INDIRECT TAXES
AMENDMENTS AT A GLANCE
Finance (No.2) Act, 2014 & Budget Notifications

<table>
<tr><th>S. No.</th><th>EARLIER</th><th>AFTER AMENDMENT</th><th>Section/Rule/ Notification</th><th>Effective Date</th></tr>
<tr><td colspan="5">Central Excise Duty</td></tr>
<tr><td>1.</td><td>From 01.01.2014, where an assessee had paid an excise duty of Rs. 1 lakh or more including the amount paid by utilization of CENVAT credit, in the preceding financial year, he was required to deposit the excise duty liable to be paid by him electronically through internet banking.</td><td>E-payment of excise duty mandatory for all assessee`s irrespective of the duty paid during previous year</td><td>Rule 8(1B) of Central Excise Rules, 2002</td><td>01.10.2014</td></tr>
<tr><td>2.</td><td>Hitherto, every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods, was required to get registration under central excise.</td><td>With effect from 01.04.2014, rule 9(1) of the CER has been amended to provide that an importer who issues an invoice on which CENVAT credit can be taken is also required to obtain such registration. Thus, such importer will have to obtain registration as a ‘registered importer’ with the central excise authorities to pass on the credit on the imported goods.</td><td>[Notification Nos. 8/2014 CE(NT) dated 28.02.2014]</td><td></td></tr>
<tr><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="5">Customs Duty</td></tr>
<tr><td>3.</td><td>Relevant date for determination of rate of duty and tariff valuation for imports :
<table>
<tr><th>Particulars</th><th>Relevant date</th></tr>
<tr><td>Goods entered for home consumption under section 46</td><td>In case of imports by vessel or aircraft
• Date of presentation of bill of entry
OR
• Date of entry inwards of the vessel/arrival of the aircraft
whichever is later

In case of imports by vehicle
• Date of presentation of bill of entry</td></tr>
</table></td><td>Relevant date for determination of rate of duty and tariff valuation for imports through a vehicle to be the date of arrival of vehicle where bill of entry is filed prior to the arrival of the vehicle :
<table>
<tr><th>Particulars</th><th>Relevant date</th></tr>
<tr><td>Goods entered for home consumption under section 46</td><td>Date of presentation of bill o f entry
OR
Date of entry inwards of the vessel/arrival of the aircraft or vehicle
whichever is later</td></tr>
<tr><td>Goods cleared from a warehouse under section 68</td><td>Date of presentation of bill of entry for home consumption</td></tr>
<tr><td>Other goods</td><td>Date of payment of duty</td></tr>
</table></td><td>Section 15(1) of Customs Act, 1962</td><td>06.08.2014</td></tr>
</table>

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<tr><td></td><td><table><tr><td>Goods cleared from a warehouse under section 68</td><td>Date of presentation of bill of entry for home consumption</td></tr><tr><td>Other goods</td><td>Date of payment of duty</td></tr></table></td><td>.</td><td></td><td></td></tr>
<tr><td>4.</td><td>Earlier, by virtue of first proviso to section 46(3) of Customs Act, 1962, the bill of entry could be filed prior to the delivery of import report (as the Manifest is called in case of imports by land) only under special circumstances and with the permission of Commissioner of Customs.

Further, second proviso to section 46(3) laid down that a bill of entry may be presented before the delivery of import manifest (in case of import through vessel or aircraft) if the vessel/aircraft by which the goods have been shipped for importation into India is expected to arrive within 30 days from the date of such presentation.</td><td>The first proviso to section 46(3) has now been omitted and second proviso amended to lay down that a bill of entry may be presented before the delivery of import manifest (import through vessel or aircraft) or import report (import through land route) if the vessel/aircraft/vehicle by which the goods have been shipped for importation into India is expected to arrive within 30 days from the date of such presentation.

(So condition of special circumstances and with the permission of Commissioner of Customs is done away.)</td><td>Section 46(3) of Customs Act, 1962</td><td>06.08.2014</td></tr>
<tr><td>5.</td><td>Section 8B of Customs Tariff Act, 1975 which provides for imposition of safeguard duty lays down that the articles imported by a 100% EOU or units in a Free Trade Zone or Special Economic Zone shall not be liable to safeguard duty unless specifically made applicable in the notification imposing such duty.</td><td>Articles imported by an EOU/SEZ unit and cleared as such into DTA or used in the manufacture of final products that are cleared into DTA liable to safeguard duty. . In such cases safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.</td><td>Section 8B of Customs Tariff Act, 1975</td><td>11.07.2014</td></tr>
<tr><td colspan="5">Service Tax</td></tr>
<tr><td>I.</td><td></td><td>Chapter V of Finance Act, 1994</td><td></td><td></td></tr>
<tr><td>1.</td><td>Hitherto, selling of space or time slots for advertisements other than advertisements broadcast by radio or television were covered in negative list of services under clause (g) of section 66D of Finance Act, 1994.</td><td>Service tax to be levied on sale of space or time for advertisements in all media except print media.

In other words, the new levy would extend to other segments like online and mobile advertising, advertisements on internet</td><td>Section 66D(g)</td><td>01.10.2014</td></tr>
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S. No.	EARLIER	AFTER AMENDMENT	Section/Rule/ Notification	Effective Date
	(*"Print media" means,—* *"book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;)*	websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, automated teller machines, commercial publications, aerial advertising, etc. (Thus, sale of space for advertisements in business directories, yellow pages and trade catalogues would attract service tax.) *("newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867.)*		
2.	Earlier service of transportation of passengers, with or without accompanied belongings, by *inter alia* **metered cabs, radio taxis or auto rickshaws was covered in the negative list** of services under clause (o) of section 66D of Finance Act, 1994.	Radio taxis/radio cabs **liable to service tax, whether or not air-conditioned,** would now be liable to service tax. *"Metered cab"* ***does not include radio taxi.***	Section 66D(o)	01.10.2014
3.	Earlier the explanation to section 67A of Finance Act, 1994 linked the **rate of exchange** under section 67A to the rate of exchange referred to in section 14 of the Customs Act, 1962.	Rate of exchange under section 67A would be determined as per the rules prescribed by the **Government**. Pursuant to the said amendment, **a new rule 11** has been inserted in Service Tax Rules, 1994 vide *Notification No.19/2014 ST dated 25.08.2014* to provide the manner of determination of rate of exchange. The **new rule 11 lays** down that the rate of exchange would be the rate applicable as per the **Generally accepted accounting principles (GAAP)** on the date when point of taxation arises in terms of Point of Taxation Rules, 2011.	Section 67A	01.10.2014
4.	**Services provided by Employees State Insurance Corporation (ESIC)** to persons governed under the Employees Insurance Act, 1948 have been exempted from service tax from 01.7.2012 vide Sl. No. 36 of *Mega Exemption Notification No. 25/2012 ST dated 20.06.2012* when negative list provisions were introduced	Now, **Retrospective exemption** for services provided by ESIC.	New section 100	06.08.2014
5.	CBEC vide **Circular No.177/03/2014 – ST dated 17.02.2014**, has clarified that the **definition of agricultural produce** under section 65(5) of the Finance Act, 1994 **covers**	However, **many such benefits have been extended to rice** by way of appropriate entries in the mega exemption notification as follows:-		

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	'paddy'; but excludes 'rice'. It implies that benefits available to agricultural produce in the negative list [Section 66D(d)] are not available to rice.	▪ Services by way of transportation of food stuff by rail/vessel/goods transport agency are exempt from service tax. Food stuff includes rice. ▪ Services by way of loading, unloading, packing, storage or warehousing of rice are exempt from service tax. ▪ Carrying out an intermediate production process as job work in relation to agriculture is exempt from service tax. It is clarified that paddy milled into rice, on job work basis is also exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture.		
II.		**Point of Taxation Rules, 2011**		
1.	Earlier, rule 7 override the provisions of all other rules of POTR. (Rule 7 is used for determination of point of taxation when service tax is payable under reverse charge)	Rule 7 to override the provisions of rules 3, 4 and 8 only. **Rule 3** – Determination of point of taxation **Rule 4** – Determination of point of taxation in case of change in effective rate of tax **Rule 8** – Determination of point of taxation in case of copyrights etc. Thus, provisions of other rules like **Rule 2, 2A, 5 or 8A** may also apply, as the case may be, for determination of point of taxation when service tax is payable under reverse charge.	Rule 7	01.10.2014
2.	**Rule 7** provides that where service tax is payable under reverse charge, point of taxation is the date of payment. Earlier, the first proviso to rule 7 laid down that if the **payment is not made within 6 months of the date of invoice**, point of taxation will be determined as if rule 7 does not exist.	Point of taxation under reverse charge to be the **payment date or the first day occurring immediately after three months** from the date of invoice, whichever is earlier. (The **new rule 10** provides that if the invoice in respect of a service, for which point of taxation is determinable under rule 7 has been issued before 01.10.2014, but payment has not been made) **Refer –Illustration-1 Page No. 12**	Rule 7	01.10.2014
III.		**Service Tax Rules, 1994**		
1.		Service tax to be payable by the recipient of service in case of	Rule	11.07.2014

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		services provided by recovery agents to banks, financial institutions and NBFC	2(1)(d)(i)(AA)	
2.		Service tax to be payable by the recipient of service in case of service provided by a director to a body corporate.	Rule 2(1)(d)(i)(EE)	11.07.2014
3.		E-payment of service tax mandatory for all assessees irrespective of the tax paid during previous year	Rule 6(2)	01.10.2014
IV.		**Others**		
1.	**New exemptions**	Services provided by **common bio-medical waste treatment** facility operators to clinical establishments exempted	*Mega Exemption Notification No. 25/2012 ST dated 20.06.2012*	All amendments effective from 11.07.2014
2.		**Transport of organic manure** by vessel, rail or road (by GTA) exempted. Therefore, organic manure will be at par with fertilizer which is already exempted.		
3.	*("Life micro insurance product means any term insurance contract with or without return of premium, any endowment insurance contract or health insurance contract, with or without an accident benefit rider, either on individual or group basis, as per terms stated in Schedule-II appended to these regulations.")*	IRDA approved **life micro-insurance schemes** with sum assured not exceeding Rs. 50,000 exempted		
4.		Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (GTA), of **cotton - ginned or baled – exempted**		
5.	(e.g., external asset management, custodial services, securities lending services, etc. have been exempted.)	**Services received by RBI from outside India** in relation to management of foreign exchange reserves exempted.		
6.		Services provided by **Indian tour operators to foreign tourists** in relation to a tour wholly conducted outside India exempted		
7.	**Exemptions rationalized** Earlier, **services provided to Government or local authority** or a governmental authority by way of carrying out any activity in relation to any **function ordinarily entrusted** to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management	The said exemption has now been made **more specific for greater clarity.** The amended entry 25(a) reads as under: *"Services provided to Government or local authority or a governmental authority by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or"*		

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	or slum improvement and upgradation were exempted under entry 25(a) of the notification.	Exemption would not be extendable to other services such as consultancy, designing, etc., not directly connected with these specified services.		
8.	Earlier, entry 9(a) of the notification exempted **services provided to an educational institution** in respect of education exempted from service tax [i.e., education specified in negative list] by way of auxiliary educational services. Auxiliary educational service was defined in the notification. There have been many doubts regarding the scope and meaning of 'auxiliary educational services'.	Concept of auxiliary education services done away with and exemption restricted to only few specific services ▪ Services provided **BY** an educational institution to its students, faculty and staff; ▪ Services provided **TO** an educational institution, by way of,- I. transportation of students, faculty and staff; II. catering, including any mid-day meals scheme sponsored by the Government; III. security or cleaning or house-keeping services performed in such educational institution; IV. services relating to admission to, or conduct of examination by, such institution.		
9.	**Exemptions withdrawn** Earlier, service of passenger transportation, with or without accompanied belongings, **by a contract carriage** other than for the purposes of tourism, conducted tour, charter or hire was exempt from service tax under entry 23(b) of the notification. **("Radio taxi means** a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).")	**Exemption to transport of passengers in air-conditioned contract carriages withdrawn.** Services by non-air conditioned contract carriages (other than radio taxi) for purposes other than tourism, conducted tour, charter or hire will continue to be exempted. As per section 2(7) of Motor Vehicles Act, 1988 – *"Contract carriage" means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-- (a) on a time basis, whether or not with reference to any route or distance; or (b) from one point to*		

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		another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes-- (i) a maxicab; and (ii) a motor cab notwithstanding that separate fares are charged for its passengers.		
10.	Earlier, services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organization approved to conduct clinical trials by the Drug Controller General of India were exempt from service tax under entry 7 of the notification.	Clinical research on human participants chargeable to service tax. **Refer –Illustration-2 Page No.12**		
11.		SEZ Notification amended for simplifying procedural compliance. **Details on Illustration sheet page no.**	*Notification No. 12/2013 ST dated 01.07.2013*	11.07.2014
12.	Earlier, **abatement of 75% could be availed in case of transportation of goods by a goods transport agency i**f CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004. Entry 7 of the notification granted the abatement and governed the eligibility conditions.	**Only service providers** need to satisfy the condition of non-availment of credit for availing abatement in case of GTA service. Thus, **service receiver may avail** abatement without having to establish the satisfaction of this condition by the service provider.	*Abatement Notification No. 26/2012 ST dated 20.06.2012*	11.07.2014
13.	Hitherto, abatement of 60% could be availed in respect of **renting of motor vehicle**, if CENVAT credit on inputs, capital goods and **input services**, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules,2004. (“*Motorcab" means any motor vehicle constructed or adapted to carry not more than six Passengers excluding the driver for hire or reward.)*	Credit allowed on input service received by a person providing services of **renting of motorcab** from a sub-contractor engaged in the similar line of business. It is to be noted that credit of input service **of only renting of motorcab** can be availed and **not of any other input service.** Credit of input service of renting of motorcab can be availed in the following manner: I. Full CENVAT credit of such input service received from a person who is paying service tax on 40% of the value; or II. Up to 40% CENVAT credit of such input service received from a person who is paying service tax on full value i.e., no abatement is availed.		01.10.2014

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14.	(Further, in view of the omission of radio taxis from the purview of negative list from 01.10.2014, abatement of 60% has also been extended to transport of passengers by a radio taxi from the same day under entry 9A. It is to be noted that whereas credit of input service received by a rent-a-cab operator from a sub-contractor is allowed under entry 9, **the same is not allowed for radio taxi under entry 9A**.)	60% abatement prescribed for transport of passengers by a contract carriage (other than motorcab) and a radio taxi. Following types of passenger transport in a contract carriage would be liable to service tax: (a) transport by air-conditioned contract carriages (b) transport by non- air-conditioned contract carriages for purposes of tourism, conducted tour, charter or hire (c) transport by radio taxi whether or not air conditioned. **Refer –Illustration-3 ,4, Page No.13**		11.07.2014
15.	Hitherto, in respect of transport of goods in a vessel, service tax was leviable at 50% of the value of taxable service under entry 10.	Abatement in respect of transport of goods in a vessel increased from 50% to 60%		01.10.2014
16.		Credit allowed on input service received by a tour operator from a sub-contractor		01.10.2014
17.	**Mega exemption notification amended**	**(i) Services provided by** National Skill Development Corporation (**NSDC) or by an approved** Sector Skill Council (**SSC) /assessment agency/training partner exempted** **(ii) Services provided by cord blood banks by way of preservation of stem cells exempted** **(iii) Loading/unloading/packing/storage/warehousing of rice exempted**		
18.		Rule 2(1)(d)(i) read with section 68(2) of Finance Act, 1994, a new clause (AA) has been inserted in the said rule to provide that in relation to service provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company, the recipient of the service would be the person liable for paying service tax.	*Reverse charge Notification No. 30/12 ST dated 20.06.2012*	11.07.2014
19.	Prior to 11.07.2014, in case of services provided by directors, service tax was payable under reverse charge only when the service was provided by a director of a ***company*** **to the said**	However, with effect from 11.07.2014, services provided by a director of a body corporate to the said **body corporate** have also been brought under the ambit of reverse charge provisions.		11.07.2014

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<tr><td></td><td>company. Reverse charge provisions were not applicable in case of services provided by a director of a body corporate to the said body corporate.</td><td>This amendment has been made in view of requests by body corporates such as the Reserve Bank of India.</td><td></td><td></td></tr>
<tr><td>20.</td><td>Earlier, by virtue of entry 7(b) in the Table in paragraph II of the notification, in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business, 60% of service tax was payable by the person providing the service and remaining 40% by the service receiver.</td><td>However, entry 7(b) of the notification has been amended to modify the percentages of service tax payable by the service provider and the service receiver from 60%:40% to 50% each.</td><td></td><td>01.10.2014</td></tr>
<tr><td>21.</td><td>Earlier, failure to pay service tax by the prescribed due date attracted simple interest @ 18% p.a. for the period by which such crediting of tax or any part thereof was delayed. The rate of interest was specified in Notification No. 26/2004 ST dated 10.09.2004.

Thus, upto 30.09.2014, flat rate of interest of 18% will apply and variable interest rates (given above) will apply only on or after 1st October, 2014. Further, as specified in the proviso to section 75 of Finance Act, 1994, 3% concession on the applicable rate of interest will continue to be available to small service providers.</td><td>Slab rate of interest introduced for delayed payment of service tax.

<table><tr><th>Extent of delay</th><th>Simple interest rate per annum</th></tr><tr><td>Up to 6 months</td><td>18%</td></tr><tr><td>More than 6 months & upto 1Year</td><td>18% for first 6 months, and 24% for the period of delay beyond 6 months</td></tr><tr><td>More than 1 year</td><td>18% for first 6 months, 24% for second 6 months, and 30% for the period of delay beyond 1 year</td></tr></table>
Refer Illustration No. 5 on Page No.15</td><td>Section 75</td><td>01.10.2014</td></tr>
<tr><td>V.</td><td></td><td>CENVAT Credit Rules, 2004</td><td></td><td></td></tr>
<tr><td>1.</td><td>The said definition is same as the one provided in section 4(3)(c) of Central Excise Act, 1944.</td><td>Place of removal defined in the rules.

“Place of removal” means-

(i) a factory or any other place or premises of production or manufacture of the excisable goods;
(ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty;</td><td>Rule 2(qa)</td><td>11.07.2014</td></tr>
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S. No.	EARLIER	AFTER AMENDMENT	Section/Rule/ Notification	Effective Date
		(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory, from where such goods are removed.		
2.	Earlier no such time limit for availability of credit.	Rule 4 has been amended to restrict the availability of credit on inputs and input services to a **period of six months f**rom the date of the issue of invoice/bill/challan etc.	Sub-rule (1) and (7) of rule 4	01.09.2014
3.	Earlier, when service tax was paid under reverse charge, whether **full or partial, credit of input service was allowed to the service receiver only after the payment of value of input service** and the service tax paid or payable as indicated in invoice/bill/challan [First proviso to rule 4(7)].	Payment of value of input service to service provider no more a pre-requisite for availing credit in case of service tax paid under **full reverse charge** where service tax is to be paid under full reverse charge, **payment of service tax will ensure availability of credit of input services.** However, there is **no change in respect of partial reverse** charge. A second proviso has been inserted in sub-rule (7) to provide the same. Therefore, in case of partial reverse charge, credit of input service will be allowed only after payment has been made of both, value of input service and service tax paid or payable as indicated in invoice/bill/challan.	Rule 4(7)	11.07.2014
4.	Earlier, the second proviso to rule 4(7) laid down that CENVAT credit availed on input service ought to be reversed if value of input service and service tax is not paid within three months of the date of the invoice/bill/challan. The amount equivalent to the credit reversed could be taken back whenever the payment of value of input service and service tax was made.	Condition of reversal of credit on failing to pay value of input service and service tax within 3 months of the date of invoice **not to apply in case of full reverse charge.** **Refer Illustration No.6 on Page No.15**	Rule 4(7)	11.07.2014
5.	Rule 6(8) provides that a service provided or agreed to be provided shall not be an exempted service when:- (a) the service satisfies the conditions specified under rule 6A of the Service Tax Rules, 1994 and the payment for the service is to be received in convertible foreign currency; and	Credit reversed on account of non-receipt of export proceeds within the specified or extended period can be re-availed if export proceeds are received within one year from the specified or extended period	Rule 6(8)	11.07.2014

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	(b) such payment has not been received for a period of six months or such extended period as maybe allowed from time-to-time by the Reserve Bank of India, from the date of provision.			
6.	Rule 7 of CCR provides for the **mechanism of distribution of common input service credit by the Input Service Distributor** to its manufacturing units or to units providing output services. Rule 7(d) provides that credit of service tax attributable to service used by more than one unit shall be distributed *pro rata* on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.	Manner of distribution of common input service credit under rule 7(d) of the CENVAT Credit Rules, 2004 clarified. On account of the words **'such unit'** used in rule 7(d), it is possible to interpret that the distribution of the credit would be restricted to only those units where the services are used. Thus, the credit available for distribution would get reduced by the proportion of the turnover of those units where the services are not used. However, it has been clarified vide ***Circular No. 178/4/2014 dated 11.07.2014*** that the amended rule 7(d) seeks to allow distribution of input service credit to all units in the ratio of their turnover of the previous year. **Refer Illustration no.7 , 8 on page no.17**		

Illustration-1

With reference to the position of service tax law as applicable on or after 01.10.2014, what would be the point of taxation and due date of payment of service tax in each of the following independent cases:

	Date of invoic	*Date payme*
	15.10.2014	*10.11.2*
	20.10.2014	*15.02.2*

Note: In both the above cases, service tax has been paid by the service recipient (a private limited company) under section 68(2) of the Finance Act, 1994.

Answer

Rule 7 of Point of Taxation Rules, 2011 provides that point of taxation in respect of persons required to pay tax as recipients of service in respect of services notified under section 68(2) of the Finance Act is the date of payment. However, with effect from 01.10.2014, first proviso to rule 7 has been substituted to lay down that where the payment is not made within a period of 3 months of the date of invoice, point of taxation will be the date immediately following the said period of 3 months.

Further, in case of a corporate assessee, due date of e-payment of service tax payable for a month is the 6th day of the month immediately following the said month. With effect from 01.10.2014, e-payment has been mandatory for all assessees. Thus, in the light of aforesaid provisions, point of taxation and due dates in the following cases will be:

S. No	Date of invoice	Date of payment	Point of taxation	Due date of payment
(i)	15.10.2014	10.11.2014 (within three months of the date of invoice)	**10.11.2014**	**06.12.2014**
(ii)	20.10.2014	15.02.2015 (beyond three months from the date of invoice)	**20.01.2015**	**06.02.2015**

Illustration-2

With reference to the position of service tax law as applicable on or after 01.08.2014, determine the applicability of service tax in each of the following independent cases:

(i) External asset management services received by Reserve Bank of India from overseas financial institutions.

(ii) Service provided by an Indian tour operator to Mr. B, a Japanese National, for a tour conducted in Europe.

(iii) Services provided to a Higher Secondary School affiliated to CBSE Board by an IT company in relation to development of a software to be used for enhancing the quality of classroom teaching.

Answer

(i) Exempt. With effect from 11.07.2014, services received by Reserve Bank of India from outside India in relation to management of foreign exchange reserves have been exempted from service tax. External asset management services received by Reserve Bank of India from overseas financial institutions is a specialized financial service in the course of management of foreign exchange reserves *[Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 amended].*

(ii) Exempt. With effect from 11.07.2014, services provided by an Indian tour operator to a foreign tourist in relation to a tour wholly conducted outside India have been exempted from service tax *[Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 amended].*

(iii) Taxable. With effect from 11.07.2014, only the following specific services provided **TO** an educational institution (which provides education covered under negative list of services) have been exempted from service tax:

(i) transportation of students, faculty and staff;

(ii) catering, including any mid-day meals scheme sponsored by the Government;

(iii) security or cleaning or house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution.

Services **by** way of education up to higher secondary or equivalent fall within the purview of negative list of services. Thus, the education provided by the Higher Secondary School is not liable to tax. However, the **services of a development of software** provided **to** it are not covered under any of the specific services given above. Thus, the same will be liable to service tax *[Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 amended].*

Illustration-3

XY Travels Pvt. Ltd., located in New Delhi, is engaged in providing services of renting of motorcab and discharges its service tax liability by availing abatement granted under Notification No. 26/2012 ST dated 20.06.2012. Value of services rendered by the company during the month of October, 2014 is Rs. *5,50,000 (before availing abatement). The company has sub-contracted part of its services to YZ Cabs Pvt. Ltd., which is also engaged in providing services of renting of motorcab. Total value of such sub-contracted services is* Rs. *50,000 and service tax payable thereon is* Rs. *6,180.*

Determine the net service tax liability of XY Travels Pvt. Ltd. (to be paid in cash) for the month of October, 2014.

Answer

Computation of net service tax liability (to be paid in cash) of XY Travels Pvt. Ltd. for October, 2014

Particulars	(Rs.)
Value of services	5,50,000
Less: Abatement @ 60% [Note 1]	3,30,000
Value of taxable service	2,20,000
Service tax @ 12.36%	27,192
Less: CENVAT credit [Note 2]	2,472
Net service tax liability to be paid in cash	**24,720**

Notes

1. *Notification No. 26/2012 ST* grants abatement of 60% in respect of services of renting of motorcab.

2. With effect from 01.10.2014, *Notification No. 26/2012 ST* has been amended to provide that up to 40% CENVAT credit of input service of renting of a motorcab provided by a sub-contractor to the main contractor (providing service of renting of motorcab) could be availed by the main contractor if the sub-contractor is paying service tax on full value i.e., no abatement is being availed by sub-contractor. This credit will be available even if the main contractor pays the service tax on abated value.
Since YZ Cabs Pvt. Ltd. has paid service tax on full value (Rs. 50,000 x 12.36% = Rs. 6,180), XY Travels Pvt. Ltd. can avail credit upto Rs. 2,472 (40% of Rs. 6,180).

3. Since XY Travels Pvt. Ltd. is a company, reverse charge provisions will not apply in its case. Further, provisions of partial reverse charge will not apply in case of YZ Cabs Pvt. Ltd. also, as in its case services are provided in similar line of business.

Illustration-4

With reference to the position of service tax law as applicable on or after 01.10.2014, determine the net service tax liability to be paid in cash in each of the following independent cases:

(i) Value of services provided by a radio taxi operator is Rs. *1,00,000. The operator does not avail CENVAT credit on inputs, capital goods and input services used for providing the said service. It intends to avail abatement, if any, granted for such service.*

(ii) Value of services provided by a Company running air-conditioned buses for point to point travel is Rs. *5,00,000. The buses do not stop to pick or drop the passengers during the journey. The Company does not avail CENVAT credit on inputs, capital goods and input services used for providing the said service. It intends to avail abatement, if any, granted for such service. The Company has sub-contracted part of its services to another Company running air-conditioned buses for point to point travel. Total value of such sub-contracted services is* Rs. *50,000 and service tax payable thereon is* Rs. *6,180.*

(iii) Value of services provided by a Company running non air-conditioned buses for point to point travel is Rs. *1,00,000. The buses do not stop to pick or drop the passengers during the journey. The Company does not avail CENVAT credit on inputs, capital goods and input services used for providing the said service. It intends to avail abatement, if any, granted for such service.*

Answer

(i) With effect from 01.10.2014, clause (o) of section 66D has been amended by Finance (No.) Act, 2014 to remove the service of transportation of passengers by radio taxis from the ambit of negative list of services. Thus, travel by radio taxis or radio cabs, whether or not air-conditioned, has been made liable to service tax w.e.f. 01.10.2014. However, an abatement of 60% has been extended to transport of passengers by a radio taxi from the same day by inserting a new entry 9A in *Notification No. 26/2012 ST dated 20.06.2012*. The abatement would be available if CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rues, 2004.

Thus, in the given case, since CENVAT credit on inputs, capital goods and input services is not being availed by the radio taxi operator, he can claim the abatement of 60% which will make the effective rate of service tax as 4.944% [40 x 12.36%]. Thus, service tax liability to be paid in cash will be Rs. 4,944 [Rs. 1,00,000 x 4.944%]. In this case, entire service tax liability will have to be paid in cash as benefit of CENVAT credit cannot be availed.

(ii) With effect from 11.07.2014, *Mega Exemption Notification No. 25/2012 ST dated 20.06.2012* has been amended to restrict the exemption available to transport of passengers by contract carriages for purposes other than tourism, conducted tour, charter or hire to transport of passengers by non air-conditioned contract carriages only. Thus, transport of passengers by air-conditioned contract carriages has been made liable to service tax with effect from 11.07.2014. However, an abatement of 60% has been extended to transport of passengers, with or without accompanied belongings, by a contract carriage other than motorcab from the same day by inserting a new entry 9A in *Notification No. 26/2012 ST dated 20.06.2012*. The aforesaid abatement would be available if CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rues, 2004.

In the given case, the buses are contract carriages since they are used for point to point travel and they do not stop to pick or drop the passengers during the journey. Thus, the passenger transportation services provided in air-conditioned buses (contract carriages) by the Company would be liable to service tax. Further, since the Company does not avail CENVAT credit on inputs, capital goods and input services, it can claim the abatement of 60% which will make the effective rate of service tax as 4.944% [40 x 12.36%]. Thus, service tax liability to be paid in cash will be Rs. 24,720 [Rs. 5,00,000 x 4.944%].

It is to be noted that whereas credit of input service received by a person engaged in providing services of renting of motorcab from a sub-contractor has been allowed with effect from 01.10.2014 under entry 9 of *Notification No. 26/2012 ST dated 20.06.2012*, the same is not allowed for contract carriages other than motorcab under entry 9A.

Therefore, entire service tax liability of Rs. 24,720 will have to be paid in cash.

(iii) With effect from 11.07.2014, *Mega Exemption Notification No. 25/2012 ST dated 20.06.2012* has been amended to restrict the exemption available to transport of passengers by contract carriages for purposes other than tourism, conducted tour, charter or hire to transport of passengers by non air-conditioned contract carriages only.

In the given case, the buses are contract carriages since they are used for point to point travel and they do not stop to pick or drop the passengers during the journey. Thus, no service tax is payable by the Company running non air-conditioned buses (contract carriage) for point to point travel as the same are exempt.

Illustration-5

Determine the interest payable under section 75 of Finance Act, 1994 on delayed payment of service tax from the following particulars:

Service tax payable	Rs. *60,*
Due date of payment	*06.11.*
Date of payment	*06.01.*

*Note: Turnover of services in the preceding financial year was*Rs. *80 lakh.*

Answer

Section 75 of Finance Act, 1994 levies simple interest on failure to pay service tax by the prescribed due date for the period by which such crediting of tax or any part thereof is delayed. With effect from 01.10.2014, *Notification No. 12/2014 ST dated 11.07.2014* has been issued to prescribe new slab rates of interest for delayed payment of service tax. Therefore, the interest payable under section 75 will be computed as under:

Computation of interest payable under section 75

Particulars	**Rate of interest per Annum**	**Interest** (Rs.)
Delay from 07.11.2014- 06.05.2015	18% for first six months	5,445 [Rs. 60,500 x 18% 6/12]
Delay from 07.05.2015- 06.11.2015	24% for next six months	7,260 [Rs. 60,500 x 24% 6/12]
Delay from 07.11.2015- 06.01.2016	30% for period beyond one year	3,033 [Rs. 60,500 x 30% 61/365]
Total Interest		**15,73**

Since the turnover of the services in the preceding financial year is more than Rs. 60 lakh concession of 3% on applicable rate of interest cannot be availed.

Illustration-6

AB Pvt. Ltd., a manufacturer, has furnished the following information:

S. No.	***Particulars***		***Excise duty/Service ta*** (Rs.)
(i)	*High Speed Diesel Oil*	*Invoice dated 20.04.2015*	*26*
(ii)	*Input 'A'*	*Invoice dated 23.09.2014*	*1,56*
(iii)	*Input 'B'*	*Invoice dated 10.04.2015*	*1,35*
(iv)	*Machinery falling u Chapter 82*	*Invoice dated 12.09.2014*	*3,54*
(v)	*Cement and iron rods use making a structure for su of the machinery at point above*	*Invoice dated 15.12.2014*	*1,88*

(vi)	Input 'C'	Invoice missing	89
(vii)	Input service 'X'	Invoice dated 12.11.2014	45
(viii)	Input service 'Y'	Invoice dated 20.09.2014	68
(ix)	GTA service for bringing materials to the fa [Payment has not been n to GTA but service tax has paid under reverse charge]	Invoice dated 14.04.2015 Value of service – 3,00,	9
(x)	Security services for guai the factory [Payment has been made to security ag but service tax has been under reverse charge]	Invoice dated 10.04.2015 Value of service – 1,50,	18

**Including education cess and secondary higher education cess*
You are required to determine the total CENVAT credit that can be availed by AB Pvt. Ltd. during the month of April, 2015.

Note: AB Pvt. Ltd. is not entitled to SSI exemption under Notification No. 8/2003 CE dated 01.03.2003.

Answer
Computation of CENVAT credit that can be availed during the month of April, 2015

Particulars	Rs.
High Speed Diesel Oil (Note 1)	-
Input 'A' (Note 2)	-
Input 'B'	1,35,000
Machinery falling under Chapter 82 [50% of Rs. 3,54,670] (Not	1,77,335
Cement and iron rods (Note 4)	-
Input 'C' (Note 5)	-
Input service 'X'	45,340
Input service 'Y' (Note 6)	-
GTA service (Note 7)	9,270
Security service [Rs. 18,540 x 25%] (Not	4,635
Total CENVAT credit that can be availed during the month of A 2015	**3,71,580**

Notes:

1. High Speed Diesel Oil is not an input in terms of rule 2(k) of CENVAT Credit Rules, 2004 [CCR].

2. With effect from 01.09.2014, a manufacturer cannot not take CENVAT credit of inputs after six months of the date of issue of invoice [Third proviso to rule 4(1) of CCR].

3. Machinery covered under Chapter 82 is eligible capital goods under rule 2(a) of CCR. Since AB Pvt. Ltd. is not a SSI unit, only upto 50% of the duty paid on the machinery can be availed as CENVAT credit in the year of purchase in terms of rule 4(2)(a) of CCR. Time limit of six months for availment of CENVAT credit does not apply to capital goods.

4. Goods used for making of structures for support of capital goods (machinery in this case)are excluded from the definition of inputs under rule 2(k) of CCR.

5. CENVAT credit cannot be availed without a valid invoice [Rule 9 of CCR].

6. With effect from 01.09.2014, a manufacturer cannot take CENVAT credit of input services after six months of the date of issue of invoice [Sixth proviso to rule 4(7) of CCR].

7. GTA service used for bringing the raw materials to the factory is an input service in terms of rule 2(l) of CCR. As per *Notification No. 30/2012 ST dated 20.06.2012*, service tax on GTA service is payable under full reverse charge. Therefore, entire Rs. 9,270 would have been deposited by AB Pvt. Ltd. with the Government. Further, with effect from 11.07.2014, where service tax is paid under full reverse charge, payment of service tax ensures availability of credit of input services even if the value of input service is not paid to the service provider [First proviso to rule 4(7) of CCR]. Since entire service tax has been paid by AB Pvt. Ltd, it can avail credit of such tax paid even though the payment has not been made to GTA.

8. Security services used for guarding the factory is an input service in terms of rule 2(l) of CCR. As per *Notification No. 30/2012 ST dated 20.06.2012*, service tax on security service is payable under partial reverse charge - 25% of tax to be paid by service provider and balance 75% by service receiver. Thus, AB Pvt. Ltd. would have deposited Rs. 13,905 (75% of the total service tax) with the Government.

Further, with effect from 11.07.2014, where service tax is paid under partial reverse charge, credit of input service is allowed only after payment has been made for both, value of input service and service tax payable [Second proviso to rule 4(7) of CCR]. Since, payment has not been made to security agency, credit of 75% of tax paid by AB Pvt. Ltd. cannot be availed. However, credit of 25% of tax to be paid by service provider can be availed by AB Pvt. Ltd., on the receipt of the invoice.

Illustration-7

An Input Service Distributor (ISD) has a total of 4 units namely 'A', 'B', 'C' and 'D', which are operational in the current year. How will the credit of input service pertaining to more than one unit be distributed?

Answer

Distribution to 'A'= X/Y x Z

X = Turnover of unit 'A' during the relevant period

Y = Total turnover of all its unit i.e. 'A'+'B'+'C'+'D' during the relevant period

Z = Total credit of service tax attributable to services used by more than one unit

Similarly the credit shall be distributed to the other units 'B', 'C' and 'D'.

Illustration-8

An ISD has a common input service credit of Rs. *12000 pertaining to more than one unit.*
The ISD has 4 units namely 'A', 'B', 'C' and 'D' which are operational in the current year.

Unit	***Turnover in the previo year (in***
A (Manufacturing excisable goods)	*25,00,000*
B (Manufacturing excisable and exempted goods)	*30,00,000*
C (providing exclusively exempted service)	*15,00,000*
D (providing taxable and exempted service)	*30,00,000*
Total	***1,00,00,000***

The common input service relates to units 'A', 'B' and 'C'. How will the credit be distributed?

Answer

The distribution of credit will be as under:

(i) Distribution to 'A'

= 12,000 * 25,00,000/1,00,00,000

= 3,000

(ii) Distribution to 'B'

= 12,000 * 30,00,000/1,00,00,000

= 3,600

(iii) Distribution to 'C'

= 12,000 * 15,00,000/1,00,00,000

= 1,800

(iv) Distribution to 'D'

= 12,000 * 30,00,000/1,00,00,000

= 3,600

The distribution for the purpose of rule 7(d) will be done in this ratio in all cases, irrespective of whether such common input services were used in all the units or in some of the units.

AMENDMENTS (NOTIFICATION & CIRCULARS)

I. SEZ Notification amended for simplifying procedural compliance

It may be noted that *Notification No. 12/2013 ST dated 01.07.2013* had superseded *Notification No. 40/2012 ST dated 20.06.2012* which earlier exempted services received by a developer/units of an SEZ. *Notification No. 12/2013 ST dated 01.07.2013* expanded the scope of *ab-initio* exemption and refund available to SEZ unit/developer.

The amendments made in Notification No. 12/2013 ST have become effective from 11.07.2014. The significant changes made in the said notification are given hereunder:

(i) Form A-2 would be issued by the Central Excise Officer within 15 days from the date of receipt of Form A-1.

(ii) Authorization issued by jurisdictional Deputy/Assistant Commissioner will have validity from the date on which Form A-1 is verified by the Specified Officer of SEZ. Thus, exemption would be available from the date when list of service on which SEZ is entitled to upfront exemption is endorsed by the authorised officer of SEZ in Form A-1.

However, if Form A-1 is furnished after a period of 15 days from the date of its verification by the Specified Officer, the authorization shall have validity from the date of furnishing of Form A-1 to the Central Excise Officer.

(iii) Pending issuance of Form A-2, SEZ Units or the Developer will be entitled to avail upfront exemption on the basis of Form A-1. However, in such a case, the SEZ Unit/Developer would be required to furnish a copy of authorization issued by the Central Excise Officer within 3 months from the date when such specified service were deemed to have been provided in terms of Point of Taxation Rules, 2011.

If a copy of authorization is not provided within the said period of three months, the service provider shall pay service tax on the service so provided.

(iv) An explanation has been inserted in paragraph 3 of the notification to provide that a service shall be treated as used exclusively for the authorized operations if the service is received by the SEZ

Unit/Developer under an invoice in the name of such Unit/Developer and the service is used only for furtherance of authorized operations in SEZ.

(v) Form A-1, A-2 and A-3 have been amended to provide specifically that in case of services covered under full reverse charge, there would be no requirement of furnishing service tax registration number of service provider.

It has been clarified vide *DOF No. 334/15/2014 TRU dated 10.07.2014* that the jurisdictional Deputy/Assistant Commissioner of Central Excise for all purposes under the said notification would be the authority with whom SEZ Units or the Developers are registered for taking upfront exemption or for the purposes of Chapter V of the Finance Act, 1994.

In this context *Circular No. 105/08/2008 ST dated 16.9.2008* has clarified that if SEZ units have obtained a centralized registration under Service Tax Rules, 1994, it will have option to file a common service tax refund in respect of all units covered under the centralized registration or file a unit-wise refund to the authority having jurisdiction over centralized registration.

II. Procedure, safeguards, conditions and limitations prescribed for refund of CENVAT credit to service providers covered under partial reverse charge

Rule 5B of CCR stipulates that a service provider providing services taxed under reverse charge mechanism and unable to utilize the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilized CENVAT credit.

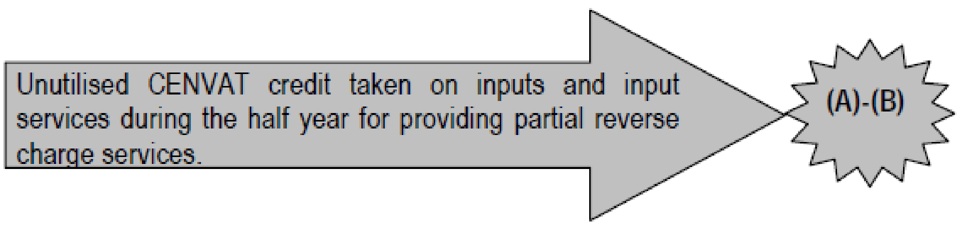
The procedure, safeguards, conditions and limitations to which such refund shall be subject to have been prescribed by CBEC vide ***Notification No. 12/2014 CE (NT) dated 03.03.2014*** as under:

A. SAFEGUARDS, CONDITIONS AND LIMITATIONS

(a) Refund is admissible, of unutilised CENVAT credit taken on inputs and input services during the half year for which refund is claimed, for providing following output services:
(i) renting of a motor vehicle designed to carry passengers on non-abated value, to any person who is not engaged in a similar business;

(ii) supply of manpower for any purpose or security services; or

(iii) service portion in the execution of a works contract;
(hereinafter above mentioned services will be termed as **partial reverse charge services**). The amount of refund would be computed as follows:



Where

A = $\text{CENVAT credit taken on inputs and input services during the half year} \times \frac{\text{Turnover of output service under partial reverse charge duirng the half year}}{\text{Total turnover of goods and services during the half year}}$

B = Service tax paid by the service provider for such partial reverse charge services during the half year.

(b) Refund shall not exceed the amount of service tax liability paid/payable by the service receiver with respect to the partial reverse charge services provided during the period of half year for which refund is claimed.
(c) Amount claimed as refund shall be debited by the claimant from his CENVAT credit account at the time of making the claim. However, if the amount of refund sanctioned is less than the amount of refund claimed, then the claimant may take back the credit of the difference between the amount claimed and the amount sanctioned.
(d) The claimant shall submit not more than one claim of refund under this notification for every half year.
(e) Refund claim shall be filed after filing of service tax return for the period for which refund is claimed.
(f) No refund shall be admissible for the CENVAT credit taken on input or input services received prior to 01.07.2012.

Half year means a period of six consecutive months with the first half year beginning from the 1st day of April every year and second half year from the 1st day of October of every year.

III. PROCEDURE FOR FILING THE REFUND CLAIM

(a) The output service provider shall submit an application in Form A, along with specified documents and enclosures, to jurisdictional Assistant Commissioner/Deputy Commissioner, before the expiry of 1 year* from the due date of filing of return for the half year. Copies of return(s) filed for the said half year shall also be filed along with the application.
**In case of more than one return required to be filed for the half year, 1 year shall be calculated from due date of filing of the return for the later period.*

However, last date of filing of application in Form A, for the half year ending on 30.09.2012, shall be 30.04.2014.

(b) The Assistant Commissioner/Deputy Commissioner, may call for any document in case he has reason to believe that information provided in the refund claim is incorrect or insufficient and further enquiry needs to be caused before the sanction of refund claim, and shall sanction the claim after satisfying himself that the refund claim is correct and complete in every respect.

IV. Provisions relating to distribution of credit in case of input service distributor amended
With effect from 01.04.2014, rule 7 of CCR has been amended to simplify the mechanism of distribution of CENVAT credit in case of input service distributor as under:

S. No.	Position as per erstwhile rule 7	Position as per the amended rule 7	
1.	In case of a unit exclusively	In case of a unit exclusively	With the substitution

S. No.	Position as per erstwhile rule 7	Position as per the amended rule 7	
	engaged in manufacture of exempted goods/ providing exempted services, service tax paid on input services **used IN such a unit** was not allowed to be distributed as CENVAT credit.	engaged in manufacture of exempted goods/ providing exempted services, service tax paid on input services **used BY one or more such units** will not be allowed to be distributed as CENVAT credit	of word 'IN' with 'BY', credit of services, which have been used by such units though not actually consumed within such units, would also not be distributed.
2.	Credit of service tax attributable to service **used wholly IN a unit** was to be distributed only to that unit.	Credit of service tax attributable to service **used wholly BY a unit** shall be distributed only to that unit.	Substitution of word 'IN' with 'BY' would increase the scope of services pertaining to which credit could be distributed to a unit. Resultantly, credit for services like good transport agency services, rent-a-cab service, testing and analysis of the product etc. would now be available to the unit availing them.
3.	Credit of service tax attributable to service **used IN more than one unit** was to be distributed pro rata on the basis of the turnover during the relevant period of the concerned unit to the **sum total of the turnover of all the units to which the service related** during the same period.	Credit of service tax attributable to service **used BY more than one unit** shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the **total turnover of all its units, which are operational in the current year**, during the said relevant period	In case of common input services, amount of CENVAT credit attributed to a unit may be reduced as now turnover of all operational units has to be taken in denominator instead of only the units to which the service relates.
4.	Relevant period was the month/quarter previous to the month/quarter during which the CENVAT credit was distributed. In case of an assessee who did not have any total turnover in the said period, the input service distributor was to distribute any credit only after the end of such relevant period wherein the total turnover of its units was available.	Relevant period shall be the 'financial year' preceding to the year during which credit is to be distributed for month/ quarter provided assessee has turnover in such preceding financial year. If the assessee does not have turnover for some/ all the units in the preceding financial year, relevant period shall be the last quarter for which details of turnover of all the units are available, previous to the month/ quarter for which credit is to be distributed.	Distribution of credit is now based on previous financial year's turnover instead of previous month's/quarter's turnover.

[Notification No. 5/2014-CE (NT) dated 24.02.2014]

V. Duty leviable on transaction value to be paid on removal of capital goods as waste and scrap

Rule 3(5A) of the CCR provides for reversal of CENVAT credit in the event of removal of capital goods after being used, whether as capital goods or as waste/ scrap. Earlier, the quantum of credit that needs to be reversed was higher of the following two amounts:

(I) CENVAT credit taken on the said capital goods reduced by the specified percentage points calculated by straight line method for each quarter of a year or part thereof from the date of taking the CEVAT credit
Or

(II) Duty leviable on transaction value.

However, with effect from 27.09.2013, if the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value.

Thus, a manufacturer removing capital goods as waste and scrap will no longer be required to compare the amount equivalent to the duty leviable on transaction value with the amount equivalent to CENVAT credit taken on the said capital goods reduced by the specified percentage points. However, when capital goods will be removed, after being used, otherwise than as waste and scrap, the higher of the above-mentioned two amounts will be required to be paid.

[Notification No. 12/2013 CE (NT) dated 27.09.2013]

VI. CENVAT credit taken on input services to be reversed if duty paid on final product remitted

Earlier, where on any goods manufactured or produced by an assessee, the payment of duty was ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods was required to be reversed. Thus, earlier, reversal was only required in respect of inputs and not for input services.

Rule 3(5C) of CCR has been amended to provide that CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods is also required to be reversed.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

VII. Amount payable under sub-rules (5), (5A), (5B) and (5C) of rule 3 to be paid on or before the 5th day of the following month by utilizing CENVAT credit or otherwise

As per explanation 1 inserted after rule 3(5C) of CCR, the amount payable under following sub-rules of rule 3 shall be paid by the manufacturer of goods or the provider of output service

(i) **Rule 3(5)** Reversal of credit in case of removal of inputs or capital goods as Such from the factory/premises of the output service provider

(ii) **Rule 3(5A)** Reversal of credit in case of removal of capital goods after being used, whether as capital goods or as scrap or waste

(iii) **Rule 3(5B)** Reversal of credit in case of full or partial writing off of the value of input or capital goods before being put to use

(iv) **Rule 3(5C)** Reversal of credit in case of remission of duty on final product

- by debiting the CENVAT credit or otherwise
- on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

VIII. Failure to reverse the credit taken on inputs and input services used in goods on which duty is ordered to be remitted also to attract recovery provisions under rule 14 [Explanation 2 to rule 3(5C)]

Hitherto, as per explanation occurring after proviso to rule 3(5B) of CCR, recovery provisions under rule 14 of CCR were applicable if the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A) and (5B) of rule 3.

The said explanation has been omitted and a new explanation 2 has been inserted after rule 3(5C). As per the new explanation 2, in addition to sub-rules (5), (5A) and (5B) of rule 3, recovery provisions under rule 14 will also apply to sub-rule (5C) of rule 3.

In other words, even in a case where the manufacturer of goods or the provider of output service fails to reverse the CENVAT credit taken on inputs and input services used in goods on which duty has been ordered to be remitted, it would be recovered, in the manner provided under rule 14, for recovery of CENVAT credit wrongly taken.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

IX. Importer required to file quarterly return

Earlier, rule 9(8) of the CCR required a first stage dealer and a second stage dealer to submit a return (electronically) within 15 days from the close of each quarter of a year to the Superintendent of Central Excise.

With effect from 01.04.2014, said rule has been amended. Thus, now a registered importer is also required to submit such quarterly return.

Consequently, the return form prescribed for the same has also been accordingly amended.

[Notification Nos. 9 and 11/2014 CE(NT) dated 28.02.2014]

X. Scope of definition of 'Governmental authority' widened

The definition of "Governmental authority" has been substituted with the following new definition:-
"Governmental authority" means 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 Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

Thus, the scope of the definition has been enhanced. Henceforth, an authority or a board or any other body established by Government with 90% or more participation by way of equity or control need not be set up under an Act of Parliament or a State Legislature to qualify as Governmental authority.

[Notification No. 02/2014 ST dated 30.01.2014]

XI. Expansion in the scope of exemption of services provided by way of sponsorship of sports events

Hitherto, services provided by way of sponsorship of sporting events organized by a national sports federation, or its affiliated federations were exempt from service tax where the participating teams or individuals represent any district, State or zone. The said exemption has been extended even in a case where the participating teams or individuals represent any **COUNTRY**.

[Notification No. 01/2014 ST dated 10.01.2014]

XII. Revised scheme of service tax exemption in case of services provided to SEZ unit/Developer

Notification No. 40/2012-ST dated 20.06.2012 prescribing the scheme for claiming exemption in respect of the services received by a developer/units of an SEZ has been superseded by ***Notification No. 12/2013 ST dated 01.07.2013.*** The new notification has expanded the scope of *ab-initio* exemption and refund available to SEZ unit/developer.
The significant relevant changes in the new notification vis-à-vis erstwhile notification have been outlined as follows:-

Basis	***NN 40/2012***	***NN 12/2013***
Services eligible for *ab initio* exemption	Only specified services wholly consumed within SEZ were eligible for the *ab initio* exemption. Further, the definition of wholly consumed services, linked with the Place of Provision of Services Rules, 2012, emphasized that the specified services must be provided only within SEZ.	Specified services received by the SEZ Unit or the Developer used exclusively for the authorized operations are eligible for the *ab initio* exemption. Consequently, any services used exclusively for the authorized operations whether provided within SEZ or outside, will be eligible for upfront exemption.
Refund of service tax paid on the common services shared Between authorized operations in SEZ and its DTA operations	Maximum refund was restricted as under **Maximum refund** $= \frac{\text{ST} \times \text{ET}}{\text{TT}}$ Where **ST** stands for service tax paid on services other than wholly consumed services (used for both SEZ and DTA Unit) **ET** stands for Export turnover of goods and services of SEZ Unit/Developer **TT** stands for Total turnover for the period	The service tax paid on the specified services that are common to the authorized operation in an SEZ and the operation in domestic tariff area [DTA unit(s)] shall be distributed amongst the SEZ Unit/Developer and the DTA unit(s) in the manner as prescribed in rule 7 of the CENVAT Credit Rules, 2004. For the purpose of distribution, the turnover of the SEZ Unit/Developer shall be taken as the turnover of authorized operation during the relevant period. Such amount would be available as refund.
Option not to avail the exemption and instead take CENVAT credit as usual	Earlier scheme did not expressly provide for such an option.	SEZ Unit/the Developer has an option not to avail of this exemption and instead take CENVAT credit on the specified services in accordance with the CENVAT Credit Rules, 2004.
Availability of refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed	Refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed was not expressly provided in the earlier scheme.	The SEZ Unit or the Developer shall be entitled to the refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed.

XIII. Clarification regarding exemption available to services provided by a Resident Welfare Association (RWA) to its own members

Mega exemption *Notification No. 25/2012-ST dated 20.06.2012* provides exemption to services provided by an RWA to its own members by way of reimbursement of charges or share of contribution up to

Rs.5,000 per month per member for sourcing of goods or services from a third person for the common use of its members.

Certain doubts have been raised regarding the scope of said exemption. CBEC vide ***Circular No.175/01/2014 – ST dated 10.01.2014***, has clarified these doubts as follows:

S. No.	Doubt	Clarification
1.	(i) In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods [Example: for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity Bill for the common area and lift, etc.]. Is service tax leviable on the same? (ii) If the contribution of a member(s) of a RWA exceeds Rs. 5,000 per month, how should the service tax liability be calculated?	Exemption in mega exemption notification is provided specifically with reference to service provided by an unincorporated body or a non–profit entity registered under any law for the time being in force such as RWAs, to its own members. However, a monetary ceiling has been prescribed for this exemption, calculated in the form of Rs. 5,000 per month per member contribution to the RWA, for sourcing of goods or services from third person for the common use of its members. If per month per member contribution of any or some members of a RWA exceeds Rs. 5,000, entire contribution of such members whose per month contribution exceeds Rs. 5,000 would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.
2.	(i) Is Small Service Provider's (SSP) exemption under *Notification No. 33/2012-ST* available to RWA? (ii) Does 'aggregate value' for the purpose of threshold exemption, include the value of exempt service?	SSP exemption under *Notification No. 33/2012-ST* is applicable to a RWA, subject to conditions prescribed in the notification. Under this notification, taxable services of aggregate value not exceeding Rs. 10 lakh in any financial year is exempted from service tax. As per the definition of 'aggregate value' provided in explanation of the notification, aggregate value does not include the value of services which are exempt from service tax.
3.	If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of SSP exemption or exemption provided under mega exemption notification?	In Rule 5(2) of the Service Tax (Determination of Value) Rules, 2006, it is provided that expenditure or costs incurred by a service provider as a pure agent of the recipient of service shall be excluded from the value of taxable service, subject to the conditions specified in the said rule. For example, where the payment for an electricity bill raised by an electricity transmission or distribution utility in the name of the owner of an apartment in respect of electricity consumed thereon, is collected and paid by the RWA to the utility, without charging any commission or a consideration by any other name, the RWA is acting as a pure agent and hence exclusion from the value of taxable service would be

		available. However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area, etc., since there is no agent involved in these transactions, the exclusion from the value of taxable service would not be available.
4.	Is CENVAT credit available to RWA for payment of service tax?	RWA may avail CENVAT credit and use the same for payment of service tax, in accordance with the CENVAT Credit Rules, 2004.

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