

Service Tax in India*

Service Tax in India

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India

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Index

Sr.No.	Description	Page No.
1.	Services at a glance	2
2.	Finance Act, 1994	6
3.	Definitions	30
4.	Service Tax Rules, 1994	90
5.	CENVAT Credit Rules, 2004	101
6.	Export of Services Rules, 2005	128
7.	Taxation of Services (Provided from Outside India & Received in India) Rules, 2006	134
8.	Service Tax (Determination of Value) Rules, 2006	140
9.	Works Contract (Composition Scheme for payment of Service Tax) Rules, 2007	146

Services at a Glance

Sr. No.	Service Category	Date of Introduction	Page Reference
1	Advertising agency's services	1-Nov-1996	34
2	Airport services	10-Sep-2004	34
3	Air travel agent's services	1-Jul-1997	35
4	Architect's services	16-Oct-1998	35
5	Asset management service	1-Jun-2007	35
6	Auctioneer's service	1-May-2006	36
7	Authorised service station's services	16-Jul-2001	36
8	Automated Teller Machines (ATM) operations, maintenance or management services	1-May-2006	37
9	Banking and other financial services	16-Jul-2001	37
10	Beauty treatment service	16-Aug-2002	41
11	Broadcasting services	16-Jul-2001	41
12	Business auxiliary services	1-Jul-2003	42
13	Business exhibition services	10-Sep-2004	44
14	Business support services	1-May-2006	44
15	Cable services	16-Aug-2002	45
16	Cargo handling service	16-Aug-2002	45
17	Chartered accountant's services	16-Oct-1998	45
18	Cleaning activity service	16-Jun-2005	46
19	Clearing and forwarding agents' services	16-Jul-1997	46
20	Club or association service	16-Jun-2005	46
21	Commercial or industrial construction services	10-Sep-2004	47
22	Commercial training or coaching service	1-Jul-2003	47
23	Company secretary's services	16-Oct-1998	48
24	Computer network services (On-line information and database access or retrieval services)	16-Jul-2001	48
25	Construction of complex service	16-Jun-2005	49
26	Consulting engineer's services	7-Jul-1997	50

Sr. No.	Service Category	Date of Introduction	Page Reference
27	Convention services	16-Jul-2001	50
28	Cost accountant's services	16-Oct-1998	51
29	Courier service	1-Nov-1996	51
30	Credit card, debit card, charge card or other payment card service	1-May-2006	51
31	Credit rating agency's services	16-Oct-1998	52
32	Custom house agent's services	15-Jun-1997	52
33	Design Services	1-Jun-2007	53
34	Development and supply of contents service	1-Jun-2007	53
35	Dredging service	16-Jun-2005	53
36	Dry cleaning services	16-Aug-2002	54
37	Erection, commissioning or installation service	1-Jul-2003	54
38	Event management service	16-Aug-2002	55
39	Fashion designing service	16-Aug-2002	55
40	Forward contract service	10-Sep-2004	55
41	Franchise service	1-Jul-2003	56
42	General insurance service	1-Jul-1994	56
43	Health and fitness services	16-Aug-2002	57
44	Insurance auxiliary services	16-Jul-2001	57
45	Intellectual property services	10-Sep-2004	59
46	Interior decorator's services	16-Oct-1998	59
47	Internet café service	1-Jul-2003	60
48	Internet telephony services	1-May-2006	60
49	Life insurance service	16-Aug-2002	60
50	Mailing list compilation and mailing service	16-Jun-2005	61
51	Management or Business consultant's services	16-Oct-1998	61
52	Management, maintenance or repair service	1-Jul-2003	62

Sr. No.	Service Category	Date of Introduction	Page Reference
53	Mandap keeper's services	1-Jul-1997	62
54	Manpower recruitment or supply agency's services	7-Jul-1997	63
55	Market research agency's services	16-Oct-1998	63
56	Mining of mineral, oil or gas service	1-Jun-2007	64
57	Opinion poll services	10-Sep-2004	64
58	Other port services	1-Jul-2003	64
59	Outdoor caterer's service	10-Sep-2004	65
60	Packaging activity services	16-Jun-2005	65
61	Pandal or shamiana contractor's service	10-Sep-2004	65
62	Photography services	16-Jul-2001	66
63	Port services	16-Jul-2001	66
64	Programme producer's services	10-Sep-2004	67
65	Public relation management service	1-May-2006	67
66	Rail travel agent's services	16-Aug-2002	68
67	Real estate agent's services	16-Oct-1998	68
68	Renting of immovable property service	1-Jun-2007	68
69	Recovery agent's services	1-May-2006	69
70	Registrar to an issue's service	1-May-2006	69
71	Rent-a-cab scheme operator's service	1-Apr-2000	70
72	Sale of space or time for advertisement services	1-May-2006	71
73	Scientific or technical consultancy services	16-Jul-2001	71
74	Security agency's services	16-Oct-1998	72
75	Share transfer agent's service	1-May-2006	72
76	Ship management services	1-May-2006	72
77	Site formation and clearance, excavation and earth moving and demolition services	16-Jun-2005	73

Sr. No.	Service Category	Date of Introduction	Page Reference
78	Sponsorship services	1-May-2006	73
79	Sound recording studio or agency service	16-Jul-2001	74
80	Steamer agent's services	15-Jun-1997	74
81	Stock-broker's services	1-Jul-1994	75
82	Storage and warehousing service	16-Aug-2002	76
83	Survey and exploration of mineral, oil and gas service	10-Sep-2004	77
84	Survey and map-making service	16-Jun-2005	77
85	Technical inspection and certification service	1-Jul-2003	77
86	Technical testing and analysis service	1-Jul-2003	78
87	Telecommunication Service	1-Jun-2007	78
88	Tour operator's service	1-Apr-2000	79
89	Transport of goods by air service	10-Sep-2004	80
90	Transport of goods in containers by rail service	1-May-2006	81
91	Transport of goods by road service	1-Jan-2005	81
92	Transport of goods, other than water, through pipeline or other conduit service	16-Jun-2005	82
93	Transport of passengers embarking in India for international journey by air service	1-May-2006	82
94	Transport of persons embarking from port in India by cruise ship service	1-May-2006	83
95	Travel agent's service	10-Sep-2004	84
96	Underwriter's service	16-Oct-1998	84
97	Video production agency's services	16-Jul-2001	84
98	Works contract service	1-Jun-2007	85
99	Miscellaneous definitions		85

Finance Act, 1994

Section No.	Chapter V of the Finance Act, 1994	Page Reference
64.	Extent, commencement and application	8
65.	Definitions	8
65A.	Classification of taxable services	8
66.	Charge of service tax	8
66A.	Charge of service tax on services received from outside India	9
67.	Valuation of taxable services for charging service tax	9
68.	Payment of service tax	10
69.	Registration	10
70.	Furnishing of returns	11
71.	Omitted vide Finance (No.2) Act 2004, w.e.f. 10-09-2004	11
72.	Omitted vide Finance (No.2) Act 2004, w.e.f. 10-09-2004	11
73.	Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded	11
73A.	Service tax collected from any person to be deposited with Central Government.	13
73B.	Interest on amount collected in excess	14
73C.	Provisional attachment to protect revenue in certain cases	14
73D.	Publication of information in respect of persons in certain cases	15
74.	Rectification of mistake	15
75.	Interest on delayed payment of service tax	16
75A.	Omitted vide Finance (No.2) Act 2004, w.e.f. 10-09-2004	16
76.	Penalty for failure to pay service tax	16
77.	Penalty for contravention of any provision for which no penalty is provided	17
78.	Penalty for suppressing value of taxable service	17
79.	Omitted vide Finance (No.2) Act 2004, w.e.f. 10-09-2004	18
80.	Penalty not to be imposed in certain cases	18

81.	Omitted	18
82.	Power to search premises	18
83.	Application of certain provisions of Act 1 of 1944	18
83A.	Power of adjudication	18
84.	Revision of orders by the Commissioner of Central Excise	18
85.	Appeals to the Commissioner of Central Excise (Appeals)	19
86.	Appeals to Appellate Tribunal	20
87.	Recovery of any amount due to Central Government	21
88 to 92	Omitted by Finance Act, 1998	22
93.	Power to grant exemption from service tax	22
93A.	Power to grant rebate	23
94.	Power to make rules	23
95.	Power to remove difficulties	24
96.	Consequential amendment	25

Chapter VA – Advance Rulings

96A.	Definitions	26
96B.	Vacancies, etc., not to invalidate proceedings	27
96C.	Application for advance ruling	27
96D.	Procedure on receipt of application	27
96E.	Applicability of advance ruling	28
96F.	Advance ruling to be void in certain circumstances	28
96G.	Powers of Authority	29
96H.	Procedure of Authority	29
96-I.	Power of Central Government to make rules	29

Chapter V of the Finance Act, 1994

64. EXTENT, COMMENCEMENT AND APPLICATION

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

65. DEFINITIONS

Please refer to Definitions Section at page 30.

65A. CLASSIFICATION OF TAXABLE SERVICES

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

66. CHARGE OF SERVICE TAX

There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zab), (zbc), (zbd), (zbe), (zbf), (zbg), (zbh), (zbi), (zbj), (zbk), (zbl), (zbm), (zbn), (zbo), (zbp), (zbq), (zbr), (zbs), (zbt), (zbu), (zbv), (zbw), (zbx), (zby), (zbz), (zba), (zbb), (zbc), (zbd), (zbe), (zbf), (zbg), (zbh), (zbi), (zbj), (zbk), (zbl), (zbm), (zbn), (zbo), (zbp), (zbq), (zbr), (zbs), (zbt), (zbu), (zbv), (zbw), (zbx), (zby), (zbz), (zca), (zcb), (zcc), (zcd), (zce), (zcf), (zcg), (zch), (zci), (zcj), (zck), (zcl), (zcm), (zcn), (zco), (zcp), (zcq), (zcr), (zcs), (zct), (zcu), (zcv), (zcw), (zcx), (zcy), (zcz), (zca), (zcb), (zcc), (zcd), (zce), (zcf), (zcg), (zch), (zci), (zcj), (zck), (zcl), (zcm), (zcn), (zco), (zcp), (zcq), (zcr), (zcs), (zct), (zcu), (zcv), (zcw), (zcx), (zcy), (zcz), (zda), (zdb), (zdc), (zdd), (zde), (zdf), (zdg), (zdha), (zdhb), (zdhc), (zdhc), (zdhj), (zdhk), (zdhl), (zdhm), (zdhn), (zdho), (zdhp), (zdhq), (zdhrr), (zdhss), (zdhzt), (zdhzu), (zdhzv), (zdhzw), (zdhx), (zdhy), (zdzz), (zdzza), (zdzzb), (zdzzc), (zdzzd), (zdzze), (zdzzf), (zdzzg), (zdzzh), (zdzzi), (zdzzj), (zdzzk), (zdzzl), (zdzzm), (zdzzn), (zdzzo), (zdzzp), (zdzzq), (zdzzr), (zdzzs), (zdzzt), (zdzzu), (zdzzv), (zdzzw), (zdzzx), (zdzzy), (zdzzz), (zdzza), (zdzzb), (zdzzc), (zdzzd)

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

- (1) Where any service specified in clause (105) of section 65 is,—
- (a) provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and
 - (b) received by a person (hereinafter referred to as the recipient) who has his place of business, fixed establishment, permanent address or usual place of residence, in India,

such service shall, for the purposes of this section, be taxable service, and such taxable service shall be treated as if the recipient had himself provided the service in India, and accordingly all the provisions of this Chapter shall apply:

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

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

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

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

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

(For Import Rules, please refer page no. 134)

67. VALUATION OF TAXABLE SERVICES FOR CHARGING SERVICE TAX

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

- (iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.
- (2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.
- (3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.
- (4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation. – For the purposes of this section, –

- (a) “consideration” includes any amount that is payable for the taxable services provided or to be provided;
- (b) “money” includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;
- (c) “gross amount charged” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment.

(For Valuation Rules, please refer page no. 140)

68. PAYMENT OF SERVICE TAX

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

69. REGISTRATION

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

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

70. FURNISHING OF RETURNS

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

71. VERIFICATION OF TAX ASSESSED BY THE ASSESSEE, ETC.

Omitted.

72. BEST JUDGMENT ASSESSMENT

Omitted.

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

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

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

- (a) fraud; or
- (b) collusion; or
- (c) wilful mis-statement; or
- (d) suppression of facts; or
- (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words “one year”, the words “five years” had been substituted.

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

- (1A) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Chapter or the rules made thereunder, with intent to evade payment of service tax, by such person or his agent, to whom a notice is served under the proviso to sub-section (1) by the Central Excise Officer, such person or agent may pay service tax in full or in part as may be accepted by him, and the interest payable thereon under section 75 and penalty equal to twenty-five per cent of the service tax specified in the notice or the service tax so accepted by such person within thirty days of the receipt of the notice.
- (2) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined:
- Provided** that where such person has paid the service tax in full together with interest and penalty under sub-section (1A), the proceedings in respect of such person and other persons to whom notices are served under sub-section (1) shall be deemed to be concluded:
- Provided further** that where such person has paid service tax in part along with interest and penalty under sub-section (1A), the Central Excise Officer shall determine the amount of service tax or interest not being in excess of the amount partly due from such person.
- (3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the Central Excise Officer of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid:
- Provided** that the Central Excise Officer may determine the amount of short payment of service tax or erroneously refunded service tax, if any, which in his opinion has not been paid by such person and, then, the [Central Excise Officer] shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.
- Explanation* – For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the Central Excise Officer, but for this sub-section.
- (4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of –

- (a) fraud; or
 - (b) collusion; or
 - (c) wilful mis-statement; or
 - (d) suppression of facts; or
 - (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax.
- (5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003.
- (6) For the purposes of this section, "relevant date" means, –
- (i) in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid –
 - (a) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;
 - (b) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;
 - (c) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;
 - (ii) in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof;
 - (iii) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.

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

- (1) Any person who is liable to pay service tax under the provisions of this Chapter or the rules made thereunder, and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service under the provisions of this Chapter or the rules made thereunder from the recipient of taxable service in any manner as representing service tax, shall forthwith pay the amount so collected to the credit of the Central Government.
- (2) Where any person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, such person shall forthwith pay the amount so collected to the credit of the Central Government.
- (3) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) or sub-section (2) and the same has not been so paid, the Central Excise Officer shall serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.

- Finance Act, 1994
- (4) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (3), determine the amount due from such person, not being in excess of the amount specified in the notice, and thereupon such person shall pay the amount so determined.
 - (5) The amount paid to the credit of the Central Government under sub-section (1) or subsection (2) or sub-section (4), shall be adjusted against the service tax payable by the person on finalisation of assessment or any other proceeding for determination of service tax relating to the taxable service referred to in sub-section (1).
 - (6) Where any surplus amount is left after the adjustment under sub-section (5), such amount shall either be credited to the Consumer Welfare Fund referred to in section 12C of the Central Excise Act, 1944 or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 11B of the said Act and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Central Excise Officer for the refund of such surplus amount.

73B. INTEREST ON AMOUNT COLLECTED IN EXCESS

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

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

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

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

73C. PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES

- (1) Where, during the pendency of any proceeding under section 73 or section 73A, the Central Excise Officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Central

Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 73 or sub-section (3) of section 73A, as the case may be, in such manner as may be prescribed.

- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

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

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

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

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

74. RECTIFICATION OF MISTAKE

- (1) With a view to rectifying any mistake apparent from the record, the Central Excise Officer who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.
- (2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the Central Excise Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.
- (3) Subject to the other provisions of this section, the Central Excise Officer concerned –
- (a) may make an amendment under sub-section (1) of his own motion; or
 - (b) shall make such amendment if any mistake is brought to his notice by the assessee or the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals).

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

75. INTEREST ON DELAYED PAYMENT OF SERVICE TAX

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

75A. PENALTY FOR FAILURE OF REGISTRATION

Omitted

76. PENALTY FOR FAILURE TO PAY SERVICE TAX

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

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

illustration

X, an assessee, fails to pay service tax of Rs. 10 lakhs payable by 5th March. X pays the amount on 15th March. The default has continued for 10 days. The penalty payable by X is computed as follows: –

2% of the amount of default for 10 days = $2 \times 10,00,000 \times 10/31 = \text{Rs. } 6,451.61$

Penalty calculated @ Rs. 200 per day for 10 days = Rs. 2,000

Penalty liable to be paid is Rs. 6,452.00.

77. PENALTY FOR CONTRAVENTION OF ANY PROVISION FOR WHICH NO PENALTY IS PROVIDED

Whoever contravenes any of the provisions of this Chapter or any rule made thereunder for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to an amount not exceeding one thousand rupees.

78. PENALTY FOR SUPPRESSING VALUE OF TAXABLE SERVICE

Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of –

- (a) fraud; or
- (b) collusion; or
- (c) wilful mis-statement; or
- (d) suppression of facts; or
- (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

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

Provided that where such service tax as determined under sub-section (2) of section 73, and the interest payable thereon under section 75, is paid within thirty days from the date of communication of order of the Central Excise Officer determining such service tax, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the service tax so determined :

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

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

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

Explanation – For the removal of doubts, it is hereby declared that –

- (1) the provisions of this section shall also apply to cases in which the order determining the service tax under sub-section (2) of section 73 relates to notices issued prior to the day on which the Finance Act, 2003 receives the assent of the President;

- (2) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

79. PENALTY FOR FAILURE TO COMPLY WITH NOTICE

Omitted

80. PENALTY NOT TO BE IMPOSED IN CERTAIN CASES

Notwithstanding anything contained in the provisions of section 76, section 77 or section 78, no penalty shall be imposable on the assessee for any failure referred to in the said provisions, if the assessee proves that there was reasonable cause for the said failure.

81. OFFENCES BY COMPANIES

Omitted

82. POWER TO SEARCH PREMISES

- (1) If the Commissioner of Central Excise has reason to believe that any documents or books or things which in his opinion will be useful for or relevant to any proceeding under this Chapter are secreted in any place, he may authorise any Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to search for and seize or may himself search for and seize, such documents or books or things.
- (2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code.

83. APPLICATION OF CERTAIN PROVISIONS OF ACT 1 OF 1944

The provisions of the following sections of the Central Excise Act, 1944 (1 of 1944), as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise: –

9C, 9D, 11B, 11BB, 11C, 12, 12A, 12B, 12C, 12D, 12E, 14, 14AA, 15, 33A, 35F to 35O (both inclusive), 35Q, 36, 36A, 36B, 37A, 37B, 37C, 37D, 38A and 40.

83A. POWER OF ADJUDICATION

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

84. REVISION OF ORDERS BY THE COMMISSIONER OF CENTRAL EXCISE

- (1) The Commissioner of Central Excise may call for the record of a proceeding under this Chapter in which an adjudicating authority subordinate to him has passed any decision or

order and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Chapter, pass such order thereon as he thinks fit.

- (2) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.
- (3) The Commissioner of Central Excise shall communicate the order passed by him under sub-section (1) to the assessee, such adjudicating authority and the Board.
- (4) No order under this section shall be passed by the Commissioner of Central Excise in respect of any issue if an appeal against such issue is pending before the Commissioner of Central Excise (Appeals).
- (5) No order under this section shall be passed after the expiry of two years from the date on which the order sought to be revised has been passed.

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

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

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

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

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

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

86. APPEALS TO APPELLATE TRIBUNAL

- (1) Any assessee aggrieved by an order passed by a Commissioner of Central Excise under section 73 or section 83A or section 84, or an order passed by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order.
- (1A)
 - (i) *The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter.*
 - (ii) *Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.*
- (2) The *Committee of Chief Commissioners of Central Excise* may, if it objects to any order passed by the Commissioner of Central Excise under section 73 or 83A or 84, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.
- (2A) *The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order.*
- (3) Every appeal under sub-section (1) or sub-section (2) or sub-section (2A) shall be filed within three months of the date on which the order sought to be appealed against is received by the assessee, the *Committee of Chief Commissioners or the Committee of Commissioners*, as the case may be.
- (4) The Commissioner of Central Excise or any Central Excise Officer subordinate to him or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).
- (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, –

- (a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
- (b) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;
- (c) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

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

(6A) Every application made before the Appellate Tribunal, –

- (a) *in an appeal for grant of stay or for rectification of mistake or for any other purpose; or*
- (b) *for restoration of an appeal or an application,*

shall be accompanied by a fee of five hundred rupees;

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

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

87. RECOVERY OF ANY AMOUNT DUE TO CENTRAL GOVERNMENT

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

- (a) the Central Excise Officer may deduct or may require any other Central Excise Officer or any officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the said Central Excise Officer or any officer of customs;

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

88 to 92. ABOLISHED WITH EFFECT FROM 16TH OCTOBER, 1998

93. POWER TO GRANT EXEMPTION FROM SERVICE TAX

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

from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order.

93A. POWER TO GRANT REBATE

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

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

94. POWER TO MAKE RULES

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -
 - (a) collection and recovery of service tax under sections 66 and 68;
 - (aa) the determination of amount and value of taxable service under section 67;
 - (b) the time and manner and the form in which application for registration shall be made under sub-sections (1) and (2) of section 69;
 - (c) *the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70;*
 - (cc) the manner of provisional attachment of property under sub-section (1) of section 73C;
 - (ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D;
 - (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;
 - (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;

- (ee) the credit of service tax paid on the services consumed for providing a taxable service in case where the services consumed and the service provided fall in the same category of taxable service;
 - (eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service;
 - (eeee) the manner of recovery of any amount due to the Central Government under section 87;
 - (f) provisions for determining export of taxable services;
 - (g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;
 - (h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;
 - (hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;
 - (i) any other matter which by this Chapter is to be or may be prescribed
- (3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.
- (4) Every rule made under this Chapter and every notification issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

95. POWER TO REMOVE DIFFICULTIES

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

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

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

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

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

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

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

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

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

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

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

96. CONSEQUENTIAL AMENDMENT

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

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

Chapter VA – Advance Rulings

96A. DEFINITIONS

In this Chapter, unless the context otherwise requires,-

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

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

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

96C. APPLICATION FOR ADVANCE RULING

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

96D. PROCEDURE ON RECEIPT OF APPLICATION

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

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.
- (2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

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

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

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

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

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Central Excise.
- (4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.
- (5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

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

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

96E. APPLICABILITY OF ADVANCE RULING

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

96F. ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES

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

- (2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner of Central Excise.

96G. POWERS OF AUTHORITY

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

96H. PROCEDURE OF AUTHORITY

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

96-I. POWER OF CENTRAL GOVERNMENT TO MAKE RULES

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.
 - (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) the form and manner for making application under sub-section (1) of section 96C;
 - (b) the manner of certifying a copy of advanced ruling pronounced by the Authority under sub-section (7) of section 96D;
 - (c) any other matter which, by this Chapter, is to be or may be prescribed.
 - (3) Every rule made under this Chapter shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
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Definitions

Advertising agency's services	34
Airport services	34
Air travel agent's services	35
Architect's services	35
Asset management service	35
Auctioneer's service	36
Authorised service station's services	36
Automated Teller Machines (ATM) operations, maintenance or management services	37
Banking and other financial services	37
Beauty treatment service	41
Broadcasting services	41
Business auxiliary services	42
Business exhibition services	44
Business support services	44
Cable services	45
Cargo handling service	45
Chartered accountant's services	45
Cleaning activity service	46
Clearing and forwarding agent's services	46
Club or association service	46
Commercial or industrial construction services	47
Commercial training or coaching service	47
Company secretary's services	48
Computer network service (On-line information and database access or retrieval services)	48
Construction of complex service	49

Consulting engineer's services	50
Convention services	50
Cost accountant's services	51
Courier service	51
Credit card, debit card, charge card or other payment card service	51
Credit rating agency's services	52
Custom house agent's services	52
Design Services	53
Development and supply of content service	53
Dredging service	53
Dry cleaning services	54
Erection, commissioning or installation service	54
Event management service	55
Fashion designing service	55
Forward contract service	55
Franchise service	56
General insurance service	56
Health and fitness services	57
Insurance auxiliary services	57
Intellectual property services	59
Interior decorator's services	59
Internet café service	60
Internet telephony services	60
Life insurance service	60
Mailing list compilation and mailing service	61
Management or Business consultant's services	61

Management, maintenance or repair service	62
Mandap keeper's services	62
Manpower recruitment or supply agency's services	63
Market research agency's services	63
Mining services	64
Opinion poll services	64
Other port services	64
Outdoor caterer's service	65
Packaging activity services	65
Pandal or shamiana contractor's service	65
Photography services	66
Port services	66
Programme producer's services	67
Public relation management service	67
Rail travel agent's services	68
Real estate agent's services	68
Renting of immovable property services	68
Recovery agent's services	69
Registrar to an issue's service	69
Rent-a-cab scheme operator's service	70
Sale of space or time for advertisement services	71
Scientific or technical consultancy services	71
Security agency's services	72
Share transfer agent's service	72
Ship management services	72

Site formation and clearance, excavation and earth moving and demolition services	73
Sponsorship services	73
Sound recording studio or agency service	74
Steamer agent's services	74
Stock-broker's services	75
Storage and warehousing service	76
Survey and exploration of mineral oil and gas service	77
Survey and map-making service	77
Technical inspection and certification service	77
Technical testing and analysis service	78
Telecommunication Service	78
Tour operator's service	79
Transport of goods by air service	80
Transport of goods in containers by rail service	81
Transport of goods by road service	81
Transport of goods other than water through pipeline or other conduit service	82
Transport of passengers embarking in India for international journey by air service	82
Transport of persons embarking from port in India by cruise ship service	83
Travel agent's service	84
Underwriter's service	84
Video production agency's services	84
Works contract services	85
Miscellaneous definitions	85

ADVERTISING AGENCY'S SERVICES

Section 65(105)(e)

“**taxable service**” means any service provided, or to be provided to a client, by an advertising agency in relation to advertisement, in any manner and the term “service provider” shall be construed accordingly.

Section 65(2)

“**advertisement**” includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas.

Section 65(3)

“**advertising agency**” means any [person] engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant.

AIRPORT SERVICES

Section 65(105)(zzm)

“**taxable service**” means any service provided or to be provided to any person, by airports authority or any person authorised by it, in an airport or a civil enclave and the term “service provider” shall be construed accordingly.

Section 65(3c)

“**airport**” has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994).

Section 65(3d)

“**airports authority**” means the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994) and also includes any person having the charge of management of an airport or a civil enclave.

Section 65(24a)

“**civil enclave**” has the meaning assigned to it in clause (i) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994).

Airport Authority of India Act, 1994

Section 2(b)

“**airport**” means a landing and taking off area for aircraft, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934.

Section 2(i)

“**civil enclave**” means the area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area,

AIR TRAVEL AGENT'S SERVICES

Section 65(105)(l)

“**taxable service**” means any service provided or to be provided to a customer, by an air travel agent in relation to the booking of passage for travel by air and the term “service provider” shall be construed accordingly.

Section 65(4)

“**air travel agent**” means any person engaged in providing any service connected with the booking of passage for travel by air.

ARCHITECT'S SERVICES

Section 65(105)(p)

“**taxable service**” means any service provided or to be provided to a client, by an architect in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(6)

“**architect**” means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972) and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture.

ASSET MANAGEMENT INCLUDING PORTFOLIO MANAGEMENT AND ALL FORMS OF FUND MANAGEMENT SERVICE

Section 65(105)(zzzzc)

“**taxable service**” means any service provided or to be provided to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm), in relation to asset management including portfolio management and all forms of fund management and the term “service provider” shall be construed accordingly.”

The securities and Exchange Board of India (Portfolio Managers) Rules, 1993

Section 2 (e)

“**Portfolio Manager**” means any person who pursuant to a contract or arrangement with a client advises or directs or undertakes on behalf of the client (Whether as a discretionary Portfolio Manager or otherwise) the management or administration as a Portfolio securities or the funds of the client as the case may be.

AUCTIONEER'S SERVICES

Section 65(105)(zzzr)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government and the term “service provider” shall be construed accordingly.

Section 65(7a)

“**auction of property**” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property.

AUTHORISED SERVICE STATION'S SERVICES

Section 65(105)(zo)

“**taxable service**” means any service provided or to be provided to a customer, by an authorised service station, in relation to any service, repair, reconditioning or restoration of motor cars, light motor vehicles or two wheeled motor vehicles, in any manner and the term “service provider” shall be construed accordingly.

Section 65(9)

“**Authorised service station**” means any service station, or center, authorized by any motor vehicle manufacturer, to carry out any service, repair, reconditioning or restoration of any motor car, light motor vehicle or two-wheeled motor vehicle manufactured by such manufacturer.

Section 65(62)

“**light motor vehicle**” means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver.

Section 65(72)

“**motor car**” has the meaning assigned to it in clause (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(73)

“**motor vehicle**” has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

The Motor Vehicles Act, 1988

Section 2(26)

“**motor car**” means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

Section 2(28)

“**motor vehicle**” or “**vehicle**” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres.

AUTOMATED TELLER MACHINE (ATM) OPERATIONS, MAINTENANCE OR MANAGEMENT SERVICES

Section 65(105) (zzzk)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to automated teller machine operations, maintenance or management service, in any manner and the term “service provider” shall be construed accordingly.

Section 65(9a)

“**automated teller machine**” means an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions,

Section 65(9b)

“**automated teller machine operations, maintenance or management service**” means any service provided in relation to automated teller machines and includes site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value-added services.

BANKING AND OTHER FINANCIAL SERVICES

Section 65(105)(zm)

“**taxable service**” means any service provided or to be provided to a customer, by a banking company or a financial institution including a non-banking financial company, or any other body corporate or commercial concern, any other person, in relation to banking and other financial services and the term “service provider” shall be construed accordingly.

Section 65(105)(zzk)

“**taxable service**” means any service provided or to be provided to a customer, by a foreign exchange broker other than those brokers in relation to banking and other financial services referred to in sub-clause (zm) and the term “service provider” shall be construed accordingly.

Section 65(8)

“**authorised dealer of foreign exchange**” has the meaning assigned to “authorised person” in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Section 65(9c)

“**banker to an issue**” means a bank included in the Second schedule to the Reserve Bank of India Act, 1934 (2 of 1934), carrying on the activities relating to an issue including acceptance of application, application money, allotment money and call money, refund of application money, payment of dividend and interest warrants.

Section 65(10)

“**banking**” has the meaning assigned to it in clause (b) of section 5 of the Banking Regulation Act, 1949 (10 of 1949).

Section 65(11)

“**banking company**” has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934).

Section 65(12)

“**banking and other financial services**” means –

- (a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern namely:-
- (i) financial leasing services including equipment leasing and hire-purchase;

Explanation — For the purposes of this item, “financial leasing” means a lease transaction where –

 - (i) contract for lease is entered into between two parties for leasing of a specific asset;
 - (ii) such contract is for use and occupation of the asset by the lessee;
 - (iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and
 - (iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;
 - (ii) omitted;
 - (iii) merchant banking services;
 - (iv) securities and foreign exchange (forex) broking;
 - (v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services;
 - (vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy;
 - (vii) provision and transfer of information and data processing; and
 - (viii) Banker to an issue services; and
 - (ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange; transfer of money including telegraphic transfer, mail transfer and electronic transfer; providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults; operation of bank accounts.
- (b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause (a).

Section 65(14)

“**body corporate**” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956).

Section 65(45)

“**financial institution**” has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934).

Section 65(46)

“**foreign exchange broker**” includes any authorised dealer of foreign exchange.

Section 65(74)

“**non-banking financial company**” has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934).

The Banking Regulation Act, 1949

Section 5(b)

“**banking**” means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise,

The Reserve Bank of India Act, 1934

Section 45A(a)

“**banking company**” means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes the State Bank of India, any Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), and any other financial institution notified by the Central Government in this behalf.”

Section 45-I(c)

“**financial institution**” means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:-

- (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
- (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a government or local authority or other marketable securities of a like nature;
- (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972 (26 of 1972);

- (iv) the carrying on of any class of insurance business;
- (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;
- (vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,

but does not include any institution, which carries on as its principal business,-

- (a) agricultural operations; or
- (aa) industrial activity; or
- (b) the purchase, or sale of any goods (other than securities) or the providing of any services; or
- (c) the purchase, construction or sale of immovable property, so, however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation. – For the purposes of this clause, “industrial activity” means any activity specified in subclauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964).

Section 45-I(f)

“**non-banking financial company**” (NBFC) means-

- (i) a financial institution which is a company;
- (ii) a non banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
- (iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

The Companies Act, 1956

Section 2(7)

“**body corporate**” or “**corporation**” includes a company incorporated outside India, but does not include

- (a) a corporation sole;
- (b) a co-operative society registered under any law relating to co-operative societies; and
- (c) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Section 2(c)

“**authorised person**” means an authorised dealer, money changer, offshore banking unit or any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities.

BEAUTY TREATMENT SERVICE

Section 65(105)(zq)

“**taxable service**” means any service provided or to be provided to a customer, by a beauty parlour in relation to beauty treatment and the term “service provider” shall be construed accordingly.

Section 65(17)

“**beauty treatment**” includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services.

Section 65(18)

“**beauty parlour**” means any establishment providing beauty treatment services.

BROADCASTING SERVICES

Section 65(105)(zk)

“**taxable service**” means any service provided or to be provided to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multi-system operator or any other person on behalf of the said agency or organisation and the term “service provider” shall be construed accordingly.

Explanation. - For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of the signals or beaming thereof through the satellite might have taken place outside India.

Section 65(15)

“**broadcasting**” has the meaning assigned to it in clause (c) of section 2 of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990 (25 of 1990) and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or

obtaining sponsorships for broadcasting of any programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multisystem operator or any other person on behalf of the said agency or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner.

Section 65(16)

‘broadcasting agency or organisation’ means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multi-system operator or any other person on behalf of the said agency or organisation.

The Prasar Bharati (Broadcasting Corporation of India) Act, 1990

Section 2(c)

“broadcasting” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variation and cognate expressions shall be construed accordingly.

BUSINESS AUXILIARY SERVICES

Section 65(105)(zzb)

“taxable service” means any service provided or to be provided to a client, by any person in relation to business auxiliary service and the term “service provider” shall be construed accordingly.

Section 65(19)

“business auxiliary service” means any service in relation to –

- (i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or
- (ii) promotion or marketing of service provided by the client; or
- (iii) any customer care service provided on behalf of the client; or
- (iv) procurement of goods or services, which are inputs for the client; or

Explanation. – For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “inputs” means all goods or services intended for use by the client.

- (v) production or processing of goods for, or on behalf of, the client; or
- (vi) provision of service on behalf of the client; or
- (vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision,

and includes services as a commission agent, but does not include any information technology service and any activity that amounts to “manufacture” within the meaning of clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944). Explanation. – For the removal of doubts, it is hereby declared that for the purposes of this clause, –

- (a) “**commission agent**” means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person –
 - (i) deals with goods or services or documents of title to such goods or services; or
 - (ii) collects payment of sale price of such goods or services; or
 - (iii) guarantees for collection or payment for such goods or services; or
 - (iv) undertakes any activities relating to such sale or purchase of such goods or services;
- (b) “**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.

The Central Excise Act, 1944

Section 2(f)

“**manufacture**” includes any process –

- (i) incidental or ancillary to the completion of a manufactured product; and
- (ii) which is specified in relation to any goods in the section or Chapter notes of the first schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as *amounting to manufacture*; or
- (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail price on it or adoption of any other treatment on the goods to render the product marketable to the customer,

and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.

BUSINESS EXHIBITION SERVICES

Section 65(105)(zzo)

“**taxable service**” means any *service provided* or to be provided to an exhibitor, by the organiser of a business exhibition, in relation to business exhibition and the term “service provider” shall be construed accordingly.

Section 65(19a)

“**business exhibition**” means an exhibition, –

- (a) to market; or
- (b) to promote; or
- (c) to advertise; or
- (d) to showcase,

any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be.

BUSINESS SUPPORT SERVICES

Section 65(105)(zzzq)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to support services of business or commerce, in any manner and the term “service provider” shall be construed accordingly.

Section 65(104c)

“**support services of business or commerce**” means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation – For the purposes of this clause, the expression “infrastructural support services” includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security.

CABLE SERVICES

Section 65(105)(zs)

“**taxable service**” means any service provided or to be provided to any person, by a cable operator, including a multi-system operator in relation to cable services and the term “service provider” shall be construed accordingly.

Section 65(21)

“**cable operator**” has the meaning assigned to it in clause (aa) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).

Section 65(22)

“**cable service**” has the meaning assigned to it in clause (b) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).

The Cable Television Networks (Regulation) Act, 1995

Section 2(aa)

“**cable operator**” means any person who provides cable services through a television network or otherwise controls or is responsible for the management and operation of a cable television network.

Section 2(b)

“**cable service**” means the transmission by cables of programme including retransmission by cables of any broadcast television signals.

CARGO HANDLING SERVICE

Section 65(105)(zr)

“**taxable service**” means any service provided or to be provided to any person, by a cargo handling agency in relation to cargo handling services and the term “service provider” shall be construed accordingly.

Section 65(23)

“**cargo handling service**” means loading, unloading, packing or unpacking of cargo and includes cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport and cargo handling service incidental to freight, but does not include handling of export cargo or passenger baggage or mere transportation of goods.

CHARTERED ACCOUNTANT’S SERVICES

Section 65(105)(s)

“**taxable service**” means any service provided or to be provided to a client, by a practising chartered accountant in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(83)

“**practising chartered accountant**” means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy.

CLEANING ACTIVITY SERVICE**Section 65(105)(zzzd)**

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to cleaning activity.

Section 65(24b)

“**cleaning activity**” means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of –

- (i) commercial or industrial buildings and premises thereof; or
- (ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof,

but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying.

CLEARING AND FORWARDING AGENT'S SERVICES**Section 65(105)(j)**

“**taxable service**” means any service provided or to be provided to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner” and the term “service provider” shall be construed accordingly.

Section 65(25)

“**clearing and forwarding agent**” means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent.

CLUB OR ASSOCIATION SERVICE**Section 65(105)(zzze)**

“**taxable service**” means any service provided or to be provided to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount’ and the term “service provider” shall be construed accordingly.

Section 65(25a)

“**club or association**” means any person or body of persons providing services, facilities or advantages, for a subscription or any other amount, to its members, but does not include –

- (i) any body established or constituted by or under any law for the time being in force; or
- (ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or
- (iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or
- (iv) any person or body of persons associated with press or media.

COMMERCIAL OR INDUSTRIAL CONSTRUCTION SERVICES

Section 65(105)(zzq)

“**taxable service**” means any service provided to any person, by any other person, in relation to commercial or industrial construction service and the term “service provider” shall be construed accordingly.

Section 65(25b)

“**commercial or industrial construction service**” means –

- (a) construction of a new building or a civil structure or a part thereof; or
- (b) construction of pipeline or conduit; or
- (c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or
- (d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is –
 - (i) used, or to be used, primarily for; or
 - (ii) occupied, or to be occupied, primarily with; or
 - (iii) engaged, or to be engaged, primarily in, commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

COMMERCIAL TRAINING OR COACHING SERVICES

Section 65(105)(zzc)

“**taxable service**” means any service provided or to be provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching and the term “service provider” shall be construed accordingly.

Section 65(26)

“**commercial training or coaching**” means any training or coaching provided by a commercial training or coaching centre.

Section 65(27)

“**commercial training or coaching centre**” means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include pre-school coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force.

COMPANY SECRETARY'S SERVICES**Section 65(105)(u)**

“**taxable service**” means any service provided or to be provided to a client, by a practising company secretary in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(85)

“**practising company secretary**” means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of company secretaryship.

COMPUTER NETWORK SERVICES (On-line information and database access or retrieval services)**Section 65(105)(zh)**

“**taxable service**” means any service provided or to be provided to a customer, by any person, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner and the term “service provider” shall be construed accordingly.

Section 65(30)

“**computer network**” has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(36)

“**data**” has the meaning assigned to it in clause (o) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(39)

“**electronic form**” has the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(53)

“**information**” has the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

Section 65(75)

“**online information and database access or retrieval**” means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network.

Information Technology Act, 2000

Section 2(1)(j)

“**computer network**” means the interconnection of one or more computers through -

- (i) the use of satellite, microwave, terrestrial line or other communication media; and
- (ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained.

Section 2(1)(o)

“**data**” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts, magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer.

Section 2(1)(r)

“**electronic form**” with reference to information means any information generated, sent, received or stored in a media, magnetic, optical computer memory, micro film, computer generated micro fiche or similar device.

Section 2(1)(v)

“**information**” includes data, text, images, sound, voice, codes, computer programmes, software and data-bases or micro film or computer generated micro fiche.

CONSTRUCTION OF COMPLEX SERVICE**Section 65(105)(zzzh)**

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to construction of complex.

Section 65(30a)

“**Construction of complex**” means –

- (a) construction of a new residential complex or a part thereof; or
- (b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex.

Section 65(91a)

“**residential complex**” means any complex comprising of –

- (i) a building or buildings, having more than twelve residential units;
- (ii) a common area; and
- (iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation – For the removal of doubts, it is hereby declared that for the purposes of this clause, –

- (a) “personal use” includes permitting the complex for use as residence by another person on rent or without consideration;
- (b) “residential unit” means a single house or a single apartment intended for use as a place of residence;

CONSULTING ENGINEER’S SERVICES

Section 65(105)(g)

“**taxable service**” means any service provided or to be provided to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering *including the discipline of computer hardware engineering but excluding the discipline of computer software engineering* and the term “service provider” shall be construed accordingly.

Section 65(31)

“**consulting engineer**” means any professionally qualified engineer or any body corporate or any other firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering.

CONVENTION SERVICES

Section 65(105)(zc)

“**taxable service**” means any service provided or to be provided to a client, by any person in relation to holding of a convention, in any manner and the term “service provider” shall be construed accordingly.

Section 65(32)

“**convention**” means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation.

COST ACCOUNTANT'S SERVICES

Section 65(105)(t)

“**taxable service**” means any service provided or to be provided to a client, by practising cost accountant in his professional capacity, in any manner and the term “service provider” shall be construed accordingly.

Section 65(84)

“**practising cost accountant**” means a person who is member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy.

COURIER SERVICE

Section 65(105)(f)

“**taxable service**” means any service provided or to be provided to a customer, by a courier agency in relation to door- to-door transportation of time-sensitive documents, goods or articles and the term “service provider” shall be construed accordingly.

Section 65(33)

“**courier agency**” means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

CREDIT CARD, DEBIT CARD, CHARGE CARD OR OTHER PAYMENT CARD SERVICE

Section 65(105)(zzzw)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to credit card, debit card, charge card or other payment card service, in any manner and the term “service provider” shall be construed accordingly.

Section 65(33a)

“**credit card, debit card, charge card or other payment card service**” includes any service provided, –

- (i) by a banking company, financial institution including non-banking financial company or any other person (hereinafter referred to as the issuing bank), issuing such card to a card holder;
- (ii) by any person to an issuing bank in relation to such card business, including receipt and processing of application, transfer of embossing data to issuing bank's personalization agency, automated teller machine personal identification number generation, renewal or replacement of card, change of address, enhancement of credit limit, payment updation and statement generation;
- (iii) by any person, including an issuing bank and an acquiring bank, to any other person in relation to settlement of any amount transacted through such card.

Explanation. – For the purposes of this sub-clause, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card;

- (iv) in relation to joint promotional cards or affinity cards or co-branded cards;
- (v) in relation to promotion and marketing of goods and services through such card;
- (vi) by a person, to an issuing bank or the holder of such card, for making use of automated teller machines of such person; and
- (vii) by the owner of trade marks or brand name to the issuing bank under an agreement, for use of the trade mark or brand name and other services in relation to such card, whether or not such owner is a club or association and the issuing bank is a member of such club or association.

Explanation. – For the purposes of this sub-clause, an issuing bank and the owner of trade marks or brand name shall be treated as separate persons.

CREDIT RATING AGENCY'S SERVICES

Section 65(105)(x)

“**taxable service**” means any service provided or to be provided to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security and the term “service provider” shall be construed accordingly.

Section 65(34)

“**credit rating agency**” means any person engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal.

CUSTOM HOUSE AGENT'S SERVICES

Section 65(105)(h)

“**taxable service**” means any service provided or to be provided to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods and the term “service provider” shall be construed accordingly.

Section 65(35)

“**custom house agent**” means a person licensed, temporarily or otherwise, under the regulations made under sub- section (2) of section 146 of the Customs Act, 1962 (52 of 1962).

Section 65(35a)

“**customs airport**” means an airport appointed as such under clause (a) of subsection (1) of section 7 of the Customs Act, 1962 (52 of 1962).

Section 65(50)

“**goods**” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

The Sale of Goods Act, 1930

Section 2(7)

“**goods**” means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

DESIGN SERVICE**Section 65(105)(zzzd)**

“**taxable services**” means any service provided or to be provided to any person, by any other person in relation to design services, but does not include service provided by-

- (i) an interior decorator referred to in sub-clause (q); and
- (ii) a fashion designer in relation to fashion designing referred to in sub-clause (zv) and the term “service provider” shall be construed accordingly.

Section 65(36b)

“**design services**” includes services provided in relation to designing of furniture, consumer products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models.

DEVELOPMENT AND SUPPLY OF CONTENT SERVICE**Section 65(105)(zzzb)**

“**development and supply of content**” includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films.

Section 65(36c)

“**taxable service**” means any service provided or to be provided to any person, to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services and the term “service provider” shall be construed accordingly.

DREDGING SERVICE**Section 65(105)(zzzb)**

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to dredging and the term “service provider” shall be construed accordingly.

Section 65(36a)

“**dredging**” includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary.

DRY CLEANING SERVICES**Section 65(105)(zt)**

“**taxable service**” means any service provided or to be provided to a customer, by a dry cleaner in relation to dry cleaning and the term “service provider” shall be construed accordingly.

Section 65(37)

“**dry cleaning**” includes dry cleaning of apparels, garments or other textile, fur or leather articles.

Section 65(38)

“**dry cleaner**” means any person providing service in relation to dry cleaning.

ERECTION, COMMISSIONING OR INSTALLATION SERVICES**Section 65(105)(zzd)**

“**taxable service**” means any service provided or to be provided to a customer, commissioning and installation agency in relation to erection, commissioning or installation and the term “service provider” shall be construed accordingly.

Section 65(29)

“**commissioning and installation agency**” means any agency providing service in relation to erection, commissioning or installation.

Section 65(39a)

“**erection, commissioning or installation**” means any service provided by a commissioning and installation agency, in relation to, —

- (i) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise; or
- (ii) installation of –
 - (a) electrical and electronic devices, including wirings or fittings therefore; or
 - (b) plumbing, drain laying or other installations for transport of fluids; or
 - (c) heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work; or

- (d) thermal insulation, sound insulation, fire proofing or water proofing; or
- (e) lift and escalator, fire escape staircases or travelators; or
- (f) such other similar services.

EVENT MANAGEMENT SERVICE

Section 65(105)(zu)

“**taxable service**” means any service provided or to be provided to a client, by an event manager in relation to event management and the term “service provider” shall be construed accordingly.

Section 65(40)

“**event management**” means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports, marriage or any other event and includes any consultation provided in this regard.

Section 65(41)

“**event manager**” means any person who is engaged in providing any service in relation to event management in any manner.

FASHION DESIGNING SERVICE

Section 65(105)(zv)

“**taxable service**” means any service provided or to be provided to any person, by a fashion designer in relation to fashion designing and the term “service provider” shall be construed accordingly.

Section 65(43)

“**fashion designing**” includes any activity relating to conceptualising, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto.

Section 65(44)

“**fashion designer**” means any person engaged in providing service in relation to fashion designing.

FORWARD CONTRACT SERVICE

Section 65(105)(zzy)

“**taxable service**” means any service provided or to be provided to any person, by a member of a recognised association or a registered association, in relation to a forward contract and the term “service provider” shall be construed accordingly.

Section 65(46a)

“**forward contract**” has the meaning assigned to it in clause (c) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Section 65(89a)

“**recognised association**” has the meaning assigned to it in clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Section 65(89b)

“**registered association**” has the meaning assigned to it in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Forward Contracts (Regulation) Act, 1952

Section 2(c)

“**forward contract**” means a contract for the delivery of goods and which is not a ready delivery contract.

Section 2(j)

“**recognised association**” means an association to which recognition for the time being has been granted by the Central Government under section 6 in respect of goods or classes of goods specified in such recognition.

Section 2(jj)

“**registered association**” means an association to which for the time being a certificate of registration has been granted by the Commission under section 14B.

FRANCHISE SERVICE**Section 65(105)(zze)**

“**taxable service**” means any service provided or to be provided to a franchisee, by the franchiser in relation to franchise and the term “service provider” shall be construed accordingly.

Section 65(47)

“**franchise**” means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved.

Section 65(48)

“**franchisor**” means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term “franchisee” shall be construed accordingly.

GENERAL INSURANCE SERVICE**Section 65(105)(d)**

“**taxable service**” means any service provided or to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on general insurance business in relation to general insurance business and the term “service provider” shall be construed accordingly.

Section 65(49)

“**general insurance business**” has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972).

Section 65(58)

“**insurer**” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“**policy holder**” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The General Insurance Business (Nationalisation) Act, 1972

Section 3(g)

“**general insurance business**” means fire, marine and miscellaneous insurance business, whether carried on singly or in combination with one or more of them.

The Insurance Act, 1938

Section 2(2)

“**policy-holder**” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

HEALTH AND FITNESS SERVICE**Section 65(105)(zw)**

“**taxable service**” means any service provided or to be provided to any person, by a health club and fitness centre in relation to health and fitness services and the term “service provider” shall be construed accordingly.

Section 65(51)

“**health and fitness service**” means service for physical well-being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service.

Section 65(52)

“**health club and fitness centre**” means any establishment, including a hotel or a resort, providing health and fitness service.

INSURANCE AUXILIARY SERVICES**Section 65(105)(zl)**

“**taxable service**” means any service provided or to be provided to a policy holder or any person or insurer, including re-insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business and the term “service provider” shall be construed accordingly.

Section 65(105)(zy)

“**taxable service**” means any service provided or to be provided to a policy holder or any person or insurer, including re-insurer by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business and the term “service provider” shall be construed accordingly.

Section 65(1)

“**actuary**” has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(54)

“**insurance agent**” has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(55)

“**insurance auxiliary service**” means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment.

Section 65(56)

“**intermediary or insurance intermediary**” has the meaning assigned to it in clause (f) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).

Section 65(58)

“**insurer**” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“**policy holder**” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The Insurance Act, 1938

Section 2(1)

“**actuary**” means an actuary possessing such qualifications as may be prescribed.

Section 2(10)

“**Insurance agent**” means an insurance agent licensed under section 42 who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance.

Section 2(2)

“**policy-holder**” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition,

The Insurance Regulatory and Development Authority Act, 1999

Section 2(1)(f)

“**intermediary or insurance intermediary**” includes insurance brokers, re-insurance brokers, insurance consultants, surveyors and loss assessors.

INTELLECTUAL PROPERTY SERVICES**Section 65(105)(zzr)**

“**taxable service**” means any service provided or to be provided to any person, by the holder of intellectual property right, in relation to intellectual property service and the term “service provider” shall be construed accordingly.

Section 65(55a)

“**intellectual property right**” means any right to intangible property, namely, trade marks, designs, patents or any other similar intangible property, under any law for the time being in force, but does not include copyright.

Section 65(55b)

“**intellectual property service**” means, –

- (a) transferring temporarily; or
 - (b) permitting the use or enjoyment of,
- any intellectual property right.

INTERIOR DECORATOR'S SERVICES**Section 65(105)(q)**

“**taxable service**” means any service provided or to be provided to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner and the term “service provider” shall be construed accordingly.

Section 65(59)

“**interior decorator**” means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer.

INTERNET CAFE SERVICE

Section 65(105)(zzf)

“**taxable service**” means any service provided or to be provided to any person, by an internet cafe in relation to access of internet and the term “service provider” shall be construed accordingly.

Section 65(57)

“**internet cafe**” means a commercial establishment providing facility for accessing internet.

INTERNET TELEPHONY SERVICES

Section 65(105)(zzzu)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to internet telephony and the term “service provider” shall be construed accordingly.

Section 65(57a)

“**internet telephony**” means telecommunication service through internet and includes fax, audio conferencing and video conferencing.

Section 65(56b)

“**internet**” means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancement or upgradations and is able to support communications using the Transmission Control Protocol or Internet Protocol suite or its subsequent enhancements or upgradations and all other Internet Protocol compatible protocols.

LIFE INSURANCE SERVICE

Section 65(105)(zx)

“**taxable service**” means any service provided or to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on life insurance business in relation to the risk cover in life insurance and the term “service provider” shall be construed accordingly.

Section 65(61)

“**life insurance business**” has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938).

Section 65(58)

“**insurer**” means any person carrying on the general insurance business or life insurance business and includes a re-insurer.

Section 65(80)

“**policy holder**” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938).

The Insurance Act, 1938

Section 2(11)

“**life insurance business**” means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include –

- (a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance
- (b) the granting of annuities upon human life and
- (c) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons.

Section 2(2)

“**policy-holder**” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.

MAILING LIST COMPILATION AND MAILING SERVICE

Section 65(105)(zzzg)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to mailing list compilation and mailing and the term “service provider” shall be construed accordingly.

Section 65(63a)

“**mailing list compilation and mailing**” means any service in relation to –

- (i) compiling and providing list of name, address and any other information from any source; or
- (ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing, for, or on behalf of, the client.

MANAGEMENT OR BUSINESS CONSULTANT SERVICES

Section 65(105)(r)

“**taxable service**” means any service provided or to be provided to a client, by a management or business consultant in connection with the management of any organisation or business, in any manner and the term “service provider” shall be construed accordingly.

Section 65(65)

“**management or business consultant**” means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organization or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation

to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management.

MANAGEMENT, MAINTENANCE OR REPAIR SERVICE

Section 65(105)(zzg)

“**taxable service**” means any service provided or to be provided to a customer, by any person in relation to management, maintenance or repair and the term “service provider” shall be construed accordingly,

Section 65(64)

“**management, maintenance or repair**” means any service provided by –

- (i) any person under a contract or an agreement; or
- (ii) a manufacturer or any person authorised by him, in relation to, –
 - (a) management of properties, whether immovable or not;
 - (b) maintenance or repair of properties, whether immovable or not; or
 - (c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle.

Explanation — For the removal of doubts, it is hereby declared that for the purposes of this clause, “goods” includes computer software;

MANDAP KEEPER’S SERVICES

Section 65(105)(m)

“**taxable service**” means any service provided or to be provided to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided or to be provided to the client in relation to such use and also the services, if any, provided or to be provided as a caterer and the term “service provider” shall be construed accordingly.

Section 65(66)

“**mandap**” means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882) and includes any furniture, fixtures, light fittings and floor coverings therein let out for a consideration for organising any official, social or business function.

Explanation — For the purposes of this clause, social function includes marriage.

Section 65(67)

“**mandap keeper**” means a person who allows temporary occupation of a mandap for a consideration for organising any official, social or business function.

Explanation — For the purposes of this clause, “social function” includes marriage.

The Transfer of Property Act, 1882

Section 3

“**immovable property**” does not include standing timber, growing crops or grass.

MANPOWER RECRUITMENT OR SUPPLY AGENCY’S SERVICES**Section 65(105)(k)**

“**taxable service**” means any service provided or to be provided to a client, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner and the term “service provider” shall be construed accordingly.

Explanation — For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, recruitment or supply of manpower includes services in relation to pre-recruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate.

Section 65(68)

“**manpower recruitment or supply agency**” means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client.

MARKET RESEARCH AGENCY’S SERVICES**Section 65(105)(y)**

“**taxable service**” means any service provided or to be provided to a client, by a market research agency in relation to market research of any product, service or utility, in any manner and the term “service provider” shall be construed accordingly.

Section 65(69)

“**market research agency**” means any person engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services.

MINING OF MINERAL, OIL OR GAS SERVICE

Section 65(105)(zzzy)

“**taxable service**” means any service provided or to be provided, to any person, by any other person in relation to mining of mineral, oil or gas and the term “service provider” shall be construed accordingly.

OPINION POLL SERVICES

Section 65(105)(zzs)

“**taxable service**” means any service provided or to be provided to any person, by an opinion poll agency, in relation to opinion poll and the term “service provider” shall be construed accordingly.

Section 65(75a)

“**opinion poll**” means any service designed to secure information on public opinion regarding social, economic, political or other issues.

Section 65(75b)

“**opinion poll agency**” means any person engaged in providing any service in relation to opinion poll.

OTHER PORT SERVICES

Section 65(105)(zzl)

“**taxable service**” means any service provided or to be provided to any person, by other port or any person authorised by that port in relation to port services, in any manner and the term “service provider” shall be construed accordingly.

Section 65(76)

“**other port**” has the meaning assigned to ‘port’ in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908), but does not include the port defined in clause (80).

Section 65(82)

“**port service**” means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods.

Section 65(118)

“**vessel**” has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

The Indian Ports Act, 1908

Section 3(4)

“**port**” includes also any part of a river or channel in which this act is for the time being in force.

The Major Port Trusts Act, 1963

Section 2(z)

“**vessel**” includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.

OUTDOOR CATERER’S SERVICE

Section 65(105)(zzt)

“**taxable service**” means any service provided or to be provided to a client, by an outdoor caterer and the term “service provider” shall be construed accordingly.

Section 65(76a)

“**outdoor caterer**” means a caterer engaged in providing services in connection with catering at a place other than his own but including a place provided by way of tenancy or otherwise by the person receiving such services.

PACKAGING ACTIVITY SERVICES

Section 65(105)(zzzf)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to packaging activity and the term “service provider” shall be construed accordingly.

Section 65(76b)

“**packaging activity**” means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to ‘manufacture’ within the meaning of clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

PANDAL OR SHAMIANA CONTRACTOR’S SERVICE

Section 65(105)(zzw)

“**taxable service**” means any service provided or to be provided to a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, provided or to be provided as a caterer and the term “service provider” shall be construed accordingly.

Section 65(77a)

“**pandal or shamiana**” means a place specially prepared or arranged for organising an official, social or business function.

Explanation — For the purposes of this clause, “social function” includes marriage.

Section 65(77b)

“**pandal or shamiana contractor**” means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and light fittings, floor coverings and other articles for use therein.

PHOTOGRAPHY SERVICES**Section 65(105)(zb)**

“**taxable service**” means any service provided or to be provided to a customer, by a photography studio or agency in relation to photography, in any manner and the term “service provider” shall be construed accordingly.

Section 65(78)

“**photography**” includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography.

Section 65(79)

“**photography studio or agency**” means any professional photographer or any person engaged in the business of rendering service relating to photography.

PORT SERVICES**Section 65(105)(zn)**

“**taxable service**” means any service provided or to be provided to any person by a port or any person authorized by the port, in relation to port services, in any manner and the term “service provider” shall be construed accordingly.

Section 65(81)

“**port**” has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

Section 65(118)

“**vessel**” has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963).

Section 65(82)

“**port service**” means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods.

Section 65(50)

“**goods**” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

The Major Port Trusts Act, 1963

Section 2(q)

“**port**” means any major port to which this Act applies within such limits as may, from time to time, be defined by the Central Government for the purposes of this Act by notification in the Official Gazette, and, until a notification is so issued, within such limits as may have been defined by the Central Government under the provisions of the Indian Ports Act.

Section 2(z)

“**vessel**” includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.

The Sale of goods Act, 1930

Section 2(7)

“**goods**” means every kind of moveable property other than actionable claims and money: and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

PROGRAMME PRODUCER’S SERVICES

Section 65(105)(zzu)

“**taxable service**” means any service provided or to be provided to any person, by a programme producer, in relation to a programme and the term “service provider” shall be construed accordingly.

Section 65(86a)

“**programme**” means any audio or visual matter, live or recorded, which is intended to be disseminated by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations.

Section 65(86b)

“**programme producer**” means any person who produces a programme on behalf of another person.

PUBLIC RELATION MANAGEMENT SERVICE

Section 65(105)(zzzs)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to managing the public relations of such person, in any manner and the term “service provider” shall be construed accordingly.

Section 65(86c)

“**public relations**” includes strategic counselling based on industry, media and perception research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotions, events and communications and crisis communications.

RAIL TRAVEL AGENT'S SERVICES

Section 65(105)(zz)

“**taxable service**” means any service provided or to be provided to a customer, by a rail travel agent in relation to booking of passage for travel by rail and the term “service provider” shall be construed accordingly.

Section 65(87)

“**rail travel agent**” means any person engaged in providing any service connected with booking of passage for travel by rail.

REAL ESTATE AGENT'S SERVICES

Section 65(105)(v)

“**taxable service**” means any service provided or to be provided to a client, by a real estate agent in relation to real estate and the term “service provider” shall be construed accordingly.

Section 65(88)

“**real estate agent**” means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant.

Section 65(89)

“**real estate consultant**” means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate.

RENTING OF IMMOVABLE PROPERTY SERVICE

Section 65(90a)

“**renting of immovable property**” includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

- (i) renting of immovable property by a religious body or to a religious body; or
- (ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

Explanation — For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings.

Section 65(105)(zzzz)

“**taxable service**” means any service provided, or to be provided to any person, by any other person in relation to renting of immovable property for use in the course or furtherance of business or commerce and the term “service provider” shall be construed accordingly.

Explanation 1.— For the purposes of this sub-clause, “immovable property” includes—

- (i) building and part of a building, and the land appurtenant thereto;
- (ii) land incidental to the use of such building or part of a building;
- (iii) the common or shared areas and facilities relating thereto; and
- (iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate,

but does not include-

- (a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;
- (b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;
- (c) land used for educational, sports, circus, entertainment and parking purposes; and
- (d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

Explanation 2.—For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce.

RECOVERY AGENT’S SERVICES

Section 65(105)(zzzi)

“**taxable service**” means any service provided or to be provided to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner and the term “service provider” shall be construed accordingly.

REGISTRAR TO AN ISSUE’S SERVICE

Section 65(105)(zzzi)

“**taxable service**” means any service provided or to be provided to any person, by a registrar to an issue, in relation to sale or purchase of securities and the term “service provider” shall be construed accordingly,

Section 65(89c)

“**registrar to an issue**” means any person carrying on the activities in relation to an issue including collecting *application forms from investors, keeping a record of applications and money received from investors or paid to the seller of securities, assisting in determining the basis of allotment of securities, finalising the list of persons entitled to allotment of securities and processing and despatching allotment letters, refund orders or certificates and other related documents.*

Section 65(59a)

“**issue**” means an offer of sale or purchase of securities to, or from, the public or the holder of securities,

RENT-A-CAB SCHEME OPERATOR’S SERVICES**Section 65(105)(o)**

“**taxable service**” means any service provided or to be provided to any person, by a rent-a-cab scheme operator in relation to the renting of a cab and the term “service provider” shall be construed accordingly,

Section 65(20)

“**cab**” means—

- (i) a motorcab, or
- (ii) a maxicab, or
- (iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

Provided that the maxicab referred to in sub-clause (ii) or motor vehicle referred to in subclause (iii) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab.

Section 65(70)

“**maxicab**” has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(71)

“**motorcab**” has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(91)

“**rent-a-cab scheme operator**” means any person engaged in the business of renting of cabs.

The Motor Vehicles Act, 1988

Section 2(22)

“**maxicab**” means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward.

Section 2(25)

“**motorcab**” means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward.

SALE OF SPACE OR TIME FOR ADVERTISEMENT SERVICE

Section 65(105)(zzzm)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to sale of space or time for advertisement, in any manner; but does not include sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organisation and the term “service provider” shall be construed accordingly.

Explanation 1. – For the purposes of this sub-clause, “sale of space or time for advertisement” includes, –

- (i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet;
- (ii) selling of time slots on radio or television by a person, other than a broadcasting agency or organisation; and
- (iii) aerial advertising.

Explanation 2.—For the purposes of this sub-clause, “print media” means,—

- (i) “**newspaper**” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);
- (ii) “**book**” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, (25 of 1867) but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

The Press and Registration of Books Act, 1867.

Section 1(1)

In this Act, unless there shall be something repugnant in the subject or context,-

“**book**” includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed.

“**newspaper**” means any printed periodical work containing public news or comments on public news.

SCIENTIFIC OR TECHNICAL CONSULTANCY SERVICES

Section 65(105)(za)

“**taxable service**” means any service provided or to be provided to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy and the term “service provider” shall be construed accordingly.

Section 65(92)

“**scientific or technical consultancy**” means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology.

SECURITY AGENCY'S SERVICES

Section 65(105)(w)

“**taxable service**” means any service provided or to be provided to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity and the term “service provider” shall be construed accordingly.

Section 65(94)

“**security agency**” means any person engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel.

SHARE TRANSFER AGENT'S SERVICE

Section 65(105)(zzj)

“**taxable service**” means any service provided or to be provided to any person, by a share transfer agent, in relation to securities and the term “service provider” shall be construed accordingly.

Section 65(95a)

“**share transfer agent**” means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto.

SHIP MANAGEMENT SERVICES

Section 65(105)(zzzt)

“**taxable service**” means any service provided or to be provided to any person, under a contract or an agreement, by any other person, in relation to ship management service and the term “service provider” shall be construed accordingly.

Section 65(96a)

“**ship management service**” includes,—

- (i) the supervision of the maintenance, survey and repair of ship;
- (ii) engagement or providing of crews;
- (iii) receiving the hire or freight charges on behalf of the owner;
- (iv) arrangements for loading and unloading;
- (v) providing for victualling or storing of ship;

- (vi) negotiating contracts for bunker fuel and lubricating oil;
- (vii) payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- (viii) the entry of ship in a protection or indemnity association;
- (ix) dealing with insurance, salvage and other claims; and
- (x) arranging of insurance in relation to ship.

SITE FORMATION AND CLEARANCE, EXCAVATION AND EARTH MOVING AND DEMOLITION SERVICES

Section 65(105)(zzza)

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities and the term “service provider” shall be construed accordingly.

Section 65(97a)

“**site formation and clearance, excavation and earthmoving and demolition**” includes, –

- (i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or
- (ii) soil stabilization; or
- (iii) horizontal drilling for the passage of cables or drain pipes; or
- (iv) land reclamation work; or
- (v) contaminated top soil stripping work; or
- (vi) demolition and wrecking of building, structure or road, but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies.

SPONSORSHIP SERVICES

Section 65(105)(zzzn)

“**taxable service**” means any 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, but does not include services in relation to sponsorship of sports events and the term “service provider” shall be construed accordingly.

Section 65(99a)

“**sponsorship**” includes naming an event after the sponsor, displaying the sponsor’s company logo or trading name, giving the sponsor exclusive or priority booking rights, sponsoring prizes or trophies for competition; but does not include any financial or other support in the form of donations or gifts, given by the donors subject to the condition that the service provider is under no obligation to provide anything in return to such donors.

SOUND RECORDING STUDIO OR AGENCY SERVICE

Section 65(105)(zj)

“**taxable service**” means any service provided or to be provided to a client, by a sound recording studio or agency in relation to any kind of sound recording and the term “service provider” shall be construed accordingly.

Section 65(63)

“**magnetic storage device**” includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording.

Section 65(98)

“**sound recording**” means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity.

Section 65(99)

“**sound recording studio or agency**” means any person engaged in the business of rendering any service relating to sound recording.

STEAMER AGENT’S SERVICES

Section 65(105)(i)

“**taxable service**” means any service provided or to be provided to a shipping line, by a steamer agent in relation to a ship’s husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services and the term “service provider” shall be construed accordingly.

Section 65(96)

“**ship**” means a sea-going vessel and includes a sailing vessel.

Section 65(96a)

“**ship management service**” includes,—

- (i) the supervision of the maintenance, survey and repair of ship;
- (ii) engagement or providing of crews;
- (iii) receiving the hire or freight charges on behalf of the owner;
- (iv) arrangements for loading and unloading;

- (v) providing for victualling or storing of ship;
- (vi) negotiating contracts for bunker fuel and lubricating oil;
- (vii) payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- (viii) the entry of ship in a protection or indemnity association;
- (ix) dealing with insurance, salvage and other claims; and
- (x) arranging of insurance in relation to ship.

Section 65(97)

“**shipping line**” means any person who owns or charter a ship and includes an enterprise which operates or manages the business of shipping.

Section 65(100)

“**steamer agent**” means any person who undertakes, either directly or indirectly, -

- (i) to perform any service in connection with the ship’s husbandry or dispatch including the rendering of administrative work related thereto; or
- (ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or
- (iii) to provide container feeder service for or on behalf of a shipping line.

STOCK BROKER’S SERVICES

Section 65(105)(a)

“**taxable service**” means any service provided or to be provided to any person by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange and the term “service provider” shall be construed accordingly.

Section 65(90)

“**recognised stock exchange**” has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Section 65(93)

“**securities**” has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Section 65(101)

“**stock broker**” means a person, who has either made an application for registration or is registered as

a stock-broker or sub-broker, as the case may be, in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

Securities Contracts (Regulation) Act, 1956

Section 2(f)

“**recognised stock exchange**” means a stock exchange which is for the time being recognised by the Central Government under section 4.

Section 2(h)

“**Securities**” includes

- (i) shares, scrips, stocks, bonds, debentures, debenture stock, or other marketable securities of a like nature in or of any incorporated company or body corporate;
 - (ia) derivative;
 - (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
 - (ic) security received as defined in clause (zg) of section 2 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002;
 - (id) units or any other instrument issued to the investors under any mutual fund scheme;
- (ii) Government securities;
 - (iia) such other instruments as may be declared by the Central Government to be securities; and
- (iii) rights or interests in securities.

STORAGE AND WAREHOUSING SERVICE

Section 65(105)(zza)

“**taxable service**” means any services provided or to be provided to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods and the term “service provider” shall be construed accordingly.

Section 65(102)

“**storage and warehousing**” includes storage and warehousing services for goods including liquids and gases but does not include any services provided for storage of agricultural produce or any service provided by a cold storage.

SURVEY AND EXPLORATION OF MINERAL, OIL AND GAS SERVICE

Section 65(105)(zzv)

“**taxable service**” means any service provided or to be provided to a customer, by any person, in relation to survey and exploration of mineral and the term “service provider” shall be construed accordingly.

Section 65(104a)

“**survey and exploration of mineral**” means geological, geophysical or other prospecting, surface or sub-surface surveying or map making service, in relation to location or exploration of deposits of mineral, oil or gas.

SURVEY AND MAP-MAKING SERVICE

Section 65(105)(zzzc)

“**taxable service**” means any service provided or to be provided to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making and the term “service provider” shall be construed accordingly.

Section 65(104b)

“**survey and map-making**” means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral.

TECHNICAL INSPECTION AND CERTIFICATION SERVICE

Section 65(105)(zzi)

“**taxable service**” means any service provided or to be provided to any person, by a technical inspection and certification agency, in relation to technical inspection and certification and the term “service provider” shall be construed accordingly.

Section 65(108)

“**technical inspection and certification**” means inspection or examination of goods or process or material or any immovable property to certify that such goods or process or material or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels.

Section 65(109)

“**technical inspection and certification agency**” means any agency or person engaged in providing service in relation to technical inspection and certification.

TECHNICAL TESTING AND ANALYSIS SERVICE

Section 65(105)(zzh)

“**taxable service**” means any service provided or to be provided, to any person, by a technical testing and analysis agency, in relation to technical testing and analysis and the term “service provider” shall be construed accordingly.

Section 65(106)

“**technical testing and analysis**” means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals.

Explanation – For the removal of doubts, it is hereby declared that for the purposes of this clause, “technical testing and analysis” includes testing and analysis undertaken for the purpose of clinical testing of drugs and formulations; but does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals.

Section 65(107)

“**technical testing and analysis agency**” means any agency or person engaged in providing service in relation to technical testing and analysis.

TELECOMMUNICATION SERVICES

Section 65(109a)

“**telecommunication service**” means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 and includes —

- (i) voice mail, data services, audio tex services, video tex services, radio paging;
- (ii) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;
- (iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;
- (iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging

for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

- (v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menu and video conferencing;
- (vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;
- (vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and
- (viii) communication through facsimile, pager, telegraph and telex,

but does not include service provided by-

- (a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105).
- (b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and
- (c) any person in relation to internet telephony referred to in sub-clause (zzzu) of clause (105).

Section 65(105)(zzzx)

“**taxable service**” means any service provided or to be provided to any person, by the telegraph authority in relation to telecommunication service and the term “service provider” shall be construed accordingly.

TOUR OPERATOR’S SERVICE

Section 65(105)(n)

“**taxable service**” means any service provided or to be provided to any person, by a tour operator, in relation to a tour and the term “service provider” shall be construed accordingly.

Section 65(113)

“**tour**” means a journey from one place to another irrespective of the distance between such places.

Section 65(114)

“**tourist vehicle**” has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(115)

“**tour operator**” means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sight seeing or other similar

services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder.

The Motor Vehicles Act, 1988

Section 2(43)

“**tourist vehicle**” means contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf.

Section 2(7)

“**contract carriage**” means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether express or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorized by him in this behalf on a fixed or an agreed rate or sum-

- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another;

and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey,

and includes-

- (i) a maxi-cab; and
- (ii) a motor-cab notwithstanding that separate fares are charged for its passengers.

TRANSPORT OF GOODS BY AIR SERVICE

Section 65(105)(zzn)

“**taxable service**” means any service provided or to be provided to any person, by an aircraft operator, in relation to transport of goods by aircraft and the term “service provider” shall be construed accordingly.

Section 65(3a)

“**aircraft**” has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934).

Section 65(3b)

“**aircraft operator**” means any person who provides the service of transport of goods or passengers by aircraft.

Section 65(50)

“**goods**” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

The Aircraft Act, 1934

Section 2(1)

“**aircraft**” means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth’s surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines.

The Sale of Goods Act, 1930

Section 2(7)

“**goods**” means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

TRANSPORT OF GOODS IN CONTAINERS BY RAIL SERVICE**Section 65(105)(zzzp)**

“**taxable service**” means any service provided or to be provided to any person, by any other person other than Government railway as defined in clause (20) of section 2 of the Railways Act, 1989 (24 of 1989) , in relation to transport of goods in containers by rail, in any manner and the term “service provider” shall be construed accordingly.

TRANSPORT OF GOODS BY ROAD SERVICE**Section 65(105)(zzp)**

“**taxable service**” means any service provided or to be provided to a customer, by a goods transport agency, in relation to transport of goods by road in a goods carriage and the term “service provider” shall be construed accordingly.

Section 65(50a)

“**goods carriage**” has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Section 65(50b)

“**goods transport agency**” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

Section 65(50)

“**goods**” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

Sale of Goods Act, 1930

Section 2(7)

“**goods**” means every kind of moveable property other than actionable claims and money: and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Motor Vehicles Act, 1988

Section 2(14)

“**goods carriage**” means any motor vehicle constructed or adapted for use solely for the carriage of goods or any motor vehicle not so constructed or adapted when used for carriage of goods.

TRANSPORT OF GOODS OTHER THAN WATER THROUGH PIPELINE OR OTHER CONDUIT SERVICE**Section 65(105)(zzz)**

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit and the term “service provider” shall be construed accordingly.

TRANSPORT OF PASSENGERS EMBARKING IN INDIA FOR INTERNATIONAL JOURNEY BY AIR SERVICE**Section 65(105)(zzzo)**

“**taxable service**” means any service provided or to be provided to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for international journey, in any class other than economy class and the term “service provider” shall be construed accordingly.

Explanation 1. – For the purposes of this sub-clause, economy class in an aircraft meant for scheduled air transport of passengers means, –

where there is more than one class of travel, the class attracting the lowest standard fare; or where there is only one class of travel, that class.

Explanation 2. – For the purposes of this sub-clause, in an aircraft meant for non-scheduled air transport of passengers, no class of travel shall be treated as economy class.

Section 65(56a)

“**international journey**”, in relation to a passenger, means his journey from any customs airport on board any aircraft to a place outside India.

Section 65(35a)

“**customs airport**” means an airport appointed as such under clause (a) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962).

Section 65(77c)

“**passenger**” means any person boarding, at any customs airport, an aircraft for performing an international journey, but does not include –

- (i) a person who has arrived at such customs airport from a place outside India and is in transit through India, provided that he does not pass through immigration and does not leave customs area and continues his journey to a place outside India; and
- (ii) a person employed or engaged by the aircraft operator in any capacity on board the aircraft.

Section 65(3a)

“**aircraft**” has the meaning assigned to it in clause (1) of Section 2 of the Aircraft Act, 1934 (22 of 1934).

Section 65(3b)

“**aircraft operator**” means any person who provides the service of transport of goods or passengers by aircraft.

The Customs Act, 1962

Section 7(1)

- (a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods.

The Aircraft Act, 1934

Section 2(1)

“**aircraft**” means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth’s surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines.

TRANSPORT OF PERSONS EMBARKING FROM PORT IN INDIA BY CRUISE SHIP SERVICE**Section 65(105)(zzzv)**

“**taxable service**” means any service provided or to be provided to any person, by any other person, in relation to transport of such person embarking from any port or other port in India, by a cruise ship.

Explanation – For the purposes of this sub-clause, “cruise ship” means a ship or vessel used for

providing recreational or pleasure trips, but does not include a ship or vessel used for private purposes or a ship or vessel of, or less than, fifteen net tonnage and the term “service provider” shall be construed accordingly.

TRAVEL AGENT’S SERVICE

Section 65(105)(zzx)

“**taxable service**” means any service provided or to be provided to a customer, by a travel agent, in relation to the booking of passage for travel and the term “service provider” shall be construed accordingly.

Section 65(115a)

“**travel agent**” means any person engaged in providing any service connected with booking of passage for travel but does not include air travel agent and rail travel agent.

UNDERWRITER’S SERVICE

Section 65(105)(z)

“**taxable service**” means any service provided or to be provided to a client, by an underwriter in relation to underwriting in any manner and the term “service provider” shall be construed accordingly.

Section 65(116)

“**underwriter**” has the meaning assigned to it in clause (f) of rule 2 of Securities and Exchange Board of India (Underwriters) Rules, 1993.

Section 65(117)

“**underwriting**” has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993.

Securities and Exchange Board of India (Underwriters) Rules, 1993

Rule 2(f)

“**underwriter**” means a person, who engages in the business of underwriting of an issue of securities of a body corporate.

Rule 2(g)

“**underwriting**” means an agreement with or without condition to subscribe to the securities of a body corporate when the existing shareholders of such body corporate or the public do not subscribe to the securities offered to them.

VIDEO PRODUCTION AGENCY’S SERVICE

Section 65(105)(zi)

“**taxable service**” means any service provided or to be provided to a client, by a video production agency in relation to video-tape production, in any manner and the term “service provider” shall be construed accordingly.

Section 65(119)

“**video production agency**” means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production.

Section 65(120)

“**video-tape production**” means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner.

WORKS CONTRACT SERVICE**Section 65(105)(zzzza)**

“**taxable service**” means any service provided or to be provided to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams and the term “service provider” shall be construed accordingly.

Explanation — For the purposes of this sub-clause, “works contract” means a contract wherein,—

- (i) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and
- (ii) such contract is for the purposes of carrying out,—
 - (a) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or
 - (b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or
 - (c) construction of a new residential complex or a part thereof; or
 - (d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or
 - (e) turnkey projects including engineering, procurement and construction or commissioning (EPC) projects.

MISCELLANEOUS DEFINITIONS**Section 65(5)**

“**Appellate Tribunal**” means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962).

Section 65(7)

“**assessee**” means a person liable to pay the service tax and includes his agent.

Section 65(7a)

“**auction of property**” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property.

Section 65(13)

“**board**” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).

Section 65(14)

“**body corporate**” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956).

Section 65(24)

“**caterer**” means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non- alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion.

Section 65(86)

“**prescribed**” means prescribed by rules made under this Chapter.

Section 65(95)

“**service tax**” means tax leviable under the provisions of this Chapter.

Section 65(95a)

“**share transfer agent**” means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto.

Section 65(121)

words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.

Explanation. – For the purposes of this section, taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.

Index to Definitions

Section	Page No.	Section	Page No.	Section	Page No.
65(1)	58	65(24b)	46	65(50)	53, 66, 81, 82
65(2)	34	65(25)	46	65(50a)	81
65(3)	34	65(25a)	46	65(50b)	81
65(3a)	80, 83	65(25b)	47	65(51)	57
65(3b)	80, 83	65(26)	48	65(52)	57
65(3c)	34	65(27)	48	65(53)	49
65(3d)	34	65(29)	54	65(54)	58
65(4)	35	65(30)	48	65(55)	58
65(5)	85	65(30a)	49	65(55a)	59
65(6)	35	65(31)	50	65(55b)	59
65(7)	86	65(32)	50	65(56)	58
65(7a)	36, 86	65(33)	51	65(56a)	83
65(8)	37	65(33a)	51	65(56b)	60
65(9)	36	65(34)	52	65(57)	60
65(9a)	37	65(35)	52	65(57a)	60
65(9b)	37	65(35a)	52, 83	65(58)	58, 60
65(9c)	37	65(36)	48	65(59)	59
65(10)	38	65(36a)	54	65(59a)	70
65(11)	38	65(36b)	53	65(61)	60
65(12)	38	65(36c)	53	65(62)	36
65(13)	86	65(37)	54	65(63)	74
65(14)	39, 86	65(38)	54	65(63a)	61
65(15)	41	65(39)	48	65(64)	62
65(16)	42	65(39a)	54	65(65)	61
65(17)	41	65(40)	55	65(66)	62
65(18)	41	65(41)	55	65(67)	63
65(19)	42	65(43)	55	65(68)	63
65(19a)	44	65(44)	55	65(69)	63
65(20)	70	65(45)	39	65(70)	70
65(21)	45	65(46)	39	65(71)	70
65(22)	45	65(46a)	55	65(72)	36
65(23)	45	65(47)	56	65(73)	36
65(24)	86	65(48)	56	65(74)	39
65(24a)	34	65(49)	57	65(75)	49

Section	Page No.	Section	Page No.	Section	Page No.
65(75a)	64	65(97)	75	65(105)(zc)	50
65(75b)	64	65(97a)	73	65(105)(zh)	48
65(76)	64	65(98)	74	65(105)(zi)	84
65(76a)	65	65(99)	74	65(105)(zj)	74
65(76b)	65	65(99a)	73	65(105)(zk)	41
65(77a)	65	65(100)	75	65(105)(zl)	57
65(77b)	66	65(101)	75	65(105)(zm)	37
65(77c)	83	65(102)	76	65(105)(zn)	66
65(78)	66	65(104a)	77	65(105)(zo)	36
65(79)	66	65(104b)	77	65(105)(zq)	41
65(80)	58, 60	65(104c)	44	65(105)(zr)	45
65(81)	66	65(105)(a)	75	65(105)(zs)	45
65(82)	64, 66	65(105)(d)	56	65(105)(zt)	54
65(83)	46	65(105)(e)	34	65(105)(zu)	55
65(84)	51	65(105)(f)	51	65(105)(zv)	55
65(85)	48	65(105)(g)	50	65(105)(zw)	57
65(86)	86	65(105)(h)	52	65(105)(zx)	60
65(86a)	56, 67	65(105)(i)	74	65(105)(zy)	58
65(86b)	56, 67	65(105)(j)	46	65(105)(zz)	68
65(86c)	67	65(105)(k)	63	65(105)(zza)	76
65(87)	68	65(105)(l)	35	65(105)(zzb)	42
65(88)	68	65(105)(m)	62	65(105)(zzc)	47
65(89)	68	65(105)(n)	79	65(105)(zzd)	54
65(89a)	56	65(105)(o)	70	65(105)(zze)	56
65(89b)	56	65(105)(p)	35	65(105)(zzf)	60
65(89c)	69	65(105)(q)	59	65(105)(zzg)	62
65(90)	75	65(105)(r)	61	65(105)(zzh)	78
65(90a)	68	65(105)(s)	45	65(105)(zzi)	77
65(91)	70	65(105)(t)	51	65(105)(zzk)	37
65(91a)	50	65(105)(u)	48	65(105)(ztl)	64
65(92)	71	65(105)(v)	68	65(105)(zzm)	34
65(93)	75	65(105)(w)	72	65(105)(zln)	80
65(94)	72	65(105)(x)	52	65(105)(zlo)	44
65(95)	86	65(105)(y)	63	65(105)(zlp)	81
65(95a)	72, 86	65(105)(z)	84	65(105)(zllq)	47
65(96)	74	65(105)(za)	71	65(105)(zllr)	59
65(96a)	72, 74	65(105)(zb)	66	65(105)(zlls)	64

Section	Page No.	Section	Page No.	Section	Page No.
65(105)(zzt)	65	65(105)(zzzl)	69	65(105)(zzzzd)	53
65(105)(zzu)	67	65(105)(zzzm)	71	65(106)	78
65(105)(zzv)	77	65(105)(zzzn)	73	65(107)	78
65(105)(zzw)	65	65(105)(zzzo)	82	65(108)	77
65(105)(zzx)	84	65(105)(zzzp)	81	65(109)	77
65(105)(zzy)	55	65(105)(zzzq)	44	69(109a)	78
65(105)(zzz)	82	65(105)(zzzr)	36	65(110)	64
65(105)(zzza)	73	65(105)(zzzs)	67	65(111)	45
65(105)(zzzb)	53	65(105)(zzzt)	72	65(113)	79
65(105)(zzzc)	77	65(105)(zzzu)	60	65(114)	79
65(105)(zzzd)	46	65(105)(zzzv)	83	65(115)	79
65(105)(zzze)	46	65(105)(zzzw)	51	65(115a)	84
65(105)(zzzf)	65	65(105)(zzzx)	79	65(116)	84
65(105)(zzzg)	61	65(105)(zzzy)	64	65(117)	84
65(105)(zzzh)	49	65(105)(zzzz)	68	65(118)	64, 66
65(105)(zzzi)	69	65(105)(zzzza)	85	65(119)	85
65(105)(zzzj)	72	65(105)(zzzzb)	53	65(120)	85
65(105)(zzzk)	37	65(105)(zzzzc)	35	65(121)	86

Service Tax Rules, 1994

Rule No.	Particulars	Page Reference
1.	Short title and commencement	91
2.	Definitions	91
3.	Appointment of officers	92
4.	Registration	92
4A.	Taxable service to be provided or Credit to be distributed on Invoice, Bill or Challan	94
4B.	Issue of consignment note	95
5.	Records	96
6.	Payment of service tax	96
7.	Returns	98
7A.	Returns in case of taxable service provided by goods transport operators and clearing and forwarding agents	98
7B	Revision of Return	99
7C	Amount to be paid for delay in furnishing the prescribed return	99
8.	Form of Appeals to Commissioner of Central Excise (Appeals)	99
9.	Form of appeals to Appellate Tribunal	100
10.	Procedure and Facilities for Large Taxpayer	100

NOTIFICATION NO. 2/94 – SERVICE TAX, DATED 28-06-1994

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

1. SHORT TITLE AND COMMENCEMENT

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

2. DEFINITIONS

- (1) In these rules, unless the context otherwise requires, –
 - (a) “**Act**” means the Finance Act, 1994 (32 of 1994);
 - (b) “**assessment**” includes self-assessment of service tax by the assessee, reassessment, provisional assessment, best judgement assessment and any order of assessment in which the tax assessed is nil; determination of the interest on the tax assessed or reassessed;
 - (c) “**Form**” means a Form appended to these rules;
 - (cc) “**Half - year**” means the period between 1st April to 30th September or 1st October to 31st March of a financial year;
 - (ccc) “**input service distributor**” has the meaning assigned to it in clause (m) of Rule 2 of the CENVAT Credit Rules, 2004;
 - (cccc) “**large taxpayer**” has the meaning assigned to it in the Central Excise Rules, 2002.
 - (d) “**Person liable for paying the service tax**” means, –
 - (i) in relation to telecommunication service –
 - (a) the Director General of Posts and Telegraphs, referred to in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885); or
 - (b) the Chairman-cum-Managing Director, Mahanagar Telephone Nigam Ltd., Delhi, a company registered under the Companies Act, 1956 (1 of 1956); or
 - (c) any other person who has been granted a licence by the Central Government under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885);
 - (ii) In relation to general insurance business, the insurer or re-insurer, as the case may be, providing such service;
 - (iii) in relation to insurance auxiliary service by an insurance agent, any person carrying on the general insurance business or the life insurance business, as the case may be, in India;

- (iv) in relation 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 under section 66A of the Act, the recipient of such service;
 - (v) in relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is, –
 - (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
 - (b) any company established formed or registered under the Companies Act, 1956 (1 of 1956);
 - (c) any corporation established by or under any law;
 - (d) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;
 - (e) any co-operative society established by or under any law;
 - (f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; or
 - (g) any body corporate established, or a partnership firm registered, by or under any law, any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage;
 - (vi) in relation to business auxiliary service of distribution of mutual fund by a mutual fund distributor or an agent, as the case may be, the mutual fund or asset management company, as the case may be, receiving such services;
 - (vii) in relation to sponsorship service provided to any body corporate or firm located in India, the body corporate or firm, as the case maybe who receives such sponsorship service;
- (e) “**quarter**” means the period between 1st January to 31st March or 1st April to 30th June or 1st July to 30th September or 1st October to 31st December of a financial year.
- (2) All words and expressions used but not defined in these rules but defined in the Central Excise Act, 1944 (1 of 1944), and the Rules made there under shall have the meanings assigned to them in that Act and rules.

3. APPOINTMENT OF OFFICERS

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

4. REGISTRATION

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

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

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

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

- (2) Where a person, liable for paying service tax on a taxable service,
- (i) provides such service from more than one premises or offices; or
 - (ii) receives such service in more than one premises or offices; or
 - (iii) is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax, and has centralised billing system or centralised accounting system in respect of such service, and such centralised billing or centralised accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralised billing or centralised accounting systems are located.
- (3) The registration under sub-rule (2), shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralised billing or accounting is done, are located:
- Provided** that nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralised billing or centralised accounting systems, prior to the 2nd day of November, 2006.
- (3A) Where an assessee is providing a taxable service from more than one premises or offices, and does not have any centralized billing systems or centralized accounting systems, as the case may be, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise.
- (4) Where an assessee is providing more than one taxable service, he may make a single application, mentioning therein all the taxable services provided by him, to the concerned Superintendent of Central Excise.

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

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

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

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

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

Provided also that where any payment towards the value of taxable service is not received and such taxable service is provided continuously for successive periods of time and the value of such taxable service is determined or payable periodically, an invoice, a bill, or as the case may be, a challan shall be issued by a person providing such taxable service, not later than fourteen days from the last day of the said period.

- (2) Every input service distributor distributing credit of taxable services shall, in respect of credit distributed, issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorized by him, for each of the recipient of the credit distributed, and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely: –
- (i) the name, address and registration number of the person providing input services and the serial number and date of invoice, bill, or as the case may be, challan issued under sub-rule (1);
 - (ii) the name and address of the said input service distributor;
 - (iii) the name and address of the recipient of the credit distributed;
 - (iv) the amount of the credit distributed:

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

4B. ISSUE OF CONSIGNMENT NOTE

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

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

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

5. RECORDS

- (1) The records including computerised data as maintained by an assessee in accordance with the various laws in force from time to time shall be acceptable.
- (2) Every assessee shall furnish to the Superintendent of Central Excise, at the time of filing his return for the first time, a list of all accounts maintained by the assessee in relation to service tax including memoranda received from his branch offices.
- (3) All such records shall be preserved at least for a period of five years immediately after the financial year to which such records pertain.
- (4) Every assessee shall make available, at the registered premises, at all reasonable time, such records as mentioned in sub-rule (3), for inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, or, by the audit party deputed by the Comptroller and Auditor General of India.

Explanation. – For the purposes of this rule, “registered premises” includes all premises or offices from where an assessee is providing taxable services.

6. PAYMENT OF SERVICE TAX

- (1) The service tax shall be paid to the credit of the Central Government by the 5th of the month immediately following the calendar month in which the payments are received, towards the value of taxable services:

Provided that where the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the credit of the Central Government by the 5th of the month immediately following the quarter in which the payments are received, towards the value of taxable services:

Provided further that notwithstanding the time of receipt of payment towards the value of services, no service tax shall be payable for the part or whole of the value of services, which is attributable to services provided during the period when such services were not taxable:

Provided also that the service tax on the value of taxable services received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

Explanation. – For the removal of doubt it is hereby clarified that in case the value of taxable service is received before providing the said service, service tax shall be paid on the value of service attributable to the relevant month, or quarter, as the case may be.

- (2) The assessee shall deposit the service tax liable to be paid by him with the bank designated by the Central Board of Excise and Customs for this purpose in Form TR-6 or in any other manner prescribed by the Central Board of Excise and Customs:

Provided that the assessee, who has paid service tax of rupees fifty lakh or above in the preceding financial year or has already paid service tax of rupees fifty lakh in the current financial year, shall deposit the service tax liable to be paid by him electronically, through internet banking.

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

- (3) Where an assessee has paid to the credit of Central Government service tax 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, if the assessee has refunded the value of taxable service and the service tax thereon to the person from whom it was received.
- (4) Where an assessee is, for any reason, unable to correctly estimate, on the date of deposit, the actual amount payable for any particular month or quarter, as the case may be, he may make a request in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, giving reasons for payment of service tax on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, on receipt of such request, may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him and the provisions of the Central Excise (No. 2) Rules, 2001, relating to provisional assessment except so far as they relate to execution of bond, shall, so far as may be, apply to such assessment.
- (4A) Notwithstanding anything contained in sub-rule (4), where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter, as the case may be.
- (4B) The adjustment of excess amount paid, under sub-rule (4A), shall be subject to the following conditions, namely:-
- (i) excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification,
 - (ii) excess amount paid by an assessee registered under sub-rule (2) of rule 4, on account of delayed receipt of details of payments towards taxable services may be adjusted without monetary limit,
 - (iii) in cases other than specified in clause (ii) above, the excess amount paid may be adjusted with a monetary limit of rupees fifty thousand for a relevant month or quarter, as the case may be,
 - (iv) the details and reasons for such adjustment shall be intimated to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the date of such adjustment.
- (4C) Notwithstanding anything contained in sub-rules (4), (4A) and (4B), where the person liable to pay service tax in respect of services provided or to be provided in relation to renting of immovable property, referred to in sub-clause (zzzz) of clause (105) of section 65 of the Act, has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, on account of non-availment of deduction of property tax paid in terms of Notification No.24/2007-Service Tax, dated the 22nd May, 2007, from the gross amount charged for renting of the immovable property for the said period at the time of payment of service tax, the assessee may adjust such excess amount paid by him against his service tax liability within one year from the date of payment of such property tax. The details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of fifteen days from the date of such adjustment.

- (5) Where an assessee under sub-rule (4) requests for a provisional assessment he shall file a statement giving details of the difference between the service tax deposited and the service tax liable to be paid for each month in a memorandum in Form ST-3A accompanying the quarterly or half - yearly return, as the case may be.
- (6) Where the assessee submits a memorandum in Form ST-3A under sub-rule (5), it shall be lawful for the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, to complete the assessment, wherever he deems it necessary, after calling such further documents or records as he may consider necessary and proper in the circumstances of the case.

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

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

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

- (7A) An insurer carrying on life insurance business liable for paying the service tax in relation to the risk cover in life insurance provided to a policy holder shall have the option to pay an amount calculated at the rate of one per cent of the gross amount of premium charged by such insurer towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the Act:

Provided that such option shall not be available in cases where-

- (a) the entire premium paid by the policy holder is only towards risk cover in life insurance; or
- (b) the part of the premium payable towards risk cover in life insurance is shown separately in any of the documents issued by the insurer to the policy holder.

7. RETURNS

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

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

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

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

- (b) clearing and forwarding agents for the period commencing on and from the 16th day of July, 1997 to 16th day of October, 1998, shall furnish a return within a period of six months from the 13th day of May, 2003, in Form ST-3B alongwith copy of Form TR-6 in triplicate, failing which the interest and penal consequences as provided in the Act shall follow.

7B. Revision of Return

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

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

7C. Amount to be paid for delay in furnishing the prescribed return

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

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

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

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

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

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

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

9. FORM OF APPEALS TO APPELLATE TRIBUNAL

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

10. PROCEDURE AND FACILITIES FOR LARGE TAXPAYER

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

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

CENVAT Credit Rules, 2004

Rule No.	Particulars	Page Reference
1.	Short title, extent and commencement	102
2.	Definitions	102
3.	CENVAT credit	105
4.	Conditions for allowing CENVAT credit	110
5.	Refund of CENVAT credit	111
5A	Refund of CENVAT credit to units in specified areas	112
6.	Obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempted services	112
7.	Manner of distribution of credit by input service distributor	117
8.	Storage of input outside the factory of the manufacturer	118
9.	Documents and accounts	118
9A.	Information relating to Principal Inputs	120
10.	Transfer of CENVAT credit	121
11.	Transitional provision	121
12.	Special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim	122
12A	Procedure and facilities for large tax payer	122
12AA	Power to impose restrictions in certain type of cases	125
13.	Power of Central Government to notify goods for deemed CENVAT credit	126
14.	Recovery of CENVAT credit wrongly taken or erroneously refunded	126
15.	Confiscation and penalty	126
16.	Supplementary provision	127

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

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

1. SHORT TITLE, EXTENT AND COMMENCEMENT

(1) These rules may be called the CENVAT Credit Rules, 2004.

(2) They extend to the whole of India:

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

(3) They shall come into force from the September 10, 2004.

2. DEFINITIONS

In these rules, unless the context otherwise requires,-

(a) **“capital goods”** means: –

(A) the following goods, namely:-

(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act;

(ii) pollution control equipment;

(iii) components, spares and accessories of the goods specified at (i) and (ii);

(iv) moulds and dies, jigs and fixtures;

(v) refractories and refractory materials;

(vi) tubes and pipes and fittings thereof; and

(vii) storage tank,

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

(2) for providing output service,

(B) motor vehicle registered in the name of provider of output service for providing taxable service as specified in sub-clauses (f), (n), (o), (zr), (zrp), (zrt) and (zrw) of clause (105) of section 65 of the Finance Act;

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

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

- (d) **“exempted goods”** means excisable goods which are exempt from the whole of the duty of excise leviable thereon, and includes goods which are chargeable to “Nil” rate of duty;
- (e) **“exempted services”** means taxable services which are exempt from the whole of the service tax leviable thereon, and includes services on which no service tax is leviable under section 66 of the Finance Act;
- (f) **“Excise Tariff Act”** means the Central Excise Tariff Act, 1985 (5 of 1986);
- (g) **“Finance Act”** means the Finance Act, 1994 (32 of 1994);
- (h) **“final products”** means excisable goods manufactured or produced from input, or using input service;
- (ij) **“first stage dealer”** means a dealer, who purchases the goods directly from, –
- (i) the manufacturer under the cover of an invoice issued in terms of the provisions of Central Excise Rules, 2002 or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice; or
 - (ii) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice;
- (k) **“input”** means –
- (i) all goods, except light diesel oil, high speed diesel oil and motor spirit, commonly known as petrol, used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not and includes lubricating oils, greases, cutting oils, coolants, accessories of the final products cleared along with the final product, goods used as paint, or as packing material, or as fuel, or for generation of electricity or steam used in or in relation to manufacture of final products or for any other purpose, within the factory of production;
 - (ii) all goods, except light diesel oil, high speed diesel oil, motor spirit, commonly known as petrol and motor vehicles, used for providing any output service.
- Explanation 1. – The light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol, shall not be treated as an input for any purpose whatsoever.
- Explanation 2. – Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacturer;
- (l) **“input service”** means any service, –
- (i) used by a provider of taxable service for providing an output service; or
 - (ii) used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products from the place of removal,

and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, 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 and outward transportation upto the place of removal;

- (m) **“input service distributor”** means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be;
- (n) **“job work”** means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression “job worker” shall be construed accordingly;
- (na) **“large taxpayer”** shall have the meaning assigned to it in the Central Excise Rules, 2002;
- (naa) **“manufacturer” or “producer”** in relation to articles of jewellery falling under heading 7113 of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub-rule (1) of rule 12AA of the Central Excise Rules, 2002;
- (o) **“notification”** means the notification published in the Official Gazette;
- (p) **“output service”** means any taxable service provided by the provider of taxable service, to a customer, client, subscriber, policy holder or any other person, as the case may be, and the expressions ‘provider’ and ‘provided’ shall be construed accordingly;
- (q) **“person liable for paying service tax”** has the meaning as assigned to it in clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994;
- (r) **“provider of taxable service”** include a person liable for paying service tax;
- (s) **“second stage dealer”** means a dealer who purchases the goods from a first stage dealer;
- (t) words and expressions used in these rules and not defined but defined in the Excise Act or the Finance Act shall have the meanings respectively assigned to them in those Acts.

3. CENVAT CREDIT

- (1) A manufacturer or producer of final products or a provider of taxable service shall be allowed to take credit (hereinafter referred to as the CENVAT credit) of –
- (i) the duty of excise specified in the First Schedule to the Excise Tariff Act, leviable under the Excise Act;
 - (ii) the duty of excise specified in the Second Schedule to the Excise Tariff Act, leviable under the Excise Act;
 - (iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);
 - (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);
 - (v) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);
 - (vi) the Education Cess on excisable goods leviable under section 91 read with section 93 of the Finance (No.2) Act, 2004 (23 of 2004);
 - (via) the Secondary and Higher Education Cess on excisable goods leviable under section (136) read with section (138) of the Finance Act, 2007, (22 of 2007);
 - (vii) the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under clauses (i), (ii), (iii), (iv), (v),(vi) and (via) ;
 - (viii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act; Provided that the provider of Taxable Service shall not be eligible to take credit of such additional duty;
 - (viii) the additional duty of excise leviable under section 157 of the Finance Act, 2003 (32 of 2003);
 - (ix) the service tax leviable under section 66 of the Finance Act;
 - (x) the Education Cess on taxable services leviable under section 91 read with section 95 of the Finance (No.2) Act, 2004 (23 of 2004); and
 - (xa) the Secondary and Higher Education Cess on taxable services leviable under section 136 read with section 140 of the Finance Act, 2007 (22 of 2007); and
 - (xi) the additional duty of excise leviable under Section 85 of the Finance Act, 2005 (18 of 2005),

paid on-

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

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

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

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

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

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

Provided further that the CENVAT credit of the duty, or service tax, paid on the inputs, or input services, used in the manufacture of final products cleared after availing of the exemption

under the following notifications of Government of India in the Ministry of Finance (Department of Revenue), –

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

shall, respectively, be utilized only for payment of duty on final products, in respect of which exemption under the said respective notifications is availed of:

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

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

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

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

Provided further that such payment shall not be required to be made when any capital goods are removed outside the premises of the provider of output service for providing the output service and the capital goods are brought back to the premises within 180 days, or such extended period not exceeding 180 days as may be permitted by the jurisdictional Deputy Commissioner of Central Excise, or Assistant Commissioner of Central Excise, as the case may be, of their removal.

- (5A) If the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value.
- (5B) If the value of any,

- (i) input, or
- (ii) capital goods before being put to use,

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

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

- (6) The amount paid under sub-rule (5) and sub-rule (5A) shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods under sub-rule (5) and sub-rule (5A).
- (7) Notwithstanding anything contained in sub-rule (1) and sub-rule (4),-

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

[G.S.R. 266(E), dated the 31st March, 2003], shall be admissible equivalent to the amount calculated in the following manner, namely: –

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

Provided that the cenvat credit in respect of inputs and capital goods cleared on or after 1st March, 2006 from an export oriented undertaking or by a unit in Electronic Hardware Technology Park or in a Software Technology Park, as the case may be, on which such unit pays excise duty under Section 3 of Excise Act read with serial no. 2 of Notification No. 23/2003 – Central Excise, dated 31st March, 2003 [G.S.R. 226(E) dt 31st March, 2003] shall be equal to X multiplied by $\{(1+BCD/400) \text{ multiplied by } (CVD/100)\}$

- (b) CENVAT credit in respect of –
 - (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);
 - (ii) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001);

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

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

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

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

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

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

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

4. CONDITIONS FOR ALLOWING CENVAT CREDIT

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

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

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

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

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

- (b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory materials, moulds and dies and goods falling under heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.

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

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

5. REFUND OF CENVAT CREDIT

Where any input or input service is used in the manufacture of final product which is cleared for export under bond or letter of undertaking, as the case may be, or used in the intermediate product cleared for export, or 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 by the manufacturer or provider of output service towards payment of,

- (i) duty of excise on any final product cleared for home consumption or for export on payment of duty; or
- (ii) service tax on output service,

and where for any reason such adjustment is not possible, the manufacturer or the provider of

output service shall be allowed refund of such amount subject to such safeguards, conditions and limitations, as may be specified, by the Central Government, by notification:

Provided that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the Export of Services Rules, 2005 in respect of such tax:

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

Explanation. – For the purposes of this rule, the words ‘output service which is exported’ means the output service exported in accordance with the Export of Services Rules, 2005.

5A Refund of CENVAT credit to units in specified areas:

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

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

6. OBLIGATION OF MANUFACTURER OF DUTIABLE AND EXEMPTED GOODS AND PROVIDER OF TAXABLE AND EXEMPTED SERVICES

- (1) The CENVAT credit shall not be allowed on such quantity of input or input service which is used in the manufacture of exempted goods or exempted services, except in the circumstances mentioned in sub-rule (2):

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

- (2) Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services, and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for receipt, consumption and inventory of input and input service meant for use in the manufacture of dutiable final products or in providing output service and the quantity of input meant for use in the manufacture of exempted goods or services and take CENVAT credit only on that quantity of input or input service which is intended for use in the manufacture of dutiable goods or in providing output service on which service tax is payable.

- (3) Notwithstanding anything contained in sub-rules (1) and (2), the manufacturer or the provider of output service, opting not to maintain separate accounts, shall follow either of the following conditions, as applicable to him, namely: –
- (a) if the exempted goods are –
- (i) goods falling within heading 2207 of the First Schedule to the Excise Tariff Act (hereinafter in this rule referred to as the said First Schedule);
 - (ii) Low Sulphur Heavy Stock (LSHS) falling within Chapter 27 of the said First Schedule used in the generation of electricity;
 - (iii) Naphtha (RN) falling within Chapter 27 of the said First Schedule used in the manufacture of fertilizer;
 - (iv) Naptha (RN) and furnace oil falling within Chapter 27 of the said First Schedule used for generation of electricity;
 - (v) newsprint, in rolls, sheets or reels, falling within Chapter 48 of the said First Schedule;
 - (vi) final products falling within Chapters 50 to 63 of the said First Schedule;
 - (vii) goods supplied to defence personnel or for defence projects or to the Ministry of Defence for official purposes, under any of the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), namely:–
 - (1) No. 70/92-Central Excise, dated the 17th June, 1992, G.S.R. 595 (E), dated the 17th June, 1992;
 - (2) No. 62/95-Central Excise, dated the 16th March, 1995, G.S.R. 254 (E), dated the 16th March, 1995;
 - (3) No. 63/95-Central Excise, dated the 16th March, 1995, G.S.R. 255 (E), dated the 16th March, 1995;
 - (4) No. 64/95-Central Excise, dated the 16th March, 1995, G.S.R. 256 (E), dated the 16th March, 1995;
 - (viii) Liquefied Petroleum Gases (LPG) falling under tariff item 2711 12 00, 2711 13 00 & 2711 19 00 of the said First Schedule;
 - (ix) Kerosene falling within heading 2710 of the said First Schedule, for ultimate sale through public distribution system, the manufacturer shall pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in, or in relation to, the manufacture of such final products at the time of their clearance from the factory; or
- (b) if the exempted goods are other than those described in condition (a), the manufacturer shall pay an amount equal to ten per cent of the total price, excluding sales tax and other taxes, if any, paid on such goods, of the exempted final product charged by the manufacturer for the sale of such goods at the time of their clearance from the factory;

- (c) the provider of output service shall utilize credit only to extent of an amount not exceeding twenty per cent of the amount of service tax payable on taxable output service.

Explanation I. – The amount mentioned in conditions (a) and (b) shall be paid by the manufacturer or provider of output service by debiting the CENVAT credit or otherwise.

Explanation II. – If the manufacturer or provider of output service fails to pay the said amount, it shall be recovered along with interest in the same manner, as provided in rule 14, for recovery of CENVAT credit wrongly taken;

- (d) not with standing anything contained in condition (c), the provider of output service referred to in sub-clause (d) of clause (105) of section 65 of the Finance Act has the option to utilize CENVAT credit attributable to inputs and input services used in providing taxable services subject to the following, namely:-

- (i) while exercising the option under this condition, the provider of output service shall intimate his option in writing to the Superintendent of Central Excise giving the following particulars, namely:-

- (a) name and address of the provider of output service;
- (b) date from which the option under this clause is exercised or proposed to be exercised;
- (c) description of taxable services;
- (d) description of exempted services;
- (e) CENVAT credit of inputs and input services lying in balance as on the date of exercising the option under this condition;

- (ii) the option given under part (i) for a financial year shall not be withdrawn during the remaining part of the financial year;

- (iii) the provider of output service shall,-

- (a) determine, provisionally, the amount equivalent to CENVAT credit attributable to exempted services, in the following manner, namely:-

CENVAT credit attributable to exempted services (provisional) = (A/B) multiplied by C, where A denotes total value of exempted services provided during the preceding financial year, B denotes total value of taxable and exempted services provided during the preceding financial year, and C denotes total CENVAT credit of inputs and input services taken during the month;

- (b) pay the amount attributable to exempted services determined as above for each month, on or before 5th day of the following month;

- (c) determine the CENVAT credit attributable to exempted services for the whole financial year in the following manner, namely:-
- CENVAT credit attributable to exempted services = (X/Y) multiplied by Z, where X denotes total value of exempted services provided during the financial year, Y denotes total value of taxable and exempted services provided during the financial year, and Z denotes total CENVAT credit of inputs and input services taken during the financial year;
- (d) pay an amount equal to the difference between the amount determined as per item (c) and the amount determined as per item (a), on or before the 30th June of the succeeding financial year, where the amount determined as per item (c) is more than the amount paid;
- (e) in addition to the amount short-paid, be liable to pay interest at the rate of twenty-four per cent. per annum from the due date i.e. 30th June till the date of payment, where the amount short-paid is not paid within the said due date;
- (f) where the amount determined as per item (c) is less than the amount determined and paid as per item (a), adjust the excess amount on his own, by taking credit of such amount;
- (iv) the provider of output service shall intimate to the jurisdictional Superintendent of Central Excise, within a period of fifteen days from the date of such payment or adjustment, the following particulars, namely:-
- (a) details of CENVAT credit attributable to exempted services, monthwise, for the whole financial year, determined provisionally as per part (iii) item (a),
- (b) the amount equivalent to CENVAT credit attributable to exempted services, determined provisionally for each month and paid monthwise as per part (iii) item (b),
- (c) CENVAT credit attributable to exempted services for the whole financial year as determined as per part (iii) item (c),
- (d) amount short paid determined as per part (iii) item (d), alongwith the date of payment of the amount short paid,
- (e) interest payable and paid, if any, on the amount short paid, determined as per part (iii) item (e), and
- (f) credit taken on account of excess payment, if any, determined as per part (iii) item (f) ;

- (v) where the amount equivalent to CENVAT credit attributable to exempted services can not be determined provisionally since no taxable service referred to in sub-clause (d) of clause (105) of section 65 of the Finance Act has been provided, the provider of output service is not required to determine, provisionally, and pay CENVAT credit attributable to exempted services for each month but he shall determine the CENVAT credit attributable to exempted services for the whole year as prescribed in part (iii) item (c) and pay the amount so calculated on or before 30th June of the succeeding financial year.
- (vi) where the amount determined under part (v) is not paid within the said due date i.e. the 30th June, the provider of output service shall, in addition to the said amount, be liable to pay interest at the rate of twenty four per cent. per annum from the due date till the date of payment.

Explanation III. – For the removal of doubts, it is hereby clarified that the credit shall not be allowed on inputs and input services used exclusively for the manufacture of exempted goods or exempted services.

- (4) No CENVAT credit shall be allowed on capital goods which are used exclusively in the manufacture of exempted goods or in providing exempted services, other than the final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year.
- (5) Notwithstanding anything contained in sub-rules (1), (2) and (3), credit of the whole of service tax paid on taxable service as specified in sub-clause (g), (p), (q), (r), (v), (w), (za), (zm), (zp), (zy), (zsd), (zsg), (zsh), (zsi), (zsk), (zsq) and (zsr) of clause (105) of section 65 of the Finance Act shall be allowed unless such service is used exclusively in or in relation to the manufacture of exempted goods or providing exempted services.

Sub-Clause of Section 65 (105)	Service Category
g	Consulting engineer's services
p	Architect's services
q	Interior Decorator's services
r	Management Consultant's services
v	Real Estate Agent's services
w	Security Agency services
za	Scientific or Technical Consultancy services
zm, zsk	Banking and other financial services
zy	Insurance Auxiliary services

zzd	Erection, Commissioning or Installation services
zzg	Management, Maintenance or repair services
zzh	Technical testing and Analysis service
zzi	Technical Inspection and Certification service
zzq	Commercial or Industrial Construction services and
z zr	Intellectual Property services.

- 6) The provisions of sub-rules (1), (2), (3) and (4) shall not be applicable in case the excisable goods removed without payment of duty are either-
- (i) cleared to a unit in a special economic zone; or
 - (ii) cleared to a hundred per cent export-oriented undertaking; or
 - (iii) cleared to a unit in an Electronic Hardware Technology Park or Software Technology Park; or
 - (iv) supplied to the United Nations or an international organization for their official use or supplied to projects funded by them, on which exemption of duty is available under notification of the Government of India in the Ministry of Finance (Department of Revenue) No.108/95-Central Excise, dated the 28th August, 1995, number G.S.R. 602 (E), dated the 28th August, 1995; or
 - (v) cleared for export under bond in terms of the provisions of the Central Excise Rules, 2002; or
 - (vi) gold or silver falling within Chapter 71 of the said First Schedule, arising in the course of manufacture of copper or zinc by smelting; or
 - (vii) all goods which are exempt from the duties of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty leviable under section 3 of the said Customs Tariff Act when imported into India and supplied against International Competitive Bidding in terms of notification No. 6/2002-Central Excise dated the 1st March, 2002 or Notification No. 6/2006- Central Excise, dated the 1st March, 2006, as the case may be.

7. MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR

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

- (a) the credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon; or
- (b) credit of service tax attributable to service use in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed.

8. STORAGE OF INPUT OUTSIDE THE FACTORY OF THE MANUFACTURER

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

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

9. DOCUMENTS AND ACCOUNTS

- (1) The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely: –
 - (a) an invoice issued by –
 - (i) a manufacturer for clearance of –
 - (I) inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;
 - (II) inputs or capital goods as such;
 - (ii) an importer;
 - (iii) an importer from his depot or from the premises of the consignment agent of the said importer if the said depot or the premises, as the case may be, is registered in terms of the provisions of Central Excise Rules, 2002;
 - (iv) a first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; or
 - (b) a supplementary invoice, issued by a manufacturer or importer of inputs or capital goods in terms of the provisions of Central Excise Rules, 2002 from his factory or depot or from the premises of the consignment agent of the said manufacturer or importer or from any other premises from where the goods are sold by, or on behalf of, the said manufacturer or importer, in case additional amount of excise duties or additional duty leviable under section 3 of the Customs Tariff Act, has been paid, except where the additional amount of duty became recoverable from the manufacturer or importer of inputs or capital goods on account of any non-levy or short-levy by reason of fraud, collusion or any wilful misstatement or suppression of facts or contravention of any provisions of the Excise Act, or of the Customs Act, 1962 (52 of 1962) or the rules made there under with intent to evade payment of duty. Explanation. – For removal of doubts, it is clarified that supplementary invoice shall also include challan or any other similar document evidencing payment of additional amount of additional duty leviable under section 3 of the Customs Tariff Act; or

- (c) a bill of entry; or
 - (d) a certificate issued by an appraiser of customs in respect of goods imported through a Foreign Post Office; or
 - (e) a challan evidencing payment of service tax by the person liable to pay service tax under sub- clauses (iii), (iv),(v) and (vii) of clause (d) of sub-rule (1) of rule (2) of the Service Tax Rules, 1994; or
 - (f) an invoice, a bill or challan issued by a provider of input service on or after the 10th day of, September, 2004; or
 - (g) an invoice, bill or challan issued by an input service distributor under rule 4A of the Service Tax Rules,1994.
- (2) No CENVAT credit under sub-rule(1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document:
- Provided** that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, assessable value, Central Excise or Service Tax registration number of the person issuing the invoice, as the case may be, name and address of the factory or warehouse or premises of first or second stage dealers or provider of taxable service, and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit;
- (3) Omitted
 - (4) The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such first stage dealer or second stage dealer, as the case may be, has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.
 - (5) The manufacturer of final products or the provider of output service shall maintain proper records for the receipt, disposal, consumption and inventory of the input and capital goods in which the relevant information regarding the value, duty paid, CENVAT credit taken and utilized, the person from whom the input or capital goods have been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.
 - (6) The manufacturer of final products or the provider of output service shall maintain proper records for the receipt and consumption of the input services in which the relevant information regarding the value, tax paid, CENVAT credit taken and utilized, the person from whom the input service has been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

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

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

- (8) A first stage dealer or a second stage dealer, as the case may be, shall submit within fifteen days from the close of each quarter of a year to the Superintendent of Central Excise, a return in the form specified, by notification, by the Board.
- (9) The provider of output service availing CENVAT credit, shall submit a half yearly return in form specified, by notification, by the Board to the Superintendent of Central Excise, by the end of the month following the particular quarter or half year.
- (10) The input service distributor, shall furnish a half yearly return in such form as may be specified, by notification, by the board, giving the details of credit received and distributed during the said half year to the Jurisdictional Superintendent of Central Excise, not later than last day of the month following the half year period.
- (11) The provider of output service, availing CENVAT credit referred to in sub-rule (9) or the input service distributor referred to in sub-rule (10), as the case may be, may submit a revised return to correct a mistake or omission within a period of sixty days from the date of submission of the return under sub-rule (9) or sub-rule (10), as the case may be.

9A. INFORMATION RELATING TO PRINCIPAL INPUTS

- (1) A manufacturer of final products shall furnish to the Superintendent of Central Excise, annually by 30th April of each Financial Year, a declaration in the Form specified, by a notification, by the Board, in respect of each of the excisable goods manufactured or to be manufactured by him, the principal inputs and the quantity of such principal inputs required for use in the manufacture of unit quantity of such final products:
Provided that for the year 2004-05, such information shall be furnished latest by 31st December, 2004.
- (2) If a manufacturer of final products intends to make any alteration in the information so furnished under sub-rule (1), he shall furnish information to the Superintendent of Central Excise together with the reasons for such alteration before the proposed change or within 15 days of such change in the Form specified by the Board under sub-rule (1).
- (3) A manufacturer of final products shall submit, within ten days from the close of each month, to the Superintendent of Central Excise, a monthly return in the Form specified, by a notification, by the Board, in respect of information regarding the receipt and consumption of each principal inputs with reference to the quantity of final products manufactured by him.
- (4) The Central Government may, by notification and subject to such conditions or limitations, as may be specified in such notification, specify manufacturers or class of manufacturers who may not be required to furnish declaration mentioned in sub-rule (1) or monthly return mentioned in sub-rule (3).

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

10. TRANSFER OF CENVAT CREDIT

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

11. TRANSITIONAL PROVISION

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

- (i) he opts for exemption from whole of the duty of excise leviable on the said final product manufactured or produced by him under a notification issued under section 5A of the Act; or
 - (ii) the said final product has been exempted absolutely under section 5A of the Act, and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any other final product whether cleared for home consumption or for export, or for payment of service tax on any output service, whether provided in India or exported.
- (4) A provider of output service shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for providing the said service and is lying in stock or is contained in the taxable service pending to be provided, when he opts for exemption from payment of whole of the service tax leviable on such taxable service under a notification issued under section 93 of the Finance Act, 1994(32 of 1994) and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export or for payment of service tax on any other output service, whether provided in India or exported.

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

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

12A. PROCEDURE AND FACILITIES FOR LARGE TAXPAYER.-

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

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

Explanation 1:

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

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

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

Explanation 2:

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

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

- (i) No. 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated 8th July, 1999];
- (ii) No. 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated 8th July, 1999];

- (iii) No. 39/2001-Central Excise, dated the 31st July, 2001 [G.S.R. 565 (E), dated the 31st July, 2001];
- (iv) No. 56/2002-Central Excise, dated the 14th November, 2002 [G.S.R. 764(E), dated the 14th November, 2002];
- (v) No. 57/2002-Central Excise, dated 14th November, 2002 [G.S.R.. 765(E), dated the 14th November, 2002];
- (vi) No. 56/2003-Central Excise, dated the 25th June, 2003 [G.S.R. 513 (E), dated the 25th June, 2003]; and
- (vii) No. 71/2003-Central Excise, dated the 9th September, 2003 [G.S.R. 717 (E), dated the 9th September, 2003]:

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

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

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

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

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

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

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

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

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

Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors

as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.

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

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

14. RECOVERY OF CENVAT CREDIT WRONGLY TAKEN OR ERRONEOUSLY REFUNDED

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

15. CONFISCATION AND PENALTY

- (1) If any person, takes CENVAT credit in respect of input or capital goods, wrongly or in contravention of any of the provisions of these rules in respect of any input or capital goods, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention has been committed, or two thousand rupees, whichever is greater.
- (2) In a case, where the CENVAT credit in respect of input or capital goods has been taken or utilized wrongly on account of fraud, wilful mis-statement, collusion or suppression of facts, or contravention of any of the provisions of the Excise Act or the rules made thereunder with

intention to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11AC of the Excise Act.

- (3) If any person, takes CENVAT credit in respect of input services, wrongly or in contravention of any of the provisions of these rules in respect of any input service, then, such person, shall be liable to a penalty which may extend to an amount not exceeding two thousand rupees.
- (4) In a case, where the CENVAT credit in respect of input services has been taken or utilized wrongly by reason of fraud, collusion, wilful mis-statement, suppression of facts, or contravention of any of the provisions of the Finance Act or of the rules made thereunder with intention to evade payment of service tax, then, the provider of output service shall also be liable to pay penalty in terms of the provisions of section 78 of the Finance Act.
- (5) Any order under sub-rule (1), sub-rule (2), sub-rule (3) or sub-rule (4) shall be issued by the Central Excise Officer following the principles of natural justice.

16. SUPPLEMENTARY PROVISION.

- (1) Any notification, circular, instruction, standing order, trade notice or other order issued under the CENVAT Credit Rules, 2002 or the Service Tax Credit Rules, 2002, by the Central Government, the Central Board of Excise and Customs, the Chief Commissioner of Central Excise or the Commissioner of Central Excise, and in force at the commencement of these rules, shall, to the extent it is relevant and consistent with these rules, be deemed to be valid and issued under the corresponding provisions of these rules.
 - (2) References in any rule, notification, circular, instruction, standing order, trade notice or other order to the CENVAT Credit Rules, 2002 and any provisions thereof or, as the case may be, the Service Tax Credit rules, 2002 and any provision thereof shall, on the commencement of these rules, be construed as references to the CENVAT Credit Rules, 2004 and any corresponding provision thereof.
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Export of Services Rules, 2005

Rule No.	Particulars	Page Reference
1.	Short title and commencement	129
2.	Definitions	129
3.	Export of taxable service	129
4.	Export without payment of service tax	133
5.	Rebate of service tax	133

NOTIFICATION NO. 9/2005-ST, DATED 3/3/2005

In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely: –

1. SHORT TITLE AND COMMENCEMENT

- (1) These rules may be called the Export of Services Rules, 2005.
- (2) They shall come into force on the 15th day of March, 2005.

2. DEFINITIONS –

In these rules, unless the context otherwise requires,

- (a) “**Act**” means the Finance Act, 1994 (32 of 1994);
- (b) “**input**” shall have the meaning assigned to it in clause (k) of rule 2 of the CENVAT Credit Rules, 2004;
- (c) “**input service**” shall have the meaning assigned to it in clause (l) of rule 2 of the CENVAT Credit Rules, 2004.

3. EXPORT OF TAXABLE SERVICE

- (1) Export of taxable services shall, in relation to taxable services, –
 - (i) specified in sub-clauses (d), (p), (q), (v), (zzq), (zzza), (zzzb), (zzzc), (zzzh), (zzzr), (zzzy), (zzzz) and (zzzza) of clause (105) of section 65 of the Act, be provision of such services as are provided in relation to an immovable property situated outside India;

Sub-clause	Taxable Service
d	General insurance service
p	Architect's services
q	Interior decorator's services
v	Real estate agent's services
zzq	Commercial or industrial construction services
zzza	Site formation and clearance, excavation and earthmoving and demolition services
zzzb	Dredging service
zzzc	Survey and map making service
zzzh	Construction of complex service
zzzr	Auctioneer services
zzzy	Mining of mineral, oil or gas services
zzzz	Renting of immovable property service
zzzza	Works contract services

- (ii) specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (s), (t), (u), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zcc), (zcd), (zcf), (zcg), (zch), (zzi), (zjl), (zjm), (zjn), (zjo), (zjp), (zjs), (zjt), (zjv), (zjw), (zjx), (zjy), (zjzd), (zjze), (zjzf), and (zjzp), of clause (105) of section 65 of the Act, be provision of such services as are performed outside India:

Sub clause	Taxable Service	Sub clause	Taxable Service
a	Stock-broker's service	zu	Event management service
f	Courier service	zv	Fashion designing service
h	Custom house agent's service	zw	Health and fitness service
i	Steamer agent's services	zza	Storage and warehousing service
j	Clearing and forwarding agent's service	zcc	Commercial training or coaching service
l	Air travel agent's service	zcd	Erection commissioning or installation service
m	Mandap keeper's service	zcf	Internet café service
n	Tour operator's service	zcg	Management, maintenance or repair service
o	Rent-a-cab scheme, operator's service	zch	Technical testing and analysis service
s	Chartered accountant's service	zzi	Technical inspection and certification service
t	Cost accountant's service	zjl	Other port service
u	Company secretary's service	zjm	Airport service
w	Security agency's service	zjn	Transport of goods by air service
x	Credit rating agency's service	zjo	Business exhibition service
y	Market research agency's service	zjp	Transport of goods by road service (GTA)
z	Underwriter's service	zjs	Opinion poll service
zb	Photography services	zjt	Outdoor caterer's service
zc	Convention service	zjv	Survey and exploration of mineral, oil and gas service
zi	Video production agency's service	zjw	Pandal or shamiana contractor's service
zj	Sound recording service	zjx	Travel agent's service
zn	Port services	zjy	Forward contract service
zo	Authorised service station's service	zjzd	Cleaning activity service
zq	Beauty treatment service	zjze	Club or association service
zr	Cargo handling service	zjzf	Packaging activity service
zt	Dry cleaning service	zjzp	Transport of goods in container via railways

Provided that where such taxable service is partly performed outside India, it shall be treated as performed outside India;

(iii) specified in clause (105) of section 65 of the Act, but excluding,—

(a) sub-clauses (zzzo) and (zzzv);

Sub-clause	Taxable Service
zzzo	Air craft operator services
zzzv	Cruise ship services

(b) those specified in clause (i) of this rule except when the provision of taxable services specified in sub-clauses (d), (zzzc) and (zzzr) does not relate to immovable property; and

Sub-clause	Taxable Service
d	General Insurance Service.
zzzc	Survey and map-making service
zzzr	Auctioneer's Services

(c) those specified in clause (ii) of this rule,

when provided in relation to business or commerce, be provision of such services to a recipient located outside India and when provided otherwise, be provision of such services to a recipient located outside India at the time of provision of such service:

Provided that where such recipient has commercial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of service only when order for provision of such service is made from any of his commercial establishment or office located outside India.

Sub-clause	Taxable Service
d	General insurance service
e	Advertising agency's service
g	Consulting engineer's service
k	Manpower recruitment or supply agency's service
r	Management consultant's service
za	Scientific and technical consultancy service
zh	Online information and database access or retrieval services
zk	Broadcasting services
zl, zy	Insurance auxiliary services

zm, zzk	Banking and other financial services
zs	Cable service
zx	Life insurance service
zz	Rail travel agent's service
zzb	Business auxiliary services
zze	Franchise service
zzr	Intellectual property services
zzu	Programme producer's service
zzz	Transport of goods other than water through pipeline or other conduit
zzzc	Survey and map-making services
zzzg	Mailing list compilation and mailing service
zzzi	Registrar to an issue's service
zzzj	Share transfer agent's service
zzzk	Automated teller machines operations, maintenance or management services
zzzl	Recovery agent's service
zzzm	Sale of space or time for advertisement service
zzzn	Sponsorship services
zzzq	Business support services
zzzr	Auctioneer's services
zzzs	Public relations management service
zzzt	Ship management services
zzzu	Internet telephony services
zzzw	Credit card, debit card, charge card or other payment card related services
zzzx	Telecommunication service
zzzb	Development and supply of content service
zzzc	Asset management services
zzzd	Design services

- (2) The provision of any taxable service specified in sub-rule (1) shall be treated as export of service when the following conditions are satisfied, namely: -
- (a) such service is provided from India and used outside India; and
 - (b) payment for such service is received by the service provider in convertible foreign exchange.

Explanation. - For the purposes of this rule "India" includes the designated areas in the Continental Shelf and Exclusive Economic Zone of India as declared by the notifications of the Government of India in the Ministry of External Affairs numbers S.O. 429(E), dated the 18th July, 1986 and S.O. 643(E), dated the 19th September 1996.

4. EXPORT WITHOUT PAYMENT OF SERVICE TAX

Any service, which is taxable under clause (105) of section 65 of the Act, may be exported without payment of service tax.

5. REBATE OF SERVICE TAX

Where any taxable service is exported, the Central Government may, by notification, grant rebate of service tax paid on such taxable service or service tax or duty paid on input services or inputs, as the case may be, used in providing such taxable service and the rebate shall be subject to such conditions or limitations, if any, and fulfilment of such procedure, as may be specified in the notification.

Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 – Import Rules

Rule No.	Particulars	Page Reference
1.	Short title and commencement	135
2.	Definitions	135
3.	Taxable services provided from outside India and received in India.	135
4.	Registration and payment of service tax	139
5.	Taxable services not to be treated as output service	139

NOTIFICATION NO. 11/2006-ST, DATED 19/04/2006.

In exercise of power conferred in Section 93 and 94, read with Section 66A of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely: -

1. SHORT TITLE AND COMMENCEMENT.

- (1) These rules may be called the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
- (2) They shall come into force from the April 19, 2006.

2. DEFINITIONS.

In these rules, unless the context otherwise requires,-

- (a) "**Act**" means the Finance Act, 1994 (32 of 1994);
- (b) "**input**" shall have the meaning assigned to it in clause (k) of rule 2 of the CENVAT Credit Rules, 2004;
- (c) "**input service**" shall have the meaning assigned to it in clause (l) of rule 2 of the CENVAT Credit Rules, 2004;
- (d) "**output service**" shall have the meaning assigned to it in clause (p) of rule 2 of the CENVAT Credit Rules, 2004;
- (e) "**India**" includes the designated areas in the Continental Shelf and Exclusive Economic Zone of India as declared by the notifications of the Government of India in the Ministry of External Affairs numbers S.O.429 (E), dated the 18th July, 1986 and S.O.643(E), dated the 19th September 1996;
- (f) words and expressions used in these rules and not defined, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. TAXABLE SERVICES PROVIDED FROM OUTSIDE INDIA AND RECEIVED IN INDIA.

Subject to section 66A of the Act, the taxable services provided from outside India and received in India shall, in relation to taxable services -

- (i) specified in sub-clauses (d), (p), (q), (v), (zzq), (zzza), (zzzb), (zzzc), (zzzh), (zzzr) (zzzy), (zzzz) and (zzzza) of clause (105) of section 65 of the Act, be such services as are provided or to be provided in relation to an immovable property situated in India;

Sub-clause	Taxable Service
d	General insurance service
p	Architect's services
q	Interior decorator's services
v	Real estate agent's services
zzq	Commercial or industrial construction services

zza	Site formation and clearance, excavation and earthmoving and demolition services
zzb	Dredging service
zzc	Survey and map-making service
zzy	Mining of mineral, oil and gas services
zzz	Renting of immovable property service
zzzh	Construction of complex service
zzzr	Auctioneer's services
zzza	Works contract service

- (ii) specified in sub-clauses (a), (f), (h),(i), (j), (l), (m), (n), (o), (s), (t), (u), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zzc), (zzd), (zzf), (zzg), (zzh), (zzi), (zjl), (zzm), (znn), (zoo), (zpp), (zss), (ztt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze), (zzzf), (zzzp) of clause (105) of section 65 of the Act, be such services as are performed in India:

Provided that where such taxable service is partly performed in India, it shall be treated as performed in India and the value of such taxable service shall be determined under section 67 of the Act and the rules made thereunder;

Sub clause	Taxable Service	Sub clause	Taxable Service
a	Stock-broker's service	zu	Event management service
f	Courier service	zv	Fashion designing service
h	Custom house agent's service	zw	Health and fitness service
i	Steamer agent's services	zza	Storage and warehousing
j	Clearing and forwarding agent's service	zzc	Commercial training or coaching service
l	Air travel agent's service	zzd	Erection commissioning or installation service
m	Mandap keeper's service	zzf	Internet café service
n	Tour operator's service	zzg	Management, maintenance or repair service
o	Rent-a-cab scheme, operator's service	zzh	Technical testing and analysis service
s	Chartered accountant's service	zzi	Technical inspection and certification service

t	Cost accountant's service	zzl	Other port service
u	Company secretary's service	zzm	Airport service
w	Security agency's service	zzn	Transport of goods by air service
x	Credit rating agency's service	zzo	Business exhibition service
y	Market research agency's service	zzp	Transport of goods by road service (GTA)
z	Underwriter's service	zzs	Opinion poll service
zb	Photography services	zzt	Outdoor caterer's service
zc	Convention service	zzv	Survey and exploration of mineral, oil and gas service
zi	Video production agency's service	zzw	Pandal or shamiana contractor's service
zj	Sound recording service	zzx	Travel agent's service
zn	Port services	zzy	Forward contract service
zo	Authorised service station's service	zzzd	Cleaning activity service
zq	Beauty treatment service	zzze	Club or association service
zr	Cargo handling service	zzzf	Packaging activity service
zt	Dry cleaning service	zzzp	Transport of goods in container via railways

(iii) specified in clause (105) of section 65 of the Act, but excluding, -

(a) sub-clauses (zzzo) and (zzzv);

Sub-clause	Taxable Service
zzzo	Aircraft operator services
zzzv	Cruise ship services

(b) those specified in clause (i) of this rule except when the provision of taxable services specified in clauses (d), (zzzc) and (zzzr) does not relate to immovable property; and

Sub-clause	Taxable Service
d	General insurance service.
zzzc	Survey and map-making service
zzzr	Auctioneer's services

(c) those specified in clause (ii) of this rule,

be such services as are received by a recipient located in India for use in relation to business or commerce.

Sub-clause	Taxable Service
d	General insurance service
e	Advertising agency's service
g	Consulting engineer's service
k	Manpower recruitment or supply agency's service
r	Management consultant's service
za	Scientific and technical consultancy service
zh	Online information and database access or retrieval services
zk	Broadcasting services
zl, zy	Insurance auxiliary services
zm, zzk	Banking and other financial services
zs	Cable service
zx	Life insurance service
zz	Rail travel agent's service
zzb	Business auxiliary services
zze	Franchise service
zr	Intellectual property services
zru	Programme producer's service
zz	Transport of goods other than water through pipeline or other conduit.
zzc	Survey and map-making services
zzg	Mailing list compilation and mailing service
zzi	Registrar to an Issue's service
zzj	Share transfer agent's service
zzk	Automated teller machines operations, maintenance or management services
zzl	Recovery agent's service

zzzm	Sale of space or time for advertisement service
zzzn	Sponsorship services
zzzq	Business support Services
zzzr	Auctioneer's services
zzzs	Public relations management service
zzzt	Ship management services
zzzu	Internet telephony services
zzzw	Credit card, debit card, charge card or other payment card related services
zzzx	Telecommunication service
zzzb	Development and supply of content service
zzzc	Asset management services.
zzzd	Design services

4. REGISTRATION AND PAYMENT OF SERVICE TAX

The recipient of taxable services provided from outside India and received in India shall make an application for registration and for this purpose, the provisions of section 69 of the Act and the rules made thereunder shall apply.

5. TAXABLE SERVICES NOT TO BE TREATED AS OUTPUT SERVICES

The taxable services provided from outside India and received in India shall not be treated as output services for the purpose of availing credit of duty of excise paid on any input or service tax paid on any input services under CENVAT Credit Rules, 2004.

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

Rule No.	Particulars	Page Reference
1.	Short title and commencement	141
2.	Definitions	141
2A.	Determination of value of services involved in the execution of a works contract	141
3.	Manner of determination of value	142
4.	Rejection of Value	142
5.	Inclusion in or exclusion from value of certain expenditure or costs.	142
6.	Cases in which the commission, costs, etc. will be included or excluded	144
7.	Actual consideration to be the value of taxable service provided from outside India.	145

NOTIFICATION NO. 12/2006 S.T. DATED 19/04/2006

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

1. SHORT TITLE AND COMMENCEMENT

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

2. DEFINITIONS

In these rules, unless the context otherwise requires, –

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

2A. DETERMINATION OF VALUE OF SERVICES INVOLVED IN THE EXECUTION OF A WORKS CONTRACT

- (1) Subject to the provisions of section 67, the value of taxable service in relation to services involved in the execution of a works contract (hereinafter referred to as works contract service), referred to in sub-clause (zzzza) of clause (105) of section 65 of the Act, shall be determined by the service provider in the following manner:-
 - (i) Value of works contract service determined shall be equivalent to the gross amount charged for the works contract less the value of transfer of property in goods involved in the execution of the said works contract.

Explanation.- For the purposes of this rule,-

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

- (ii) Where Value Added Tax or sales tax, as the case may be, has been paid on the actual value of transfer of property in goods involved in the execution of the works contract, then such value adopted for the purposes of payment of Value Added Tax or sales tax, as the case may be, shall be taken as the value of transfer of property in goods involved in the execution of the said works contract for determining the value of works contract service under clause (i).

3. MANNER OF DETERMINATION OF VALUE

Subject to the provisions of section 67, the value of taxable service, where the consideration received is not wholly or partly consisting of money, shall be determined by the service provider in the following manner: –

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

4. REJECTION OF VALUE

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

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

- (1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.
- (2) Subject to the provisions of sub-rule (1), the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely: –
 - (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;
 - (ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;
 - (iii) the recipient of service is liable to make payment to the third party;

- (iv) the recipient of service authorises the service provider to make payment on his behalf;
- (v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;
- (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
- (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and
- (viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

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

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

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

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

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

Illustration 3. – A contracts with B, an architect for building a house. During the course of providing the taxable service, B incurs expenses such as telephone charges, air travel tickets, hotel accommodation, etc., to enable him to effectively perform the provision of services to A. In such a case, in whatever form B recovers such expenditure from A,

whether as a separately itemised expense or as part of an inclusive overall fee, service tax is payable on the total amount charged by B. Value of the taxable service for charging service tax is what A pays to B.

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

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

- (1) Subject to the provisions of section 67, the value of the taxable services shall include, –
 - (i) the commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;
 - (ii) the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;
 - (iii) the amount of premium charged by the insurer from the policy holder;
 - (iv) the commission received by the air travel agent from the airline;
 - (v) the commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;
 - (vi) the reimbursement received by the authorised service station, from manufacturer for carrying out any service of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;
 - (vii) the commission or any amount received by the rail travel agent from the Railways or the customer;
 - (viii) the remuneration or commission, by whatever name called, paid to such agent by the client engaging such agent for the services provided by a clearing and forwarding agent to a client rendering services of clearing and forwarding operations in any manner; and
 - (ix) the commission, fee or any other sum, by whatever name called, paid to such agent by the insurer appointing such agent in relation to insurance auxiliary services provided by an insurance agent.
- (2) Subject to the provisions contained in sub-rule (1), the value of any taxable service, as the case may be, does not include –
 - i. initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for leased circuit;

- ii. the airfare collected by air travel agent in respect of service provided by him;
- iii. the rail fare collected by rail travel agent in respect of service provided by him; and
- iv. interest on loans.

7. ACTUAL CONSIDERATION TO BE THE VALUE OF TAXABLE SERVICE PROVIDED FROM OUTSIDE INDIA.

- (1) The value of taxable service received under the provisions of section 66A, shall be such amount as is equal to the actual consideration charged for the services provided or to be provided.
 - (2) Notwithstanding anything contained in sub-rule (1), the value of taxable services specified in clause (ii) of rule 3 of Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, as 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.
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Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 – Works Contract Rules

Rule No.	Particulars	Page Reference
1.	Short title and commencement	147
2.	Definitions	147
3.	Option to discharge service tax liability on works contract service	147

NOTIFICATION NO. 32/2007-Service Tax, Dated: May 22, 2007

In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely:-

1. SHORT TITLE AND COMMENCEMENT

- (1) These rules may be called the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007.
- (2) They shall come into force with effect from the 1st day of June, 2007.

2. DEFINITIONS

In these rules, unless the context otherwise requires,-

- (a) **“Act”** means the Finance Act, 1994 (32 of 1994);
- (b) **“section”** means the section of the Act;
- (c) **“works contract service”** means services provided in relation to the execution of a works contract referred to in sub-clause (zzzza) of clause (105) of section 65 of the Act;
- (d) words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. OPTION TO DISCHARGE SERVICE TAX LIABILITY ON WORKS CONTRACT SERVICE

- (1) Notwithstanding anything contained in section 67 of the Act and rule 2A of the Service Tax (Determination of Value) Rules, 2006, the person liable to pay service tax in relation to works contract service shall have the option to discharge his service tax liability on the works contract service provided or to be provided, instead of paying service tax at the rate specified in section 66 of the Act, by paying an amount equivalent to two per cent of the gross amount charged for the works contract.

Explanation.- For the purposes of this rule, gross amount charged for the works contract shall not include Value Added Tax (VAT) or sales tax, as the case may be, paid on transfer of property in goods involved in the execution of the said works contract.

- (2) The provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004.
- (3) The provider of taxable service who opts to pay service tax under these rules shall exercise such option in respect of a works contract prior to payment of service tax in respect of the said works contract and the option so exercised shall be applicable for the entire works contract and shall not be withdrawn until the completion of the said works contract.

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