

SERVICE TAX ACT

Chapter V of the Finance Act, 1994

[Updated as per Finance Act 2016]

SECTION 64. Extent, commencement and application -. (1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It shall apply to taxable services provided on or after the commencement of this Chapter.

SECTION 65. Definitions. — In this Chapter, unless the context otherwise requires, -

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

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

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

(3a) **“Aircraft”** has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);

(3b) **“Aircraft operator”** means any person who provides the service of transport of goods or passengers by aircraft;

(3c) **“Airport”** has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994);

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

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

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

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

(7) **“Assessee”** means a person liable to pay the service tax and includes his agent

- (7a) **“Auction of property”** includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, and repair or restoration services in relation to auction of property
- (7b) **“Associated enterprise”** has the meaning assigned to it in section 92A of the Income-tax Act, 1961, (43 of 1961)
- (8) **“Authorised dealer of foreign exchange”** has the meaning assigned to “authorised person” in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999)
- (9) [*****]
- (9a) **“Automated teller machine”** means an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions
- (9b) **“Automated teller machine operations, maintenance or management service”** means any service provided in relation to automated teller machines and includes site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value-added services
- (9c) **“Banker to an issue”** means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), carrying on the activities relating to an issue including acceptance of application, application money, allotment money and call money, refund of application money, payment of dividend and interest warrants
- (10) **“Banking”** has the meaning assigned to it in clause (b) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)
- (11) **“Banking company”** has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934)
- (12) **“Banking and other financial services”** means -
 (a) The following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate [or commercial concern], namely:-
- (i) Financial leasing services including equipment leasing and hire-purchase;
- Explanation.*- For the purposes of this item, “financial leasing” means a lease transaction where
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- (i) contract for lease is entered into between two parties for leasing of a specific asset;
- (ii) such contract is for use and occupation of the asset by the lessee;

- (iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and
 - (iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment
- (ii) * * * *
- (iii) Merchant banking services
 - (iv) Securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing
 - (v) Asset management including portfolio management, all forms of fund management, pension fund management, [custodial, depository and trust services
 - (vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy
 - (vii) Provision and transfer of information and data processing;
 - (viii) Banker to an issue services; and
 - (ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange, transfer of money including telegraphic transfer, mail transfer and electronic transfer, providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults; operation of bank accounts
 - (b) foreign exchange broking and purchase or sale of foreign currency, including money changing provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer, other than those covered under sub-clause(a)

Explanation.-For the purposes of this clause, it is hereby declared that “purchase or sale of foreign currency, including money changing” includes purchase or sale of foreign currency, whether or not the consideration for such purchase or sale, as the case may be, is specified separately.

- (13) **“Board”** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)
- (14) **“Body corporate”** has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956)

- (15) **“Broadcasting”** has the meaning assigned to it in clause (c) of section 2 of the PrasarBharti (Broadcasting Corporation of India) Act, 1990 (25 of 1990) and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or [collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multisystem operator or any other person on behalf of the said agency] or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner;
- (16) **“Broadcasting agency or organisation”** means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or [collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency] or organisation;
- (17) **“Beauty treatment”** includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services;]
- (18) **“Beauty parlour”** means any establishment providing beauty treatment services;
- (19) **“Business auxiliary service”** means any service in relation to-
- (i) Promotion or marketing or sale of goods produced or provided by or belonging to the client; or
 - (ii) Promotion or marketing of service provided by the client; or
 - (iii) Any customer care service provided on behalf of the client; or
 - (iv) Procurement of goods or services, which are inputs for the client; or [*Explanation*. — For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “inputs” means all goods or services intended for use by the client]
 - (v) Production or processing of goods for, or on behalf of, the client
 - (vi) Provision of service on behalf of the client; or

(vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision and includes services as a commission agent, [but does not include any activity that amounts to manufacture of excisable goods.

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

(a) "**Commission agent**" means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person —

(i) Deals with goods or services or documents of title to such goods or services; or

(ii) Collects payment of sale price of such goods or services; or

(iii) Guarantees for collection or payment for such goods or services; or

(iv) undertakes any activities relating to such sale or purchase of such goods or services;

(b) "**Excisable goods**" has the meaning assigned to it in clause (d) of section 2 of the Central Excise Act, 1944 (1 of 1944);

(c) "**Manufacture**" has the meaning assigned to it in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944)

(19a) "**business exhibition**" means an exhibition, —

(a) To market; or

(b) To promote; or

(c) To advertise; or

(d) To showcase,

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

(19b) "**business entity**" includes an association of persons, body of individuals, company or firm but does not include an individual

(20) "**Cab**" means –

(i) Amotorcab, or

(ii) Amaxicab, or

(iii) Any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward.

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

- (21) **“Cable operator”** has the meaning assigned to it in clause (aa) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995)
- (22) **“Cable service”** has the meaning assigned to it in clause (b) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995)
- (23) **“Cargo handling service”** means loading, unloading, packing or unpacking of cargo and includes, -
- (a) cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service incidental to freight; and
 - (b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking, but does not include, handling of export cargo or passenger baggage or mere transportation of goods
- (24) **“Caterer”** means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion
- (24a) **“Civil enclave”** has the meaning assigned to it in clause (i) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994)
- (24b) **“Cleaning activity”** means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of—
- (i) Commercial or industrial buildings and premises thereof; or
 - (ii) Factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof, but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying
- (25) **“Clearing and forwarding agent”** means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent
- (25a) **“Clinical establishment”** means —
- (i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, owned, established, administered or managed by any person or body of persons, whether incorporated or not, having in its establishment the facility of central air-conditioning either in whole or in part of its premises and having more than twenty-five beds for in-patient treatment at any time during the financial year, offering services for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine; or
 - (ii) an entity owned, established, administered or managed by any person or body of persons, whether incorporated or not, either as an independent entity or as a part of any clinical establishment referred to in sub-clause (i),

which carries out diagnosis of diseases through pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, but does not include an establishment, owned or controlled by —

(a) The Government; or

(b) A local authority;

(25aa) **“club or association”** means any person or body of persons providing services, facilities or advantages, primarily to its members, for a subscription or any other amount, but does not include —

(iii) anybody established or constituted by or under any law for the time being in force; or

(iv) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or

(v) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(vi) any person or body of persons associated with press or media

(25b) **“commercial or industrial construction”** means —

(a) Construction of a new building or a civil structure or a part thereof; or

(b) Construction of pipeline or conduit; or

(c) Completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or

(d) Repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is —

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams

(26) **“Commercial training or coaching”** means any training or coaching provided by a commercial training or coaching centre; **“Government”** means the [‘(26A) Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder

(27) **“Commercial training or coaching centre”** means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons

on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes

(28) [****]

(29) **“Commissioning and installation agency”** means any agency providing service [in relation to erection, commissioning or installation

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

(30a) **“Construction of complex”** means –

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

(31) **“Consulting engineer”** means any professionally qualified engineer or any body corporate or any other firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner [to any person] in one or more disciplines of engineering

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

(33) **“Courier agency”** means a [any person] engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(33a) **“credit card, debit card, charge card or other payment card service”** includes any service provided, —

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

non-banking financial company or any other person, who makes the payment to any person who accepts such card;

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

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

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

(35a) **“customs airport”** means an airport appointed as such under clause (a) of sub-section (1) of section 7 of the Customs Act, 1962

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

(36a) **“Dredging”** includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary

(36b) **“Design services”** includes services provided in relation to designing of furniture, consumer products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models

(36c) **“Development and supply of content”** includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films

(37) **“Dry cleaning”** includes dry cleaning of apparels, garments or other textile, fur or leather articles

(38) **“Dry cleaner”** means any person providing service in relation to dry cleaning

- (39) **“Electronic form”** has the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000)
- (39a) **“Erection, commissioning or installation”** means any service provided by a commissioning and installation agency, in relation to, —
- (i) erection, commissioning or installation of plant, [machinery, equipment or structures, whether pre-fabricated or otherwise or
 - (ii) Installation of –
 - (a) Electrical and electronic devices, including wirings or fittings therefor; or
 - (b) Plumbing, drain laying or other installations for transport of fluids; or
 - (c) Heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work.
 - (d) Thermal insulation, sound insulation, fire proofing or water proofing; or
 - (e) Lift and escalator, fire escape staircases or travelators; or
 - (f) Such other similar services
- (40) **“Event management”** means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, [sports, marriage or any other event] and includes any consultation provided in this regard
- (41) **“Event manager”** means any person who is engaged in providing any service in relation to event management in any manner
- (42) **“Facsimile (FAX)”** means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system
- (43) **“Fashion designing”** includes any activity relating to conceptualising, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto
- (44) **“Fashion designer”** means any person engaged in providing service in relation to fashion designing
- (45) **“Financial institution”** has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934)
- (46) **“Foreign exchange broker”** includes any authorised dealer of foreign exchange

- (46a) **“Forward contract”** has the meaning assigned to it in clause (c) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)
- (47) **“Franchise”** means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved
- (48) **“Franchisor”** means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term “franchisee” shall be construed accordingly
- (49) **“General insurance business”** has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalization) Act, 1972 (57 of 1972)
- (50) **“Goods”** has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930);
- (50a) “goods carriage” has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
- (50b) “goods transport agency” means any [person who] provides service in relation to transport of goods by road and issues consignment note, by whatever name called
- (51) **“Health and fitness service”** means service for physical well being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service
- (52) **“Health club and fitness Centre”** means any establishment, including a hotel or a resort, providing health and fitness service;
- (53) **“Information”** has the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000)
- (53a) **“information technology software”** means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment
- (54) **“Insurance agent”** has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938)
- (55) **“Insurance auxiliary service”** means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general

- insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment
- (55a) **“Intellectual property right”** means any right to intangible property, namely, trademarks, designs, patents or any other similar intangible property, under any law for the time being in force, but does not include copyright;
- (55b) **“Intellectual property service”** means, -
 (a) Transferring, temporarily, or
 (b) Permitting the use or enjoyment of, any intellectual property right
- (56) **“Intermediary or insurance intermediary”** has the meaning assigned to it in clause (f) of sub-section(1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)
- (56a) **“International journey”**, in relation to a passenger, means his journey from any customs airport on board any aircraft to a place outside India
- (56b) **“Internet”** means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancements or up gradations and is able to support communications using the Transmission Control Protocol or Internet Protocol suite or its subsequent enhancements or up gradations and all other Internet Protocol compatible protocols
- (57) **“Internet cafe”** means a commercial establishment providing facility for accessing internet;
- (57a) **“Internet telecommunication service”** includes, —
- (i) Internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider,
 (ii) Internet access services, including provision of a direct connection to the internet and space for the customer’s web page,
 (iii) Provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet
- (58) **“Insurer”** means any person carrying on the general insurance business or life insurance business [and includes a reinsurer];
- (59) **“Interior decorator”** means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;
- (59a) **“Issue”** means an offer of sale or purchase of securities to, or from, the public or the holder of securities
- (60) [*****]

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

(62) **“Light motor vehicle”** means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver

(63) **“Magnetic storage device”** includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording

(63a) **“Mailing list compilation and mailing”** means any service in relation to —

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

(64) **“Management, maintenance or repair”** means any service provided by —

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

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

- (a) “goods” includes computer software;
- (b) “properties” includes information technology software

(65) **“Management or business consultant”** means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management

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

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

- (67) **“Mandap keeper”** means a person who allows temporary occupation of a mandap for a consideration for organising any official, social or business function
Explanation. — For the purposes of this clause, “social function” includes marriage
- (68) **“Manpower recruitment or supply agency”** means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, [to any other person
- (69) **“Market research agency”** means any [person] engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services
- (70) **“Maxicab”** has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
- (71) **“Motorcab”** has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
- (72) **“Motor car”** has the meaning assigned to it in clause (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
- (73) **“Motor vehicle”** has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)
- (74) **“Non-banking financial company”** has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934)
- (75) **“On-line information and database access or retrieval”** means providing data or information, retrievable or otherwise, [to any person], in electronic form through a computer network;
 (75a) **“Opinion poll”** means any service designed to secure information on public opinion regarding social, economic, political or other issues;
 (75b) **“Opinion poll agency”** means any person engaged in providing any service in relation to opinion poll
- (76) **“Other port”** has the meaning assigned to “port” in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908), but does not include the port defined in clause (81)
- (76a) **“Outdoor caterer”** means a caterer engaged in providing services in connection with catering at a place other than his own [but including a place provided by way of tenancy or otherwise by the person receiving such services
- (76b) **“Packaging activity”** means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging

- activity that amounts to ‘manufacture’ within the meaning of clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944)
- (77) **“Pager”** means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages
- (77a) **“Pandal or Shamiana”** means a place specially prepared or arranged for organising an official, social or business function
Explanation- For the purposes of this clause, “social function” includes marriage
- (77b) **“Pandal or Shamiana contractor”** means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein
- (77c) **“Passenger”** means any person boarding an aircraft in India for performing domestic journey or international journey
- (78) **“Photography”** includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography
- (79) **“Photography studio or agency”** means any professional photographer or any person engaged in the business of rendering service relating to photography
- (80) **“Policy holder”** has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938)
- (81) **“Port”** has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963)
- (82) **“Port service”** means any service rendered within a port or other port, in any manner
- (83) **“Practising chartered accountant”** means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy
- (84) **“Practising cost accountant”** means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy

- (85) **“Practising company secretary”** means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship
- (86) **“Prescribed”** means prescribed by rules made under this Chapter;
- (86a) **“Programme”** means any audio or visual matter, live or recorded, which is intended to be disseminated by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations;
- (86b) **“Programme producer”** means [any person who] produces a programme on behalf of another person
- (86c) **“Public relations”** includes strategic counselling based on industry, media and perception research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotions, events and communications and crisis communications
- (86d) **“Processing and clearing house”** means any person including the clearing corporation authorised or assigned by a recognised stock exchange, recognised association or a registered association to perform the duties and functions of a clearing house in relation to, -
- (i) The periodical settlement of contracts for, or relating to, the sale or purchase of securities, goods or forward contracts and differences thereunder;
 - (ii) The delivery of, and payment for, securities, goods or forward contracts;
 - (iii) Any other matter incidental to, or connected with, securities, goods and forward contracts
- (87) **“Rail travel agent”** means any person engaged in providing any service connected with booking of passage for travel by rail
- (88) **“Real estate agent”** means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant
- (89) **“Real estate consultant”** means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate
- (89a) **“Recognised association”** has the meaning assigned to it in clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)

(89b) “**Registered association**” has the meaning assigned to it in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)

(89c) “**Registrar to an issue**” means any person carrying on the activities in relation to an issue including collecting application forms from investors, keeping a record of applications and money received from investors or paid to the seller of securities, assisting in determining the basis of allotment of securities, finalising the list of persons entitled to allotment of securities and processing and despatching allotment letters, refund orders or certificates and other related documents

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

(90a) “**Renting of immovable property**” includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

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

Explanation1. - For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings

Explanation2.- For the removal of doubts, it is hereby declared that for the purposes of this clause “renting of immovable property” includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property

(91) “**Rent-a-cab scheme operator**” means any person engaged in the business of renting of cabs;

(91a) “**Residential complex**” means any complex comprising of —

- (i) a building or buildings, having more than twelve residential units;
- (ii) a common area; and
- (iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system, located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

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

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

(92) **“Scientific or technical consultancy”** means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, [to any person], in one or more disciplines of science or technology

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

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

(95) **“Service tax”** means tax leviable under the provisions of this Chapter;

(95a) **“Share transfer agent”** means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto

(96) **“Ship”** means a sea-going vessel and includes a sailing vessel;

(96a) **“Ship management service”** includes, —

- (i) The supervision of the maintenance, survey and repair of ship;
- (ii) Engagement or providing of crews;
- (iii) Receiving the hire or freight charges on behalf of the owner;
- (iv) Arrangements for loading and unloading;
- (v) Providing for victualling or storing of ship;
- (vi) Negotiating contracts for bunker fuel and lubricating oil;
- (vii) Payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- (viii) The entry of ship in a protection or indemnity association;
- (ix) Dealing with insurance, salvage and other claims; and
- (x) Arranging of insurance in relation to ship

(97) **“Shipping line”** means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(97a) **“Site formation and clearance, excavation and earthmoving and demolition”** includes, —

- (i) Drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or
- (ii) Soil stabilization; or

- (iii) Horizontal drilling for the passage of cables or drain pipes; or
- (iv) Land reclamation work; or
- (v) Contaminated top soil stripping work; or
- (vi) demolition and wrecking of building, structure or road, but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies

- (98) **“Sound recording”** means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity
- (99) **“Sound recording studio or agency”** means any person engaged in the business of rendering any service relating to sound recording;
 (99a) **“Sponsorship”** includes naming an event after the sponsor, displaying the sponsor’s company logo or trading name, giving the sponsor exclusive or priority booking rights, sponsoring prizes or trophies for competition; but does not include any financial or other support in the form of donations or gifts, given by the donors subject to the condition that the service provider is under no obligation to provide anything in return to such donors
- (100) **“Steamer agent”** means any person who undertakes, either directly or indirectly, -
- (i) to perform any service in connection with the ship’s husbandry or dispatch including the rendering of administrative work related thereto; or
 - (ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or
 - (iii) to provide container feeder services for or on behalf of a shipping line;
- (101) **“Stock-broker”** means a person, who has either made an application for registration or is registered as a stock-broker [* * *] in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992)
- (102) **“Storage and warehousing”** includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage
- (103) [*****]
- (104) [*****]
- (104a) **“Survey and exploration of mineral”** means geological, geophysical or other prospecting, surface or sub-surface surveying or map making service, in relation to location or exploration of deposits of mineral, oil or gas

(104b) **“Survey and map-making”** means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral

(104c) **“Support services of business or commerce”** means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfillment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, Operational or administrative assistance in any manner], formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

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

(105) **“Taxable service”** means any service provided or to be provided –

- (a) To any person, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;
- (b) [****]
- (c) [****]
- (d) To a [policy holder or any person], by an [insurer, including re-insurer] carrying on general insurance business in relation to general insurance business;
- (e) To any person, by an advertising agency in relation to advertisement, in any manner;
- (f) To any person, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;
- (g) to any person, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering including the discipline of computer hardware engineering. *Explanation.* — For the purposes of this sub-clause, it is hereby declared that services provided by a consulting engineer in relation to advice, consultancy or technical assistance in the disciplines of both computer hardware engineering and computer software engineering shall also be classifiable under this sub-clause
- (h) To any person, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;
- (i) To a shipping line, by a steamer agent in relation to a ship’s husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;
- (j) To any person, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;
- (k) to any person, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner.
Explanation. — For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, recruitment or supply of manpower includes services in relation to pre-recruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate

- (l) To any person, by an air travel agent in relation to the booking of passage for travel by air
- (m) To any person, by a mandap keeper in relation to the use of mandap in any manner including the facilities [provided or to be provided to [such person] in relation to such use and also the services, if any, provided or to be provided as a caterer];
- (n) To any person, by a tour operator in relation to a tour;
- (o) To any person, by a rent-a-cab scheme operator in relation to the renting of a cab;
- (p) To any person, by an architect in his professional capacity, in any manner;
- (q) To any person, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;
- (r) To any person, by a management or business consultant in connection with the management of any organisation or business, in any manner;]
- (s) To any person, by a practising chartered accountant in his professional capacity, in any manner;
- (t) To any person, by a practising cost accountant in his professional capacity, in any manner;
- (u) To any person, by a practising company secretary in his professional capacity, in any manner;
- (v) To any person, by a real estate agent in relation to real estate;
- (w) To any person, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;
- (x) to any person, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;
- (y) to any person], by a market research agency in relation to market research of any product, service or utility, in any manner;
- (z) To any person], by an underwriter in relation to underwriting, in any manner;
- (za) to any person, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;
- (zb) to any person], by a photography studio or agency in relation to photography, in any manner;
- (zc) to any person], by any [person] in relation to holding of a convention, in any manner;
- (zd) [****]
- (ze) [****]
- (zf) [****]
- (zg) [****]
- (zh) To any person, by any person, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;
- (zi) To any person, by a video production agency in relation to video-tape production, in any manner;
- (zj) To any person, by a sound recording studio or agency in relation to any kind of sound recording;
- (zk) to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or [collecting the broadcasting charges or permitting the rights to receive

any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency] or organisation. **Explanation.** — For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of signals or beaming thereof through the satellite might have taken place outside India;

- (zl) to a policy holder or any person or insurer, including re-insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;
- (zm) to any person, by a banking company or a financial institution including a non-banking financial company, or any other body corporate or commercial concern, in relation to banking and other financial services;
- (zn) to any person, by any other person, in relation to port services in a port, in any manner :Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port
- (zo) to any person, by any other person, in relation to any service for repair, reconditioning, restoration or decoration or any other similar services, of any motor vehicle other than three wheeler scooter auto-rickshaw and motor vehicle meant for goods carriage
- (zp) [****]
- (zq) To any person, by a beauty parlour in relation to beauty treatment;
- (zr) to any person, by a cargo handling agency in relation to cargo handling services;
- (zs) To any person, by a cable operator, including a multisystem operator] in relation to cable services;
- (zt) To any person, by a dry cleaner in relation to dry cleaning;
- (zu) To any person, by an event manager in relation to event management;
- (zv) to any person, by a fashion designer in relation to fashion designing;
- (zw) to any person, by a health club and fitness centre in relation to health and fitness services;
- (zx) to a policy holder or any person, by an insurer, including re-insurer carrying on life insurance business;
- (zy) to a [policyholder or any person] or [insurer, including re-insurer] by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;
- (zz) to any person, by a rail travel agent in relation to booking of passage for travel by rail;
- (zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;
- (zzb) to a client, by any person in relation to business auxiliary service;
- (zzc) to any person, by a commercial training or coaching centre in relation to commercial training or coaching. **Explanation.**— For the removal of doubts, it is hereby declared that the expression “commercial training or coaching centre” occurring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression “commercial training or coaching” shall be construed accordingly

- (zzd) To any person, by a [erection, commissioning and installation] agency in relation to commissioning or installation;
- (zze) To a franchisee, by the franchisor in relation to franchise;
- (zzf) To any person, by an internet cafe in relation to access of internet;
- (zzg) To any person], by any person in relation to management, maintenance or repair
- (zzh) to any person, by a technical testing and analysis agency, in relation to technical testing and analysis
- (zzi) to any person, by a technical inspection and certification agency, in relation to technical inspection and certification;
- (zzj) [****]
- (zzk) To any person, by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorised money changer, other than a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause
- (zm) [****]
- (zxl) To any person, by any other person, in relation to port services in other port, in any manner. Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within other port
- (zzm) to any person, by airports authority or by any other person, in any airport or a civil enclave :Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the airport or civil enclave
- (zzn) to any person, by an aircraft operator, in relation to transport of goods by aircraft;
- (zzo) to an exhibitor, by the organiser of a business exhibition, in relation to business exhibition;
- (zzp) To any person, by a goods transport agency, in relation to transport of goods by road in a goods carriage;
- (zzq) To any person, by any other person, in relation to commercial or industrial construction [****] **Explanation.** — For the purposes of this sub-clause the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer
- (zzr) to any person, by the holder of intellectual property right, in relation to intellectual property service;
- (zzs) to any person, by an opinion poll agency, in relation to opinion poll;
- (zzt) to any person, by an outdoor caterer;
- (zzu) to any person, by a programme producer, in relation to a programme;
- (zzv) To any person, by any person, in relation to survey and exploration of mineral;
- zzw) to any person, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, [provided or to be provided] as a caterer;
- (zzx) To any person, by a travel agent, in relation to the booking of passage for travel;
- (zzy) to any person, by a member of a recognised association or a registered association, in relation to a forward contract;
- (zzz) to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit;

- (zzza) to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities;
- (zzzb) to any person, by any other person, in relation to dredging;
- (zzzc) to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making;
- (zzzd) to any person, by any other person, in relation to cleaning activity;
- (zzze) to its members, [or any other person], by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount;
- (zzzf) to any person, by any other person, in relation to packaging activity;
- (zzzg) to any person, by any other person, in relation to mailing list compilation and mailing;
- (zzzh) to any person, by any other person, in relation to construction of complex;
Explanation. — For the purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder before the grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer
- (zzzi) to any person, by a registrar to an issue, in relation to sale or purchase of securities;
- (zzzj) to any person, by a share transfer agent, in relation to securities;
- (zzzk) to any person, by any other person, in relation to automated teller machine operations, maintenance or management service, in any manner;
- (zzzl) to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner;
- (zzzm) to any person, by any other person, in relation to sale of space or time for advertisement, in any manner; but does not include sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organisation.**Explanation 1.** — For the purposes of this sub-clause, “sale of space or time for advertisement” includes, — (i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet;(ii)selling of time slots on radio or television by a person, other than a broadcasting agency or organisation; and(iii) aerial advertising.**Explanation2.** — For the purposes of this sub-clause, “**print media**” means, —(i)“**newspaper**” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);(ii) “**book**” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;
- (zzzn) to any person, by any other person receiving sponsorship, in relation to such sponsorship, in any manner;
- (zzzo) to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey; **Explanation 1.** — For the purposes of this sub-clause, economy class in an aircraft meant for scheduled air transport of passengers means, —(i) where there is more than one class of travel, the class attracting the lowest standard fare; or (ii) where there is only one class of travel, that class.**Explanation2.**

- For the purposes of this sub-clause, in an aircraft meant for non-scheduled air transport of passengers, no class of travel shall be treated as economy class;
- (zzzp) to any person, by any other person, in relation to transport of goods by rail, in any manner;
- (zzzq) to any person, by any other person, in relation to support services of business or commerce, in any manner;
- (zzzr) to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government;**Explanation.** — For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “auction by the Government” means the Government property being auctioned by any person acting as auctioneer;
- (zzzs) to any person, by any other person, in relation to managing the public relations of such person, in any manner;
- (zzzt) to any person, under a contract or an agreement, by any other person, in relation to ship management service;
- (zzzu) to any person, by any other person, in relation to internet telecommunication service
- (zzzv) to any person, by any other person, in relation to transport of such person embarking from any port or other port in India, by a cruise ship.**Explanation.** — For the purposes of this sub-clause, “cruise ship” means a ship or vessel used for providing recreational or pleasure trips, but does not include a ship or vessel used for private purposes or a ship or vessel of, or less than, fifteen net tonnage;
- (zzzw) to any person, by any other person, in relation to credit card, debit card, charge card or other payment card service, in any manner;
- (zzzx) to any person, by the telegraph authority in relation to telecommunication service;
- (zzzy) to any person, by any other person in relation to mining of mineral, oil or gas;
- (zzzz) to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course of or, for furtherance of, business or commerce.**Explanation 1.** — For the purposes of this sub-clause, “immovable property” includes —**(i)**building and part of a building, and the land appurtenant thereto;**(ii)**land incidental to the use of such building or part of a building;**(iii)**the common or shared areas and facilities relating thereto; and;**(iv)**in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate,**(v)**vacant land, given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce;but does not include —**(a)**vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;**(b)**vacant land, whether or not having facilities clearly incidental to the use of such vacant land;**(c)** land used for educational, sports, circus, entertainment and parking purposes; and**(d)**building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.**Explanation 2.**— For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce;
- (zzzza) to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.**Explanation.** — For the purposes of this sub-clause, “works contract” means a contract wherein, —**(i)** transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and **(ii)**such contract is for the purposes of carrying out, —

- (a) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or
 - (b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or
 - (c) construction of a new residential complex or a part thereof; or
 - (d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or
 - (e) turnkey projects including engineering, procurement and construction or commissioning (*EPC*) projects;
- (zzzzb) to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services;
- (zzzzc) to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm), in relation to asset management including portfolio management and all forms of fund management;
- (zzzzd) to any person, by any other person in relation to design services, but does not include service provided by —(i)an interior decorator referred to in sub-clause (q); and(ii) a fashion designer in relation to fashion designing referred to in sub-clause (zv) and the term “service provider” shall be construed accordingly;[* * * *]
- (zzzze) to any person, by any other person in relation to information technology software [* * *] including, —(i) development of information technology software,(ii) study, analysis, design and programming of information technology software,(iii)adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,(iv)providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software,(v)providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products, (vi) providing the right to use information technology software supplied electronically.
- (zzzzf) to a policy holder, by an insurer carrying on life insurance business, in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme.Explanation.— For the purposes of this sub-clause, —(i) management of segregated fund of unit linked insurance business by the insurer shall be deemed to be the service provided by the insurer to the policy holder in relation to management of investment under unit linked insurance business;(ii) the gross amount charged by the insurer from the policy

holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as fund management charges for unit linked insurance plan or the actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher;]

- (zzzzg) to any person, by a recognised stock exchange in relation to assisting, regulating or controlling the business of buying, selling or dealing in securities and includes services provided in relation to trading, processing, clearing and settlement of transactions in securities;
- (zzzzh) to any person, by a recognised association or a registered association in relation to assisting, regulating or controlling the business of the sale or purchase of any goods or forward contracts and includes services provided in relation to trading, processing, clearing and settlement of transactions in goods or forward contracts;
- (zzzzi) to any person, by a processing and clearing house in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts including any other matter incidental to, or connected with, such securities, goods and forward contracts;
- (zzzzj) to any person, by any other person in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances;
- (zzzzk) to any person, by any other person, in relation to cosmetic surgery or plastic surgery, but does not include any surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma;
- (zzzzl) to any person, by any other person, in relation to transport of —(i)coastal goods;(ii)goods through national waterway; or (iii) goods through inland water.**Explanation.**— For the purposes of this sub-clause,—“coastal goods” has the meaning assigned (a) to it in clause (7) of section 2 of the Customs Act, 1962 (52 of 1962);“national waterway” has the meaning (b) assigned to it in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985);“inland water” has the meaning assigned (c) to it in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);
- (zzzzm) to any person, by a business entity, in relation to advice, consultancy or(i) assistance in any branch of law, in any manner;to any business entity, by any(ii) person, in relation to representational services before any court, tribunal or authority;to any business entity, by an (iii) arbitral tribunal, in respect of arbitration.**Explanation.**—For the purposes of this item, the expressions “arbitration” and “arbitral tribunal” shall have the meanings respectively assigned to them in the Arbitration and Conciliation Act, 1996 (26 of 1996);
- (zzzzn) to any person, by any other person, for promotion, marketing, organising or in any other manner assisting in organising games of chance, including lottery, Bingo or Lotto in whatever form or by whatever name called, whether or not conducted through internet or other electronic networks;
- (zzzzo) to any person, —(i) by a clinical establishment; or(ii) by a doctor, not being an employee of a clinical establishment, who provides services from such premises for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine;
- (zzzzp) to any business entity, by any other person, in relation to storing, keeping or maintaining of medical records of employees of a business entity;
- (zzzzq) to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or

endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event.**Explanation.** — For the purposes of this sub-clause, “brand” includes symbol, monogram, label, signature or invented words which indicate connection with the said goods, service, event or business entity;

- (zzzzf) to any person, by any other person, by granting the right or by permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person;
- (zzzzs) to any person, by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003 (36 of 2003), in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contract;
- (zzzzt) to any person, by any other person, for —(a)transferring temporarily; or(b) permitting the use or enjoyment of,any copyright defined in the Copyright Act, 1957 (14 of 1957), except the rights covered under sub-clause (a) of clause (1) of section 13 of the said Act;
- (zzzzu) to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but does not include services covered under sub-clauses (zzg), (zzq), (zzzh) and in relation to parking place.**Explanation.** — For the purposes of this sub-clause, “preferential location” means any location having extra advantage which attracts extra payment over and above the basic sale price;
- (zzzzv) 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;
- (zzzzw) to any person by a hotel, inn, guest house, club or campsite, by whatever name called, for providing of accommodation for a continuous period of less than three months; (106)“technical testing and analysis” means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or [information technology software or] any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;**Explanation.** — For the removal of doubts, it is hereby declared that for the purposes of this clause, “technical testing and analysis” includes testing and analysis undertaken for the purpose of clinical testing of drugs and formulations; but does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals;

(107) **“Technical testing and analysis agency”** means any agency or person engaged in providing service in relation to technical testing and analysis;

(108) **“Technical inspection and certification”** means inspection or examination of goods or process or material or information technology software] or any immovable property to certify that such goods or [process or material or information technology software] or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels;

(109) **“Technical inspection and certification agency”** means any agency or person engaged in providing service in relation to technical inspection and certification;

(109a) **“Telecommunication service”** means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) and includes —

- (i) voice mail, data services, audio tex services, video tex services, radio paging;
- (ii) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;
- (iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;
- (iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;
- (v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic callback, call answer, voice mail, voice menus and video conferencing;
- (vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;
- (vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and
- (viii) communication through facsimile, pager, telegraph and telex, but does not include service provided by —(a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105);(b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and (c) any person in relation to [internet telecommunication service] referred to in sub-clause (zzzu) of clause (105);

(110) **“Telegraph”** has the meaning assigned to it in clause (1) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(111) **“Telegraph authority”** has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885) and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(112) **“Telex”** means a typed communication by using teleprinters through telex exchanges;

- (113) **“Tour”** means a journey from one place to another irrespective of the distance between such places;
- (114) **“Tourist vehicle”** has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (115) **“Tour operator”** means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by a permit, other than a stage carriage permit, granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder.*Explanation.*— For the purposes of this clause, the expression “tour” does not include a journey organised or arranged for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field;
- (115a) **“Travel agent”** means any person engaged in providing any service connected with booking of passage for travel, but does not include air travel agent and rail travel agent;
- (116) **“Underwriter”** has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;
- (117) **“Underwriting”** has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;
- (118) **“Vessel”** has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);
- (119) **“Video production agency”** means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production;
- (120) **“Video-tape production”** means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner;
- (121) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.*Explanation.* — For the purposes of this section, taxable service includes any taxable service provided

or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration

Provided that the provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.

SECTION 65A. Classification of taxable services. —

(1) For the purposes of this Chapter, classification of taxable services shall be determined according to the terms of the sub-clauses of clause (105) of section 65;

(2) When for any reason, a taxable service is, prima facie, classifiable under two or more sub-clauses of clause (105) of section 65, classification shall be effected as follows :-

(a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;

(b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;

(c) when a service cannot be classified in the manner specified in clause (a) or clause (b), it shall be classified under the sub-clause which occurs first among the sub-clauses which equally merit consideration.

(3) The provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.

SECTION [65B.Interpretations.—

In this Chapter, unless the context otherwise requires,—

(1) **“Actionable claim”** shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882 (4 of 1882);

(2) **“Advertisement”** means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;

(3) **“Agriculture”** means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

(4) **“Agricultural extension”** means application of scientific research and knowledge to agricultural practices through farmer education or training;

(5) **“Agricultural produce”** means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

- (6) **“Agricultural Produce Marketing Committee or Board”** means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;
- (7) **“Aircraft”** has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);
- (8) **“Airport”** has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994.);
- (9) [* * * *]
- (10) **“Appellate Tribunal”** means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);
- (11) [* * * *]
- (12) **“Assessee”** means a person liable to pay tax and includes his agent;
- (13) **“Associated enterprise”** shall have the meaning assigned to it in section 92A of the Income-tax Act, 1961 (43 of 1961);
- (14) **“Authorised dealer of foreign exchange”** shall have the meaning assigned to **“Authorised person”** in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (15) **“Betting or gambling”** means putting on stake something of value, particularly money, with consciousness of risk and hope of gain on the outcome of a game or a contest, whose result may be determined by chance or accident, or on the likelihood of anything occurring or not occurring;
- (16) **“Board”** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
- (17) **“Business entity”** means any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession;
- (18) **“Central Electricity Authority”** means the authority constituted under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948);
- (19) **“Central Transmission Utility”** shall have the meaning assigned to it in clause (10) of section 2 of the Electricity Act, 2003 (36 of 2003);
- (20) **“courier agency”** means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;
- (21) **“Customs station”** shall have the meaning assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);
- (22) **“Declared service”** means any activity carried out by a person for another person for consideration and declared as such under section 66E;
- (23) **“Electricity transmission or distribution utility”** means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted

with such function by the Central Government or, as the case may be, the State Government;

(23A)“foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982);

(24) [* * * *]

(25)“ goods” means every kind of movable property other than actionable claim and money; and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

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

(26A)“Government”means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder;’

(27)“ India” means, —

(a) the territory of the Union as referred to in clauses (2) and (3) of article 1 of the Constitution;

(b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(c) the seabed and the subject underlying the territorial waters;

(d) the air space above its territory and territorial waters; and

(e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

(28)“ information technology software” means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment;

(29)“ inland waterway” means national waterways as defined in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985) or other waterway on any inland water, as defined in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);

(30)“ interest” means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized;

(31) ”local authority” means —

- (a) a Panchayat as referred to in clause (d) of article 243 of the Constitution;
- (b) a Municipality as referred to in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006);
- (e) a regional council or a district council constituted under the Sixth Schedule to the Constitution;
- (f) a development board constituted under article 371 of the Constitution; or
- (g) a regional council constituted under article 371A of the Constitution;

(31A) - ”lottery distributor or selling agent” means a person appointed or authorized by a State for the purposes of promoting, marketing, selling or facilitating in organizing lottery of any kind, in any manner, organized by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998);

(32) “metered cab” means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 (59 of 1988) and the rules made thereunder [but does not include radio taxi];

(33) “money” means legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, travelercheque, money order, postal or electronic remittance or any such similar instrument but shall not include any currency that is held for its numismatic value;

(34) “negative list” means the services which are listed in section 66D;

(35) “non-taxable territory” means the territory which is outside the taxable territory;

(36) “notification” means notification published in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(37) “person” includes,—

- (i) an individual,

- (ii) a Hindu Undivided Family,
- (iii) a company,
- (iv) a society,
- (v) a limited liability partnership,
- (vi) a firm,
- (vii) an association of persons or body of individuals, whether incorporated or not,
- (viii) Government,
- (ix) a local authority, or
- (x) every artificial juridical person, not falling within any of the preceding sub-clauses;

(38) “port” has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963) or in clause 4 of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(39) “prescribed” means prescribed by rules made under this Chapter;

‘(39a) “print media” means,—

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

(40) “process amounting to manufacture or production of goods” means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944), or the Medicinal and Toilet Preparation (Excise Duties) Act, 1955(16 of 1955) or any process amounting to manufacture of[* * *]opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force;

(41) “renting” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;

(42) “Reserve Bank of India” means the bank established under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(43) “securities” has the meaning assigned to it in clause (h) of section 2 of the Securities Contract (Regulation) Act, 1956 (42 of 1956);

(44) “service” means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—

- (a) an activity which constitutes merely,—
 - (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
 - (ii) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or
 - (iii) a transaction in money or actionable claim;
- (b) a provision of service by an employee to the employer in the course of or in relation to his employment;
- (c) fees taken in any Court or tribunal established under any law for the time being in force.

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

(A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or

(B) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(C) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

Explanation 2. - For the purposes of this clause, the expression “transaction in money or actionable claim” shall not include —

- (i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out —
 - (a) by a lottery distributor or selling agent on behalf of the State Government, in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998;. (Finance Act 2016)
 - (b) by a foreman of chit fund for conducting or organising a chit in any manner.;

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

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

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

(45) “Special Economic Zone” has the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(46) “stage carriage” shall have the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(47) “State Electricity Board” means the Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948);

(48) “State Transmission Utility” shall have the meaning assigned to it in clause (67) of section 2 of the Electricity Act, 2003 (36 of 2003);

(49) [* * * *]

(50) “tax” means service tax leviable under the provisions of this Chapter;

(51) “taxable service” means any service on which service tax is leviable under section 66B;

(52) “taxable territory” means the territory to which the provisions of this Chapter apply;

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

(54) “works contract” means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;

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

SECTION 66. Charge of service tax.— There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g.) (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzk), (zzl), (zzm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx), (zzy), (zzz), (zzza), (zzzb),

(zzzc), (zzzd), (zzze), (zzzf), (zzzg,) (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzzza), (zzzzb), (zzzzc), [(zzzzd), (zzzze), (zzzzf), (zzzzg), (zzzzh), (zzzzi), (zzzzj), (zzzzk), (zzzzl), (zzzzm), (zzzzn), (zzzzo), (zzzzp), (zzzzq), (zzzzr), (zzzzs), (zzzzt), (zzzzu), (zzzzv) and (zzzzw) of clause (105) of section 65 and collected in such manner as may be prescribed.

Provided that the provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.

SECTION 66A. Charge of service tax on services received from outside India. —

(1) Where any service specified in clause (105) of section 65 is, —

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

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

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

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

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

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

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

(3) The provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.

SECTION 66B. Charge of service tax on and after Finance Act, 2012.—There shall be levied a tax (hereinafter referred to as the service tax) at the rate of fourteen percent. on the value of all services, other than those services specified in the negative list, provided or agreed to be

provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

[* * *]

SECTION 66BA. Reference to section 66 to be construed as reference to section 66B. —

(1) For the purpose of levy and collection of Service tax, any reference to section 66 in the Finance Act, 1994 or any other Act for the time being in force, shall be construed as reference to section 66B thereof.

(2) The provisions of this section shall be deemed to have come into force on the 1st day of July, 2012.

SECTION 66C. Determination of place of provision of service.—

(1) The Central Government may, having regard to the nature and description of various services, by rules made in this regard, determine the place where such services are provided or deemed to have been provided or agreed to be provided or deemed to have been agreed to be provided.

(2) Any rule made under sub-section (1) shall not be invalid merely on the ground that either the service provider or the service receiver or both are located at a place being outside the taxable territory.

SECTION 66D. Negative list of services.—

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

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers; or

(iv) Any service, other than services covered under clauses (i) to (iii) above, provided to business entities;

(b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture or agricultural produce by way of—

- (i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or [* * *] testing;
- (ii) supply of farm labour;
- (iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- (iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- (v) loading, unloading, packing, storage or warehousing of agricultural produce;
- (vi) agricultural extension services;
- (vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;
- (e) trading of goods;
- (f) services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption;
- (g) selling of space for advertisements in print media;
- (h) service by way of access to a road or a bridge on payment of toll charges;
- (i) betting, gambling or lottery;

Explanation. - For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation2* to clause (44) of section 65B;

- (j) [* * * *]
- (k) transmission or distribution of electricity by an electricity transmission or distribution utility;
- (l) [* * * *]
- (m) services by way of renting of residential dwelling for use as residence;
- (n) services by way of—
 - (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
 - (ii) *inter se* sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers;

(o) service of transportation of passengers, with or without accompanied belongings, by—

(i) [* * * *]

(ii) railways in a class other than—

(A) first class; or

(B) an air-conditioned coach;

(iii) metro, monorail or tramway;

(iv) inland waterways;

(v) public transport, other than predominantly for tourism purpose, in a vessel between places located in

India; and

(vi) metered cabs or auto rickshaws

(p) services by way of transportation of goods—

(i) by road except the services of—

(A) a goods transportation agency; or

(B) a courier agency;

(ii) [* * * *]

(iii) by inland waterways;

(q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

SECTION 66E. Declared services. — The following shall constitute declared services, namely:—

(a) renting of immovable property

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

Explanation.— For the purposes of this clause,—

(I) the expression “competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely :—

- (A) architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or
- (B) chartered engineer registered with the Institution of Engineers (India); or
- (C) licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(II) the expression “construction” includes additions, alterations, replacements or remodelling of any existing civil structure;

- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- (f) transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
- (g) activities in relation to delivery of goods on hire purchase or any system of payment by instalments;
- (h) service portion in the execution of a works contract;
- (i) service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.
- (j) assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof.

SECTION 66F. Principles of interpretation of specified descriptions of services or bundled services.—

(1) Unless otherwise specified, reference to a service (herein referred to as main service) shall not include reference to a service which is used for providing main service.

Illustration

The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be

provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.

(2) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

(3) Subject to the provisions of sub-section (2), the taxability of a bundled service shall be determined in the following manner, namely :—

- (a) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character;
- (b) if various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax.

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

SECTION 67. Valuation of taxable services for charging service tax. —

(1) Subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall, —

- (i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;
- (ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration;
- (iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation. — For the purposes of this section, —

(a) “**consideration**” includes —

- (i) any amount that is payable for the taxable services provided or to be provided;
- (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;
- (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.

(b) [* * * *]

(c) “**gross amount charged**” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and [book adjustment, and any amount credited or debited, as the case may be, to any account, whether called “Suspense account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

SECTION 67A. Date of determination of rate of tax, value of taxable service and rate of exchange. —

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

(2) The time or the point in time with respect to the rate of service tax shall be such as may be prescribed.

Explanation. — For the purposes of this section, “rate of exchange” means the rate of exchange determined in accordance with such rules as may be prescribed.

SECTION 68. Payment of service tax. —

(1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed.

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

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

SECTION 69. Registration.—

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

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

SECTION 70. Furnishing of returns. —

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

(2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

SECTION 71. Scheme for submission of Returns through Service Tax Preparers. —

(1) Without prejudice to the provisions of section 70, the Board may, by notification in the Official Gazette, frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70, and authorise a Service Tax Return Preparer to act as such under the Scheme.

(2) A Service Tax Return Preparer shall assist the person or class of persons to prepare and furnish the return in such manner as may be specified in the Scheme framed under this section.

(3) For the purposes of this section, —

(a) “Service Tax Return Preparer” means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;

(b) “person or class of persons” means such person, as may be specified in the Scheme, who is required to furnish a return required to be filed under section 70.

(4) The Scheme framed by the Board under this section may provide for the following, namely :—

- (a) the manner in which and the period for which the Service Tax Return Preparer shall be authorised under sub-section (1);
- (b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Service Tax Return Preparer;
- (c) the code of conduct for the Service Tax Return Preparer;
- (d) the duties and obligations of the Service Tax Return Preparer;
- (e) the circumstances under which the authorisation given to a Service Tax Return Preparer may be withdrawn;
- (f) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.

SECTION 72. Best judgment assessment. — If any person, liable to pay service tax, —

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

the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

SECTION 72A. Special audit.—

(1) If the Principal Commissioner of Central Excise or Commissioner of Central Excise], has reasons to believe that any person liable to pay service tax (herein referred to as “such person”),—

- (i) has failed to declare or determine the value of a taxable service correctly; or
- (ii) has availed and utilised credit of duty or tax paid—
 - (a) which is not within the normal limits having regard to the nature of taxable service provided, the extent of capital goods used or the type of inputs or input services used, or any other relevant factors as he may deem appropriate; or
 - (b) by means of fraud, collusion, or any wilful misstatement or suppression of facts; or
- (iii) has operations spread out in multiple locations and it is not possible or practicable to obtain a true and complete picture of his accounts from the registered premises falling under the jurisdiction of the said Commissioner,

he may direct such person to get his accounts audited by a chartered accountant or cost accountant nominated by him, to the extent and for the period as may be specified by the Commissioner.

(2) The chartered accountant or cost accountant referred to in sub-section (1) shall, within the period specified by the said Commissioner, submit a report duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified by him.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of such person have been audited under any other law for the time being in force.

(4) The person liable to pay tax shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding under the provisions of this Chapter or rules made thereunder.

Explanation. — For the purposes of this section,—

(i) “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949);

(ii) “cost accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959(23 of 1959).

SECTION 73. Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded. —

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

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

(a) fraud; or

(b) collusion; or

(c) wilful mis-statement; or

(d) suppression of facts; or

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

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

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

(1A) Notwithstanding anything contained in sub-section (1) except the period of thirty months of serving the notice for recovery of service tax), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the

details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.

(1B) Notwithstanding anything contained in sub-section (1), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be recovered along with interest thereon in any of the modes specified in section 87, without service of notice under sub-section (1).

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

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

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

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

[* * *]

(3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the [Central Excise Officer] of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid :

Provided that the Central Excise Officer may determine the amount of short-payment of service tax or erroneously refunded service tax, if any, which in his opinion has not been paid by such person and, then, the Central Excise Officer shall proceed to recover such amount in the manner specified in this section, and the period of “thirty months” referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation.1— For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the [Central Excise Officer], but for this sub-section.

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

(4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of —

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

4(A) [* * * *]

(4B) The Central Excise Officer shall determine the amount of service tax due under sub-section (2)—

- (a) within six months from the date of notice where it is possible to do so, in respect of cases falling under sub-section (1);
- (b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A)].

(5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003.

(6) For the purposes of this section, “relevant date” means, —

- (i) in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid —
 - (a) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;
 - (b) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;
 - (c) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;

(ii) in a case where the service tax is provisionally assessed under this Chapter or the rules made there under, the date of adjustment of the service tax after the final assessment thereof;

(iii) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.]

SECTION 73A. Service tax collected from any person to be deposited with Central Government. —

(1) Any person who is liable to pay service tax under the provisions of this Chapter or the rules made thereunder, and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service under the provisions of this Chapter or the rules made thereunder from the recipient of taxable service in any manner as representing service tax, shall forthwith pay the amount so collected to the credit of the Central Government.

(2) Where any person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, such person shall forthwith pay the amount so collected to the credit of the Central Government.

(3) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) or sub-section (2) and the same has not been so paid, the Central Excise Officer shall serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.

(4) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (3), determine the amount due from such person, not being in excess of the amount specified in the notice, and thereupon such person shall pay the amount so determined.

(5) The amount paid to the credit of the Central Government under sub-section (1) or sub-section (2) or sub-section (4), shall be adjusted against the service tax payable by the person on finalisation of assessment or any other proceeding for determination of service tax relating to the taxable service referred to in sub-section (1).

(6) Where any surplus amount is left after the adjustment under sub-section (5), such amount shall either be credited to the Consumer Welfare Fund referred to in section 12C of the Central Excise Act, 1944 (1 of 1944) or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 11B of the said Act and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Central Excise Officer for the refund of such surplus amount.

SECTION 73B. Interest on amount collected in excess. — Where an amount has been collected in excess of the tax assessed or determined and paid for any taxable service under this Chapter or the rules made thereunder from the recipient of such service, the person who is liable to pay such amount as determined under sub-section (4) of section 73A, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent. and not exceeding twenty-four per cent. per annum, as is for the time being fixed by the Central Government, by

notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Chapter, but for the provisions contained in sub-section (4) of section 73A, till the date of payment of such amount :

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

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

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

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

SECTION 73C. Provisional attachment to protect revenue in certain cases. —

(1) Where, during the pendency of any proceeding under section 73 or section 73A, the Central Excise Officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the [Principal Commissioner of Central Excise or Commissioner of Central Excise], by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 73 or sub-section (3) of section 73A, as the case may be, in such manner as may be prescribed.

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

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

SECTION 73D. Publication of information in respect of persons in certain cases. —

(1) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings under this Chapter in respect of such person, it may cause to be published such names and particulars in such manner as may be prescribed.

(2) No publication under this section shall be made in relation to any penalty imposed under this Chapter until the time for presenting an appeal to the Commissioner (Appeals) under section 85 or the Appellate Tribunal under section 86, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

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

SECTION 74. Rectification of mistake.—

(1) With a view to rectifying any mistake apparent from the record, the [Central Excise Officer] who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.

(2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the [Central Excise Officer] passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Central Excise Officer concerned -
(a) may make an amendment under sub-section (1) of his own motion; or
(b) shall make such amendment if any mistake is brought to his notice by the assessee or the Principal Commissioner of Central Excise or Commissioner of Central Excise or the Commissioner of Central Excise (Appeals).

(4) An amendment, which has the effect of enhancing the liability of the assessee or reducing a refund, shall not be made under this section unless the Central Excise Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Central Excise Officer concerned.

(6) Subject to the other provisions of this Chapter where any such amendment has the effect of reducing the liability of an assessee or increasing the refund, the Central Excise Officer shall make any refund which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the liability of the assessee or reducing the refund already made, the Central Excise Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

SECTION 75. Interest on delayed payment of service tax.— Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made 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 [at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette for the period by which such crediting of the tax or any part thereof is delayed :]

Provided that in the case of a person who collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government, on or before the date on which such payment is due, the Central Government may, by notification in the Official Gazette, specify such other rate of interest, as it may deem necessary:

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

SECTION [75A. * * * *]

SECTION 76. Penalty for failure to pay service tax.— (1) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax :

Provided that where service tax and interest is paid within a period of thirty days of —

(i) the date of service of notice under sub-section (1) of section 73, no penalty shall be payable and proceedings in respect of such service tax and interest shall be deemed to be concluded;

(ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the penalty imposed in that order, only if such reduced penalty is also paid within such period.

(2) Where the amount of penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over the above the amount as determined under sub-section (2) of section 73, the time within which the reduced penalty is payable under clause (ii) of the proviso to sub-section (1) in relation to such increased amount of penalty shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.

SECTION 77. Penalty for contravention of rules and provisions of Act for which no penalty is specified elsewhere. — (1) Any person, —

(a) who is liable to pay service tax or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to a penalty which may extend to ten thousand rupees;

(b) who fails to keep, maintain or retain books of account and other documents as required in accordance with the provisions of this Chapter or the rules made thereunder, shall be liable to a penalty which may extend to [ten thousand rupees];

(c) who fails to —

(i) furnish information called by an officer in accordance with the provisions of this Chapter or rules made thereunder; or

(ii) produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder; or

(iii) appear before the Central Excise Officer, when issued with a summon for appearance to give evidence or to produce a document in an inquiry,

shall be liable to a penalty which may extend to ten thousand rupees or two hundred rupees for everyday during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;

(d) who is required to pay tax electronically, through internet banking, fails to pay the tax electronically, shall be liable to a penalty which may extend to ten thousand rupees;

(e) who issues invoice in accordance with the provisions of the Act or rules made thereunder, with incorrect or incomplete details or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to ten thousand rupees.

(2) Any person, who contravenes any of the provisions of this Chapter or any rules made there under for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to ten thousand rupees.

SECTION 78. Penalty for failure to pay service tax for reasons of fraud, etc. — (1) Where any service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the

notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax :

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified records for the period beginning with the 8th April, 2011 upto the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the service tax so determined :

Provided further that where service tax and interest is paid within a period of thirty days of —

the date of service of notice under the proviso to (i) sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax and proceedings in respect of such service tax, interest and penalty shall be deemed to be concluded;

the date of receipt of the order of the Central Excise (ii) Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined :

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of such reduced penalty is also paid within such period :

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

(2) Where the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, modifies the amount of service tax determined under sub-section (2) of section 73, then, the amount of penalty payable under sub-section (1) and the interest payable thereon under section 75 shall stand modified accordingly, and after taking into account the amount of service tax so modified, the person who is liable to pay such amount of service tax, shall also be liable to pay the amount of penalty and interest so modified.

(3) Where the amount of service tax or penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over and above the amount as determined under sub-section (2) of section 73, the time within which the interest and the reduced penalty is payable under clause (ii) of the second proviso to sub-section (1) in relation to such increased amount of service tax shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.

SECTION 78A. Penalty for offences by director, etc., of company — Where a company has committed any of the following contraventions, namely :—

- (a) evasion of service tax; or
- (b) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules made under the provisions of this Chapter; or

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

“Explanation—For the removal of doubts, it is hereby clarified that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, and the proceedings with respect to a notice issued under sub-section (1) of section 73 or the proviso to sub-section (1) of section 73 is concluded in accordance with the provisions of clause (i) of the first proviso to section 76 or clause (i) of the second proviso to section 78, as the case may be, the proceedings pending against any person under this section shall also be deemed to have been concluded.”. (Finance Act 2016)

SECTION 78B. Transitory provisions. —

(1) Where, in any case,—

(a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and no notice has been served under sub-section (1) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or

(b) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President,

then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable.

(2) In cases where show cause notice has been issued under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73 before the date on which the Finance Bill, 2015 receives the assent of the President, the period of thirty days for the purpose of closure of proceedings on the payment of service tax and interest under clause (i) of the proviso to sub-section (1) of section 76 or on the payment of service tax, interest and penalty under clause (i) of the second proviso to sub-section (1) of section 78, shall be counted from the date on which the Finance Bill, 2015 receives the assent of the President.

SECTION 79. [* * * *]

SECTION 80. [* * * *]

SECTION 81. [* * *]

SECTION 82. Power to search premises. —

(1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise officer as may be notified by the Board has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Chapter, are secreted in any place, he may authorise in writing any Central Excise officer to search for and seize or may himself search and seize such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code.

SECTION 83. Application of certain provisions of Act 1 of 1944.— The provisions of the following sections of the Central Excise Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise :-
sub-section (2A) of section 5A, sub-section(2) of section 9A, 9AA, 9B, 9C, 9D, 9E, 11B, 11BB, 11C, 12, 12A, 12B, 12C, 12D, 12E, 14, 15, 15A, 15B 31, 32, 32A to 32P, 33A, 35EE, 34A, 35F, 35FF, to 35O (both inclusive), 35Q, 35R, 36, 36A, 36B, 37A, 37B, 37C, 37D, 38A and 40.

SECTION 83A. Power of adjudication. — Where under this Chapter or the rules made there under any person is liable to a penalty, such penalty may be adjudged by the Central Excise Officer conferred with such power as the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, by notification in the Official Gazette, specify.

SECTION 84. Appeals to Commissioner of Central Excise (Appeals).—

(1) The Principal Commissioner of Central Excise or Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Principal Commissioner of Central Excise or Commissioner of Central Excise] in his order.

(2) Every order under sub-section (1) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

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

Explanation.— For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the ^s[Principal Commissioner of Central Excise or Commissioner of Central Excise] immediately before the commencement of clause (C) of section 112 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Principal Commissioner of Central Excise or Commissioner of Central Excise as if this section had not been substituted.

SECTION 85. Appeals to the Commissioner of Central Excise (Appeals).—

(1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Principal Commissioner of Central Excise or Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

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

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

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

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

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

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

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

SECTION 86. Appeals to Appellate Tribunal. —

(1) Save as otherwise provided herein an assessee aggrieved by an order passed by a Principal Commissioner of Central Excise or Commissioner of, or an order passed * * * Central Excise under section 73 or section 83A by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order within three months of the date of receipt of the order.

Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944):

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012 (23 of 2012), and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944).”

(1A) (i) The Board may, by order, constitute such Committees as may be necessary for the purposes of this Chapter.

(ii) Every Committee constituted under clause (i) shall consist of two Principal Chief Commissioners of Central Excise and Chief Commissioners of Central Excise or two Principal Commissioners of Central Excise or Commissioners of Central Excise] as the case may be.

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

Provided that where the Committee of Principal Chief Commissioners of Central Excise and Chief Commissioners of Central Excise differs in its opinion against the order of the Principal Commissioner of Central Excise or Commissioner of Central Excise], it shall state

the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if is of the opinion that the order passed by the Principal Commissioner of Central Excise or Commissioner of Central Excise is not legal or proper, direct the Principal Commissioner of Central Excise or Commissioner of Central Excise]to appeal to the Appellate Tribunal against the order.

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

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

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

(3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Chief Commissioners or, as the case may be, the Committee of Commissioners.

(4) The Principal Commissioner of Central Excise or Commissioner of Central Excise or any Central Excise Officer subordinate to him or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Principal Commissioner of Central Excise or Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)] by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Principal Commissioner of Central Excise or Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, —

- (a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

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

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

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

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

shall be accompanied by a fee of five hundred rupees :

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

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

SECTION 87. Recovery of any amount due to Central Government. — Where any amount payable by a person to the credit of the Central Government under any of the provisions of this Chapter or of the rules made there under is not paid, the Central Excise Officer shall proceed to recover the amount by one or more of the modes mentioned below :—

- (a) the Central Excise Officer may deduct or may require any other Central Excise Officer or any officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the said Central Excise Officer or any officer of customs;
- (b) (i) the Central Excise Officer may, by notice in writing, require any other person from whom money is due or may become due to such person, or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held or at or within the time specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom a notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in a case where the person to whom a notice under this section is sent, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and all the consequences of this Chapter shall follow;

(c) the Central Excise Officer may, on an authorisation by the Principal Commissioner of Central Excise or Commissioner of Central Excise, in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

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

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

SECTION 88. Liability under Act to be first charge. — Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of [tax], penalty, interest, or any other sum payable by an assessee or any other person under this Chapter, shall, save as otherwise provided in section 529A of the Companies Act, 1956 (1 of 1956) and the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 (51 of 1993) and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002), be the first charge on the property of the assessee or the person as the case may be.

SECTION 89. Offences and penalties. — Whoever commits any of the following offences, namely : (1)—(a) knowingly evades the payment of service tax under this Chapter; or

(b) avails and utilises credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or

(c) maintains false books of account or fails to supply any information which he is required to supply under this Chapter or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(d) collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due,

shall be punishable,—

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

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

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

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

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

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

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

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

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

(i) the fact that the accused has been convicted for the first time for an offence under this Chapter;

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

(iii) the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of offence;

(iv) the age of the accused.

(4) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Principal Chief Commissioner of Central Excise and Chief Commissioner of Central Excise.

SECTION 90. Cognizance of offences. —

(1) An offence under clause (ii) of sub-section (1) of section 89 shall be cognizable.

(2) [* * * * *]

SECTION 91. Power to arrest. —

(1) If the Principal Commissioner of Central Excise or Commissioner of Central Excise has reason to believe that any person has committed an offence specified in clause (ii) of sub-section (1) of section 89, he may, by general or special order, authorise any officer of Central Excise, not below the rank of Superintendent of Central Excise, to arrest such person.

(2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall, inform such person of the grounds of arrest and produce him before a magistrate within twenty-four hours.

(3) [* * * * *]

(4) All arrests under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrests.

SECTION 92. [* * * *]

SECTION 93. Power to grant exemption from service tax —

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

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from

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

SECTION 93A. Power to grant rebate. — Where any goods or services are exported, the Central Government may grant rebate of service tax paid on taxable services which are used as input services for the manufacturing or processing [or removal or export of such goods] or for providing any taxable services and such rebate shall be subject to such extent and manner as may be prescribed or specified by notification in the Official Gazette

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

SECTION 93B. Rules made under section 94 to be applicable to services other than taxable services. — All rules made under section 94 and applicable to the taxable services shall also be applicable to any other service in so far as they are relevant to the determination of any tax liability, refund, credit of service tax or duties paid on inputs and input services or for carrying out the provisions of Chapter V of the Finance Act, 1994 (32 of 1994).

SECTION 94. Power to make rules. —

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) collection and recovery of service tax under sections 66 and 68;
- (aa) determination of the amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67;
- (b) the time and manner and the form in which application for registration shall be made under sub-sections (1) and (2) of section 69
- (c) the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70
 - (cc) the manner of provisional attachment of property under sub-section (1) of section 73C;
 - (ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D;
- (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;

- (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;
 - (ee) [* * * *]
 - (eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service;]
 - (eeee) the manner of recovery of any amount due to the Central Government under section 87;
- (f) provisions for determining export of taxable services;
- (g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;
- (h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;
- (hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;
- (hhh) the date for determination of rate of service tax and the place of provision of taxable service under section 66C;
- (i) provide for the amount to be paid for compounding and the manner of compounding of offences;
- (j) provide for the settlement of cases, in accordance with sections 31, 32 and 32A to 32P (both inclusive), in Chapter V of the Central Excise Act, 1944 (1 of 1944) as made applicable to service tax vide section 83;
- (k) imposition, on persons liable to pay service tax, for the proper levy and collection of the tax, of duty of furnishing information, keeping records and the manner in which such records shall be verified;
- (l) make provisions for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on provider of taxable service or exporter, for dealing with evasion of tax or misuse of CENVAT credit;
- (m) authorisation of the Central Board of Excise and Customs or [Principal Chief Commissioners of Central Excise and Chief Commissioners of Central Excise] to issue instructions, for any incidental or supplemental matters for the implementation of the provisions of this Act;
- (n) any other matter which by this Chapter is to be or may be prescribed.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.

(4) Every rule made under this Chapter, Scheme framed under section 71 and every notification issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of

the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

SECTION 95 Power to remove difficulties. —

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

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

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

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

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

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

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

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

(1D) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2007, the Central Government

may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

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

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

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

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

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

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

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

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

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

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

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

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

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

(1K) If any difficulty arises in giving effect to section 114 of the Finance (No. 2) Act, 2014, in so far as it relates to amendments made by the said Act, in this Chapter, the Central Government may, by an order, published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

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

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

SECTION 96. Consequential amendment. — In the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), in the Schedule, after entry 7 relating to the [Central Excise Act, 1944] (1 of 1944), the following entry shall be inserted, namely :-
“7A. Chapter V of the Finance Act, 1994.”

CHAPTER VA ADVANCE RULINGS

SECTION 96A. Definitions. — In this Chapter, unless the context otherwise requires,-

(a) “**advance ruling**” means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;

(b) “**applicant**” means —

(i)(a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 96C

Explanation. — For the purposes of this clause, “joint venture in India” means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;

(c) “**application**” means an application made to the Authority under sub-section (1) of section 96C;

(d) “**Authority**” means the Authority for Advance Rulings, constituted under sub-section (1), or authorised by the Central Government under sub-section (2A), of section 28F of the Customs Act, 1962 (52 of 1962).

(e) “**non-resident**”, “**Indian company**” and “**foreign company**” have the meanings respectively assigned to them in clauses (30), (26) and (23A) of section 2 of the Income-tax Act, 1961 (43 of 1961);

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

SECTION 96B. Vacancies, etc., not to invalidate proceedings.— No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

SECTION 96C. Application for advance ruling.—

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

(2) The question on which the advance ruling is sought shall be in respect of, -

- (a) classification of any service as a taxable service under Chapter V;
- (b) the valuation of taxable services for charging service tax;
- (c) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V;
- (d) applicability of notifications issued under Chapter V;
- (e) admissibility of credit of duty or tax in terms of the rules made in this regard;
- (f) determination of the liability to pay service tax on a taxable service under the provisions of Chapter V.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw an application within thirty days from the date of the application.

SECTION 96D. Procedure on receipt of application.—

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

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

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

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

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

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

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

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

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

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

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

(6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the [§][Principal Commissioner of Central Excise or Commissioner of Central Excise], as soon as may be, after such pronouncement.

SECTION 96E. Applicability of advance ruling.—

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

SECTION 96F. Advance ruling to be void in certain circumstances. —

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

SECTION 96G. Powers of Authority.—

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

SECTION 96H. Procedure of Authority.— The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

SECTION 96-I. Power of Central Government to make rules. —

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

SECTION 96J. Special exemption from service tax in certain cases—

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

SECTION 97. Special provision for exemption in certain cases relating to management, etc., of roads.—

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

SECTION 98. Special provision for exemption in certain cases relating to management, etc., of non-commercial Government buildings. —

(1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of non-commercial Government buildings, during the period on and from the 16th day of June, 2005 till the date on which section 66B comes into force.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

SECTION 99. Special provision for taxable services provided by Indian Railways.—

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

(2) No refund shall be made or service tax paid in respect of taxable services provided by the Indian Railways during the said period prior to the 1st day of October, 2012.

SECTION 100. Special provision for taxable services provided by Employees' State Insurance Corporation.— Notwithstanding anything contained in section 66 as it stood prior to the 1st day of July, 2012, no service tax shall be levied or collected in respect of taxable services provided by the Employees' State Insurance Corporation set up under the Employees' State Insurance Act, 1948 (34 of 1948), during the period prior to the 1st day of July, 2012.

SECTION 101. Special provision for exemption in certain cases relating to construction of canal, dam, etc.

(1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of July, 2012 and ending with the 29th day of January, 2014 (both days inclusive) in respect of taxable services provided to an authority or a board or any other body—

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by the Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

SECTION 102.Special provision for exemption in certain cases relating to construction of Government buildings.

(1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in respect of taxable services provided to the Government, a local authority or a Governmental authority, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of—

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession;

(b) a structure meant predominantly for use as—

(i) an educational establishment;

(ii) a clinical establishment; or

(iii) an art or cultural establishment;

(c) a residential complex predominantly meant for self-use or for the use of their employees or other persons specified in Explanation 1 to clause (44) of section 65B of the said Act, under a contract entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

SECTION 103.Special provision for exemption in certain cases relating to construction of Airport or port.

(1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in respect of services provided by way of construction, erection, commissioning or installation of original works pertaining to an airport or port, under a contract which had been entered into before the 1st day of March, 2015 and on

which appropriate stamp duty, where applicable, had been paid before that date, subject to the condition that Ministry of Civil Aviation or, as the case may be, the Ministry of Shipping in the Government of India certifies that the contract had been entered into before the 1st day of March, 2015.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

CHAPTER VI

SERVICE TAX VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013

SECTION 104 Short title. — This Scheme may be called the Service Tax Voluntary Compliance Encouragement Scheme, 2013.

SECTION 105 Definitions. —

(1) In this Scheme, unless the context otherwise requires,—

- (a) “Chapter” means Chapter V of the Finance Act, 1994 (32 of 1994);
- (b) “declarant” means any person who makes a declaration under sub-section (1) of section 107;
- (c) “designated authority” means an officer not below the rank of Assistant Commissioner of Central Excise as notified by the [Principal Commissioner of Central Excise or Commissioner of Central Excise] for the purposes of this Scheme;
- (d) “prescribed” means prescribed by rules made under this Scheme;
- (e) “tax dues” means the service tax due or payable under the Chapter or any other amount due or payable under section 73A thereof, for the period beginning from the 1st day of October, 2007 and ending on the 31st day of December, 2012 including a cessleviable thereon under any other Act for the time being in force, but not paid as on the 1st day of March, 2013.

(2) Words and expressions used herein and not defined but defined in the Chapter or the rules made thereunder shall have the meanings respectively assigned to them in the Chapter or the rules made thereunder.

SECTION 106 Person who may make declaration of tax dues. —

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

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

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

(2) Where a declaration has been made by a person against whom,—

(a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or short-paid has been initiated by way of —

- (i) search of premises under section 82 of the Chapter; or
- (ii) issuance of summons under section 14 of the Central Excise Act, 1944 (1 of 1944), as made applicable to the Chapter under section 83 thereof; or
- (iii) requiring production of accounts, documents or other evidence under the Chapter or the rules made thereunder; or

(b) an audit has been initiated, and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration.

SECTION 107 Procedure for making declaration and payment of tax dues. —

(1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2013 in such form and in such manner as may be prescribed.

(2) The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.

(3) The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent. of the tax dues so declared under sub-section (1) and submit proof of such payment to the designated authority.

(4) The tax dues or part thereof remaining to be paid after the payment made under sub-section (3) shall be paid by the declarant on or before the 30th day of June, 2014 :

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest

thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

(5) Notwithstanding anything contained in sub-section (3) and sub-section (4), any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.

(6) The declarant shall furnish to the designated authority details of payment made from time to time under this Scheme along with a copy of acknowledgement issued to him under sub-section (2).

(7) On furnishing the details of full payment of declared tax dues and the interest, if any, payable under the proviso to sub-section (4), the designated authority shall issue an acknowledgement of discharge of such dues to the declarant in such form and in such manner as may be prescribed.

SECTION 108 Immunity from penalty, interest and other proceeding. —

(1) Notwithstanding anything contained in any provision of the Chapter, the declarant, upon payment of the tax dues declared by him under sub-section (1) of section 107 and the interest payable under the proviso to sub-section (4) thereof, shall get immunity from penalty, interest or any other proceeding under the Chapter.

(2) Subject to the provisions of section 111, a declaration made under sub-section (1) of section 107 shall become conclusive upon issuance of acknowledgement of discharge under sub-section (7) of section 107 and no matter shall be reopened thereafter in any proceedings under the Chapter before any authority or court relating to the period covered by such declaration.

SECTION 109 No refund of amount paid under the Scheme. — Any amount paid in pursuance of a declaration made under sub-section (1) of section 107 shall not be refundable under any circumstances.

SECTION 110 Tax dues declared but not paid. — Where the declarant fails to pay the tax dues, either fully or in part, as declared by him, such dues along with interest thereon shall be recovered under the provisions of section 87 of the Chapter.

SECTION 111 Failure to make true declaration. —

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

(2) No action shall be taken under sub-section (1) after the expiry of one year from the date of declaration.

(3) The show cause notice issued under sub-section (1) shall be deemed to have been issued under section 73, or as the case may be, under section 73A of the Chapter and the provisions of the Chapter shall accordingly apply.

SECTION 112 Removal of doubts. —For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 108.

SECTION 113 Power to remove difficulties. —

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

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

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

SECTION 114 Power to make rules. —

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the form and the manner in which a declaration may be made under sub-section (1) of section 107;
- (b) the form and the manner of acknowledging the declaration under sub-section (2) of section 107;
- (c) the form and the manner of issuing the acknowledgement of discharge of tax dues under sub-section (7) of section 107;
- (d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

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