

117. Works contract Services

(A) **Date of Introduction:** 01.06.2007 vide Notification No. 23/2007-S.T., dated 22.05.2007

(B) **Definition and scope of service:**

"Taxable Service" means any service provided or to be provided to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

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
- (f) commissioning (EPC) projects;

(Section 65 (105) (zzzza) of Finance Act, 1994)

"Works contract", for the purposes of section 65(105)(zzzza), means a contract wherein,-

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(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;

(Explanation to Section 65 (105) (zzzza) of Finance Act, 1994)

(C) Rate of Tax & Accounting Code:

	Rate of Tax	Accounting Code
Service Tax	10% of the value of services	00440410
Education Cess	2% of the service tax payable	00440298
Secondary and Higher Education cess	1% of the service tax payable.	00440426
Other – Penalty/interest	As levied or applicable	00440411

(Rate of tax is effective from 24.02.2009.)

(D) Classification of Taxable Services:

(1) The classification of taxable services shall be determined according to the terms of the sub-clauses (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 merits consideration.

(Sec.65A of Finance Act,1994)

(E) Valuation of taxable services for charging Service tax

(1) Service tax chargeable on any taxable service with reference to its 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, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

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

Explanation.—For the purposes of this section,—

(a) “consideration” includes any amount that is payable for the taxable services provided or to be provided;

(b) “money” includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) “gross amount charged” includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, 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.

(Sec.67 of Finance Act,1994)

Inclusion in or Exclusion from value of certain expenditure or cost:

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

[Rule 5(1) of Service Tax (Determination of Value) Rules,2006]]

(2) The expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:-

- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;
- (ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;
- (iii) the recipient of service is liable to make payment to the third party;
- (iv) the recipient of service authorizes the service provider to make payment on his behalf;
- (v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;

- (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
- (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and
- (viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

[Rule 5(2) of Service Tax (Determination of Value) Rules,2006]]

(F) Clarifications issued by the Board:

Master Circular No. 96/7/2007 –S.T., dated 23.8.2007 relevant to this service.

Ref. code (1)	Issue (2)	Clarification (3)
097.01/ 23.8.07	Whether CENVAT credit of duty paid on capital goods and service tax paid on input services can be taken by a service provider who opts to pay an amount equivalent to two per cent. Of the gross amount charged for the works contract instead of paying service tax at the rate specified in section 66,under the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, notified vide Notified No. 32/2007- service Tax dated 22.5.2007 ?	Rule 3(2) of the Works Contract (Composition Scheme for Payment of service Tax) Rules, 2007 provides that the provider of taxable service opting to pay service tax under the composition scheme is not entitled to take CENVAT credit of duty on inputs, used in or in relation to the said works contract, under the provisions of the CENVAT Credit Rules, 2004. There is no restriction under Notification No. 32/2007- Service Tax dated 22.5.2007 to take CENVAT credit of duty paid on capital goods and service tax paid on input services.
097.02/ 4.1.08	Services provided in relation to execution of a works contract is leviable to service tax [section 65(105)(zzzza)]. VAT/ sales tax is payable on the transfer of property in goods involved in the execution of a works contract. Service Tax is leviable on the value equivalent to the gross amount charged for the works contract less value of the transfer of property in goods involved in the execution of the works contract which is leviable to VAT/ sales tax [Rule 2A of the Service Tax (Determination of Value) Rules, 2006]. Whether or not, excise duty paid on goods, subjected to levy of VAT/ sales tax under works contract service, can be taken as credit	Value for the purposes of levy of service tax under works contract service does not include the value pertaining to transfer of property in goods involved in the execution of a works contract leviable to VAT/ sales tax. Works contract service provider is, therefore, not eligible to take credit of excise duty paid on such goods involved in the execution of works contract.

	under the Cenvat Credit Rules, 2004?	
097.03/ 4.1.08	<p>Services provided in relation to execution of works contract is leviable to service tax w.e.f. 1.6.07 [section 65(105)(zzza)].</p> <p>Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 provides option to pay service tax @ 2% (presently the rate is 4%) of the gross amount charged for the works contract. However, the service provider opting for composition scheme for payment of service tax should exercise the option prior to payment of service tax.</p> <p>The issue pertains to,-</p> <p>(i) contract entered into prior to 1.6.07 for providing erection, commissioning or installation and commercial or residential construction service, and</p> <p>(ii) service tax has already been paid for part of the payment received under the respective taxable service.</p> <p>Whether in such cases, the service provider can revise the classification to works contract service from the respective classification and pay service tax for the amount received on or after 1.6.07 under the Composition Scheme?</p>	<p>Prior to 1.6.07, service provider classified the taxable service under erection, commissioning or installation service [section 65(105)(zzd)], commercial or industrial construction service [section 65(105)(zzq)] or construction of complex service [section 65(105)(zzzh)], as the case may be, and paid service accordingly. The contract for the service was single composite contract. Part of service tax liability corresponding to payment received was discharged and the balance amount of service tax is required to be paid on or after 1.6.07 depending upon receipt of payment.</p> <p>Classification of a taxable service is determined based on the nature of service provided whereas liability to pay service tax is related to receipt of consideration. Vivisecting a single composite service and classifying the same under two different taxable services depending upon the time of receipt of the consideration is not legally sustainable.</p> <p>In view of the above, a service provider who paid service tax prior to 1.6.07 for the taxable service, namely, erection, commissioning or installation service, commercial or industrial construction service or construction of complex service, as the case may be, is not entitled to change the classification of the single composite service for the purpose of payment of service tax on or after 1.6.07 and hence, is not entitled to avail the Composition Scheme.</p>

Increase in rate under Composition Scheme- Service tax payable for works contract service under the Works Contract (Composition Scheme for payment of Service Tax) Rules, 2007 is being increased from 2% to 4% of the total value of the works contract. Rule 3(1) of the said rules is being amended suitably (Notification No. 7/2008-S.T., dated 1.3.2008).

[Vide M.F. (D.R.) Letter D.O.F. No. 334/1/2008-TRU, dated 29.2.2008].

Budget 2009-10- Changes in the Works Contract (Composition Scheme for Payment of service Tax) Rules, 2007.-

These rules provide a simplified procedure for working out the tax liability by the service providers providing works contract service. Instead of working out the service element from

the value of works contract and paying service tax at full rate (i.e.10%) the service provider is allowed to pay 4% on the 'gross amount charged' for the works contract. The reason for prescribing the lower rate under the scheme is that the service provider need not bifurcate the gross value of works contract. It was expected that the gross value should be shown to include the total value of materials as well as services used in providing the taxable services. However, it has been reported that in certain cases, the taxpayers are not including the full value of the goods required for execution of works contract for working out service tax liability under the Composition Scheme by either excluding the value of goods received free of cost from their client or splitting the contract into a sale contract (for a portion of goods required to execute the works contract) and works contract (for only a portion of the total value of goods and the labour charges), thus reducing the value of works contract for the purposes of calculating service tax. In order to plug this loophole, the Explanation appearing in sub-rule (3) is being amended to provide that the composition scheme would be available only to such works contracts where the gross value of works contract includes the value of all goods used in or in relation to the execution of works contract whether received free of cost or for consideration under any other contract. This condition would not apply to those works contracts, where either the execution of works contract has already started or any payment (whether in part or in full) has been made on or before the date of amendment, i.e. 7.7.2009, from which the said amendment becomes effective (refer Notification No. 23/2009-S.T., dated 7.7.2009).

[Based on M.F. (D.R.) Letter D.O.F. No. 334/13/2009-TRU, dated 7.7..2009].

Laying of cables under or alongside roads- Service tax liability-

- (1) Disputes have arisen in some parts of the country regarding applicability of service tax on certain activities such as shifting of overhead cables to underground on account of renovation/ widening of roads; laying of electrical cables under or alongside roads/ railway tracks; between grids/ sub-stations/ transformers the distribution points of residential or commercial complexes and such activities as electrification of railways, installation of street-lights, traffic lights, flood-lights. This clarification takes into account the taxability of different activities taking into account the scope of all services (such as site formation/ excavation /earth moving service, commercial or industrial construction services; erection, commissioning or installation services; or works-contract service) that are presently taxable as well as those which are covered under the Finance act, 2010.
- (2) Scope of certain taxable services in brief;
 - (i) 'Commercial or industrial construction services', in brief, cover construction of and the completion, finishing, repair, alteration, renovation, restoration or similar activities pertaining to buildings, civil structures, pipelines or conduits. Therefore, only such electrical works that are parts of (of which result in emergence of a fixture of) buildings, civil structures, pipelines or conduits, are covered under the definition of this taxable service. Further, such activities undertaken in respect of roads, railways, transport terminals, bridges, tunnels and dams are outside the scope of levy of service tax under this taxable service.
 - (ii) Under 'Erection, commissioning or installation services', the activities relevant to the instant issue are (a) the erection, commissioning and installation of plant, machinery, equipment or structures; and (b) the installation of electrical and electronic devices, including wiring or fitting there for. Thus, if an activity does not result in emergence of an erected, installed and commissioned plant, machinery, equipment or structure or does not result in installation of an electrical or electronic

device (i.e. machine or equipment that uses electricity to perform some other function) the same is outside the purview of this taxable service.

- (iii) Works Contract incorporates the inclusions and exclusions of the aforementioned two taxable services (amongst others) and it is the nature of the contract (i.e. a contract wherein the transfer of property in goods involved is leviable to a tax as sale of goods) rather than the nature of activities undertaken, that distinguishes it from the previously stated taxable services. Thus, even in the case of 'works contract' if the nature of the activities is such that they are excluded from aforesaid two services then they would generally remain excluded from this taxable service as well.
- (iv) 'site formation and clearance, excavation, earthmoving and demolition services' are attracted only if the service providers provide these activities independently and not as part of a complete work such as laying of cables under the road.

(3) The taxable status of various activities, on which disputes have arisen

Based on the foregoing, the following would be the tax status of some of the activities in respect which disputes have arisen,

Sl. No	Activity	Status
1.	Shifting of overhead cables/ wires for any reasons such as widening/ renovation of roads.	Not a taxable service under any clause of sub-section (105) of section 65 of the Finance Act, 1994.
2.	Laying of cables under or alongside roads.	Not a taxable service under any clause of sub-section (105) of section 65 of the Finance Act, 1994.
3.	Laying of electric cables between grids/ sub-stations/ transformer stations en route.	Not a taxable service under any clause of sub-section (105) of section 65 of the Finance Act, 1994.
4.	Installation of transformer/ substations undertaken independently.	Taxable service, namely Erection, commissioning or installation services [section 65(105)(zzd)].
5.	Laying of electric cables up to distribution point of residential or commercial localities/ complexes.	Not a taxable service under any clause of sub-section (105) of section 65 of Finance act, 1994.
6.	Laying of electric cables beyond distribution point of residential or commercial localities/ complexes.	Taxable service namely commercial or industrial construction or 'construction of complex' service [section 65(105)(zzq)/(zzzh)], as the case may be.
7.	Installation of street lights, traffic lights flood lights, or other electrical and electronic appliances/devices or providing electric connections to them.	Taxable service, namely Erection, commissioning or installation services [section 65 (105) (zzd)].
8.	Railway electrification, electrification along the railway track.	Not a taxable service under any clause of sub-section (105) of section 65 of the Finance Act, 1994.

(4). The conclusions drawn above are essentially generally in nature and would have to be applied in an individual case depending upon its facts and circumstances. The pending disputes / cases may be decided based on the clarifications contained in this circular.

(5). please acknowledge receipt.

(6). Hindi version follows.

[Based on CBE & C. Circular No.123/5/2010-TRU, dated 24.5.2010].

Clarifications/ Instructions issued prior to 23rd August, 2007

Service involved in the execution of a works contract- Scope [section 65(105)(zzzza)]-

- (1) VAT/ sales tax is leviable on transfer of property in goods involved in the execution of a works contract. The proposed taxable service is to levy service tax on services involved in the execution of a works contract. It may be noted that under this service only the following works contracts wherein transfer of property in goods involved in execution of such works contract is leviable to VAT/ sales tax, are covered, namely:-
 - (i) works contract for carrying out erection, commissioning or installation
 - (ii) works contract for commercial or industrial construction
 - (iii) works contract for construction of complex
 - (iv) works contract for turnkey projects including Engineering Procurement and Construction or Commissioning (EPC) projects.
- (2) works contract in respect of specified infrastructure projects namely roads, airports, railways, transport terminals, bridges, tunnels and dams are specifically excluded from the scope of the levy.
- (3) Taxable value under this service is that part of the value of the works contract which is relatable to services provided in the execution of a works contract. Such value is to be determined on actual basis based on the records maintained by the assessee. However, it is proposed to give an option to an assessee to opt for a composition scheme. Under the composition scheme, the assessee is required to pay 2% [now 4%] of the total value of the works contract as service tax. Assessee opting for the composition scheme is not entitled to avail cenvat credit of capital goods, inputs and input services required for use in the works contract. Valuation of works contract and details of the composition scheme will be notified separately.

[Vide M.F. (D.R.) Letter D.O.F.No. 334/1/2007-TRU, dated 28.2.2007-2007 (5) S.T.R. (C27).]

Exemption to construction of port- Clarification- Construction of ports is specifically exempted from levy of service tax under commercial or industrial construction service [section 65(25b)] vide Notification No. 16/2005-Service tax, dated 7.6.05. Construction of ports under the newly introduced commercial or industrial construction service provided in relation to the execution of works

contract under Section 65(105)(zzzza) has also been exempted. Accordingly, Notification No. 16/2005-Service Tax, dated 7.6.05 has been rescinded and a combined Notification No. 25/2007-Service Tax, dated 22.5.07 has been issued exempting commercial or industrial construction service, and services provided in relation to the execution of works contract, provided to any person by any other person in relation to construction of a port or other port. However, services such as completion and finishing, repair, alteration, renovation, restoration, maintenance or repair provided in relation to existing port or other port shall be outside the scope of this exemption and hence, leviable to service tax.

[Based on M.F. (D.R.) Letter F.No. B1/16/2007-TRU, dated 22.5.2007-2007 (6) S.T.R. (C124).

Optional Composition Scheme for Works Contract- Clarifications.-

- (1) Services provided in relation to the execution of a works contract [section 65(105)(zzzza)] is a taxable service. Works contract for the purposes of levy of service tax has been defined to mean 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,
 - (b) Commercial or residential construction and related completion and finishing services, and
 - (c) Turnkey projects including engineering, procurement and construction or commissioning (EPC) projects.
- (2) Works contract is a composite contract for supply of goods and services. A composite works contract is vivisected and,-
 - (i) VAT/ sales tax is leviable on transfer of property in goods involved in the execution of works contract [Art.366(29A)(b)of the Constitution of India], and
 - (ii) Service tax will be leviable on services provided in relation to the execution of works contract.
- (3) Service tax is chargeable on the gross amount charged by the service provider for the taxable services provided (section 67). In the case of works contract, the taxable value of services is to be determined by vivisecting the composite works contract. Rule 2A of Service Tax (Determination of Value) Rules, 2006 [Notification No. 29/2007-Service tax, dated 22.5.07], provides that value of works contract service shall be equivalent to the gross amount charged for the works contract less the value of transfer of property in goods involved in the execution of the said works contract. Thus, wherever the service provider maintains records, the value of services shall be the gross amount charged for the works contract less the value of transfer of property in goods involved in the execution of works contract.
- (4) Wherever VAT/ sales tax on transfer of property in goods involved in the execution of works contract is paid on actual value, the same value is also taken for the purpose of determining the value of works contract service. In other cases, value of works contract service shall be determined based on the actual. It has also been explained that value of works contract service shall include:

- (i) labour charges for execution of the works;
 - (ii) amount paid to a sub-contractor for labour and services;
 - (iii) charges for planning, designing and architect's fees;
 - (iv) charges for obtaining on hire or otherwise, machinery and tools uses for the execution of the works contract;
 - (v) cost of consumables such as water, electricity, fuel, used in the execution of the works contract, the property in which is not transferred in the course of execution of works contract;
 - (vi) cost of establishment of the contract relating to supply of labour and services;
 - (vii) other similar expenses relating to supply of labour and services; and
 - (viii) profit earned by the service provider relating to supply of labour and services;
- (5) If the gross amount charged for the works contract is inclusive of VAT or sales tax, the value for the purposes of service tax shall be computed as follows:

[Gross amount charged- (Value of transfer of property in goods involved in the execution of works contract and VAT or sales tax paid, if any, on the said transfer of property in goods involved in the execution of said works contract)].

- (6) As a trade facilitation measure and also for ease of administrative convenience, the service provider has been given an option to adopt the composition scheme for payment of service tax on works contract service. The Works Contract (Composition Scheme for Payment of Service tax) Rules, 2007 has accordingly been notified vide Notification No. 32/2007-Service Tax, dated 22.5.07.
- (7) * * *
- (8) The provider of taxable service who opts to pay service tax under these rules shall exercise such option in respect of a works contract prior to payment of service tax in respect of the said works contract and the option so exercised shall be applicable for the entire works contract and cannot be withdrawn until the completion of the said works contract.
- (9) Presently, erection, commissioning or installation service [section 65(105)(zzd)], commercial or industrial construction service [section 65(105)(zzq)] and construction of complex service [section 65(105)(zzzh)] are separate taxable services.
- (10) Various trade and industry associations have raised apprehension in respect of classification of a contract either under the newly introduced works contract service or under erection, commissioning or installation and commercial or residential construction services.
- (11) Contracts which are treated as works contract for the purpose of levy of VAT/ sales tax shall also be treated as works contract for the purpose of levy of service tax. This is clear from the definition under section 65(105)(zzza).

[Based on M.F. (D.R.) Letter F.No. B1/16/2007-TRU, dated 22.5.2007-2007 (6) S.T.R. (C124).

Dams, irrigation projects, buildings or infrastructure construction under turnkeys/ EPC contract by Government not covered under Works Contract service.-

The issue is about Government taking up construction activity of dams, irrigation projects, buildings or infrastructure construction etc. through turnkey or EPC (Engineering Procurement & Construction) mode. The said service is covered

under Section 65(105)(zzzza) of Finance act, 1994. The said section itself excludes works contract in respect of dams, tunnels, canals or irrigation projects, road, airports, railways, transport terminals & bridges executed through such turnkey or EPC mode. Hence works contract in respect of above works even if done through turnkey or EPC mode are exempt from payment service tax.

[Based on CBE & C. Circular No.116/10/2009-S.T., dated 15.9.2009-2009 (16) S.T.R. (C9).]

(G) Exemption & Exclusion:

1. Exemption to Small Scale Service Providers:

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services of aggregate value not exceeding **Ten lakh*** rupees in any financial year from the whole of the service tax leviable thereon under section 66 of the said Finance Act:

Provided that nothing contained in this notification shall apply to,-

- (i) taxable services provided by a person under a brand name or trade name, whether registered or not, of another person; or
- (ii) such value of taxable services in respect of which service tax shall be paid by such person and in such manner as specified under sub-section (2) of section 68 of the said Finance Act read with Service Tax Rules,1994.

2. The exemption contained in this notification shall apply subject to the following conditions, namely:-

(i) the provider of taxable service has the option not to avail the exemption contained in this notification and pay service tax on the taxable services provided by him and such option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year;

(ii) the provider of taxable service shall not avail the CENVAT credit of service tax paid on any input services, under rule 3 or rule 13 of the CENVAT Credit Rules, 2004 (herein after referred to as the said rules), used for providing the said taxable service, for which exemption from payment of service tax under this notification is availed of;

(iii) the provider of taxable service shall not avail the CENVAT credit under rule 3 of the said rules, on capital goods received in the premises of provider of such taxable service during the period in which the service provider avails exemption from payment of service tax under this notification;

(iv) the provider of taxable service shall avail the CENVAT credit only on such inputs or input services received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable;

(v) the provider of taxable service who starts availing exemption under this notification shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which the provider of taxable service starts availing exemption under this notification;

(vi) the balance of CENVAT credit lying unutilised in the account of the taxable service provider after deducting the amount referred to in sub-paragraph (v), if any, shall not be utilised in terms of provision under sub-rule (4) of rule 3 of the said rules and shall lapse on the day such service provider starts availing the exemption under this notification;

(vii) where a taxable service provider provides one or more taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each premises or each services; and

(viii) the aggregate value of taxable services rendered by a provider of taxable service from one or more premises, does not exceed rupees ***ten lakhs** in the preceding financial year.

3. For the purposes of determining aggregate value not exceeding **ten***lakh rupees, to avail exemption under this notification, in relation to taxable service provided by a goods transport agency, the payment received towards the gross amount charged by such goods transport agency under section 67 for which the person liable for paying service tax is as specified under subsection (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994, shall not be taken into account.

Explanation.- For the purposes of this notification,-

- (A) "brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, logo, label, signature, or invented word or writing which is used in relation to such specified services for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any indication of the identity of that person;
- (B) "aggregate value not exceeding ***ten lakh rupees**" means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the said Finance Act, charged by the service provider towards taxable services till the aggregate amount of such payments is equal to ten lakh rupees but does not include payments received towards such gross amount which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.

4. This notification shall come into force on the 1st day of April, 2005.

[Notification No. 6/2005-ST, dated 1-3-2005. *Amended by Notfn.No. 8/2008-ST dated 01.03.2008]

2. Services to UN Agencies

Services provided to United Nations or an International Organizations are exempt.

[Notification No. 16/2002-ST, dated 2-8-2002]

3. Export of service: Any service which is taxable under clause 105 of Section 65 may be exported without payment of service tax.

(Rule 4 of Export of Services Rules,2005)

4. Exemption to services provided to a developer of SEZ or a unit of SEZ:

Exempts the taxable services specified in clause (105) of section 65 of the said Finance Act, which are provided in relation to the authorized operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the whole of the service tax leviable thereon under section 66 of the said Finance Act subject to certain conditions. (Refer notification for details)

{ Notification No. 09/2009ST dated 03.03.2009 as amended by Notification No. 15/2009ST dated 20.05.2009 }

5. Exemption to value of goods & material sold by service provider: In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby

exempts so much of the value of all the taxable services, as is equal to the value of goods and materials sold by the service provider to the recipient of service, from the service tax leviable thereon under section (66) of the said Act, subject to condition that there is documentary proof specifically indicating the value of the said goods and materials.

(Notification No. 12/2003-ST dated 20.06.2003 effective from 01.07.2003)

6. Exemption to taxable services provided by TBI and STEP: All taxable services, provided by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. (Refer notification for details)

(Notification No.09/2007 ST dated 01.03.2007)

7. Exemption to taxable services provided by entrepreneurs located within the premises of TBI or STEP: All taxable services, provided by an entrepreneur located within the premises of a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. (Refer notification for details)

(Notification No.10/2007 ST dated 01.03.2007)

8. Exemption to services provided to Foreign Diplomatic Missions or Consular Post in India: All services provided by any person, for the official use of a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 33/2007-ST dated 23.05.2007)

9. Exemption to services provided for personal use of a family member of Diplomatic Agent or Career Consular Officers posted in Foreign Diplomatic Mission/Consular Post in India: All services provided by any person, for personal use of family member of Diplomatic Agents or Career Consular officers posted in a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 34/2007-ST dated 23.05.2007)
