehensive outsourcing of entire ATM related services are also included under this category.

#### **18.4. RECOVERY AGENT**

***Scope :***

- The 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 is covered under this category.
- The recovery agents are appointed by the banks and other financial institutions under Securities and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 and the relevant rules made thereunder.

#### **18.5. SALE OF ADVERTISING SPACE OR TIME**

***Scope :***

- The 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, is covered under this category.

***Inclusion :***

The services in relation to sale of space or time for advertisement include –

- providing space or time 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 etc.

- selling of time slots on radio or television by a person, other than a broadcasting agency or organisation and aerial advertising.

***Exclusion :***

- The services relating to sale of space for advertisement in print media is not covered under this category. Print media means book and news paper as defined under the press and regulation of book Act, 1867.
- The services relating to sale of time slots by a broadcasting agency or organisation is also excluded from this category.

## **18.6. SPONSORSHIP SERVICE**

***Scope :***

- The service provided or to be provided, to any body corporate or firm, by any person receiving sponsorship, in relation to such sponsorship, in any manner, (other than services in relation to sponsorship of sports events) is covered under this category.
- Service tax is leviable provided the recipient of the sponsorship service is a body corporate or firm.

***Inclusion :***

Sponsorship services include –

- 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 etc.

***Exclusion :***

- Sponsorship of sports events is excluded from the scope of this service.
- Any financial or other support in the form of donations, or gifts, given by the donors under no obligation to provide anything in return to such donors is not covered under this category.

***Person liable to Service Tax under sponsorship service :***

- Service Tax is payable under reverse charge method by the recipient of sponsorship service viz., the body corporate or firm which sponsors the event. The organisers of the events are not liable to Service Tax under this category. (*Sec.68(2) of the Act read with Rule 2(d) of the STR, 1994*)

## 18.7. INTERNATIONAL AIR TRAVEL

### **Scope :**

- The services 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 International journey is covered under this category. It applies to travel in any class other than economy class.

**NOTE :** *The lowest class in the scheduled flights will be treated as economy class. If there is only one class, it will be treated as economy class. No class will be treated as economy class in respect of non-scheduled flights.*

### **Exclusion :**

- Transit passengers from a place outside India not leaving the Customs area in India and not passing through immigration, who continue the journey to a place outside India, are not treated as International passengers for the purpose of levy of Service Tax under this category.
- A person employed or engaged by the aircraft operator in any capacity on board the aircraft (crew members) are also not treated as International passengers for the above purpose.

## 18.8. TRANSPORT OF GOODS IN CONTAINERS BY RAIL

### **Scope :**

- The service provided or to be provided to any person, by any *other person other than Government railways*, in relation to transport of goods in containers by rail, in any manner, is covered under this category.

### **Exclusion :**

- The service provided by Government Railway is excluded from this category of service.

### **Exemption :**

- Abatement to the extent of 70% of the gross amount charged is admissible when the service provider does not avail the benefit under Cenvat Credit Scheme or the benefit under Notification No.12/2003 ST dt.20.6.2003. (Notfn. No.1/2006 ST dated 1.3.2006).

## 18.9. BUSINESS SUPPORT SERVICES

### **Scope :**

- › The 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, is covered under this category.

### **Inclusion :**

The services under this category include –

- › evaluation of prospective customers;
- › telemarketing;
- › processing of purchase orders and fulfillment services;
- › information and tracking of delivery schedules;
- › managing distribution and logistics;
- › customer relationship management services;
- › accounting and processing of transactions;
- › operational assistance for marketing;
- › formulation of customer service and pricing policies;
- › infrastructural support services;
- › other transaction processing etc.

**NOTE :** *The infrastructural support services include providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security.*

## 18.10. AUCTIONEER'S SERVICE

### **Scope :**

- › The services in relation to auction of property (movable or immovable, tangible or intangible) in any manner, are covered under this category.

### **Inclusion :**

- › 'Auction of property' service includes calling the auction or providing a facility, advertising or illustrative services, pre-auction price estimates, short term storage services, repair or restoration services in relation to auction of property.
- › The service may include any pre-auction and post-auction services such as price estimation, publicity, storage, repair etc.

**Exclusion :**

- › Services provided in relation to auction of property under the direction or orders of a Court of Law or auction by the Government are, however, excluded from this category.

**18.11. PUBLIC RELATIONS SERVICE**

**Scope :**

- › The services provided or to be provided, *by any person*, to any other person, in relation to managing the public relations of such person, in any manner, is covered under this category.

**Inclusion :**

This service includes –

- › strategic counseling based on industry;
- › media and perception research;
- › corporate image management;
- › media relations and media training;
- › press release and press conference;
- › financial public relations;
- › brand support and brand launch;
- › retail support and promotions;
- › events communications and crisis communications etc.

**18.12. SHIP MANAGEMENT**

**Scope :**

- › The services provided or to be provided, to any person under a contract or an agreement, by any other person, in relation to ship management are covered under this category.

**Inclusion :**

Ship Management Service' includes –

- › the supervision of the maintenance, survey and repair of ship;
- › engagement or providing of crews;
- › receiving the hire or freight charges on behalf of the owner;
- › arrangements for loading and unloading;
- › providing for victualling or storing of ship;
- › negotiating contractors for bunker fuel and lubricating oil;

- payment on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- the entry of ship in a protection or indemnity association;
- dealing with insurance, salvage and other claims;
- arranging of insurance in relation to ship etc

### **18.13. INTERNET TELEPHONY**

***Scope :***

- The service provided or to be provided to any person, by any other person, in relation to Internet telephony is covered under this category This service was earlier covered under the category of ‘Online information & database access and or retrieval services’.
- ‘Internet telephony’ means telecommunication service through internet and includes fax, audio-conferencing and video conferencing.
- ‘Internet’ means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancements 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.

### **18.14. TRANSPORT BY CRUISE SHIPS**

***Scope :***

- The services 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 is covered under this category.
- ‘Cruise Ship’ means a ship or vessel used for providing recreational or pleasure trips.

***Exclusion :***

The service in relation to transport by cruise ships using the following category of ships or vessels are excluded from the purview of this service:

- a ship or vessel used for private purposes; or
- a ship or vessel of, or less than fifteen net tonnage.

## 18.15. CREDIT CARD RELATED SERVICES

### *Scope :*

- The 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 cards, is covered under this category.

### *Inclusion :*

The credit card related services include the services provided -

- by a banking company, financial institution including non-banking financial company or any other person (the issuing bank), issuing such card to a card holder;
- by any person to an issuing bank in relation to such card business, including receipt and processing or application, transfer of embossing data to issuing bank's personalising 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;
- 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 ('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);
- in relation to joint promotional cards or affinity cards or co-branded cards;
- in relation to promotion and marketing of goods and services through such card;
- by a person, to an issuing bank or the holder of such card, for making use of automated teller machines of such person; and
- 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.

***NOTE :*** *Issuing bank and the owner of trade marks or brand name shall be treated as separate persons.*





# APPENDIX - I

## LIST OF SERVICES WITH ACCOUNT CODE NUMBERS

S.No.	Ref. No.	Code	Name of the Service	Date of Imposition	Accounting Code Numbers	
					Tax Collection	Other Receipts
1	a	STB	Stock Broker	01.07.94	00440008	00440009
2	b	TSU	Telephone	01.07.94	00440003	00440119
4	d	GIB	General Insurance	01.07.94	00440005	00440006
3	c	PGS	Pagers	01.11.96	00440015	00440020
5	e	ADV	Advertising Agency	01.11.96	00440013	00440016
6	f	COU	Courier	01.11.96	00440014	00440018
7	h	CHA	Custom House Agent	15.06.97	00440026	00440027
8	i	STA	Steamer Agent	15.06.97	00440029	00440030
9	l	AIR	Air Travel Agent	01.07.97	00440032	00440033
10	m	MAK	Mandap Keeper	01.07.97	00440035	00440036
11	g	CER	Consulting Engineer	07.07.97	00440057	00440058
12	k	MRA	Manpower Recruitment	07.07.97	00440060	00440061
13	j	CFA	C & F Agent	16.07.97	00440045	00440046
14	o	CAB	Rent-a-Cab operator	16.07.97	00440048	00440049
15	ka	GTO	Goods Transport Operator	16.10.97	00440067	00440068
16	n	TOU	Tour Operator	01.09.97	00440063	00440064
17	p	ARC	Architect	16.10.98	00440072	00440073
18	q	IDS	Interior Decorator	16.10.98	00440076	00440077
19	r	MGC	Management Consultant	16.10.98	00440116	00440117
20	s	CAC	Chartered Accountant	16.10.98	00440092	00440093
21	t	COA	Cost Accountant	16.10.98	00440096	00440097
22	u	COS	Company Secretary	16.10.98	00440100	00440101
23	v	REA	Real Estate Agent	16.10.98	00440104	00440105
24	w	SEA	Security Agency	16.10.98	00440108	00440109
25	x	CRA	Credit Rating Agency	16.10.98	00440088	00440089

26	y	MRK	Market Research Agency	16.10.98	00440112	00440113
27	z	UWS	Under Writing	16.10.98	00440084	00440085
28	za	STC	Scientific & Technical Consultancy	16.07.01	00440125	00440126
29	zb	PGH	Photography	16.07.01	00440129	00440130
30	zc	CVN	Convention	16.07.01	00440133	00440134
31	zd	LCR	Leased Circuits	16.07.01	00440137	00440138
32	ze	TGH	Telegraph	16.07.01	00440141	00440142
33	zf	TLX	Telex	16.07.01	00440145	00440146
34	zg	FCS	Facsimile	16.07.01	00440149	00440150
35	zh	OID	Online information & Database	16.07.01	00440153	00440154
36	zi	VTP	Video Tape Production	16.07.01	00440157	00440158
37	zj	SRC	Sound Recording	16.07.01	00440161	00440162
38	zk	BRD	Broadcasting	16.07.01	00440165	00440166
39	zl	IAX	Insurance Auxiliary Services	16.07.01	00440169	00440170
40	zm	BFN	Banking & Other Financial Services	16.07.01	00440173	00440174
41	zn	PRT	Port Services	16.07.01	00440177	00440178
42	zo	SMV	Authorised Service Station	16.07.01	00440181	00440182
43	zq	BTY	Beauty Treatment	16.08.02	00440209	00440210
44	zr	CHS	Cargo Handling	16.08.02	00440189	00440190
45	zs	CBL	Cable Operator	16.08.02	00440217	00440218
46	zt	DCS	Dry Cleaning	16.08.02	00440221	00440222
47	zu	EVS	Event Management	16.08.02	00440197	00440198
48	zv	FDS	Fashion Designing	16.08.02	00440213	00440214
49	zw	HFC	Health and Fitness	16.08.02	00440205	00440206
50	zx	LIS	Life Insurance	16.08.02	00440185	00440186
51	zz	RTA	Rail Travel Agent	16.08.02	00440201	00440202
52	zza	SWS	Storage and Warehouse	16.08.02	00440193	00440194
53	zzb	BAS	Business Auxiliary Services	01.07.03	00440225	00440226

54	zzc	CTC	Commercial Training or Coaching	01.07.03	00440229	00440230
55	zzd	CAI	Erection, commissioning or installation	01.07.03	00440233	00440234
56	zze	FRA	Franchise Service	01.07.03	00440237	00440238
57	zzf	INC	Internet café	01.07.03	00440241	00440242
58	zzg	MRS	Management, Maintenance or Repair	01.07.03	00440245	00440246
59	zzi	TIC	Technical Inspection & Certification	01.07.03	00440249	00440250
60	zzm	APS	Airport Services	10.09.04	00440258	00440259
61	zzn	TGA	Transport of goods by Air	10.09.04	00440266	00440267
62	zzo	BES	Business Exhibition	10.09.04	00440254	00440255
63	zzq	CCS	Commercial or Industrial construction	10.09.04	00440290	00440291
64	zzr	IPR	Intellectual Property Rights	10.09.04	00440278	00440279
65	zzs	OPS	Opinion poll	10.09.04	00440274	00440275
66	zzt	ODC	Outdoor catering	10.09.04	00440051	00440052
67	zzu	TRP	TV or Radio Programme Production	10.09.04	00440286	00440287
68	zzv	SEM	Survey and exploration of minerals	10.09.04	00440270	00440271
69	zzw	PSS	Pandal and Shamina	10.09.04	00440054	00440055
70	zzx	TAO	Travel Agent	10.09.04	00440294	00440295
71	zzy	FDC	Forward Contract	10.09.04	00440282	00440283
72	zzp	GTA	Transport of goods by Road	01.01.05	00440262	00440263
73	zzz	TGP	Transport of goods through pipeline	16.06.05	00440302	00440303
74	zzza	SPC	Site preparation and clearance	16.06.05	00440306	00440307
75	zzzb	DRS	Dredging	16.06.05	00440310	00440311
76	zzzc	SUR	Survey and map making	16.06.05	00440314	00440315
77	zzzd	CLG	Cleaning services	16.06.05	00440318	00440319

78	zzze	MCA	Membership of Clubs or Associations	16.06.05	00440322	00440323
79	zzzf	PKG	Packaging	16.06.05	00440326	00440327
80	zzzg	MCM	Mailing list compilation & mailing	16.06.05	00440330	00440331
81	zzzh	CON	Construction of residential complex	16.06.05	00440334	00440335
82	zzzi	RTI	Registrar to an Issue	01.05.06	00440338	00440339
83	zzzj	STR	Share Transfer Agent	01.05.06	00440342	00440343
84	zzzk	ATM	Automated Teller Machine services	01.05.06	00440346	00440347
85	zzzl	RCA	Recovery Agents	01.05.06	00440350	00440351
86	zzzm	ADS	Sale of space or time for Advertisement	01.05.06	00440354	00440355
87	zzzn	SPN	Sponsorship Service	01.05.06	00440358	00440359
88	zzzo	ATS	Air transport of International passenger	01.05.06	00440362	00440363
89	zzzp	COR	Transport of goods in containers by rail	01.05.06	00440390	00440391
90	zzzq	BSS	Business Support Services	01.05.06	00440366	00440367
91	zzzr	AUS	Auctioneer's Service	01.05.06	00440370	00440371
92	zzzs	PRS	Public Relations Service	01.05.06	00440374	00440375
93	zzzt	SMS	Ship Management	01.05.06	00440378	00440379
94	zzzu	ITS	Internet Telephony	01.05.06	00440382	00440383
95	zzzv	TCS	Transport by Cruise Ship	01.05.06	00440386	00440387
96	zzzw	CRD	Credit/Debit/Charge Card or other payment cards related services	01.05.06	00440394	00440395

- The Ref.No indicated in column (2) of the Table is the sub-clause number of clause (105) of Section 65 of the Finance Act, 1994.
- The Sub-Head of Account for 'other receipts' in the last column of the Table is meant for interest, penalty etc.
- The Account code for Education Cess on all taxable services: **00440298**

## APPENDIX - II

### ABATEMENTS ADMISSIBLE FOR VARIOUS SERVICES

S. No.	Services	Abate- ment
1	<b>MANDAP KEEPER</b> > When catering service is also provided. > When service is provided by a Hotel as mandap with catering.	40% 40%
2	<b>TOUR OPERATOR</b> > For package Tour > Other than package tour. > When accommodation alone is arranged.	60% 60% 90%
3	<b>RENT-A-CAB OPERATOR</b>	60%
4	<b>CONVENTION SERVICE</b> > When catering service is also provided.	40%
5	<b>ERECTION, COMMISSIONING OR INSTALLATION</b> > When machines/equipments are also supplied.	67%
6	<b>TRANSPORT OF GOODS BY ROAD (GTA)</b>	75%
7	<b>COMMERCIAL OR INDUSTRIAL CONSTRUCTION</b>	67%
8	<b>OUTDOOR CATERING</b> > When food is also provided along with catering service.	50%
9	<b>PANDAL AND SHAMIANA</b> > When catering service is also provided.	30%
10	<b>CONSTRUCTION OF COMPLEX</b>	67%
11	<b>TRANSPORT OF GOODS IN CONTAINERS BY RAIL</b>	70%
12	<b>BUSINESS AUXILIARY SERVICES</b> > In relation to production or processing of parts and accessories used in the manufacture of cycles, cycle rickshaws and hand-operated sewing machines, for or on behalf of the client.	30%
13	<b>FINANCIAL LEASING SERVICES</b> > On the interest charged for equipment leasing & hire purchase	90%

- > The above abatements would be admissible, when the benefit under the CENVAT Credit Rules, 2004 and Notfn. No.12/2003 ST dt.20.6.2003 are not availed.
- > In respect of Sl.No. 7 & 10, the abatement is not admissible when the taxable services provided are only completion and finishing activities.
- > The abatements at Sl. Nos. 1 to 12 and 13 are as per Notfn No1/2006 ST and 4/2006 ST both dated 1.3.2006 respectively.

## APPENDIX - III

### 1. Exemption Notifications :

Sl. No.	Notification	Exemption for
1	3/94 ST dt.30.6.94	Specified insurance & telephone services and other services
2	12/97 ST dt.14.2.97	Jan Arogya Bhima Policy - General Insurance
3	22/97 ST dt.26.6.97	Excess of the commission received by the Air Travel Agents from the Airlines
4	1/2000 ST dt.9.2.2000	Group personal accident scheme by Govt. of Rajasthan
5	3/2000 ST dt.6.7.2000	National Agricultural Insurance Scheme/Seed Crop Insurance - General Insurance
6	4/2000 ST dt.31.7.2000	Cattle Insurance under the Central Sector Scheme - General Insurance
7	10/2002 ST dt.1.8.2002	Cargo handling agency in relation to agricultural produce or goods intended to be stored in a cold storage.
8	18/2002 ST dt 16.12.2002	Consulting Engineer in relation to transfer of technology (to the extent of cess under the R & D Cess Act,1986).
9	10/2003 ST dt 20.6.2003	The course leading to degree, diploma, etc., conducted by the Commercial Training or Coaching Centre.
10	13/2003 ST dt 20.6.2003	Commission Agent under the category of Business Auxilliary Service in relation to sale or purchase of agricultural produce.
11	14/2003 ST dt 20.6.2003	The use of the precincts of a religious place as a mandap.
12	16/2003 ST dt 11.7.2003	General Insurance - Universal health insurance scheme.
13	13/2004 ST dt 10.9.2004	Banking & other Financial services provided to Govt. of India or State Governments in relation to duty or tax collection.
14	14/2004 S.T dt 10.9.2004	Business Auxilliary Services relating to procurement or production of goods, etc., when provided by a service provider other than the specified service provider.

Sl. No.	Notification	Exemption for
15	17/2004 ST dt.10.9.2004	Intellectual Property Right services (to the extent of cess under the R & D Cess Act, 1986).
16	24/2004 ST dt.10.9.2004	Vocational and Commercial Training of Coaching by a Vocational or Recreational Training Institute.
17	29/2004 ST dt.22.9.2004	Specified Banking & other Financial Services.
18	33/2004-ST dt.3.12.2004	Goods Transport Agency service - in relation to transport of fruits, vegetables, eggs or milk.
19	34/2004 ST dt.3.12.2004	Goods Transport Agency service - based on the freight amount charged.
20	8/2005 ST dt.1.3.2005	Manufacturing on job work under Business Auxiliary Service.
21	16/2005-ST dt.7.6.2005	Construction of Ports under Commercial or Industrial Construction service.
22	17/2005-ST dt.7.6.2005	Infrastructure (road, transport etc) under site formation service.
23	21/2005-ST dt.7.6.2005	Production or processing of diamonds, gem stones or jewellery of precious metal under Business Auxiliary Service.
24	29/2005-ST dt.7.6.2005	Transport of export goods by aircraft.
25	6/2006-ST dt.1.3.2006	Water quality testing and analysis done by State / District level Govt. owned laboratories.

**2. Exemption for services provided to specified Diplomatic Missions :**

Sl.No.	Notification	Services
1	5/1996 ST dt. 03.04.1996	Telephone services
2	10/1996 ST dt. 26.11.1996	Non Life Insurance
3	44/1998 ST dt. 22.01.1998	Advertising / Courier Agency
4	50/1998 ST dt. 15.06.1998	Tour Operator
5	51/1998 ST dt. 15.06.1998	Air Travel Agent
6	1/2001 ST dt. 03.07.2001	Security Agency

**3. For General and Value based exemptions, please refer Chapter 4.**

**4. For details of the Abatement Notifications, please refer Appendix-II.**

# **APPENDIX - IV**

## **HINTS FOR FILING THE FORMS**

### **I. Application for Registration (Form ST-1) :**

- 1) The person liable to pay Service Tax is required to file the duly filled in Application for Service Tax Registration (Form ST-1) with the jurisdictional Central Excise Range/Divisional Office.
- 2) The Application in Form ST-1 is required to be filed within 30 days from the date of commencement of the service or within 30 days from the date on which the Service Tax is levied on such service.
- 3) The Form ST-1 can be obtained from the nearest Central Excise Office or the Help Centres established by the Department. The ST-1 form can also be downloaded from the websites as shown in the Help Lines.
- 4) The ST-1 Form can be signed by the assessee or his authorised representative.
- 5) The Permanent Account Number (PAN) issued by the Income Tax Department should be mentioned in the Application form.
- 6) Any change in the address or constitution or business or any other information should be informed to the concerned Superintendent of Central Excise in-charge of Service Tax within 30 days of the said change along with the original Service Tax Registration Certificate (Form ST-2) for necessary endorsements.

### **II. Filing of Returns (Form ST-3) :**

- 1) The half-yearly Service Tax return in Form ST-3/ST-3A is to be filed by the assessee in triplicate to the Superintendent of Central Excise under whose jurisdiction the assessee has registered.
- 2) The ST-3/ST-3A form can be obtained/ downloaded from the sources indicated at sl.no I(3) above.
- 3) The details as per Form ST-3 for each month of the half year, for which the Return is filed, should be furnished separately.
- 4) The value of taxable services should be computed on the basis of gross amount received for the services provided or to be provided.
- 5) Even if there is no transaction during the period, a NIL ST-3 return should be filed.
- 6) The ST-3 return can be filed by e-filing method also.
- 7) Documentary evidence (TR6 Challans) for payment of Service Tax and other payments such as interest and penalty should be enclosed to the Return.
- 8) If any payment, other than the Service Tax amount, has been made during a particular period, the purpose and account for which the amount is paid, should be specifically indicated.