

Service Tax Proposals



“To broaden the tax base in Service Tax, it is necessary to prune the negative list and exemptions to the extent possible”

● *“Power is gained by sharing knowledge, not hoarding it”*

- ❖ At the outset, I would like to say that since last one decade, this is the first Union Budget which has received more appraisals when compared with criticism;
- ❖ Hon'ble Union Finance Minister, while presenting his maiden budget on 10th July'14, made it very clear that service tax has shown highest growth amongst indirect taxes ;
- ❖ His proposals in relation to service tax are in alignment with the accomplishment of following objectives:
 - Widening tax base;
 - Enhancement of Compliance
- ❖ Even though only a few changes were reflected in his speech, but in reality, a plethora of amendments have been proposed;
- ❖ An effort has been made to present the amendments made in service tax laws in an easy & understandable manner;
- ❖ Let's look at those in the subsequent slides.

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● *“Power is gained by **sharing knowledge**, not hoarding it”*

Union Budget

SERVICE TAX

● *"Power is gained by **sharing knowledge**, not hoarding it"*

Service Tax

Finance Act, 1994

Applicable
from date of
enactment

Negative List curtailed

- ✓ Commutation would become costlier, since radio taxis have been brought in the ambit of service tax;
- ✓ Service tax on sale of space for online advertisement, bill boards, buildings, etc.



Mandatory Pre- deposit

- ✓ Appeal with CCE(A) or CESTAT(First stage)----- 7.5% of tax or penalty or both;
- ✓ Appeal with CESTAT(Second stage)----- 10 % of tax or penalty or both



It is pertinent to note that maximum amount of pre-deposit shall be Rs. 10 crores.



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Service Tax

Finance Act, 1994

Applicable
from date of
enactment

No power to waive penalty(of 50%) as allowed earlier u/s 80 w.r.t. provision to sec. 78

Rate of exchange notified by CBEC shall not be required anymore.

Separate rules shall be framed to serve the purpose

Time-limit for adjudication defined

- ✓ Normal period of issuance of SCN(i.e. 18 months)----- 6months from SCN(if possible);
- ✓ Extended period of limitation(i.e. 5 years)----- 1 year from SCN(if possible)

List of Excise Provisions(applicable to Service tax) widened:

- ✓ Sec.5A(2A)– Any explanation inserted within one year from date of original notification, shall be retrospective;
- ✓ Sec.15A/15B- Third party information may be obtained by CBEC

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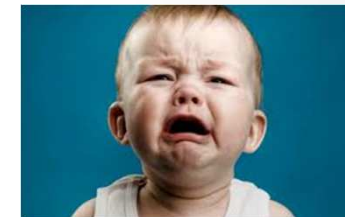
Service Tax

Finance Act, 1994

Applicable
w.e.f. 1st Oct'14

Intt. on delayed payment: Substantial enhancement

Period of Delay	Rate of interest(p.a.)
Upto 6 months	18%
Beyond 6 months but upto 1 year	18% for first six months; 24% beyond six months
Beyond 1 year	18% for first six months; 24% for next six months; 30% thereafter



- It must be noted that in case of assesseees whose taxable turnover doesn't exceed Rs. 60 Lacs, shall continue to pay interest at 3% lesser than the aforesaid prescribed rates

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Service Tax

Service Tax Rules

Applicable
w.e.f. 1st Oct'14

Rule 6: Payment of service tax

- Few months ago, threshold limit for e-payment of service tax was reduced from Rs. 10 Lacs to Rs. 1 Lacs;
- Now, vide N/N 09/2014-ST, the same has been dispensed with;
- Henceforth, e-payment has been made mandatory without any monetary limit.
- Similar amendment has also been brought under excise laws

Service Tax

Point of taxation Rules

Applicable
w.e.f. 1st Oct'14

Rule 7: Reverse Charge

Existing Provision	Amended provision
POT shall be date of payment; But if payment not made within 6 months, then POT shall be date of invoice, & same shall be paid with interest	<u>3 months</u> from date of invoice; or <u>Date of payment</u> to vendor

Earlier

Note: For invoices issued & unpaid till 30th Sep'14, erstwhile provisions shall continue to prevail.

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Place of provision rules



Rule 2(f): Intermediary

- Existing definition of intermediary includes only those persons engaged in facilitation or arrangement of provision of services;
- Now, persons involved in facilitation or arrangement of **supply of goods have also been included under the said definition.**
- Accordingly, export commission agents shall fall under ambit of service tax (by virtue of rule 9 of said rules)

Rule 4: Performance based service

- In case of goods, imported temporarily (and re-exported subsequently) **for repairs only, rule 4 shall not apply;**
- However, in other cases (re-conditioning, re-engineering), rule 4 didn't use to apply earlier, but post amendment, in such cases rule has become applicable

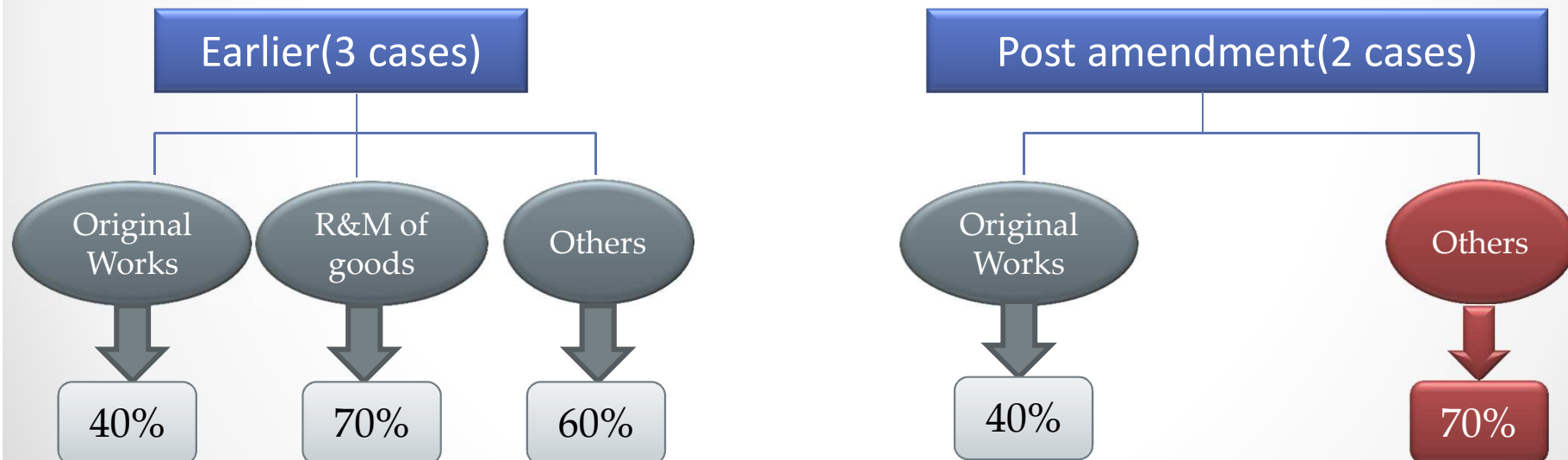
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Valuation Rules

Applicable
w.e.f. 1st Oct'14

- **Rule 2A** of Service Tax(Determination of Value) Rules, 2006 deals with valuation of **works contract**;
- In cases, where material & labour couldn't be bifurcated, certain percentages were prescribed, depending upon type of works contract;
- The following chart depicts the amendment brought under the said rule:



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Mega Exemption-N/N 25/2012-ST

Applicable w.e.f.
11th July'14

- Transport by air-conditioned contract carriage has become taxable (entry no. 23);
 - Transportation (by rail or GTA), loading, unloading, packing, storing, warehousing of cotton has been exempted (entry no. 40);
 - Services by RBI, from outside India, in relation to mgt. of foreign exchange reserves has been exempted (entry no. 41);
 - Tour operator services to a foreign tourist exempt, if the same is provided in relation to the tour conducted wholly outside India (entry no. 42);
 - Hotel services (entry no. 18):
 - All services by hotel, inn, guest house, club, campsite for lodging or residential purposes exempt, wherein the tariff value is less than Rs. 1000 per day. **Earlier, it was linked with renting only.**
 - Any other commercial place rented out brought within the ambit of service tax
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Service Tax

Mega Exemption-N/N 25/2012-ST

Applicable w.e.f.
11th July'14

➤ **Education Institution**(Entry no.9):

- ✓ Earlier, auxiliary educational services or renting of immovable property to an educational institution was exempt from service tax;
- ✓ Now, **only following services are exempt**:
 - **Services provided by institution to its**:
 - Students;
 - Faculty;
 - Staff
 - **Services received by institution**:
 - Transportation of students, staff, faculty;
 - Catering;
 - Security ,cleaning or house-keeping;
 - Admission/examination related services



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Reverse Charge

Full reverse charge: Scope widened

Applicable w.e.f.
11th July'14

- Following services have been introduced where entire service tax liability shall be borne by service recipient:
 - ✓ Services by recovery agent to a banking company, NBFC, or a financial institution;
 - ✓ Services by a director of a body corporate to the said body corporate (e.g. RBI). Earlier, it included only director of the companies.

Partial reverse charge : % re-defined

Applicable
w.e.f. 1st Oct'14

Renting of motor vehicle(non- abated value)	% by service provider	% by service receiver
Earlier	60%	40%
Post amendment	50%	50%

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Abatement

Particulars	Taxable value	Conditions
Renting of any motor vehicle designed to carry passengers motor cab	40%	CENVAT only on input services of renting of motor cab shall be allowed, subject to prescribed limit.
Contract carriage, other than motor cab	40%	No CENVAT allowed
Radio taxi	40%	--do--
Transport of goods by vessel	50% 40%	--do--

CENVAT credit towards input service of a tour operator shall be available to service providers providing tour operator services on abated value

Service Tax

Others

SEZ provisions : Form A-2 within 15 days from date of Form A-1
submission & ease of other procedures

Input Service Distributor(ISD) : It has been clarified that the distribution shall be made in all the units, rather than taking only those units to which the service pertains

Authority of Advance Ruling(AAR): Extended to resident private limited companies

Search may be directed by Additional Commissioners or notified CEOs

Union Budget

CENVAT Credit Rules, 2004

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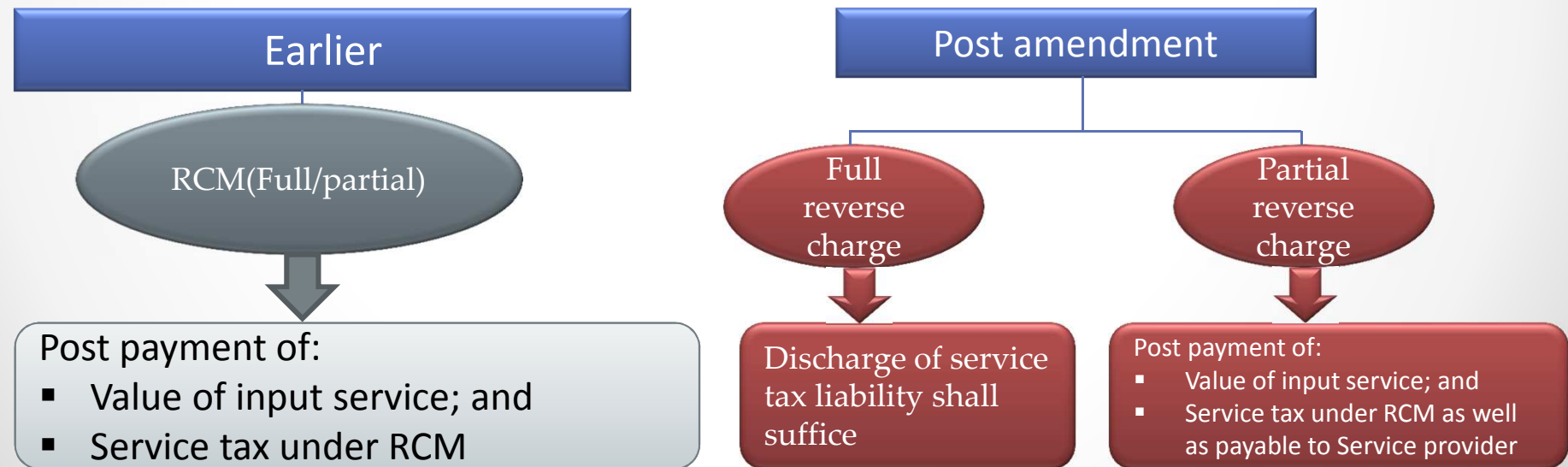
CENVAT Credit Rules, 2004

No CENVAT beyond 6 months

Applicable w.e.f.
1st Sep'14

- CENVAT of inputs & input services shall not be allowed beyond a period of 6 months from the date of invoice/challan/bill, as the case may be;
- However, for capital goods, no limit has been imposed

CENVAT: Reverse Charge(RCM)



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CENVAT Credit Rules, 2004

Applicable w.e.f.
11th July'14

No transfer of CENVAT by one unit of LTU(large taxpayer unit) to another

Export of service: Re-credit allowed

- Rule 6(8) considers an export service as exempt service in case the export proceeds are not realized within 6 months or time extended by RBI, as the case may be;
- Accordingly, CENVAT reversal is required u/r 6(3);
- Now, it has been amended to allow re-credit of the same, if the export proceeds are realized subsequently, within one year from the end of the aforesaid prescribed period;

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Thank You!

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