



PREFACE

Taxes, after all, are dues that we pay for the privileges of membership in an organized society.

-Franklin D. Roosevelt

It is my pleasure to present the **Sixth Edition** of the Booklet "**Frequently Asked Questions on Service Tax**" before the public and the Service Tax paying community, at the behest of the Central Board of Excise and Customs. That the booklet has been of great utility to the public and the Tax payers is evident from the fact that the need for the current edition has been felt. It has been the endeavor of the Team to incorporate the latest changes ushered in by the Budget, 2011 and the number of clarifications issued by the Board upto 25.08.2011 on various issues raised by the Trade and the field formations.

2. It has always been the policy of Directorate General Of Service Tax to stay connected with the trade and other stake holders and encourage voluntary tax compliance by the tax payers. I am confident that this attempt to place as much information as possible about service tax in the public domain as a ready referencer would improve tax compliance which would, no doubt, result in augmentation of revenue and reduction in litigation.

3. My officers in the Directorate General have made conscious efforts to keep the language simple and crisp. The set of questions that figure in the FAQ booklet has been gathered from the trade and general public in whose mind they naturally arise for the first time as and when they come in contact with the Service Tax Authorities. It would be clear that the answers attempted in this booklet are merely educative in nature and not imperative. The users of this booklet are advised to refer to the relevant Act, Rules, notifications and clarifications issued by the Board which are available in the website of CBEC which shall, in case of any contradiction, prevail over the answers provided in this booklet.

4. I appreciate the remarkable efforts made by Shri Pranesh Pathak, Additional Director, Shri Raju Sakthivel, Joint Director, Shri Rakesh Ladwal, Deputy Director, Shri. M.N.Deoghare, Superintendent, Shri B. Venugopal, Superintendent and Smt. Vrinda Sinha, Inspector in gathering the relevant materials and bringing this booklet in user friendly format. I also express my deep appreciation and thanks to Shri Rakesh Misra, Additional Director General, for his inspiring and able guidance to the Team of officers in giving final shape to this booklet. I am sure that this booklet will be a dependable guide for the Tax payers.

5. These FAQs and answers will also be available on the official website of the Central Board of Excise and Customs: www.cbec.gov.in. However, if you have any doubts, please contact your nearest Help Centre or Central Excise Commissionerate/ Service Tax Commissionerate or visit www.exciseandservicetax.nic.in to find the addresses and telephone numbers for further clarification.

I will be happy to know any suggestions for enriching the utility and facility of this booklet.

Spandw

(SANGHAMITRA PANDA)

Director General

Directorate General of Service Tax

Mumbai
Dated. 16th September, 2011

DISCLAIMER

Information is being made available in this booklet purely as a measure of public facilitation. The provisions of *the Finance Act 1994, rules made there under, notifications and circulars or instructions of the Board shall prevail over the answers* provided in this booklet in case of any contradiction. While every effort has been made to ensure that the information contained in this booklet is up-to-date, the Central Board of Excise and Customs and Directorate General of Service Tax, Mumbai does not hold themselves liable for any consequences, legal or otherwise, arising out of the use of any such information.

For complete Information please refer to the Finance Act, 1994, rules made there under and notifications and circulars. For further information you may contact jurisdictional Service Tax office.

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SERVICE TAX

FREQUENTLY ASKED QUESTIONS

1. General

1.1. What is Service Tax and who pays this tax?

Service tax is, as the name suggests, a tax on Services. It is a tax levied on the transaction of certain services specified by the Central Government under the Finance Act, 1994.

It is an indirect tax (akin to Excise Duty or Sales Tax) which means that normally, the service provider pays the tax and recovers the amount from the recipient of taxable service.

1.2. Who is liable to pay service tax?

Normally, the 'person' who provides the taxable service on receipt of service charges is responsible for paying the Service Tax to the Government (Sec.68 (1) of the Act). However, in the following situations, the receiver of the Services is responsible for the payment of Service tax :

- (i) Where taxable services are provided by foreign service providers with no establishment in India , the recipient of such services in India is liable to pay Service Tax.
- (ii) For the services in relation to Insurance Auxiliary Service by an Insurance Agent, the Service Tax is to be paid by the Insurance Company
- (iii) For the taxable services provided by a Goods Transport Agency for transport of goods by road, the person who pays or is liable to pay freight is liable to pay Service Tax , if the consignor or consignee falls under any of the seven categories viz. (a) a factory (b) a company (c) a corporation (d) a society (e) a co-operative society (f) a registered dealer of excisable goods (g) a body corporate or a partnership firm.
- (iv) For the taxable services provided by Mutual Fund Distributors in relation to distribution of Mutual Fund the Service Tax is to be paid by the Mutual Fund or the Asset Management Company receiving such service.

[Refer: Sec. 68(2) of the Act read with Rule 2(1)(d) of the Service Tax Rules, 1994.]

1.3. Under what authority service tax is levied?

Vide Entry 97 of Schedule VII of the Constitution of India, the Central Government levies service tax through Chapter V of the Finance Act, 1994. The taxable services are defined in Section 65 of the Finance Act, 1994. Section 66 is the charging section of the said Act.

1.4. What are the taxable service

Taxable Services have been specified under Section 65(105) of the Finance Act, 1994. All the taxable services as on **01.05.2011** are listed in **Appendix-1**. The list also shows the **relevant** Accounting Heads required to be mentioned on the tax payment documents (GAR-7), while depositing the Service Tax and other related dues in the banks.

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

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

- (i) Whether the service rendered by you is falling under the scope of any of the taxable services listed in the **Appendix-1**; and
- (ii) Whether there is a general or specific exemption available for the category of service provided under any notification issued under section 93 of the Finance Act, 1994.
- (iii) Whether you are entitled to the value based exemption available for small service providers under notification No.6/2005-ST dated 1.3.05 as amended from time to time. Details are explained in para 8.1 of this Booklet.
- (iv) Whether the service charges were received for the services provided or to be provided.

In case the service provided by a person falls within the scope of the taxable services and if such service is not fully exempted, the service tax is payable on the value of the taxable service received, subject to the eligible abatements, if any (as discussed at para 1.7 of this Booklet).

B. If you are availing the services of the service provider, please check:-

- a. Whether the service received by you is falling under the scope of any of the services *where the recipient of the service is liable to pay Service Tax* in terms of Section 68(2) of the Act read with Rule 2(d) of the Service Tax Rules, 1994 (Please also see Para 1.2 of this Booklet)
- b. In case the service received by recipients of such service is falling under the scope of any of the taxable services defined under section 65 of the Finance Act, 1994, the recipients of the service shall pay Service Tax after considering specific exemptions/abatements admissible, if any.
- c. Please note that the value based exemption for small scale service providers under Notification No.6/2005 ST dated 01.03.2005 as amended is **not admissible** to such recipients of taxable services. (For further details, please see para 7.1 of this Booklet).

1.6. What is the rate of Service Tax?

At present, the effective rate of Service Tax is 10.3% on the value of the taxable service. The above effective rate comprises of Service Tax @10% payable on the "gross value of taxable service", Education Cess @ 2% on the service tax amount, and Secondary and Higher Education Cess @ 1% on the service tax amount.

1.7. What is meant by "value of taxable service"?

- i. The "value of taxable service" means, the *gross amount* received by the service provider for the taxable service provided or to be provided by him. Taxable value has to be determined as per the provisions of the Section 67 of the Finance Act, 1994, read with **Service Tax (Determination of Value) Rules, 2006**.
- ii. For certain services, a specified percentage of abatement is allowed from the gross amount collected for rendering the services (see Appendix – 2) subject to the conditions, *inter alia*, that CENVAT Credit has not been availed by the service provider and the benefit under the Notification No.12/2003-ST dt. 20.6.2003 as amended has also not been availed.

- iii. **There is also a composition scheme for ‘works contract service’, where** 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 **4% of** the gross amount charged for the works contract. The gross amount charged for the works contract shall not include Value Added Tax (VAT) or sales tax, paid on transfer of property in goods involved in the execution of the said works contract.

1.8. Can the Department modify the value determined by the service provider?

- (i) The Central Excise Officer is empowered to verify the accuracy of any information furnished or document presented for valuation.
- (ii) If the value adopted by the Service Tax assessee is not acceptable in accordance with the statute, the officer shall issue a show cause notice (SCN) proposing to determine the value as per the law.
- (iii) The SCN would be decided after providing reasonable opportunity of being heard to the assessee.

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

1.9. What are the statutes governing the taxation relating to Service Tax?

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

- (i) The Finance Act, 1994 - Chapter V - Section 64 to 96 I. (Also referred to as ‘Act’ in this book). This chapter extends to the whole of India except the State of Jammu and Kashmir.
- (ii) The Finance Act, 2004 Chapter VI - for levy of Education Cess @ 2% on the Service Tax.
- (iii) The Finance Act, 2007 – for levy of Secondary and Higher Education Cess of 1% on Service tax.
- (iv) The Service Tax Rules, 1994. (Also referred to as ‘Rules’ or ‘STR,1994’ in this book).
- (v) The CENVAT Credit Rules, 2004.
- (vi) The Export of Service Rules, 2005.
- (vii) The Service Tax (Registration of Special categories of persons) Rules, 2005.
- (viii) The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 (with effect from 19th April, 2006) – Notification No. 11/2006-ST dated 19.4.2006 as amended vide Notfn.No.31/2007 – ST dated 22.05.2007.
- (ix) The Service Tax (Determination of Value) Rules, 2006 (with effect from 19th April, 2006) – Notification No. 12/2006-ST dated 19.4.2006 as amended vide Notfn.No.24/2006 – ST dated 27.06.2006 and Notfn.No.29/2007-ST, dated 22.05.2007.
- (x) Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007-Notification No. 32/2007-Service Tax dated 22nd May,

2007, as amended by Notification No. 07/2008-St dated 1st March, 2008.

- (xi) Service Tax (Removal of Difficulty) Order, 2010 effective from 22.6.2010.
- (xii) Point of Taxation Rules 2011.

1.10. Is there any exemption from payment of service tax to Diplomatic Missions for official use and individuals and their family members posted in a Diplomatic Mission?

Yes, any taxable service provided to Diplomatic Missions for official use of such Mission as well as for the personal use or for the use of the family members of diplomatic agents or career consular officers posted in a foreign diplomatic mission or consular post in India is exempt in terms of the notifications numbers 33/2007-ST dated 23rd May, 2007 and 34/2007-ST dated 23rd May, 2007 respectively.

1-A Budgetary changes 2011-12

What are the new services introduced in the budget 2011-12?

The following two new services have been proposed:

- (i) Services by air-conditioned restaurants having license to serve liquor; and
- (ii) Short-term accommodation in hotels/inns/clubs/guest houses etc.

What are the changes or scope in the existing services?

Scope of New services

a. Services provided by a restaurant

Restaurants provide a number of services normally in combination with the meal and/or beverage for a consolidated charge. These services relate to the use of restaurant space and furniture, air-conditioning, well-trained waiters, linen, cutlery and crockery, music, live or otherwise, or a dance floor. The customer also has the benefit of personalized service by indicating his preference for certain ingredients e.g. salt, chillies, onion, garlic or oil. The extent and quality of services available in a restaurant is directly reflected in the margin charged over the direct costs. It is thus not uncommon to notice even packaged products being sold at prices far in excess of the MRP.

- b. In certain restaurants the owners get into revenue-sharing arrangements with another person, who takes the responsibility of preparation of food, with his own materials and ingredients, while the owner takes responsibility for making the space available, its decoration, furniture, cutlery, crockery and music etc. The total bill, which is composite, is shared between the two parties in terms of the contract. Here the consideration for services provided by the restaurants is more clearly demarcated.
- c. Another arrangement is whereby the restaurant separates a certain portion of the bill as service charge. This amount is meant to be shared amongst the staff who attend the customers. Though this amount is exclusively for the services it does not represent the full of value of all services rendered by the restaurants.
- d. The new levy is directed at services provided by high-end restaurants that are airconditioned and have license to serve liquor. Such restaurants provide conditions and ambience in a manner that service provided may assume predominance over the food in many situations. It should not be confused

with mere sale of food at any eating house, where such services are materially absent or so minimal that it will be difficult to establish that any service in any meaningful way is being provided.

- e. It is not necessary that the facility of air-conditioning is available round the year. If the facility is available at any time during the financial year the conditions for the levy shall be met.
- f. The levy is intended to be confined to the value of services contained in the composite contract and shall not cover either the meal portion in the composite contract or mere sale of food by way of pick-up or home delivery, as also goods sold at MRP. Finance Minister has announced in his budget speech 70% abatement on this service, which is, inter-alia, meant to separate such portion of the bill as relates to the deemed sale of meals and beverages.

1-A.2 Short-term accommodation

A-2.1 Short term accommodation is provided by hotels, inns, guest houses, clubs and others and at camp-sites. This service is proposed to be taxed where the continuous period of stay is less than 3 months.

A-2.2 Actual levy will be restricted to accommodation with declared tariff of Rs 1,000 per day or higher by an exemption notification. Once this requirement is met, tax will be chargeable irrespective of the fact that actually the amount charged from a particular customer is less than Rs 1,000. The tax will also be charged on the gross amount paid or payable for the value of the service.

A-2.3 Finance Minister has announced 50% abatement from the value of service.

A-3 What is the relevance of declared tariff? Is the tax required to be paid on declared tariff or actual amount charged?

“Declared tariff” includes charges for all amenities provided in the unit of accommodation like furniture, air-conditioner, refrigerators etc., but does not include any discount offered on the published charges for such unit. The relevance of “declared tariff” is in determining the liability to pay service tax as far as short term accommodation is concerned. However, the actual tax will be liable to be paid on the amount charged i.e declared tariff minus any discount offered. Thus if the declared tariff is Rs. 1100/-, but actual room rent charged is Rs. 800/-, tax will be required to be paid @ 5% on Rs. 800/-.

A-4. Is it possible to levy separate tariff for the same accommodation in respect of corporate/privileged customers and other normal customers?

It is possible to levy separate tariff for the same accommodation in respect of a class of customers which can be recognized as a distinct class on an intelligible criterion. However, it is not applicable for a single or few corporate entities.

A-5 Is the declared tariff supposed to include cost of meals or beverages?

Where the declared tariff includes the cost of food or beverages, Service Tax will be charged on the total value of declared tariff. But where the bill is separately raised for food or beverages, and the amount is charged in the bill, such amount is not considered as part of declared tariff the revision in tariff should be made uniformly applicable to all customers and declared when such change takes place.

- A-6 **Is the luxury tax imposed by States required to be included for the purpose of determining either the declared tariff or the actual room rent?**

For the purpose of service tax luxury tax has to be excluded from the taxable value.

Services Provided by Restaurants:

- A-7 **If there are more than one restaurants belonging to the same entity in a complex, out of which only one or more satisfy both the criteria relating to air-conditioning and licence to serve liquor, will the other restaurant(s) be also liable to pay Service Tax?**

Service Tax is leviable on the service provided by a restaurant which satisfies two conditions:

- (i) it should have the facility of air conditioning in any part of the establishment and
- (ii) it should have license to serve alcoholic beverages. Within the same entity, if there are more than one restaurant, which are clearly demarcated and separately named, the ones which satisfy both the criteria is only liable to service tax.

- A-8 **Will the services provided by taxable restaurant in other parts of the hotel e.g. swimming pool, or an open area attached to a restaurant be also liable to Service Tax?**

The taxable services provided by a restaurant in other parts of the hotel e.g. swimming pool, or an open area attached to the restaurant are also liable to Service Tax as these areas become extensions of the restaurant.

- A-9 **Is the serving of food and/or beverages by way of room service liable to service tax?**

When the food is served in the room, service tax cannot be charged under the restaurant service as the service is not provided in the premises of the air-conditioned restaurant with a licence to serve liquor. Also, the same cannot be charged under the Short Term Accommodation head if the bill for the food will be raised separately and it does not form part of the declared tariff.

- A-10. **Is the value added tax imposed by States required to be included for the purpose of service tax?**

For the purpose of service tax, State Value Added Tax (VAT) has to be excluded from the taxable value.

2 Registration :

2.1. What is meant by “Registration”? Who should apply for registration under Service Tax law?

In terms of Section 69 of the Finance Act, 1994 (Chapter V) read with rule 4 of the Service Tax Rules, 1994 –

- Every person who has provided a taxable service of value exceeding **Rs. 9 lakhs**, in the preceding financial year, is required to register with the Central Excise or Service Tax office having jurisdiction over the premises or office of such service provider.
- In case a recipient is liable to pay service tax (Please see para 1.2 of this Booklet) he also has to obtain registration.

- The 'Input Service Distributors' are also required to register them as per Notfn. No.26/2005-ST dated 07.06.2005 as amended.
- Every person who provides taxable service and is liable to pay service tax.

2.2. Why registration is necessary?

Registration is identification of an assessee. Identification is necessary to deposit service tax, file returns and undertake various processes ordained by law relating to service tax. Failure to obtain registration would attract penalty in terms of section 77 of the Finance Act, 1994, read with rule 4 of Service Tax Rules 1994. (Please also refer para 2.15 of this Booklet)

2.3. What is the meaning of an 'assessee' in relation to Service Tax?

As per the sub-section (7) of Section 65 of the Finance Act, 1994 (Chapter V), 'assessee' means a person liable to pay Service Tax and includes his agent.

2.4. When should a prospective assessee obtain registration?

- When a person commences business of providing a taxable service, he is required to register himself within 30 days of such commencement of business [sub-rule (1) of Rule 4 of Service Tax Rules, 1994].
- In case service tax is extended to a new service, an existing service provider must register himself, unless he is eligible for exemption under any notification, within a period of 30 days from the date of new levy [sub-rule 5A of Rule 4 of the Service Tax Rules, 1994].

2.5. What does the word "person" appearing in the definition of taxable service mean?

The word "Person" shall include any company or association or body of individuals, whether incorporated or not. Thus, this expression includes any individual, HUF, proprietary firm or partnership firm, company, trust, institution, society etc.

2.6. What is the procedure for Registration? Who should be approached for Service Tax Registration?

A prospective Service Tax assessee (service provider or service receiver) or 'Input Service Distributor' seeking registration should file an application in Form ST-1 (in duplicate) [prescribed vide Notfn.No. 32/2005 dated 20.10.2005 as amended Notfn. No. 11/2008 dated 1.3.2008] before the jurisdictional Central Excise/Service Tax officer. To verify the correctness of declaration in the said form, certain documents such as copy of PAN card, proof of address of business premise(s), constitution of the business [proprietorship, firm, company, trust, institute etc.] etc. may be required by the registering authority. The copies may be self-certified by the applicant. In case of doubts in select cases, original documents may have to be presented for verification.

2.7. How much time is taken for the issuance of the Registration Certificate?

The Registration certificate should be issued within a period of **seven days** from the date of submission of application ST-1 along with all relevant details/documents. In case the registration certificate is not issued within seven days, the registration applied for is deemed to have been granted. [Rule 4(5) of the STR, 1994].

2.8. Is there any provision for centralized registration?

Service providers having centralized accounting or centralized billing system who are located in one or more premises, at their option, may register such premises or office from where centralized billing or centralized accounting systems are located and thus have centralized registration.

Commissioner of Central Excise/Service Tax in whose jurisdiction centralized account or billing office of the assessee exists, is empowered to grant centralized registration in terms of sub – rule 2 & 3 of Rule 4 of Service Tax Rules, 1994

2.9. In case of multiple services provided by an assessee, is separate registration certificate required for each service?

As per sub-rule (4) of rule 4 of the Service Tax Rules, 1994, only one Registration certificate is to be taken even if the person provides more than one service from the same premises for which registration is sought. However, while making application for registration, all taxable services provided by the person should be mentioned.

If there is centralized registration, only one registration certificate is required for services provided from different premises, declared in the application for centralized registration.

2.10. What is to be done when the existing assessee starts providing a taxable service not mentioned in the registration certificate?

He should intimate to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise in writing if there is a change in any information or details furnished by him in the original ST-1 form submitted at the time of obtaining registration or if he intends to furnish any additional information or details within a period of thirty days of such change. (As per Rule 4(5A) of Service Tax Rules, 1994).

2.11. Is PAN allotted by the Income Tax Department a must for obtaining Service Tax Registration?

Having PAN is essential because the Service Tax Code/Registration number is generated based on the PAN issued by the Income Tax Department. The PAN based Service Tax Code/Registration number is a must for payment of service tax using the G.A.R. 7 Form.

2.12. What should be done with the Service Tax Registration on cessation of business of providing taxable service -?

The Service Tax Registration certificate (ST-2) should be surrendered immediately to the Superintendent of Central Excise [Rule 4(7) of the Service Tax Rule, 1994].

2.13. What should be done with the Registration in case of transfer business to another person?

In the event of transfer of the business, the transferee should obtain a fresh certificate of Service Tax registration. [Rule 4(6) of the Service Tax Rules, 1994].

2.14. Whether a service provider can make payment of Service Tax and file Returns before the grant of registration by the proper officer?

A person liable to pay service tax must apply for registration before he starts paying service tax and filing return. Service provider should apply well in advance to obtain registration, which is normally granted within 7 days of filing of application. If registration is not granted within seven days, it deems to have been granted.

2.15. Is there any penal provision for non-registration?

Failure of registration may attract a penalty upto Rs.10000/- or Rs. 200/- for every day during which such failure continues, whichever is higher [Section 77(1)(a) of the Finance Act, 1994].

However, such penalty may be waived in case the assessee proves that there was reasonable cause for such failure [Section 80 of the Finance Act 1994].

2.16. What should be done in case of change in the office/place of business?

Any change in premises/office, as mentioned in Form ST-1, should be intimated to jurisdictional Assistant/Deputy Commissioner Central Excise.

2.17. If a registration certificate issued by the Department is lost, can duplicate be issued? What is the procedure in this regard?

The assessee is required to make written request for 'duplicate' registration certificate. The same will be issued by the Department after suitable entry in the registers/records of the Office.

3. Payment of Service Tax

3.1. How to pay Service Tax?

Form G.A.R.7 (previously known as TR6 Challan) should be used to make service tax payments. Payment of service tax may be made at the specified branches of the **designated banks**. The details of such Banks and branches may be obtained from the nearest Central Excise Office/Service Tax Office.

Service Tax can also be paid electronically, using e-payment facility. (Please refer para 3.16 to 3.25).

3.2. When is Service Tax required to be paid?

1. Payments through Bank :

Category	Frequency	Due Dates
In case of Individuals, Proprietary Firms & Partnership Firms	Quarterly as mentioned below - (i) For Q.E. 30 th June (ii) For Q.E. 30 th Sept. (iii) For Q.E. 31 st Dec. (iv) For Q.E. 31 st March	- by 5 th July - by 5 th Oct - by 5 th Jan. - by 31 st March
Others (e.g. Companies, Societies, Trusts etc.)	Monthly	By 5 th of the month immediately following the month in which payments are received towards the value of taxable services. However, in case of March, the payment should be made by 31 st March.

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2. Electronic Payments through Internet :

Category	Frequency	Due Dates
In case of Individuals, Proprietary Firms & Partnership Firms	Quarterly as mentioned below - (i) For Q.E. 30 th June (ii) For Q.E. 30 th Sept. (iii) For Q.E. 31 st Dec. (iv) For Q.E. 31 st March	- by 6 th July - by 6 th Oct - by 6 th Jan. - by 31 st March.
Others (e.g. Companies, Societies, Trusts etc.)	Monthly	By 6 th of the month immediately following the month in which payments are received towards the value of taxable services. However, in case of March, the payment should be made by 31 st March.

3.3. What is the procedure to be followed for payment of Service Tax if full details are not available to assess the correct service tax liability ? Under what circumstances, provisional assessment is resorted to?

If an assessee is unable to correctly calculate the actual amount of Service Tax payable for any particular month or quarter, as the case may be, he can make a request in writing to the Asstt. / Dy. Commissioner of Central Excise as provided under sub –rule (4) of Rule 6 of the Service Tax Rules, 1994, giving reasons for seeking payment of Service Tax on provisional assessment basis. On receipt of such request for provisional assessment, the Asstt. / Dy. Commissioner of Central Excise may allow payment of Service Tax on provisional basis on such value of taxable service as may be specified by him in a speaking order issued to that effect.

3.4. How is the provisional assessment finalized ?

In case the Service Tax assessee resorts to provisional assessment after following the procedure and furnishes the returns in Form ST-3A along with Form ST-3, it is the responsibility of the Asstt./Deputy Commissioner to complete the assessment after calling for from the assessee the relevant documents or records, as may be considered necessary by him. In terms of provisions to Rule 7 of Central Excise Rules, 2002 as applicable to Service Tax, the order finalizing the assessment shall be passed as soon as the relevant information is received.

3.5. What is the head of account into which the Service Tax amount is to be paid in respect of various services?

Separate “Head of account” has been specified for each taxable service. This must be mentioned on G.A.R. 7 (previously known as TR-6) challan for proper accounting. **(See Appendix-1 of this Booklet).**

3.6. What is GAR-7 challan? Where is it available?

GAR-7 challan is the document for payment of service tax. **GAR-7** challan is available in any stationary shop selling Government forms. The format is also given on web-site www.cbec.gov.in

3.7. Can the Service Tax be deposited in Non-designated banks?

No. For payment of Service Tax, specific bank has been nominated for every Central Excise/Service Tax Commissionerate. If Service Tax is deposited in a Branch /Bank other than the nominated Bank / Branch, it amounts to non-payment of Service Tax [Rule 6(2) of the STR, 1994]. In any case, a non-designated bank will not accept service tax challans. You may approach the local Service Tax Commissionerate to know the name of the nominated bank for payment of your Tax dues.

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

- a) Service Tax is to be paid on the invoice amount or the billed amount. Where invoice is not issued within a period of 14 days then the tax becomes payable on the date of such completion of the provision of the service and on the amount mentioned in the invoice. In any case issue of invoice is mandatory as per Rule 3 of Point of Taxation Rules 2011.
- b) Further the amount of tax to be paid in a case where the person providing the service receives a payment before 14 days then it will be on the basis of the extent of such payment received by the service provider. For instance wherever any advance by whatever name known is received by the service provider to the provision of Taxable Service that advance will form the basis for calculating the Service Tax liability.

3.9. Can service tax be paid in advance, where the gross amount has not yet been received?

Yes. As per Rule **6(1A)** of Service Tax Rules, 1994, service tax can be paid in advance to the credit of the central government and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period. The assessee is required to intimate the details of the amount of service tax paid in advance to the jurisdictional superintendent of Central Excise/Service Tax within a period of 15 days of such payment and indicate the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70 of the Act.

3.10. Can service tax be paid by cheque?

Yes, service tax can be deposited by cheque. [Rule 6(2A) of Service Tax Rules, 1994]

3.11. When paid by cheque, which date will be treated as date of payment?

The date of presentation of the cheque to the bank designated by the Central Board of Excise & Customs for this purpose shall be deemed to be the date on which service tax has been paid subject to realization of that cheque.

3.12. When payment is made by a client to an assessee after deducting his Income Tax liability under the Tax deduction at source (TDS) provision, whether the Service Tax liability of the assessee is only towards the amount actually received from that client or tax is to be paid on the amount including the Income Tax deducted at source also?

Service Tax is to be paid on the gross value of taxable service which is charged by a Service Tax assessee for providing a taxable service. Income tax deducted at source is includible in the charged amount. Therefore, service Tax is payable on the gross amount including the amount of Income Tax deducted at source also.

3.13. What is the interest rate applicable on delayed payment of Service Tax?

Every person, liable to pay the service tax in accordance with the provisions of section 68 of the Act or rules made there under, 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 **@18% per annum**. Interest is payable

for the period from the first day after the due date till the date of payment of any defaulted service Tax amount. [Refer to Section 75 of the Finance Act, 1994]

3.14. Can interest be waived, and by whom?

Interest payments are mandatory in nature and the same cannot be waived.

3.15. What are the penal consequences if the Service Tax is not paid or paid late?

If a person who is liable to pay Service Tax fails to pay service tax, he shall pay in addition to such tax and interest, a penalty which shall not be less than Rs.100/- for every day during which such failure continues or @1% of such tax per month, whichever is higher. However, the penalty amount payable shall not exceed the amount of Service Tax payable. **(Refer to Section 76 of the Finance Act, 1994).**

3.16. What is e-Payment of Central Excise and Service Tax?

e-Payment is a payment made through which a Taxpayer can remit his tax dues to the Govt. (CBEC) using Internet Banking Service. It is an additional facility being offered by the banks besides conventional procedure.

3.17. Is E-payment of Service Tax mandatory?

Yes. E-payment is mandatory for assesses who have paid service tax of Rs.10 lakhs or more including the amount paid by utilization of CENVAT credit, in the preceding financial year.(Refer Rule 6(2) of Service Tax Rules,1994). However, there is no bar for other assesseees to pay their tax electronically. In other words, other assesseees may also pay their service tax through e-payment, if they choose to do so.

3.18. Which banks provide the facility of e-payment of Service Tax?

The following banks provide e-payment facility.

Sl.No.	Name of Bank	Name of Central Excise / Service Tax Commissionerate for which the Bank is authorised to collect Revenue through e-Payment
1.	Allahabad Bank	All Commissionerates
2.	Bank of Baroda	All Commissionerates
3.	Bank of India	All Commissionerates
4.	Bank of Maharashtra	All Commissionerates
5.	Canara Bank	All Commissionerates
6.	Central Bank	All Commissionerates
7.	Corporation Bank	All Commissionerates
8.	Dena Bank	All Commissionerates
9.	HDFC Bank	All Commissionerates at Delhi, Bangalore, Kolkata, Mumbai
10.	ICICI Bank	All Commissionerates at Delhi, Chennai, Hyderabad, Mumbai
11.	IDBI Bank	All Commissionerates
12.	Indian Bank	All Commissionerates
13.	Indian Overseas Bank	All Commissionerates
14.	Oriental Bank of Commerce	All Commissionerates (w.e.f 01.08.2009)
15.	Punjab National Bank	All Commissionerates

16.	State Bank of Bikaner& Jaipur	All Commissionerates
17.	State Bank of Hyderabad	All Commissionerates
18.	State Bank of India	All Commissionerates
19.	State Bank of Indore	All Commissionerates
20.	State Bank of Mysore	All Commissionerates
21.	State Bank of Patiala	All Commissionerates
22.	State Bank of Travancore	All Commissionerates
23.	Syndicate Bank	All Commissionerates
24.	UCO Bank	All Commissionerates
25.	Union Bank of India	All Commissionerates
26.	United Bank of India	All Commissionerates
27.	AXIS Bank	All Commissionerates at Delhi, Bangalore, Hyderabad, Mumbai
28.	Vijaya Bank	All Commissionerates

More banks will be added over a period of time. You may find out the latest position on the web site of Principal Controller of Accounts <http://pccacbec.nic.in> or check with the local Central Excise/Service Tax office.

3.19. How to get Internet banking facility of Bank?

The customers of Bank can request this facility on prescribed application forms to any bank having internet banking facility.

3.20. Are there any geographical restrictions on Banks?

No. Customer can effect payment from anywhere for the Commissionerate in which he is registered with, provided that particular bank is designated and authorized to collect revenue for that Commissionerate.

3.21. Up to what time in a day the e-Payments can be made?

e-Payment can be made 24 hours a day using Internet banking service of Bank. Payment made up to 8 pm will be accounted on the same day. However payments effected after 8 pm will only be included in next working day's scroll by the Focal point Branch. So, to ensure timely payment, e-payment should be made latest by 8 p.m. on the due date.

3.22. Does the Internet banking service give any receipt/confirmation for the e-Payment?

Yes, on successful payment the Internet banking user gets a Cyber Receipt for the Tax payment, which he can save or print for his record.

3.23. How does the taxpayer get the regular Challan stamped and receipted by Bank?

The respective Focal Point Bank on the next working day will send the Challan copies duly receipted and stamped to the taxpayer by courier at the mailing address provided by the taxpayer.

4. Filing of Returns

4.1. What are the Returns a service tax assessee has to file?

ST-3 Return – For all the registered assessee, including **Input Service Distributors**, (Ref. Section 70 of Finance Act, 1994 and Rule 7 of Service Tax Rules, 1994 read with Notfn.No. 14/2007-ST dated 02.04.2007).

ST-3A Return –The assessee who is making provisional assessment under rule 6(4) of the Service Tax Rules, 1994.

The Forms are available at any Stationery shop selling Govt. forms. These can also be downloaded from www.cbec.gov.in

4.2. When to file returns?

ST-3 Return is required to be filed twice in a financial year – **half yearly**.

Return for half year ending 30th September and 31st March are required to be filed by 25th October and 25th April, respectively.

4.3. How to file Service Tax Returns?

The details in respect of each month/ Quarter, as the case may be, of the period for which the return is filed, should be furnished in the Form ST-3, separately. The instructions for filing return are mentioned in the Form itself.

It should be accompanied by copies of all the GAR-7 Challans for payment of Service Tax during the relevant period.

4.4. Is there any provision to file a revised return?

Yes, under rule 7B of Service Tax Rules, 1994 an assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of ninety days from the date of submission of the return under Rule 7. However, 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 Finance Act, 1994, shall be the date of submission of such revised return.

4.5. What is e-filing of Service Tax Returns?

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

4.6 How to file Service Tax return?

With effect from 25th August, 2011 in terms of Notfn. No. 43/2011 all Service Tax returns are to be filed electronically.

4.7. Is E-filing of Returns mandatory to all assesseees?

E-filing of Returns is mandatory for all assesseees as provided by Rule 7 amended by [Notification No. 43/2011-ST dated 25/08/2011].

4.8. What is the procedure for e-filing?

- (i) File an application to the jurisdictional Asst./Deputy Commissioner of ServiceTax, specifying –
 - 15-digit PAN based registration number (STP Code)
 - Valid e-mail address - so that the Department can send them their User ID and password to help them file their Return.
- (ii) Log on to the Service Tax e-filing home page by typing the address <http://servicetaxefiling.nic.in> in the address bar of the browser.
- (iii) Upon entering the Service Tax code, user ID and password, you will be permitted to access the e-filing facility.
- (iv) Follow the instructions given therein for filing the Returns electronically.
- (v) Obtain the acknowledgement.

4.9. Is filing of return compulsory even if no taxable service provided or received or no payments received during a period (a particular half year)?

Filing of return within the prescribed time limit is compulsory, even if it may be a nil return, failing which penal action is attracted.

4.10. Whether a single Return is sufficient when an assessee provides more than one service?

A single return is sufficient because the ST-3 Return is designed to capture details of each service separately within the same return.

4.11. Is there any penalty for non-filing or delayed filing of the Returns?

If a person fails to file the ST-3 Return by the due date **[25th October and 25th April every year]**, he shall be liable to penalty which may extend to Rs. Ten thousand rupees (Section 77 of the Act)

Mandatory Penalty for Late filing of ST-3 Return under Rule 7C of Service Tax Rules, 1994 (Section 70 of the Act)

Sr.No.	Period of Delay from the prescribed date	Penalty
1	15 days	Rs.500/-
2	Beyond 15 days but not later than 30 days	Rs.1000/-
3	Beyond 30 days	Rs.1000/- plus Rs. 100/- for every day from the thirty first day till the date of furnishing the said return (not exceeding Rs.20000)

5. Records

5.1. Are there any statutory documents prescribed by the Government such as specified invoice proforma, specified registers etc. for use by the service providers?

There are no specific statutory records which have to be maintained by a Service Tax assessee. The records including computerized data, if any, which are being maintained by an assessee on his own or as required under any other law in force, such as Income Tax, Sales Tax etc. are acceptable for the purpose of Service Tax - (Rule 5(1) of the Service Tax Rules, 1994).

However, under the revised rule 5(2) of the STR, 1994 (with effect from 28th December, 2007), the assessee is required to provide to the jurisdictional Superintendent of Central Excise/Service Tax a list, in duplicate, of all the records prepared or maintained by the assessee for accounting of transactions in regard to (a) providing of any service, whether taxable or exempted; (b) receipt or procurement of input services and payment for such input services; (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods; (d) other activities, such as manufacture and sale of goods, if any and all other financial records maintained by him in the normal course of business,

5.2. Where from the Service Tax assessee can get the Forms such as ST-1, ST-3 etc?

The Forms are available on the CBEC website and also at the Central Excise Range/Division/Commissionerate Hqrs. offices. The forms are also available in the market and are sold by private publishers.

5.3. Can the Department ask for more information than what assessee is submitting to it in the Form ST-1 and ST-3?

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

Rule 5A of Service Tax Rules, 1994 provides that every assessee, on demand, is required to make available to the Central Excise/Service Tax officer authorized by the Commissioner or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, within a reasonable time not exceeding fifteen working days from the day when such demand is made, or within such further period as may be allowed by such officer or the audit party, the following records/documents for the scrutiny of the officer or audit party:

- i. the records as mentioned in Rule 5(2) of STR, 1994;
- ii. trial balance or its equivalent; and
- iii. the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961).

In the event of failure to make available the records/documents, a penalty of Rs. 10000 or Rs.200 for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance, is imposable on the assessee under amended section 77 of the Finance Act, 1994.

5.4. Can a Service Tax officer access an assessee's registered premises?

As provided under Rule 5A of STR, 1994, an officer authorized by the Commissioner can have access to an assessee's registered premises for the purpose of carrying out any scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

5.5. Whether issue of Invoice/Bill/Challan is mandatory? When should the same be issued?

Issue of Invoice/Bill/Challan by a Service Tax assessee is mandatory as per Rule 4A of the STR, 1994. The same should be issued within 14 days from the date of completion of taxable service or receipt of payment towards the service, whichever is earlier. However, if the service is provided continuously for successive periods of time and the value of such taxable service is determined or payable periodically, the Invoice/Bill/Challan shall be issued within 14 days of the date when each such event specified in the contract, which requires the service receiver to make any payment to service provider, is completed. (Rule 4A (1) of the STR 1994).

5.6. Is there any prescribed format for the Invoice/Bill?

There is no prescribed format for issue of Invoice. However, the invoice/bill/challan should contain the following information (Rule 4A of the STR, 1994):

- i. Serial number.
- ii. Name, address and registration no. of the service provider.
- iii. Name and address of the service receiver.

- iv. Description, classification and value of taxable service being provided or to be provided.
- v. The amount of Service Tax payable (Service Tax and Education cess should be shown separately)

Note: If the service provider is a Banking company, the details at Sl. No (i) and (iii) are not necessary.

In respect of the taxable services relating to the transport of goods by road, provided by the Goods Transport Agency, the service provider should issue a consignment note containing the following information (Rule 4B of the STR, 1994): -

- i. Serial Number
- ii. Name of the consignor and consignee
- iii. Registration no. of the vehicle
- iv. Details of the goods transported
- v. Details of the place of origin & destination
- vi. Person liable for payment of Service Tax (consignor /consignee / GTA)

5.7. Is the amount of Service Tax charged from the client compulsorily to be indicated separately in the Bills / Invoices / Challans raised on him?

Yes. It is mandatory to separately indicate the amount of Service Tax charged in the Bills/Invoices/Challans raised on the clients, as per Section 12A of the Central Excise Act, 1944 which is made applicable to Service Tax, under Sec.83 of the Finance Act, 1994. Such mention of the Service Tax amount in the Invoice / Bill / Challans, would also facilitate the service receiver to avail the CENVAT credit of the Service Tax paid on the input services.

5.8. What is the preservation period for service tax records and documents?

All records and documents concerning any taxable service, **CENVAT** transactions etc. must be preserved for a minimum period of **5** years immediately after the financial year to which such records pertain (Rule 5(3) of Service Tax Rules 1994.)

6. Refunds

6.1 Can any adjustment of tax liability be made by an assessee on his own, in cases when Service Tax has been paid in excess?

- i. Yes. Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason (or when the invoice amount is renegotiated due to deficient provision of service, or any terms contained in a contract) the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment or part received for the service provided or has issued a credit note for the value of the service not so provided to the person to whom an invoice had been issued. (Rule 6(3) of the STR, 1994).
- ii. Further, assesses having centralised registration who paid excess amount of Service Tax, on account of non-receipt of details regarding the receipt of gross amount for the services at his other premises or offices, may adjust such excess amount against the Service Tax liability for the subsequent period and furnish the details of such adjustment to the Jurisdictional Superintendent of Central

Excise/Service Tax within 15 days from the date of such adjustment (Rule 6(4A) of the STR, 1994).

- iii. In all other cases of excess payment, refund claims have to be filed with the Department. The refund claims would be dealt as per the provisions of Section 11B of the Central Excise Act, 1944, which is made applicable to Service Tax vide Section 83 of the Finance Act 1994.
- iv. It is important to note that any amount of Service Tax paid in excess of the actual liability, is refundable, only if it is proved that the claimant of refund had already refunded such amount to the person from whom it was received or had not collected at all (Section 11 B of the Central Excise Act, 1944 which is applicable to Service Tax matters under Section 83 of the Act).

6.2 What is the procedure for claiming refund?

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

6.3. What is relevant date for calculation of limitation period in respect of filing refund claims relating to Service Tax?

The “relevant date” for the purpose of refund as per section 11B of the Central Excise Act, 1944 which is applicable to Service Tax also, is the date of payment of Service Tax. Thus, the limitation period of one year is to be calculated from the date of payment of the Service Tax.

6.4 Is there any provision for interest for delayed payment of refunds?

If any duty/tax ordered to be refunded under section 11B(2) of Central Excise Act, 1944, to any applicant is not refunded within three months from the date of receipt of application, interest at the applicable rate shall be paid, subject to conditions laid down under section 11BB of the Central Excise Act, 1944.

Also where an amount deposited by an appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal, under the first proviso to section 35F of the Central Excise Act, 1944, is required to be refunded consequent upon the order of the appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority unless the operation of the order of appellate authority is stayed by a superior court or tribunal, interest shall be paid at the applicable rate after the expiry of three months, under the provisions made in section 35FF of the Central Excise Act, 1944.

Provisions of Sections 11B, 11BB, 35F and 35FF of the Central Excise Act, 1944 are made applicable to Service Tax vide section 83 of the Finance Act, 1994.

6.5 To claim the refund arising out of service tax paid under section 66A, no proforma is prescribed in the notification; how to claim it?

In the notification, there is no difference in treatment of service tax paid under section 66 and section 66A of Finance Act, 1994. Where refund arises, Table – A, in Form A-2 can be used for making a refund claim.

- 6.6 **Meaning of the expression ‘who does not own or carry on any business other than the operations in the SEZ’ appearing in paragraph 2(a)(iii) of the notification, which creates a difference between ‘standalone’ and ‘non-standalone’ SEZ Unit/Developer, may be clarified?**

The expression refers to an entity which is carrying out business operations in SEZ and also DTA. Merely having an office in the DTA for purpose of liaison/business promotion, does not restrict a SEZ Unit from availing benefit extended to a standalone unit.

- 6.7 **Whether Approval by UAC is necessary, to claim benefit under the Notification?**

Yes. Unit Approval Committee (UAC) of the SEZ determines goods and services required for the authorised operations of a Unit/Developer, under the SEZ law. Hence approval of the UAC is necessary for availing the notification benefit, on the taxable services.

- 6.8 **i) Does condition (c) prescribed in paragraph 2 of the notification, 17/2011-ST dated 01. 03. 2011, restrict the non-standalone Units/Developers, from availing upfront exemption for wholly consumed services, which fall under category (i) and (ii) of para 2(a) of the notification?**

(ii) For whom and for what purpose, Declaration in A-1 is required?

In respect of category (i) and (ii) services listed in paragraph 2(a), upfront exemption is made available to all SEZ Units/Developers, who fulfill the conditions of notification; only in the case of category (iii), difference is created between standalone and non-standalone SEZ Units/Developers.

Declaration in Form A-1 is required to be produced, to a service provider, to claim upfront exemption (after striking out the inapplicable portion). This is a one-time Declaration. Original Declaration can be retained with the SEZ Unit/Developer for business record or for production to the jurisdictional Central Excise/Service Tax authorities, if need be, for any verification; a copy has to be retained by SEZ Specified Officer; self-attested photocopies of the Declaration can be submitted to service provider to avail upfront exemption, subject to fulfillment of other conditions mentioned in the notification.

- 6.9 **Meaning of the expression “total turnover” found in paragraph 2(d) of the notification 17/2011 is not clear: whether it refers to turnover of SEZ Unit or the entity (including DTA and SEZ Unit). This may be clarified?**

Total turnover includes turnover of DTA Unit and also export turnover of SEZ Unit. This is the way to calculate proportionate refund. Table-C in Form A-2, illustrates this aspect

- 6.10 **A Developer may not have export turnover; therefore, he cannot get refund of service tax based on the formula provided for shared services in paragraph 2(d) of the notification 17/2011: therefore, it may be explained how a Developer can claim exemption under this notification?**

Generally, SEZ Developers will be using category (i) services listed in paragraph 2(a), relating to immovable property located within SEZ; upfront exemption is available for these services, and category (ii) services, irrespective of whether the Developer is standalone or not. As another option, refund route is also available. In the case of category (iii) services if Developer is standalone, upfront exemption is available. If Developer is not

standalone, on service tax paid on category (iii) services, which are exclusively used for the authorised operations in SEZ, he can avail exemption through refund route.

- 6.11 **Whether proportionate amount of service tax paid on shared services that have not been refunded after applying the formula, shall be available to the DTA Units of the entity as cenvat credit?**

Yes. Available

- 6.12 **Whether consolidated refund claim under 17/2011-ST can be filed by an entity having more than one SEZ unit and a centralized service tax registration.?**

If an entity is having multiple SEZ Units with a centralized service tax registration, consolidated refund claim can be filed, provided separate accounts are maintained for receipt and use of services for the authorised operations in SEZ Unit.

- 6.13 **Whether certified copies of invoices can be used for claiming refund, if originals are needed for other statutory purpose; Whether on the basis of single invoice, one can claim proportionate refund for SEZ Unit and balance as cenvat credit?**

In terms of the notification, original invoices are needed for claiming refund; after receiving the refund, originals can be taken back on submission of copies certified by Chartered Accountant. On a single invoice, if proportionate refund (by SEZ Unit) and cenvat credit (by DTA Unit) needs to be obtained, then also similar system shall be followed.

7. **Manner of payment of Service Tax, when clients (recipient of service) do not pay service tax amount, what should be done?**

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

Though the burden of Service Tax ultimately rests on the service recipient the law requires the service provider to collect the tax from the service recipient on the services provided and deposit to the Government Account. Therefore whether the service provider receives the payment from his client (service recipient) or not, he is legally bound to pay the service Tax liability in respect of the services rendered by him. The Service Tax has to be paid when the Invoice is issued or the completion of service provided or certain advance/payment is received for the services provided. Therefore Service Tax is payable when payment for the part of the bill is paid by the service recipient. However the tax liability will be to the full extent on the total amount to be received by the service provider.

- 7.2 **What is meant by “completion of service” as in many situations it is not possible to issue invoices within 14 days of the completion of the service since the exact date of completion of service is difficult to identify?**

The Service Tax Rules, 1994 requires that invoice should be issued within a period of 14 days from the completion of the taxable service. The invoice needs to indicate interalia the value of service so complete. Thus the term “completion of service” referred above would include not only the physical part of providing the service but also the completion of all other auxiliary activities like measurement, quality testing etc. but excluding any flimsy or irrelevant grounds. Thus the test for determination if a service has been

completed would be the completion of all the related activities that place the service provider in a situation to be able to issue an invoice

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

Service Tax is payable on amount realized. In given situation, the amount so realized from the client would be treated as gross amount inclusive of Service Tax and accordingly the value of taxable service and the Service Tax liability are worked out as follows:

For example :

Value of taxable service (AV) = Rs. 1000

Amount Billed = Rs.1000 + Service Tax Rs.103.00 = Rs.1103.00

Amount paid = Rs.1000. Treat Rs.1000 as gross amount inclusive of service tax.

In case the gross amount, including service tax, received is, say, Rs 1000. In such cases the service tax liability may be arrived at by reverse calculation in the following manner.

$$AV = \frac{1000}{110.3} \times 100 = \text{Rs. } 906.62 \text{ (Rs.907)}$$

Amount of Service Tax + Education Cess Payable = Rs.93

Note: If the recipient of service pays full billed amount later, the differential service tax must be paid forthwith.

8. Exemptions

8.1. What are the conditions of exemption to small scale service providers ?

Taxable services provided by the small scale service provider were exempted from whole of service tax leviable there-on upto the aggregate taxable value Rs.4 lakhs in any financial year of vide Notification No.06/2005-ST dated 01.03.2005 (effective from 01.04.2005). The exemption limit of aggregate taxable was enhanced to Rs.8 lakhs vide Notification No.4/2007-ST dated 01.03.2007 (effective from 01.04.2007) and the same has been further enhanced to Rs.10 lakhs vide Notification No.8/ 2008-ST dated 01.03.2008 (effective from 01.04.2008).

(i) Above exemption is not admissible to :-

- (a) taxable service provided by a person under a brand name or trade name, whether registered or not, of another person or
- (b) such value of taxable services in respect of which service tax shall be paid by recipient of service under section 68 (2) of Finance Act read with Service Tax Rules, 1994.

(ii) Above exemption is admissible subject to following conditions :-

- (a) taxable service provider has the option not to avail the said exemption and pay service tax on the taxable service and such option are exercised in a financial year shall not be withdrawn during the remaining part of such financial year ;
- (b) the provider of taxable service shall not avail Cenvat credit of service tax paid on any input used for providing taxable service on which exemption of small scale is availed.

- (c) The provider of taxable service shall not avail Cenvat credit under Rule 3 of the Cenvat Credit Rules 2004, during the period in which the service provider avail small scale exemption.
- (d) The provider taxable service shall avail CENVAT Credit only on such inputs or input services received on or after the date on which the service provider starts paying service tax and used for provision of taxable services on which service tax is payable.
- (e) The provider of taxable service shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which he starts availing exemption under this notification.
- (f) The balance CENVAT Credit lying unutilized if any after the adjustment of credit under (e) above, shall lapse on the day such service provider starts availing the exemption under this notification.
- (g) This notification shall apply to the aggregate value of one or more taxable services provided from one or more premises and not separately for each premises or each service.
- (h) The aggregate value of taxable services rendered by a provider of such service from one or more premises does not exceed exemption limit fixed (i.e. Rs.Ten lakhs) in the proceeding financial year.

8.2 Whether Gross Value of taxable services on which recipient has paid service tax as specified under Section 67(2) of the Finance Act, 1994 read with Service Tax Rules 1994, charged by goods Transport Agency shall be counted for determining aggregate value of small scale exemption ?

No. The Gross amount charged by Goods Transport Agency under Section 67 ibid to the recipient of service shall not to be taken into account for determining the aggregate taxable value under the small scale exemption.

8.3 What is the meaning of “brand name” or “Trade name” in Para 8(i) (a) above?

A “brand name” or “trade name” means brand name or trade name, whether registered or not i.e. to say, a name or a mark, such as symbol, monogram, logo, label, signature, or a invented word or writing which is used in relation to such specified services for the purpose of indicating or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any identification of the identity of that person.

8.4 How to determine the aggregate value of Rs 10 lakh under small scale exemption notification?

The aggregate taxable value means the sum of total of first consecutive payments received during financial year towards gross amount, as prescribed under Section 67 of F.A. 1994 towards the taxable services

8.5 Are there any other General exemptions?

The following general exemptions from payment of whole of the amount of Service Tax are available for the Service Providers:

8.5.1 Services provided to the United Nations or International Organisations (Notification No.16/2002-ST dated 02.08.2002).

- 8.5.2** Services provided to a developer of **Special Economic Zone** or a unit of Special Economic Zone as prescribed in the notification.(Notifn. No.04/2004-ST dated 31.03.2004).
- 8.5.3** The **value of the goods and materials sold** by the service provider to the recipient of the service is exempted from payment of the Service Tax, if there is a documentary proof specifically indicating the value of the goods and materials and no credit of duty paid on such goods and material sold, has been taken under the provisions of CENVAT Credit rules, OR where such credit has been taken by the service provider on such goods and materials, but such service provider has paid the amount equal to such credit availed before the sale of such good and materials. (Notifn.12/2003-ST dated 20.06.2003 as amended from time to time).
- 8.5.4** Exemptions to **Diplomatic Missions** for official use of taxable services and also to the officers and their families of a Diplomatic Mission for personal use of taxable services- Refer Notification Nos. 33/2007-ST and 34/2007-ST, both dated 23.5.2007.
- 8.5.5.** Specified taxable services, as listed below, received by an exporter and used for export of goods (Notification No. 17/2009 dated 07.07.2009 as amended). Under this notification, the service tax paid by an exporter on these services is refunded to the exporter on compliance of conditions mentioned in that notification.
1. General Insurance
 2. Port Service
 3. Technical Testing & analysis
 4. Technical Inspection & Certification
 5. Other Ports
 6. Transport of Goods by Road (Goods Transport Agency)[from the inland container depot to the port of export]
 7. Transport of goods in containers by Rail [from the inland container depot to the port of export]
 8. Cleaning Service
 9. Storage & Warehousing
 10. Courier
 11. Transport of Goods by Road (Goods Transport Agency)[directly from the place of removal, to inland container depot or port or airport,]
 12. Transport of goods in containers by Rail [from the place of removal to inland container depot or port or airport]
 13. Custom House Agent
 14. Banking & other Financial Services
 15. Business Auxiliary Services
 16. Service of sale or purchase of foreign currency including money changing by a banking company or financial institution including non-banking financial company or a body corporate or a financial concern.
 17. Service of sale and purchase of foreign currency including money changing provided by a person other than those referred at S.No 16.

18. Service of supply of tangible goods for use without transferring the right of possession and effective control.
19. Clearing and forwarding service
20. Terminal handling charges.

8.6 Is there any exemption from payment of Service Tax if the receiver/provider of the service is the Central/State Government organization and Public Sector Undertakings?

- 8.6.1.** No. There is no such exemption. All service providers, including the Central/State Government Organisations and the Public sector undertakings rendering the specified taxable service, are liable to pay Service Tax.
- 8.6.2.** If a Government Department (sovereign)/public authorities performs any mandatory or statutory function under the provisions of any law and collect any fees, such activity shall be treated as activity purely in public interest and will not be taxable. (Refer Board's Circular No.96/7/2007-ST dated 23.8.2007)
- 8.6.3** However, if such authority performs a service, which is not in the nature of statutory activity, for a consideration, the same shall be taxable.
- 8.6.4** The taxable services provided by a Banking company or a financial institution including a non banking financial company, or any other body corporate or any other person, to the Government of India or the Government of a State, in relation to collection of any duties or taxes levied by the Government of India or the Government of a State, are exempted from the payment of Service Tax. (Notifn.No.13/2004-ST dated 10.09.2004 as amended).

8.6.5 Whether cleaning of export cargo by fumigation is taxable under "cleaning services"?

No. Fumigation of export cargo including agricultural/horticultural produce, whether loaded into containers or otherwise, does not satisfy the statutory definition of 'cleaning activity' under Section 65(24b) of the Finance Act, 1994. Further the cleaning of the containers used for exporting the cargo are also exempted from the scope of cleaning services.

8.6.6 Is any Service Tax exemption provided for group insurance policy schemes such as Janata Personal Accident Policy scheme floated by Insurance companies?

Yes. Service Tax exemption is available to customized group insurance policy schemes known as JPAP, floated by various insurance companies as specified by state governments, to extend risk cover to certain specified target populations, under varying terms of insurance. The sum assured in these JPAP policies is often as low as Rs. 25, 000/- , so that even people without regular income can afford to purchase a risk cover for themselves. The customized group JPAP insurance schemes floated by various insurance companies as per the specifications of state governments concerned, to extend risk cover to target populations, and to fulfill the prescribed 'rural or social sector' obligation, are covered by the subject service tax exemption.

8.6.7 Whether service is to be paid on processing of visa applications?

Yes. Service tax is leviable on any service provided other than assistance directly to individuals for obtaining visa, falling under the description of any taxable service, as classifiable under the appropriate heading. To cite a few instances, where in addition to rendering assistance directly to individuals for obtaining visa, visa facilitators may also act as agents of recruitment or of foreign employer, in which case, service tax is leviable to the extent under the service of 'supply of manpower'. In certain other cases, for example, a visa

facilitator, may be rendering visa assistance to individuals who are employed in a business entity, but the service charge may be paid by the business entity on behalf of those individuals, to the visa facilitator, in which case, service tax is leviable under 'business support service'.

8.6.8 Who is a sub-contractor? Whether the services provided by a sub-contractor are liable for service tax?

A taxable service provider outsources a part of the work by engaging another service provider, generally known as sub-contractor. Service tax is paid by the service provider for the total work. In such cases, whether service tax is liable to be paid by the service provider known as sub-contractor who undertakes only part of the whole work. A sub-contractor is essentially a taxable service provider. The fact that services provided by such sub-contractors are used by the main service provider for completion of his work does not in any way alter the fact of provision of taxable service by the sub-contractor. Services provided by sub-contractors are in the nature of input services. Service tax is, therefore, leviable on any taxable services provided, whether or not the services are provided by a person in his capacity as a sub-contractor and whether or not such services are used as input services. The fact that a given taxable service is intended for use as an input service by another service provider does not alter the taxability

8.6.9 Whether Service Tax is to be paid for processing of tobacco involving threshing and drying of tobacco leaves and client processing of raw cashew involving roasting/drying, shelling and peeling of raw cashew to recover kernel,?

No. the agricultural produce namely tobacco or raw cashew, which are subject to client processing retains their essential characteristics at the output stage and therefore the processes undertaken on or behalf of client should be considered as covered by the expression 'in relation to agriculture'. Client processing which falls under business auxiliary service undertaken on the primary agricultural produce namely tobacco or raw cashew, does not result in any change in their essential character of tobacco or cashew. In the light of the above principle (i) process of threshing and drying of tobacco leaves and thereafter packing the same and (ii) processing of raw cashew and recovering kernel, undertaken for, or on behalf of, the clients by processing units are covered by the expression "... processing of goods for, or on behalf of, the client.....and provided in relation to agriculture,..." appearing in the Notification.No. 14/2004-ST (as amended) dated 10th September, 2004. Therefore they are not Service Taxable.

8.6.10 Whether Country of Origin Certificate (COOC) issued by Chambers of Commerce is Service taxable ?

Yes. The activity carried out by the Chambers, involving certification of the national character of the export goods, squarely falls under 'technical inspection or certification', as defined in section 65(108) of Finance Act, 1994. In certain cases, when COOC is issued with reference to national character of the goods upon examination of the origin of their composition, requirements of the definition provided in section 65(108) of Finance Act, 1994 is clearly fulfilled. A chamber or EPC or Trade Association which issues COOC acts as a technical inspection and certification agency, and issuance of COOC attracts service tax under 'technical inspection and certification agency' service, which is a specific description when compared to a general description like 'club or association service', by the application of the principles of classification provided in section 65A of Finance Act, 1994.

8.6.11 Whether delayed payment charges received by the stock brokers to be included in the taxable value?

As per the clarification issued by the Board vide Circular No. 137/25/2011 dtd. 03.08.2011, delayed payment charges received by the stock brokers are not includible in taxable value as the same are not the charges for providing taxable services. Such charges are on account of penal charges for not making the payment within the stipulated time and hence are not included in the taxable value for charging service tax.

However, Section 67 of the Finance Act 1994 provides that service tax is chargeable on taxable value which shall be the 'gross amount charged' by the service provider. Delayed payment charges would not be includible in 'gross value charged' only if these charges are shown separately in the account statement/invoice/bill.

8.6.12 Whether the value of SIM cards is liable to be included in the value of taxable services being provided by cellular companies?

Yes. As per the clarification received from the Board vide circular No. 137/41/2011 dtd. 06.04.2011, the SIM cards are never sold as goods independent from services provided by the cellular telephone company. The value of the SIM cards forms a part of the activation charges and the taxable value is calculated on the gross total amount received by the operator from the subscribers. Hence the amount received by the cellular telephone company from its subscribers towards SIM cards will form a part of the taxable value for levy of service tax.

8.6.13 Whether computer embroidery work carried out on job work basis is taxable under Business Auxiliary Service (BAS)?

As per clarification received from the Board vide Dy.No. 2305/Commr(ST)/2011 dtd. 15.07.2011, embroidery work is a manufacturing activity falling under Chapter 5810 of the Central Excise Tariff Act. Since the activity is a manufacturing activity of goods specified under Central Excise Tariff Act, the said activity is not covered in the purview of BAS.

9 Penal Provisions

9.1 What are the penal provisions for various contraventions of the Service Tax Law?

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

- i. **Non registration or delayed registration:** An amount which may extend to Rs. 10000/- or Rs.200/- for every day during which such failure continues, whichever is higher could be imposed as penalty under sec 77(1)(a) of the Act.
- ii. **Non payment or delayed payment of service tax-** A mandatory penalty, not less than Rs.100/- for every day during which such failure continues or @1% of such tax per month, whichever is higher, shall be imposed by the adjudicating authority. However, the penalty amount payable shall not exceed fifty percent of the service tax payable. **[Section 76 of the Act]**
- iii. **Non-filing / delayed filing of returns:** A mandatory penalty has been prescribed under Rule 7C of the Service Tax Rules, 1994, as also an amount not exceeding TenThousand Rupees could be imposed as penalty under sec 77(1)(a) of the Act. (see para 4.11 of this Booklet)
- iv. **Contravention of any of the provisions of the Finance Act, 1994 (Chapter V) or the Rules made there-under for which no penalty is separately provided:** An amount which may extend to Rs.10000/- shall be liable to be imposed as penalty under Sec.77(2) of the Act.

- v. **Failure to keep, maintain or retain books of account and other documents as required in accordance with the provisions of the Finance Act, 1994 (Chapter V) or the Rules made there under:** An amount which may extend to Ten thousand rupees shall be liable to be imposed as penalty. [Section 77(1)(b) of the Act]
- vi. **Failure to—**
- (1) **furnish information called by an officer in accordance with the provisions of the Finance Act, 1994 (Chapter V) or rules made thereunder; or**
 - (2) **produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder; or**
 - (3) **appear before the Central Excise Officer, when issued with a summon for appearance to give evidence or to produce a document in an inquiry,**

An amount which may extend to Ten thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher, shall be liable to be imposed as penalty. [Section 77(1)(c) of the Act]

vii. **Person who is required to pay tax electronically, through internet banking, but fails to pay the tax electronically:** An amount which may extend to Ten thousand rupees shall be liable to be imposed as penalty. [Section 77(1)(d) of the Act]

viii. **Person who issues invoice in accordance with the provisions of the Act or rules made thereunder, with incorrect or incomplete details or fails to account for an invoice in his books of account:** An amount which may extend to ten thousand rupees shall be liable to be imposed as penalty. [Section 77(1)(e) of the Act]

ix. **where** Service Tax was not levied or paid or erroneously refunded, by reason of fraud, collusion, willful mis-statement, suppression of facts; or contravention of any of the provisions of the Act or the rules made thereunder with an intent to evade payment of Service Tax, penalty shall be equal to the amount of Service Tax so not levied, paid or short-levied or short-paid or erroneously refunded. Such liability towards penalty shall be in addition to the Service Tax amount evaded or erroneously refunded and the interest thereon (Section 78 of the Act).

x. **Reduced Penalty in respect of Sl. No. (ix):**

- (a) where true and complete details of the transactions are available in the specified records, penalty shall be reduced to 50%.
- (b) If the Service Tax amount as determined by the competent authority is paid within 30 days from the date of communication of the order, along with interest, the amount of penalty liable to be paid shall only be 25% of the Service Tax amount so determined.
- (c) The benefit of reduced penalty equivalent to 25% of the said Service Tax is available only if such lesser penalty amount is also paid within thirty days (First and second proviso to Section 78 of the Act).

xi. **Launching of Criminal Prosecution :-** A new Section 89, has been inserted to provide launching of criminal prosecution for Service Tax offence. In cases, where the amount involved exceeds Rs. 50 lakhs, there is a provision for imprisonment upto three years and in other cases it will be one year. For this prosecution, prior sanction of the Chief Commissioner will be required (Section 89 of the Finance Act, 1994).

9.2 Is there any provision to waive the penalty under Service Tax law?

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

9.3 Why does Department issue show cause notice?

When any amount is demanded as Service Tax or other dues from any person under the Finance Act, 1994 and rules made thereunder towards recovery of service tax or other dues which is not levied or paid or short levied or short paid by any person, or erroneously refunded to any person, and/or any person is liable to penalty under the said Act/Rules, notices are issued in the interest of natural justice to enable such person to understand the charges and defend his case before an adjudicating officer.

9.4 Can show cause notice be waived?

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 on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise/Service Tax Officer before service of notice on him and inform the Central Excise/Service Tax Officer of such payment in writing, in such a case show cause notice will not be issued. [Refer Section 73(3) of Finance Act, 1994]. However, sub-section (3) of Section 73 of Finance Act, 1994, is not applicable to the cases involving fraud or collusion or willful mis-statement or suppression of facts or contraventions of any of the provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder with intent to evade payment of Service Tax [Refer sub-section (4) of Section 73 of Finance Act, 1994].

10 Adjudication and determination of tax

10.1 What is meant by adjudication?

10.1.1 When show cause notices are issued under provisions of the Finance Act, 1994 charging any person for contravention of any provisions of the said Act and rules and/or notifications issued thereunder and penal action is proposed, the competent officers of the Department adjudge the case and issue orders. This process is called adjudication.

10.1.2 Often notices are issued under section 73 of the Finance Act, 1994 for determination of tax, and the matter is decided by a competent officer. This is also referred to as adjudication in common parlance.

10.2 Who are competent officers for adjudication?

10.2.1 The Central Board of Excise and Customs has issued notification No. 48/2010-Service Tax dated 08.09.2010 to amend the Notification No.30/2005-Service Tax dated 10.08.2005, as amended by Not. No. 16/2008-Service Tax dated 11.03.2008 specifying monetary limit of each adjudicating authority, which is as follows,-

Sr.No	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under section 83A
(1)	(2)	(3)

1	Superintendent of Central Excise	Not exceeding Rs. One lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)
2	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakhs (except cases where Superintendents are empowered to adjudicate.)
3	Joint Commissioner of Central Excise	Above Rs. 5 lakhs but not exceeding Rs. 50 lakhs
4	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs
5	Commissioner of Central Excise	Without limit.

10.2.2 The monetary limits for the purpose of adjudication [determination of tax] under section 73 are as specified in the Table below (Based on C.B.E.C. Circular No. 97/8/2007-S.T., dated 23.08.2007).

Sr.No	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication
	(2)	(3)
1	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakhs
2	Joint Commissioner of Central Excise	Above Rs.5 lakhs but not exceeding Rs. 50 lakhs
3	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs
4	Commissioner of Central Excise	Without limit.

10.3 Is the presence of a Chartered Accountant or lawyer necessary for adjudication?

No. The noticees can defend their case themselves. However, they may also engage any person, duly authorized to defend their case before an adjudicating officer.

11 Appellate Remedies

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

- i. An assessee aggrieved by such order / decision may file an Appeal to the Commissioner (Appeals), in Form ST-4, in duplicate.
- ii. A copy of the order / decision appealed against should be enclosed.
- iii. The Appeal should be filed within 3 months from the date of receipt of the order/decision.
- iv. There is no fee for filing an Appeal before the Commissioner of Central Excise (Appeals) [Section 85 of the Act and Rule 8 of the STR, 1994].

11.2 Can the time limit of three months for filing the appeal to the Commissioner (Appeals) be extended? If yes, under what circumstances?

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

11.3 Can an Appeal be filed against the order / decision of the Commissioner of Central Excise or Commissioner (Appeals)? If so, what is the procedure for that?

Yes. The procedure is as follows:-

- i. The Appeal against the order of the Commissioner of Central Excise or Commissioner (Appeals) can be filed before the Customs, Excise and Service Tax Appellate Tribunal (in short, CESTAT). The Appeal should be filed within three months of the date of receipt of the order sought to be appealed against.
- ii. It should be filed in the prescribed Form (ST-5) in quadruplicate.
- iii. It should be accompanied by a certified copy of the order appealed against.
- iv. The Appeal should be accompanied by the prescribed fee based on the amount of Service Tax and interest demanded and penalty levied i.e. Rs.1000/- if the amount involved is Rs.5 lakhs or less, Rs.5000/- if the amount involved is more than Rs.5 lakhs but not exceeding Rs.50 lakhs and Rs.10,000/- if the amount involved is more than Rs.50 lakhs. [Section 86 of the Act and Rule 9 of the STR, 1994].

12 CENVAT Credit Scheme

12.1 What is CENVAT Credit Scheme with reference to Service Tax assesseees?

The CENVAT Credit Rules, 2004, introduced with effect from 10.9.2004, provides for availment of the credit of the Service Tax paid on the input services/Central Excise duties paid on inputs/capital goods/Additional Customs duty leviable under section 3 of the Customs Tariff Act, equivalent to the duties of excise. Such credit amount can be utilized towards payment of Service Tax by an assessee on their output services. (Refer to Rule 3 of CENVAT Credit Rules, 2004). Such credit availed by a manufacturer can also be utilized for discharging their liability towards Service Tax and / or Central Excise duties [Refer Rule 3 of CENVAT Credit Rules, 2004 read with Notfn.,No.27/2007-CE(NT) dated 12.05.2007].

12.2 What are the duties / taxes that can be availed as credit?

As mentioned at para 12.1, Duties paid on the inputs and capital goods, and the Service Tax paid on the 'input' services can be taken as credit. Education

Cess paid on the Excise duty and Service Tax can also be taken as credit. However, the credit of such Education Cess availed can be utilized only for payment of Education Cess relating to output service.

The interest and penalty amounts cannot be taken as credit.

12.3 What is meant by 'input', 'input service' and 'capital goods' for a service provider?

These terms have been defined in the CENVAT Credit Rules, 2004. (Refer Rule 2).

12.4 Is it compulsory that the inputs / capital goods are to be purchased only from the manufacturers for the purpose of availment of credit?

No. The inputs/capital goods can be procured from the First stage and Second stage dealers also. Those dealers should have registered themselves with the Central Excise Department. The invoices issued by them should contain proper details about the payment of duty on those goods. (Refer Rule 9 of CENVAT Credit Rules, 2004.)

12.5 What are the documents prescribed for availment of the CENVAT Credit?

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

- i. Invoice issued by the manufacturers and his depot/ consignment agents
- ii. Invoice issued by the Importer and his depot/consignment agents
- iii. First stage and Second stage dealer registered with the Central Excise Department
- iv. Bill of Entry
- v. Invoice/Bill/Challan issued by the provider of input Services
- vi. Invoice/Bill/Challan issued by the Input Service distributor.
- vii. Certificate issued by the Appraiser of Customs in respect of the goods Imported through Foreign Post Office.
- viii. A Challan evidencing payment of service tax by a person liable to pay service tax in the service category of auxiliary insurance, goods transport, recipient of service from a foreign country and sponsorship.

12.6 Whether it is necessary to avail credit only after receipt of the bill /invoice/challan in respect of input services?

Yes. Cenvat credit can be availed only on or after the day on which the invoice/bill or challan as per Rule 9 of CENVAT Credit Rules 2004 is received. However in case of service tax paid on reverse charge by the receipt of the service, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of the value of the service tax paid or payable as indicated in invoice, bill or challan.

12.7 Who is an “Input Service Distributor”?

An office of the manufacturer or provider of output service who receives invoices for the procurement of input services and issues invoices for the purpose of distributing the credit of Service Tax paid to such manufacturer or provider of output service is an “Input Service Distributor”. [Refer Rule 2(m) of CENVAT Credit 2004].

The credit of the tax amount so distributed to various places shall not exceed the total Service Tax amount contained in the original invoice / bill. [Refer rule 7(a) of CENVAT Credit Rules, 2004].

12.8 What is the format of the invoice / bill / challan to be issued by the input service distributor?

No specific format has been prescribed. However, the same should contain the following information:-

- (i) Name, address and Registration No. of the service provider.

- (ii) Sl. No and date.
- (iii) Name and address of the input service distributor.
- (iv) The name and address of the recipient to whom the Service Tax credit is distributed.
- (v) The amount of credit being distributed.

12.9 Whether the input service distributors should get themselves registered with the Department? Whether they have to file any returns with the Department?

Yes. They have to register themselves as per the provisions under Service Tax (Registration of Special Category of Persons) Rules, 2005. They have to file half yearly returns by the end of the month following the half year. [Refer Rule 3 of Service Tax (Registration of Special Category of Persons) Rules, 2005].

12.10 What are the records to be maintained by the persons availing credit?

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. (Refer Rule 9(5) of CENVAT credit Rules 2004)

12.11 What should be done, if an assessee is rendering both taxable services as well as exempted services, but the inputs and input services are common?

12.11.1 Separate accounts are to be maintained for the receipt, consumption and inventory of input and input service meant for providing taxable output service and for use in the exempted services. Credit should be taken only on that quantity of input /input services which are used for the service on which Service Tax is payable. (Ref. Rule 6 of Cenvat Credit Rules, 2004).

12.11.2 If **separate** accounts are not maintained, the provider of output service shall pay an amount equal to 5% percent of value of exempted goods and exempted services; or pay an amount as determined under sub-rule (3A); or in relation to provision of exempted services; subject to the conditions specified in sub-rule (3A) *ibid.* (Ref. Rule 6(3 & 3A) of Cenvat Credit Rules, 2004 read with Not.No.3/2011 CE (NT) dt.1.03.2011).

12.12. Whether Cenvat credit is admissible on capital goods which are exclusively used in providing exempted goods ?

No.

12.12 Is unutilized CENVAT credit refundable?

Refund of accumulated credit is admissible only in case of exports of finished goods or output service. Where any input or input service is used in providing output service or manufacture of goods which are exported, the CENVAT credit in respect of the input or input service so used shall be allowed to be utilized towards payment of service tax on any other output service or excise duty on other excisable goods. If such adjustment is not possible due to any reason, it will be allowed as refund subject to the safeguards, conditions and limitations specified by the Central Government.

13 Export of Services and taxable service used in relation to export of goods.

13.1 What is Export of Services? Whether export of services is exempted from Service Tax?

What constitute export of service is defined in the Export of Service Rules, 2005. The export of taxable services is exempted from Service Tax.

13.2 What constitutes export of services?

The Export of Services, Rules, 2005 specifies **3** categories of cross border transaction of services and conditions that will be construed as export of services in cases of:

- i. Specified services which are provided in relation to immovable properties situated outside India – [See list of services in Appendix-4] (Refer Rule 3(1)(i) of Export of Service Rules,2005).
- ii. Specified services which are partly performed outside India – [See list of services in Appendix – 4] (Ref. Rule 3(1)(ii) of Export of Service Rules,2005).
- iii. the remaining taxable services, barring a few exceptions, when provided in relation to business or commerce, to a recipient located outside India, and when such services are provided not in relation to business or commerce, it should be provided to a recipient located outside India at the time of provision of such service.

However, 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. [See list of services in Appendix – 4] (Ref. Rule 3(1)(iii) of Export of Service Rules,2005).

Further condition to be met for treating the provision of any taxable service as export of service - payment for such service is received by the service provider in convertible foreign exchange.

[Ref. Rule 3(2) of the Export of Service Rules, 2005].

Thus, each transaction has to be seen individually to ascertain if it constitutes export of services, fulfilling the requisite parameters.

13.3 If export proceeds are received in Indian currency, will it be denied export benefit?

If export proceeds are received in Indian currency, no export benefits shall be available.

[Ref. Rule 3(2)(b) of Export of Service Rules, 2005].

13.4. What are the incentives for export of services?

13.4.1 Taxable services may be exported without payment of service tax, provided the conditions specified in Export of Service Rules, 2005 are fulfilled.

13.4.2 Where service tax has already been paid on export of services to countries (other than Nepal and Bhutan), rebate/refund of such service tax, can be availed under notification no 11/2005-ST dated 19.4.2005;

13.4.3 Where excise duty / service tax has already been paid **on the inputs and input services** used in export of services to countries (other than Nepal and Bhutan), rebate/refund of such excise duty on inputs and service tax paid on input services can be availed under notification no. 12/2005- ST dated 19.4.2005;

13.4.4 Where taxable services are exported without payment of tax, but CENVAT Credit was availed, the refund of accumulated CENVAT Credit (if cannot be

fully used for payment of service tax), may be claimed as refund under rule 5 of the CENVAT Credit Rules, 2004.

13.5 Whether service tax paid on taxable services used in relation to export of goods, Refundable?

Under Notification No.05/2006-CE(NT) dated 14.03.2006, as amended by Notification No.07/2010-CE(NT) dated 27.02.2010, refund of CENVAT credit is allowed in respect of:

- (a) input or input service used in the manufacture of final product which is cleared for export under bond or letter of undertaking;
- (b) input or input service used in providing output service which has been exported without payment of service tax, subject to safeguards, conditions and limitations, as set out in the said notifications.

13.6 Where can one file the rebate claims or refund of unutilized CENVAT Credit?

The rebate claims or refund of utilized CENVAT Credit application has to be filed in the Central Excise or Service Tax Division/Group where the assessee is registered.

13.7. Where can one file claims for refund of service tax paid on taxable services used by the exporter of goods, allowed under Notification No 17/2009 ST dated 7.7.2009?

The manufacturer-exporter / exporter has to file the claim for refund to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of manufacture / the registered office or the head office, as the case may be, of such exporter.

Under Notification No.18/2009-ST dated 07.07.2009, the following two services have been exempted, if they are used for export of goods and where the liability to pay the tax on such services is on the exporter himself, on reverse charge basis,-

- (i) Transport of goods by road, from the place of removal to any ICD, CFS, port or airport; or from any CFS or ICD to the port or airport; and
- (ii) Services provided by a foreign commission agent for procuring orders.

subject to fulfillment of conditions as set out in the said notifications.

14 Service Tax on receipt of services from outside India [Import of services]

14.1 What is the statutory provision regarding taxing of services provided from outside India and received in India ?

Section 66A of the Finance Act, 1994, inserted with effect from 18.4.2006, provides that where any taxable service is provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and is received by a person who has his place of business, fixed establishment, permanent address or usual place of residence, in India, such service shall be taxable service, and such taxable service shall be treated as if the recipient had himself provided the service in India.

14.2 Is the recipient of service liable to pay tax for the taxable service is provided from outside India?

The recipient of service shall be liable to pay tax if the provider of service do not have any established business or a fixed establishment in India. However, 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 (including India).

14.3 Where provider of the service has his business establishments in more than one country, which country should be treated as the country from which service is provided?

If the provider of the service (from outside India) has his business establishments in more than one country, 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. (Ref.: Section 66A (2) of the Finance Act, 1994.)

14.4 What will be 'usual place of residence' of a body corporate?

Usual place of residence, in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted. (Ref.: Explanation 2 to sub-section 2 of Section 66A of the Finance Act, 1994.)

14.5 What constitutes import of services?

The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 specifies 3 categories of cross border transaction of services and conditions that will be construed as import of services, namely, -

- i. specified services which are provided in relation to immovable properties situated in India – [See list of services in Appendix-4] (Ref. Rule 3(i) of The Taxation of Services Rules 2006).
- ii. specified services which are provided partly in India – [See list of services in Appendix -4] (Ref. Rule 3(ii) of The Taxation of Services Rules 2006).
- iii. the remaining taxable services, barring a few exceptions, when provided in relation to business or commerce, to a recipient located in India. [See list of services in Appendix -4] (Ref. Rule 3(iii) of The Taxation of Services Rules 2006).

Thus, each transaction has to be seen individually to ascertain if it constitutes import of services, fulfilling the requisite parameters.

15 Advance Ruling

15.1 What is meant by advance ruling?

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 service proposed to be provided, by the applicant. Activity means service to be provided. (See Section 96A of the Finance Act, 1994)

15.2 What is the scheme of advance rulings?

Authority for Advance Rulings for Excise and Customs is meant to provide binding ruling on important issues so that intending investors will have a clear-cut indication of their duty/tax liability in advance.

Since advance rulings are not appealable under the Finance Act, 1994, it assures the applicant of the finality of the tax liability and hence freedom from spending time, energy and money in legal battles which mostly become long-drawn.

15.3 Who can apply for an advance ruling?

- i. A non-resident setting up a joint venture in India in collaboration with a nonresident or a resident; or

- ii. A resident setting up a joint venture in India in collaboration with a non-resident; or
- iii. A wholly owned subsidiary Indian company, of which the holding company is a foreign company, which proposes to undertake any business activity in India;
- iv. A joint venture in India, (Ref.: Section 96A of the Service Tax, Provisions under Finance Act, 1994).
- v. 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 28H of the Customs Act or Section 23C of Central Excise Act or Section 96C of Service Tax provisions of Finance Act, 1994.
- vi. A resident as an applicant who proposes to import any goods from the Republic of Singapore under Comprehensive Economic Co-operation Agreement (CECA). –Refer Notification No.69/2005 dated 29.07.2005

**15.4 On which questions can an advance ruling be sought?
Advance rulings, concerning service tax matters, can be sought in respect of –**

- i. Classification of any service as a taxable service under Chapter V of the Finance Act, 1994;
- ii. Principles to be adopted for the purposes of determination of value of taxable service under the said Act;
- iii. Determination of the liability to pay service tax on a taxable service under the said Act;
- iv. Valuation of taxable services for charging Service Tax; and
- v. Applicability of notifications issued under said Act. (Ref.: Section 96C(2) of Finance Act, 1994).

15.5 Where is the Authority located and who can be contacted for information/guidance?

Office of the Authority for Advance Rulings (Central Excise, Customs & Service Tax), 4th Floor (Room No. 445 to 465, 467 & 469), Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi – 110 021, Phone 91-11-26876402/26876406, Fax No. 91-11-26876410, Email :aarce@hub.nic.in,

Further information, including those relating to the procedure for filing application, fees and formats of annexure, is available on Website: www.cbec.gov.in/cae/aar.htm

7

16 Where can the department be contacted?

In Ahmedabad, Bangalore, Chennai, Delhi, Kolkata & Mumbai (Mumbai I & II) there are exclusive Service Tax Commissionerates . The contact informations in respect of all the locations are given below:

Sr.No.	Zone	Phone No.	E-mail Address / Web site
1	Ahmedabad	079-6305087 079-26309079	cexd2308@excise.nic.in http://sevakarahmedabad.nic.in ccaahmdbd@excise.nic.in

2	Delhi	011-23378711	st.delhi@gmail.com http://delhiservicetax.gov.in
3	Bangalore	080-22245739	adcstaxblr@eth.net http://servicetaxbangalore.gov.in
4	Chennai	044-24330840-42	chennaiservicetax@dataone.in http://servicetaxchennai.gov.in
5	Kolkata	033-22428922	Servicetax_kolkata@yahoo.com http://kolkata-servicetax.gov.in
6	Mumbai-I	022-22060619	commissioner@servicetaxmumbai.gov.in
7	Mumbai-II	022-24131285 022-24147945 022-24133335	ccozone2office@yahoo.com
8	Bhopal	0755-2765208	cec2006@dataone.in ,
9	Bhubaneshwar	0674-2581135	ccbbsr@rediffmail.com
10	Chandigarh	0172-2704180	ccchandi@msn.com
11	Kerala	0484-2394100	cccocchin@excise.nic.in
12	Coimbatore	0422-2221981	ccocbe@vsnl.net
13	Hyderabad	040-23232028	ccehyd@excise.nic.in
14	Jaipur	0141-2385463	cexjaipu@excise.nic.in
15	Lucknow	0522-2612606	ccolkwzone@yahoo.co.in
16	Mysore	0821-2476912	ccmysore@rediffmail.com
17	Meerut	0121-2769785	ccmeerut@excise.nic.in
18	Nagpur	0712-2565375	cccexnag_ngp@sacharnet.in
19	Pune	020-26051815	ccexpune@pn3.vsnl.net.in
20	Ranchi	0651-2330022	enexranchi@rediffmail.com
21	Shillong	364-2504178	ccshillo@excise.nic.in
22	Vadodara	0265-2331002	chiefcomgujrat@hotmail.com
23	Visakhapatnam	0891-2568837	ccvizag@excise.nic.in

Besides this, the Commissionerates could also be contacted at the address and numbers published in the 'Help Center' menu in the Service Tax section of the CBEC website, www.cbec.gov.in.

17. Web enabled facility for the Assessee

17.1 What is ACES?

ACES is abbreviated form of 'Automation of Central Excise and Service Tax'. It is a Centralized, web based software application.

17.2 What are the Service Tax application covered in ACES?

Service Tax applications such as Registration, Returns, Refunds, ST-3A, Audit, Dispute Resolution are covered in ACES.

17.3 Who can make use of ACES?

Any assessee or person who wants to transact any business with Service Tax or Central Excise Department can use ACES.

17.4 For what exactly can ACES be used?

- Online registration and amendment of registrations details.
- Electronic filing of documents such as returns, claims, letter for permission/ intimation etc.
- Online tracking of status of applications filed for claims, permission/ intimation etc.
- Online facility to view documents like Registration Certificates, Returns, Show Cause Notice, Order-in-Original etc.

17.5 From where can ACES Home page be accessed?

ACES Homepage can be accessed – Directly accessing through <http://www.aces.gov.in>
Clicking on "Automation of Central Excise and Service Tax (ACES)" hyperlink.

17.6 What are the salient features of ACES homepage?

ACES homepage is an interface for users/ assessees to access the Central Excise and Service Tax application. The website also enable users to make online payment through e-payment, download the return and keep track of latest updates of ACES application and gives link to various sites under Central Board of Excise and Customs.

Appendix- 1 List of Taxable Services

Sr. No.	Service Category	Date of Introduction	Accounting Codes				
			Tax Collection	Other Receipts	Deduct Refunds	Education Cess	Secondary & Higher Education Cess
1	Advertising	01.11.1996	00440013	00440016	00440017	00440298	00440426
2	Air Travel Agent	01.07.1997	00440032	00440033	00440034	00440298	00440426
3	Airport Services	10.09.2004	00440258	00440259	00440260	00440298	00440426
4	Architect	16.10.1998	00440072	00440073	00440074	00440298	00440426
5	Asset management (by other than Banking company)	01.06.2007	00440418	00440419	00440420	00440298	00440426
6	ATM Operations, Management or Maintenance	01.05.2006	00440346	00440347	00440348	00440298	00440426
7	Auctioneers' service, other than auction of property under directions or orders of a court of or auction by Central Govt.	01.05.2006	00440370	00440371	00440372	00440298	00440426
8	Authorised Service Station	16.07.2001	00440181	00440182	00440183	00440298	00440426
9	Auxiliary to Gen. Insurance / Life Insurance 16.07.2001 /	16.08.2002	00440169	00440170	00440171	00440298	00440426
10	Banking & Other Financial Services also includes foreign exchange broking and purchase or sale of foreign currency	16.07.2001	00440173	00440174	00440175	00440298	00440426
11	Beauty Parlour	16.08.2002	00440209	00440210	00440211	00440298	00440426
12	Broadcasting	16.07.2001	00440165	00440166	00440167	00440298	00440426
13	Business Auxiliary Service including promotion or marketing or all games of chance whether or not conducted online i.e. lottery, lotto, bingo etc.	01.07.2003	00440225	00440226	00440227	00440298	00440426
14	Business Exhibition Service	10.09.2004	00440254	00440255	00440256	00440298	00440426

15	Business Support Service	01.05.2006	00440366	00440367	00440368	00440298	00440426
16	Cable Operator	16.08.2002	00440217	00440218	00440219	00440298	00440426
17	Cargo Handling also covers packing with transportation	16.08.2002	00440189	00440190	00440191	00440298	00440426
18	Chartered Accountant	16.10.1998	00440092	00440093	00440094	00440298	00440426
19	Cleaning Service	16.06.2005	00440318	00440319	00440320	00440298	00440426
20	Clearing & Forwarding Agent	16.07.1997	00440045	00440046	00440047	00440298	00440426
21	Clubs and Associations	16.06.2005	00440322	00440323	00440324	00440298	00440426
22	Commercial or Industrial Construction	10.09.2004	00440290	00440291	00440292	00440298	00440426
23	Commercial Training or Coaching	01.07.2003	00440229	00440230	00440231	00440298	00440426
24	Company Secretary	16.10.1998	00440100	00440101	00440102	00440298	00440426
25	Construction of Residential Complex	16.06.2005	00440334	00440335	00440336	00440298	00440426
26	Consulting Engineer	07.07.1997	00440057	00440058	00440059	00440298	00440426
27	Convention Centre	16.07.2001	00440133	00440134	00440135	00440298	00440426
28	Cost Accountant	16.10.1998	00440096	00440097	00440098	00440298	00440426
29	Courier	01.11.1996	00440014	00440018	00440019	00440298	00440426
30	Credit Card, Debit Card, Charge Card or other payment and related services	01.05.2006	00440394	00440395	00440396	00440298	00440426
31	Credit Rating Agency	16.10.1998	00440088	00440089	00440090	00440298	00440426
32	Custom House Agent	15.06.1997	00440026	00440027	00440028	00440298	00440426
33	Commodity exchange service	16.05.2008	00440438	00440439	00440440	00440298	00440426
34	Cosmetic & Plastic Surgery	01.09.2009	00440460	00440463		00440298	00440426
35	Design Service	01.06.2007	00440422	00440423	00440424	00440298	00440426
36	Development & Supply of Content	01.06.2007	00440414	00440415	00440416	00440298	00440426
37	Dredging	16.06.2005	00440310	00440311	00440312	00440298	00440426
38	Dry Cleaning	16.08.2002	00440221	00440222	00440223	00440298	00440426
39	Erection,	01.07.2003	00440233	00440234	00440235	00440298	00440426

	Commissioning or Installation						
40	Event Management	16.08.2002	00440197	00440198	00440199	00440298	00440426
41	Fashion Designer	16.08.2002	00440213	00440214	00440215	00440298	00440426
42	Forward Contract Services	10.09.2004	00440282	00440283	00440284	00440298	00440426
43	Franchise Service	01.07.2003	00440237	00440238	00440239	00440298	00440426
44	General Insurance	01.07.1994	00440005	00440006	00440120	00440298	00440426
45	Health Club & Fitness Centre	16.08.2002	00440205	00440206	00440207	00440298	00440426
46	Information Technology Software	16.05.2008	00440452	00440450	00440451	00440298	00440426
47	Intellectual Property Service	10.09.2004	00440278	00440279	00440280	00440298	00440426
48	Interior Decorator	16.10.1998	00440076	00440077	00440078	00440298	00440426
49	Internet Café	01.07.2003	00440241	00440242	00440243	00440298	00440426
50	Internet Telecommunication	16.05.2008	00440382	00440383	00440384	00440298	00440426
51	Life Insurance	10.09.2004	00440185	00440186	00440187	00440298	00440426
52	Legal Consultancy Service	01.09.2009	00440480	00440483		00440298	00440426
53	Mailing List Compilation and Mailing	16.06.2005	00440330	00440331	00440332	00440298	00440426
54	Management Consultant	16.10.1998	00440116	00440117	00440118	00440298	00440426
55	Management of Investment ULIP	16.05.2008	00440430	00440431	00440432	00440298	00440426
56	Management, Maintenance or Repair Service	01.07.2003	00440245	00440246	00440247	00440298	00440426
57	Mandap Keeper	01.07.1997	00440035	00440036	00440037	00440298	00440426
58	Manpower Recruitment or Supply Agency	07.07.1997	00440060	00440061	00440062	00440298	00440426
59	Market Research Agency	16.10.1998	00440112	00440113	00440114	00440298	00440426
60	Mining of Mineral, Oil or Gas	01.06.2007	00440402	00440403	00440404	00440298	00440426
61	On-line Information & Database Access or Retrieval Service	16.07.2001	00440153	00440154	00440155	00440298	00440426
62	Opinion Poll Service	10.09.2004	00440274	00440275	00440276	00440298	00440426
63	Outdoor Catering Service	10.09.2004	00440051	00440052	00440053	00440298	00440426
64	Packaging Service	16.06.2005	00440326	00440327	00440328		00440426

						00440298	
65	Pandal & Shamiana Service	10.09.2004	00440054	00440055	00440056	00440298	00440426
66	Photography	16.07.2001	00440129	00440130	00440131	00440298	00440426
67	Port Service	16.07.2001	00440177	00440178	00440179	00440298	00440426
68	Port Service (other)	01.07.2003	00440177	00440178	00440179	00440298	00440426
69	Processing & Clearing Houses in relation to securities, goods and forward contracts	16.05.2008	00440442	00440443	00440446	00440298	00440426
70	Public Relations Service	01.05.2006	00440374	00440375	00440376	00440298	00440426
71	Rail Travel Agent	16.08.2002	00440201	00440202	00440203	00440298	00440426
72	Real Estate Agent / Consultant	16.10.1998	00440104	00440105	00440106	00440298	00440426
73	Recognized Association goods/ Forward contracts	16.05.2008	00440438	00440439	00440440	00440298	00440426
74	Recognized Stock Exchanges	16.05.2008	00440434	00440435	00440436	00440298	00440426
75	Recovery Agent	01.05.2006	00440350	00440351	00440352	00440298	00440426
76	Registrar to an Issue	01.05.2006	00440338	00440339	00440340	00440298	00440426
77	Rent - a – Cab Operator	16.07.1997	00440048	00440049	00440050	00440298	00440426
78	Renting of Immovable Property inclusive of permission to use such property irrespective of transfer of possession or control of property.	01.06.2007	00440406	00440407	00440408	00440298	00440426
79	Sale of space or time for advertisement, other than print media	01.05.2006	00440354	00440355	00440356	00440298	00440426
80	Scientific & Technical Consultancy	16.07.2001	00440125	00440126	00440127	00440298	00440426
81	Security Agency	16.10.1998	00440108	00440109	00440110	00440298	00440426
82	Share Transfer Agent	01.05.2006	00440342	00440343	00440344	00440298	00440426
83	Ship Management Service	01.05.2006	00440378	00440379	00440380	00440298	00440426
84	Site Preparation	16.06.2005	00440306	00440307	00440308	00440426	
85	Sound Recording	16.07.2001	00440161	00440162	00440163	00440298	00440426

86	Sponsorship service provided to anybody corporate or firm, other than sponsorship of sports event	01.05.2006	00440358	00440359	00440360	00440298	00440426
87	Steamer Agent	15.06.1997	00440029	00440030	00440031	00440298	00440426
88	Stock Broker	01.07.1994	00440008	00440009	00440121	00440298	00440426
89	Storage & Warehousing	16.08.2002	00440193	00440194	00440195	00440298	00440426
90	Supply of tangible goods	16.05.2008	00440445	00440447	00440448	00440298	00440426
91	Survey & Exploration of Minerals	10.09.2004	00440270	00440271	00440272	00440298	00440426
92	Survey and Map Making	16.06.2005	00440314	00440315	00440316	00440298	00440426
93	T.V. & radio Programme Production Services	10.09.2004	00440286	00440287	00440288	00440298	00440426
94	Technical Testing & Analysis	01.07.2003	00440249	00440250	00440251	00440298	00440426
95	Technical Inspection & Certification	01.07.2003	00440249	00440250	00440251	00440298	00440426
96	Telecommunication Service	01.06.2007	00440398	00440399	00440400	00440298	00440426
97	Tour Operator except for the use of educational bodies.	01.09.1997	00440063	00440064	00440065	00440298	00440426
98	Transport of goods by Air	10.09.2004	00440266	00440267	00440268	00440298	00440426
99	Transport of goods by Road	01.01.2005	00440262	00440263	00440264	00440298	00440426
100	Transport of goods in containers by rail by any person other than Government railway	01.05.2006	00440390	00440391	00440392	00440298	00440426
101	Transport of goods other than water, through Pipeline or other conduit	16.06.2005	00440302	00440303	00440304	00440298	00440426
102	Transport of Passengers embarking on international journey by air, other than economy class passengers	01.05.2006	00440362	00440363	00440364	00440298	00440426
103	Transport of persons by cruise ship	01.05.2006	00440386	00440387	00440388	00440298	00440426
104	Travel Agent other than Air & Rail Travel	10.09.2004	00440294	00440295	00440296	00440298	00440426
105	Transport of goods through waterways	01.09.2009	00440470	00440473		00440298	00440426
106	Transport of goods	01.09.2009	00440390	00440391		00440298	00440426

	by rail						
107	Underwriter	16.10.1998	00440084	00440085	00440086	00440298	00440426
108	Video Tape roduction	16.07.2001	00440157	00440158	00440159	00440298	00440426
109	Works Contract	01.06.2007	00440410	00440411	00440412	00440298	00440426
110	Services of promoting , marketing or organizing of games of change, including lottery.	01.07.2010	00440595	00440596	00440597	00440298	00440426
111	Health services undertaken by hospitals or medical establishments for the employees of business organization and health services provided under health insurance scheme offered by Insurance companies.	01.07.2010	00440598	00440599	00440600	00440298	00440426
112	Services provided for maintenance of medical records of employees of a business entity.	01.07.2010	00440601	00440602	00440603	00440298	00440426
113	Promoting a 'brand' of goods, services, events, business entity etc.	01.07.2010	00440604	00440605	00440606	00440298	00440426
114	Services of permitting commercial use or exploitation of any event organized by a person or an organization.	01.07.2010	00440607	00440608	00440609	00440298	00440426
115	Services provided by Electricity Exchanges.	01.07.2010	00440610	00440611	00440612	00440298	00440426
116	Services related to two types of copyrights hitherto not covered under existing taxable services 'Intellectual Property Right(IPR), namely, that on (a) cinematographic films and (b) sound recording.	01.07.2010	00440613	00440614	00440615	00440298	00440426
117	Special services provided by builder etc. to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges.	01.07.2010	00440616	00440617	00440618	00440298	00440426
118	Services of Air-conditioned restaurants having license to serve alcoholic beverages in relation to service of food or beverages.	1.5.2011	00441067	00441068	00441069	00440298	00440426
119	Services of providing of accommodation in	1.5.2011	00441070	00441071	0441072	00440298	00440426

hotels / inns/ cubs/ guest houses/ campsite for a continuous period of less than three months						
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Note:

- 2 new services (Sr. No. 118 to 119 above) have become taxable with effect from 01.05.2011 vide Notfn. No. 29/2011-ST dated 25/4/2011.
- The sub-head "Other Receipts" is meant for interest, penalty leviable on delayed payment of service tax
- The sub-head "Deduct Refunds" is not to be used by the assessees. It is meant for the Central Excise Department while allowing refund.

Appendix- 2 Abatements

Sl.No.	Sub clause of section 65(105)	Description of taxable service	Conditions	Percentage amount of value on which ST is required to be paid
1	(m)	(1) The use of mandap, including the facilities provided to any person in relation to such use and also for the catering charges.	This exemption shall apply only in such cases where the mandapkeeper also provides catering services, that is, supply of food and the invoice, bill or challan issued indicates that it is inclusive of the charges for catering service.	60
		(2) Taxable service provided by a hotel as mandap keeper in such cases where services provided include catering services, that is, supply of food alongwith any service in relation to use of a mandap.	The invoice, bill or challan issued indicates that it is inclusive of charges for catering services. <i>Explanation.</i> -The expression "hotel" means a place that provides boarding and lodging facilities to public on commercial basis.	60
2	(n)	(i) Services provided or to be provided to any person, by a tour operator in relation to a package tour. <i>Explanation.-The expression "package tour" means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour.</i>	The bill issued for this purpose indicates that it is inclusive of charges for such a tour.	25
		(ii) Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour.	(a) The invoice, bill or challan issued indicates that it is towards charges for such accommodation, and (b) this exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.	10
		(iii) Services, other than services specified in (i) and (ii) above, provided or to be provided to any person, by a tour operator in relation to a	The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.	40

		tour.		
3	(o) or (zn) or (zzl) or (zzm)	Renting of a cab	---	40
4	(zc)	Holding of a convention, where service provided includes catering service	The gross amount charged from the recipient of service is inclusive of the charges for the catering service.	60
4A	(zm)	Services provided in relation to chit. Explanation.- "Chit" means a transaction whether called chit, chit fund, chitty, kuri, or by any other name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to the prize amount.	-----	70
4A	(zzb)	Business auxiliary service in relation to production or processing of parts and accessories used in the manufacture of cycles, cycle rickshaws and hand-operated sewing machines, for, or on behalf of, the client.	The gross amount charged from the client is inclusive of the cost of inputs and input services, whether or not supplied by the client	70
5	(zzd) or (zn) or (zzl) or (zzm)	Erection, commissioning or installation, under a contract for supplying a plant, machinery or equipment or structures and erection, commissioning or installation of such plant, machinery or equipment or structures	This exemption is optional to the commissioning and installation agency. <i>Explanation.-</i> The gross amount charged from the recipient of service shall include the value of the plant, machinery, equipment, structures, parts and any other material sold by the commissioning and installation agency, during the course of providing erection, commissioning or installation service.	33
6		(Omitted by Notfn. No. 12/2008 ST dated 1/3/2008)		
7	(zzq) or (zn) or (zzl) or (zzm)	Commercial or Industrial Construction service	This exemption shall not apply in such cases where the taxable services provided are only completion and finishing services in relation to building or civil structure, referred to in sub-clause © of clause (25b) of section 65 of the Finance Act. <i>Explanation.-</i> The gross Amount charged shall include the value of goods and materials supplied or provided or used by the provider of the construction service for providing such service.	33
7(a)	(zzq) or (zn) or (zzl) or (zzm)	Commercial or Industrial Construction	This exemption shall not apply in cases where the taxable services provided are only completion and	25

			<p>finishing services in relation to building or civil structure, referred to in sub-clause © of clause (25b) of section 65 of the Finance Act.</p> <p><i>Explanation.</i> - The gross Amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.</p> <p>This exemption shall not apply in cases where the cost of land has been separately recovered from the buyer by the builder or his representative.</p>	
8	(zzt)	Catering	<p>This exemption shall apply in cases where,-</p> <p>(i) the outdoor caterer also provides food; and</p> <p>(ii) the invoice, bill or challan issued indicates that it is inclusive of charges for supply of food.</p>	50
9	(zzw)	Services in relation to pandal or shamiana in any manner, including services rendered as a caterer.	<p>This exemption shall apply only in cases where,-</p> <p>(i) the pandal or shamiana contractor also provides catering services, that is, supply of food; and</p> <p>ii)the invoice, bill or challan issued indicates that it is inclusive of charges for catering service.</p>	70
10	(zzzh) or (zn) or (ztl) or (zzm)	Construction of Complex	<p>This exemption shall not apply in cases where the taxable services provided are only completion and finishing services in relation to residential complex, referred to in sub-clause (b) of clause (30a) of section 65 of the Finance Act.</p> <p><i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.</p>	33
10(a)	(zzzh) or (zn) or (ztl) or (zzm)	Construction of Complex	<p>This exemption shall not apply in cases where the taxable services provided are only completion and finishing services in relation to residential complex, referred to in sub-clause (b) of clause (30a) of section 65 of the Finance Act.</p> <p><i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.</p> <p>This exemption shall not apply in cases where the cost of land has been separately recovered from the buyer by the builder or representative.</p>	25
11	(zzzp) or (zn) or (ztl)	¹⁹ [Transport of goods in containers by rail]	---	30
12	(zzzzl)	Services provided or to be	-	75

		provided, to any person, by any other, in relation to transport of – (i) Coastal goods; (ii) Goods through national water-way; or (iii) Goods through inland water.		
13	(zzzzv)	Services provided or to be provided, to any person, by a restaurant, by whatever name called, having the facility of air-conditioning in any part of the establishment, at any time during the financial year, which has licence to serve alcoholic beverages, in relation to serving of food or beverage, including alcoholic beverages or both, in its premises;	-	30
14	(zzzzw)	Services provided or to be provided, to any person, by a hotel, inn, guest house, club or campsite, by whatever name called, in relation to providing of accommodation for a continuous period of less than three months;	-	50

Appendix – 3

Sections of the Central Excise Act, 1944 applicable to Service Tax

Sr.No.	Section of Central Excise Act, 1944	Description
1	9C	Presumption of culpable mental state
2	9D	Relevancy of statements under certain circumstances
3	11B	Claim for refund of duty
4	11BB	Interest on delayed refunds
5	11C	Power not to recover duty of excise not levied or short levied as a result of general practice
6	12	Application of the provisions of Act No.52 of 1962 to Central Excise Duties
7	12A	Price of goods to indicate the amount of duty paid thereon
8	12B	Presumption that the incidence of duty has been passed on to the buyer
9	12C	Consumer Welfare Fund
10	12D	Utilization of the Fund
11	12E	Powers of Central Excise Officers
12	14	Power to summon persons to give evidence and produce documents in inquiries under this Act
13	14AA	Special audit in cases where credit of duty availed or utilized is not within the normal limits, etc.
14	15	Officers required to assist Central Excise Officers
15	33A	Adjudication procedure
16	35F	Deposit, pending appeal, of duty demanded or penalty levied
17	35FF	Interest on delayed refund of amount deposited under the proviso to Section 35F
18	35G	Appeal to High Court
19	35H	Application to High Court

20	35I	Power to High Court or Supreme Court to require statement to be amended
21	35J	Case before High Court to be heard by not less than two judges
22	35K	Decision of High Court or Supreme Court on the case stated
23	35L	Appeal to the Supreme Court
24	35M	Hearing before Supreme Court
25	35N	Sums due to be paid notwithstanding reference, etc
26	35O	Exclusion of time taken for copy
27	35Q	Appearance by authorized representative
28	36	Definitions
29	36A	Presumption as to documents in certain cases
30	36B	Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence
31	37A	Delegation of powers
32	37B	Instructions to Central Excise Officers
33	37C	Service of decisions, orders, summons, etc.
34	37D	Rounding off of duty, etc.
35	38A	Effect of amendments, etc. of rules, notifications or orders
36	40	Protection of action taken under the Act

Appendix - 4
Export of Service Rules, 2005 & Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 List of Service Categories

Rule 3 [1(i)]

Category – I

Sr.No.	Clause	Service Category
1	d	General Insurance
2	m	Mandap Keeper
3	p	Architect
4	q	Interior Decorator
5	v	Real Estate Agent
6	zzq	Commercial or Industrial Construction
7	zzza	Site Formation
8	zzzb	Dredging
9	zzzc	Survey and Map making
10	zzzh	Construction of Complex
11	zzzr	Auctioneers
12	zzzy	Mining of Minerals, Oil or Gas
13	zzzz	Renting of Immovable Property
14	zzzza	Works Contract
15	zzzzm	Legal Consultancy
16	zzzzu	Construction Service – Preference of Location & Development
17	zzzzv	Restaurant Service
18	zzzzw	Short-term Accommodation

Rule 3[1(ii)]

Category – II

Sr.No.	Clause	Service Category
1	a	Stock Broker
2	f	Courier
3	h	Custom House Agent
4	i	Steamer Agent
5	j	Clearing & Forwarding
6	l	Air Travel Agent
7	n	Tour Operator
8	o	Rent-a-cab
9	w	Security Agency
10	z	Underwriter
11	zb	Photography
12	zc	Convention Centre
13	zi	Video Production
14	zj	Sound Recording
15	zn	Port Service
16	zo	Authorised Service Station
17	zq	Beauty Parlour
18	zr	Cargo Handling
19	zt	Dry Cleaner
20	zu	Event Manager
21	zv	Fashion Designer
22	zw	Health Club & Fitness Centre
23	zz	Rail Travel Agent
24	zza	Storage & Warehousing
25	zcc	Commercial Training or Coaching
26	zcd	Erection Commissioning & Installation
27	zcf	Internet Café
28	zcg	Management, Maintenance or Repair
29	zci	Technical Inspection & Certification
30	zcl	Other Port
31	zcm	Airport Authority
32	zco	Business Exhibition
33	zct	Outdoor Caterer
34	zcv	Survey & Exploration
35	zcw	Pandal & Shamiana
36	zcx	Travel Agent
37	zcy	Forward Contract
38	zcdd	Cleaning
39	zcde	Club or Association

40	zzzf	Packaging
41	zzzzg	Recognized Stock Exchange
42	zzzzh	Recognized or Registered Association
43	zzzzi	Processing and Clearing House
44	zzzzk	Cosmetic or Plastic Surgery
45	zzzzl	Coastal Goods Transport and Transport of Goods by Waterways
46	zzzzo	Health Services

Rule 3 [1(iii)] (a)

Sr.No	Clause	Service Category
1	zzzo	Passenger embarking on international flight
2	zzzv	Cruise service

Rule 3[1(iii)] (b)

Sr.No	Clause	Service Category
1	d	General Insurance
2	zzzc	Survey & map making
3	zzzr	Auctioneers
4	zzzzm	Legal Consultancy

Rule 3[1(iii)] (c) Category – III

Sr.No.	Clause	Service Category
1	b	Telephone
2	c	Pager
3	d	General Insurance
4	e	Advertising
5	g	Consulting Engineer
6	k	Manpower Recruitment or Supply
7	m	Mandap Keeper
8	p	Architect
9	q	Interior Decorator
10	r	Management Consultant
11	s	Chartered Accountant
12	t	Cost Accountant
13	u	Company Secretary
14	v	Real Estate Agent
15	x	Credit Rating Agency
16	y	Market Research Agency
17	za	Scientific or Technical Consultancy
18	zd	Leased Circuit
19	ze	Telegraph
20	zf	Telex
21	zg	Fax
22	zh	On-line Information
23	zk	Broadcasting
24	zl	Insurance Auxiliary

25	zm	Banking and Other Financial Services
26	zp	----- omitted
27	zs	Cable Operator & MSO
28	zx	Life Insurance
29	zy	Insurance Auxiliary to Life Insurance
30	zzb	Business Auxiliary Service
31	zze	Franchise Service
32	zzh	Technical Testing and Analysis Service
33	zzj	----- omitted
34	zzk	Forex Broker (other than in relation to Banking)
35	zzn	Transport of Goods by Air Service
36	zzp	Goods Transport Agency Service
37	zzq	Commercial or Industrial Construction Service
38	zzr	Intellectual Property Service
39	zzs	Opinion Poll Service
40	zzu	Programme Producer
41	zzz	Transport through Pipeline
42	zzza	Site formation, Clearance, Excavation, Earthmoving & Demolition Service
43	zzzb	Dredging Service
44	zzzc	Survey and Map making
45	zzzg	Mailing List Compilation & Mailing
46	zzzh	Construction of Complex Service (Residential)
47	zzzi	Registrar to an issue
48	zzzj	Share Transfer Agent
49	zzzk	ATM Operation, Maintenance & Management
50	zzzl	Recovery Agent
51	zzzm	Sale of Space for Advt. other than Print Media
52	zzzn	Sponsorship other than for Sports
53	zzzo	Domestic journey or International journey
54	zzzp	Transport of Goods in containers by Rail Service
55	zzzq	Business Support Service
56	zzzr	Auctioneers
57	zzzs	Public Relations Service
58	zzzt	Ship Management Service
59	zzzu	Internet Telecommunication
60	zzzv	Cruise Ship
61	zzzw	Credit Card, Debit Card & other payment Cards
62	zzzx	Telecommunication Service
63	zzzy	Mining Service
64	zzzz	Renting of Immovable Property Service
65	zzzza	Works Contract Service
66	zzzzb	Development & Supply of Content
67	zzzzc	Asset Management other than Banking company
68	zzzzd	Design Service
69	zzzze	Information Technology Software
70	zzzzf	Management of Investment-ULIP
71	zzzzj	Supply of Tangible Goods
72	zzzzm	Legal Consultancy Service
73	zzzzn	Lottery & Other Games of Chance Service

