Classes for FYJC | SYJC | CA | CS | CMA

****

CA – IPCE

Indirect Direct Tax - Amendment Notes

Applicable mainly for May 2016 Attempt

Covering All the Important Amendments from Supplementary & RTP

Compiled by CA Vinesh R. Savla

****

Add:

Shop No. 3A/3B, 2nd Floor, Eternity Mall, Teen Haath naka, Thane West – 400 604

Contact: 9167 082 081 | 022 6562 1008

Basic Concepts of Service Tax

Amendments by Finance Act, 2015:
1. (i) Service tax rate enhanced from 12% to 14% and
(ii) Levy of education cesses on taxable services ceased to have effect [Section 66B]
Thus, the new service tax rate has come **into effect from 01.06.2015**.

2. 2% Swachh Bharat Cess to be levied on value of all or any of taxable services [Section 119 of the Finance Act, 2015] **[But actually levied 0.5% from 15th November, 2016]**

3. Activities undertaken by (i) chit fund foremen in relation to chit and (ii) lottery distributors and selling agents in relation to lotteries are not transactions in money or actionable claim and are thus, liable to service tax - Explanation 2 substituted in the definition of "service" [Explanation 2 to section 65B(44)] **[Effective from 14.05.2015]**

4. Definition of Government incorporated in the Act:
"Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder".
[Effective from 14.05.2015]

5. Services by way of carrying out any process amounting to manufacture/production of potable liquor made liable to service tax [Section 66D(f)]:
Services by way of carrying out any process amounting to manufacture or production of goods were covered in the Negative List under clause (f) of section 66D.
Clause (f) has been substituted by a new clause to exclude process for production or manufacture of alcoholic liquor for human consumption from the ambit of negative list.
The substituted clause (f) reads as under: "Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption"

6. Admission to entertainment events or access to amusement facilities made liable to service tax [Section 66D(j)] [Effective from 01.06.2015]

Significant Notifications/Circulars Issued:

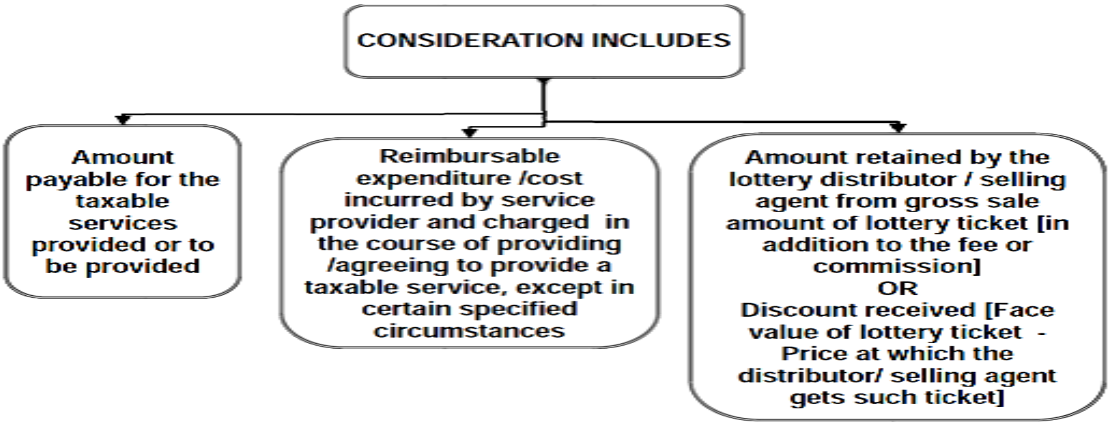
Services provided by the members of the Joint Venture (JV) to the JV and vice versa or between the members of the JV: In accordance with Explanation 3(a) of the definition of service under section 65B(44) of the Finance Act, 1994, JV (an unincorporated temporary association constituted for the limited purpose of carrying out a specified project) and the members of the JV are treated as distinct persons and therefore, taxable services provided for consideration, by the JV to its members or vice versa and between the members of the JV are taxable.

Cash calls (capital contributions) made by the members to the JV: If cash calls are merely a transaction in money, they are excluded from the definition of service provided in section 65B(44) of the Finance Act, 1994. Whether a 'cash call' is 'merely…. a transaction in money' [in terms of section 65B(44) of the Finance Act, 1994] and hence not in the nature of consideration for taxable service, would depend on the comprehensive examination of the Joint Venture Agreement, which may vary from case to case. Detailed and close scrutiny of the terms of JV agreement may be required in each case, to determine the service tax treatment of cash calls.

[Circular No. 179/5/2014 ST dated 24.09.2014]

Valuation of Taxable Service

Amendments by Finance Act, 2015:
Consideration for a service includes (i) reimbursements and (ii) amount retained by distributor/selling agent of lottery from gross sale amount of lottery ticket or discount received thereon [Clause (a) of Explanation to section 67] [Effective from 14.05.2015]



Exemptions and Abatements

Significant Notifications/Circulars Issued:

New Exemptions:
(i) Ambulance services provided by all service providers (whether or not by clinical establishment or an authorised medical practitioner or paramedics) exempted [Effective from 01.04.2015]

(ii) General insurance provided under Pradhan Mantri Suraksha Bima Yojna exempted [Effective from 30.04.2015]

(iii) Life insurance provided under Varishtha Pension Bima Yojna [Effective from 01.04.2015], Pradhan Mantri Jeevan Jyoti Bima Yojna [Effective from 30.04.2015] and Pradhan Mantri Jan Dhan Yojna [Effective from 30.04.2015] exempted

(iv) Services by way of Collection of contribution under Atal Pension Yojna (APY) exempted [Effective from 30.04.2015]

(v) Treatment of effluent by Common Effluent Treatment Plant operator exempted [Effective from 01.04.2015]

(vi) Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables exempted [which do not change or alter the essential characteristics of the said fruits or vegetable] [Effective from 01.04.2015]

(vii) Admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo exempted:
Section 2(39) of the Wild Life (Protection) Act, 1972 provides that "Zoo" means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public but does not include a circus and an establishment of a licenced dealer in captive animals.
[Effective from 01.04.2015]

(viii) Exhibition of movie by exhibitor to distributor/ association of persons consisting of such exhibitor as one of its members exempted [Effective from 01.04.2015]

(ix) Services by way of right to admission to certain events/programmes exempted:
New entry 47 provides exemption in respect of the services by way of right to admission to:
(i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
(ii) recognized sporting event;
(iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs. 500 per person.

Therefore, service tax would be levied on service by way of admission to entertainment event of concerts, pageants, musical performance, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 for right to admission to such an event.

Recognised sporting event to mean any sporting event:

(i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;

(ii) covered under entry 11.

Entry 11 of the notification covers services by way of sponsorship of sporting events organised:

(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state, zone or country;

(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;

(c) by Central Civil Services Cultural and Sports Board;

(d) as part of national games, by Indian Olympic Association; or

(e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.

[Effective from 01.06.2015]

(x) Service provided with respect to Kailash Mansarovar and Haj pilgrimage exempted: Services provided by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement, have been exempted from service tax vide **Notification No. 17/2014 ST dated 20.08.2014.**

Specified organisation means:

(a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or

(b) Haj Committee of India and State Haj Committees constituted under the Haj Committee Act, 2002, for making arrangements for the pilgrimage of Muslims of India for Haj.

[Effective from 20.08.2014]

Exemptions Withdrawn/Restricted:

(i) Service tax payable on a performance in folk or classical art forms of music/ dance/ theatre if the consideration exceeds Rs. 1,00,000

Earlier, services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador was exempt from service tax under entry 16 of the notification.

The scope of the said exemption has now been restricted by fixing a monetary limit of Rs. 1,00,000 in respect of a performance. Thus, now exemption to services provided by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is upto Rs. 1,00,000 for a performance. **[Effective from 01.04.2015]**

(ii) Exemption to transportation of food stuff by rail or vessels or road limited to milk, salt and food grain including flours, pulses and rice

Earlier, transportation of foodstuff - including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages - by rail/ vessel and by goods carriage was exempt from service tax under entry 20(i) and entry 21(d) of the notification respectively.

Entry 20(i) and entry 21(d) have been amended to restrict such exemption to transportation of only **milk, salt and food grain including flours, pulses and rice** by rail/ vessel and by goods carriage. Transportation of agricultural produce by rail or a vessel and by goods carriage is separately exempt vide entry 20(h) and entry 21(a) respectively, and this exemption would continue. **[Effective from 01.04.2015]**

(iii) Exemption to services by (i) mutual fund agent/distributor to a mutual fund or asset management company and (ii) selling/ marketing agent of lottery tickets to a distributor/selling agent, withdrawn [Effective from 01.04.2015]

(iv) Exemption to carrying out an intermediate production process of alcoholic liquor for home consumption on job work basis withdrawn [Effective from 01.06.2015]

(v) Exemption withdrawn for services by way of making telephone calls from departmentally run public telephone etc.

Abatement Notification amended:

(i) Uniform abatement of 70% prescribed for:

(a) goods and passenger transport by rail and

(b) goods transport by road and vessel, subject to uniform condition of non-availment of CENVAT credit on inputs, capital goods and input services

[Effective from 01.04.2015]

(ii) Abatement in case of passenger transportation by air in non-economy class reduced from 60% to 40% [Effective from 01.04.2015]

(iii) No abatement for services provided in relation to chit [Effective from 01.04.2015]

GTA service provided for transport of export goods by road from place of removal/ CFS/ICD to land customs station exempted:

Earlier, Notification No. 31/2012 ST dated 20.06.2012 exempted the goods transport agency service provided for transport of export goods by road from

☐ the place of removal to an inland container depot (ICD), a container freight station (CFS), a port or airport;

☐ any CFS or ICD to the port or airport.

Scope of this exemption has been widened vide **Notification No. 4/2015 ST dated 01.03.2015** to exempt such services when provided for transport of export goods by road from the place of removal or from any CFS/ICD to a land customs station (LCS) also. **[Effective from 01.04.2015]**

Notification exempting service provided by a foreign commission agent to an Indian exporter rescinded [Notification No. 42/2012 ST dated 29.6.2012 rescinded]:
With effect from 01.10.2014, such services became non-taxable as the place of provision of such service shifted to non-taxable territory. Therefore exemption **rescinded [Effective from 01.03.2015]**

Services provided under the Power System Development Fund Scheme of the Ministry of Power exempted from service tax
Exemption from service tax has been granted to taxable services provided under the Power System Development Fund Scheme of the Ministry of Power by way of -
(A) re-gasification of Liquefied Natural Gas (LNG) imported by the Gas Authority of India Limited (GAIL);
(B) transportation of the incremental Re-gasified Liquefied Natural Gas (RLNG) (e-bid RLNG) to specified power generating companies or plants subject to fulfillment of certain conditions prescribed in the exemption notification.
Further, the exemption shall be valid only till 31.03.2017.
[Notification No. 17/2015 ST dated 19.05.2015]

Yoga included in the definition of charitable activities: Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 exempts services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities.
Activities relating to advancement of religion or spirituality are included in the definition of charitable activities. Now yoga has also been included therein. Thus, services relating to advancement of yoga provided by charitable entities registered under section 12AA of the Income-tax Act, 1961 will not be liable to service tax e.g., service tax will not be payable on fee charged for yoga camps conducted by charitable trusts. [Notification No. 20/2015 ST dated 21.10.2015]

Services provided by: (i) business facilitator/business correspondent with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana and
(ii) an intermediary to business facilitator/business correspondent with respect to such services, exempt from service tax
Services: Account opening, cash deposits, cash withdrawals, obtaining e-life certificates and Aadhar seeding, in the rural area branches of banking companies.
[Notification No. 20/2015 ST dated 21.10.2015]

70% abatement available on ancillary services provided by a GTA in the course of transportation of goods:
It has been clarified that ancillary services such as loading/ unloading, packing/unpacking, transshipment, temporary storage etc., would form part of the goods transport agency's (GTA) service if such services are provided by a GTA in the course of transportation of goods and the charges for such services are included in the invoice issued by the GTA, and not by any other person. Thus, abatement of 70%, applicable to GTA service, would also be available to the ancillary services. [Circular No. 186/5/2015 ST dated 05.10.2015]

Service Tax Procedures

Significant Notifications/Circulars:

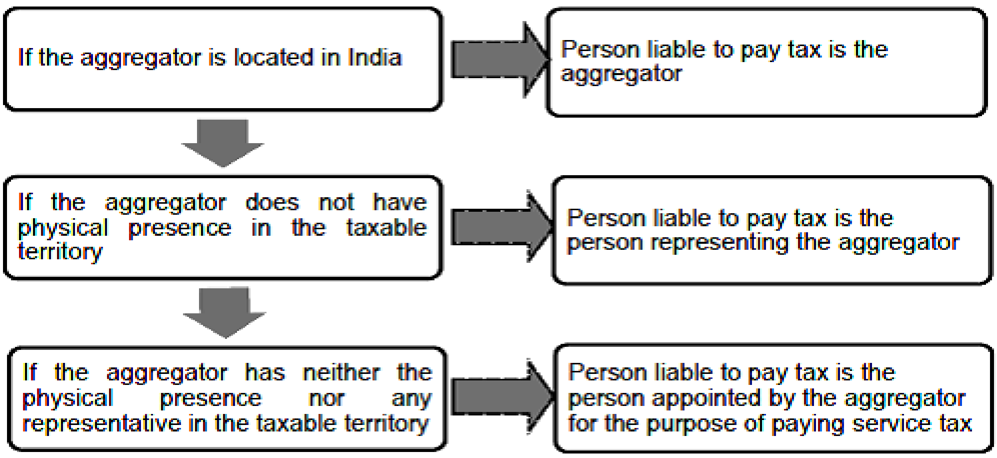
Concept of aggregator introduced in service tax:
There are also many online websites that follow ‘aggregator’ model. Under this model, an entity collects or aggregates information on a particular service from several sources on a single platform and draws customers to its platform to connect them with the service provider. It may also facilitate the customers in comparing the prices and specifications of a particular service offered by multiple service providers. Therefore, companies which act as aggregator for service providers like travel portals, food portals or cab services will now be liable to pay service tax.

(a) Definition of aggregator and brand name inserted in rule 2 [Rule 2(1)]:
“Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator” **[Rule 2(1)(aa)]**
Accordingly, “brand name or trade name” has also been defined by inserting clause (bca) in rule 2(1) as under: “Brand name or trade means a brand name or a trade name whether registered or not, that is to say, a name or a mark, such as an:

☐ invented word or writing,
☐ or a symbol,
☐ monogram,
☐ logo,
☐ label,
☐ signature,

which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person” **[Rule 2(1)(bca)]. [Effective from 01.03.2015]**

(b) Aggregator to pay service tax under reverse charge [Rule 2(1)(d)(i)(AAA)]:



[Effective from 01.03.2015]

CBEC to specify conditions, safeguards and procedure for registration in service tax [New sub-rule (9) inserted and sub-rule (1A) omitted in rule 4]:

Documentation, time limits and procedure for registration (Amendment):

Registration for **single premises will be granted within two days of filing the application.** The Order provides the documentation, time limits and procedure for registration as under:

General procedure

1. Applicants seeking registration for **single premises** shall file an online application for registration on ACES website in Form ST-1.
2. Following details are to be mandatorily furnished in the application form:
(a) Permanent Account Number (PAN) of the proprietor or the legal entity being registered (except Government Departments)
(b) E-mail and mobile number
3. Registration would be granted online within 2 days of filing the complete application form. On grant of registration, applicant would be enabled to electronically pay service tax.
4. Registration Certificate downloaded from the ACES website would be accepted as proof of registration and there would be no need for a signed copy.

Documentation required

A self attested copy of the following documents will have to be submitted by registered post/ speed post to the concerned Division, for the purposes of verification:

1. Copy of the PAN Card of the proprietor or the legal entity registered
2. Photograph and proof of identity of the person filling the application
3. Document to establish possession of the premises to be registered such as proof of ownership, lease or rent agreement, allotment letter from Government, No Objection Certificate from the legal owner
4. Details of the main Bank Account
5. Memorandum/Articles of Association/List of Directors
6. Authorisation by the Board of Directors/Partners/Proprietor for the person filing the application
7. Business transaction numbers obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number , Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application.

Verification of premises, if there arises any need for the same, will have to be authorised by an officer not below the rank of Additional/Joint Commissioner.

Revocation of registration certificate

The registration certificate may be revoked by the Deputy/Assistant Commissioner in any of the following situations, after giving the assessee an opportunity to represent against the proposed revocation and taking into consideration the reply received, if any:

1. the premises are found to be non existent or not in possession of the assessee.
2. no documents are received within 15 days of the date of filing the registration application.
3. the documents are found to be incomplete or incorrect in any respect.

[Effective from 01.03.2015]

Provisions introduced for authentication of invoices by digital signatures [New rule 4C]: [Effective from 01.03.2015]

Alternative rates for payment of service tax on air travel agent's service, life insurance services, money changing service and service provided by lottery distributor/selling agent increased pursuant to the upward revision in service tax rate [Sub rules (7), (7A), (7B) and (7C) of rule 6]:

A. In case of air travel agent [Sub-rule (7)]: Person liable for paying the service tax in relation to the services provided by an air travel agent, shall have the option to pay following amounts instead of paying service tax at the rate of 14%:-

In the case of	Option to pay an amount calculated at the rate of
Domestic bookings of passage for travel by air	*0.7%* of the basic fare
International bookings of passage for travel by air	*1.4%* of the basic fare

Points to be noted

1. The option once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.

2. Meaning of basic fare: For the purposes of this sub-rule, the expression **"basic fare"** means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

B. In case of insurer carrying on life insurance business [Sub-rule (7A)]

An insurer carrying on life insurance business shall have the option to pay tax:

(i) On the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

(ii) Where amount of the gross premium allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service equivalent to:

First year	at *3.5%* of the gross amount of premium charged
Subsequent year	at *1.75%* of the gross amount of premium charged

towards the discharge of his service tax liability instead of paying service tax at the rate of 14%.

Option not available in certain cases: Such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

C. In case of sale/purchase of foreign currency including money changing [Sub-rule (7B)]
Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, has an option to pay an amount at the following rates instead of paying service tax at the rate of 14%:-

S.No.	For an amount	Service tax shall be calculated at the rate of
1.	Upto ₹ 100,000	***0.14%*** of the gross amount of currency exchanged or ***₹ 35*** whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	***₹ 140 + 0.07%*** of the (gross amount of currency exchanged-₹ 1,00,000)
3.	Exceeding ₹ 10,00,000	***₹ 770 + 0.014%*** of the (gross amount of currency exchanged-₹ 10,00,000) or ***₹ 7,000*** whichever is lower

The option once exercised cannot be withdrawn during the remaining part of the financial year.

D. In case of service of promotion, marketing or organising/assisting in organizing lottery [Sub-rule (7C)]
An optional mode of payment of service tax has been provided for the taxable service of promotion, marketing or organising/assisting in organising lottery in the following mannerinstead of paying service tax at the rate of 14%:-

Where the guaranteed lottery prize payout is > 80%	***₹ 8200/-*** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	***₹ 12,800/-*** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

Points to be noted:-
1. In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold.
2. The distributor/selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The new service provider can exercise such option within one month of providing the service.
3. The option once exercised cannot be withdrawn during the remaining part of the financial year.
[Effective from 01.06.2015]

Amendments in Reverse Charge Notification:

(i) 100% service tax to be paid under reverse charge in case of service provided by:

(a) mutual fund agent/ distributor to mutual fund/ asset management company,

(b) selling/marketing agent of lottery tickets to lottery distributor/selling agent and

(c) person involving an aggregator

(ii) Service tax to be payable by the recipient of service in relation to ALL services provided by Government to business entities (except specified services) [Rule 2(1)(d)(i)(E)]
[To be effective from a date to be notified]

(iii) Entire service tax to be paid under reverse charge in case of manpower supply and security services:

Earlier, in respect of services provided or agreed to be provided by way of supply of manpower for any purpose or security services by any individual, HUF or partnership firm including association of persons to a business entity registered as body corporate, 25% of service tax was payable by the person providing the service and remaining 75% by the service receiver.

However, now the entire service tax i.e., 100% service tax would be payable by the person liable for paying service tax other than the service provider (service recipient in this case).

Cenvat Credit Rules, 2004

Significant Notifications/Circulars:

(i) Manufacturers allowed to utilize credit of education cess (EC) and secondary and higher education cess (SHEC) for payment of excise duty [Third, fourth and fifth provisos inserted in rule 3(7)(b)]: Earlier, credit of EC on excisable goods or taxable services could not be utilised for payment of any other duty except EC payable on excisable goods or taxable services. Similarly, credit of SHEC on excisable goods or taxable services could not be utilised for payment of any other duty except SHEC payable on excisable goods or taxable services.
However, pursuant to the exemption granted to EC and SHEC leviable on all excisable goods (with effect from 01.03.2015), a manufacturer has been allowed to utilise the following credits of EC and SHEC for the payment of basic excise duty:
(i) credit of EC and SHEC paid on inputs or capital goods received in the factory of manufacture of final product on/after the 1st day of March, 2015.
(ii) credit of balance 50% EC and SHEC paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15.
(iii) credit of EC and SHEC paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015. **[Effective from 30.04.2015]**

(ii) CENVAT credit allowed on inputs and capital goods received directly in the premises of the job worker [Rules 4(1) and 4(2)(a)]: Earlier, when goods were directly sent to job-worker's premises without bringing them in the manufacturer/output service provider's premises, CENVAT credit could be taken only when such goods were received back from the job-worker's premises in the premises of manufacturer/output service provider.
Rule 4(1) and rule 4(2)(a) have been amended to allow CENVAT credit in respect of inputs and capital goods immediately on receipt of the same in the premises of job worker where the same are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be. **[Effective from 01.03.2015]**

(iii) Time limit for availing credit on inputs and input services increased from 6 months to 1 year of the date of invoice [Rules 4(1) and 4(7)] [Effective from 01.03.2015]

(iv) Time limit for return of capital goods from a job worker to manufacturer/output service provider increased from 6 months to 2 years [Rule 4(5)]: (1) Credit allowed on goods sent to job-worker when the same are received back within 180 days
(2) Credit to be reversed when goods sent to job-worker not returned within 180 days. However, credit can be retaken once the goods come back.
(3) Earlier, a common time limit of 180 days for return of inputs and capital goods sent to a job-worker for the purpose of availing CENVAT credit.
Time limit for return of capital goods from a job worker to manufacturer/output service provider increased from 180 days to 2 years
(4) Credit allowed on jigs, fixtures, moulds and dies sent to another manufacturer/job worker without the condition of being returned **[Effective from 01.03.2015]**

(v) Provisions relating to availment of CENVAT credit under partial and full reverse charge brought at par [Rule 4(7)]:

Prior to 01.04.2015, there were separate provisions for availment of credit on input services in case of payment of service tax under full reverse charge and partial reverse charge. Whereas under full reverse charge, payment of service tax ensured availability of credit on input services; under partial reverse charge, payment to service provider (along with payment of service tax) was also a prerequisite for availing credit. The provisions for availing credit of service tax paid under partial reverse charge have now been aligned with the provisions applicable for full reverse charge. Thus, now CENVAT credit of service tax paid under partial reverse charge by the service receiver will also be allowed on payment of service tax alone without linking it to the payment to the service provider.

[Effective from 01.04.2015]

(vi) Export goods defined for the purpose of refund of CENVAT credit under rule 5 [Clause (1A) of Explanation 1 to rule 5]:

Rule 5 provides for refund of CENVAT credit when a manufacturer clears export goods without payment of duty or a service provider exports an output service without payment of service tax. Refund is computed as per the formula prescribed in the rule and is subject to certain procedure, safeguards, conditions and limitations specified by the Board.

Though the term 'export service' has been defined in the rule to mean a service which is provided as per rule 6A of the Service Tax Rules, 1994, the term 'export goods' was not defined in the rule. The definition of 'export goods' has now been inserted in the rule to mean any goods which are to be taken out of India to a place outside India. Clause (1A) has been inserted in Explanation 1 to rule 5 to give effect to this amendment.

[Effective from 01.03.2015]

(vii) Inputs and input services used in the manufacture of non-excisable goods to attract reversal provisions under rule 6 [Explanations (1) and (2) to rule 6(1)]:
[Effective from 01.03.2015]

(ix) Provisions applicable to first/second stage dealer regarding maintenance of records to be able to pass on the credit, to apply to an importer issuing CENVATable invoice [Rule 9(4)]: [Effective from 01.03.2015]

Clarification regarding availment of CENVAT credit after one year: It has been clarified by CBEC that the limitation period of 1 Year for availing CENVATcredit would not apply when re-credit is taken of amount reversed under:

(i) third proviso (now second proviso) to rule 4(7) of the CENVAT Credit Rules, 2004 (CCR)

(ii) rule 3(5B) of CCR

(iii) rule 4(5)(a) of CCR, after meeting the conditions prescribed in these rules.

The limitation period of 1 Year applies only when the credit is taken for the first time on an eligible document.

(i) Third proviso to rule 4(7) of CCR (now second proviso) prescribes that if the payment of value of input service and service tax payable is not made within three months of date of invoice, bill or challan, then the CENVAT credit availed is required to be paid back by the manufacturer or service provider. Subsequently, when such payment of value of input service and service tax is made, the amount so paid back can be re-credited.

(ii) Rule 3(5B) of CCR stipulates that if the value of any input or capital goods before being put to use on which CENVAT credit has been taken, is written off or such provisions made in Books of Account, the manufacturer or service provider is required to pay an amount equal to credit so taken. However, when the inputs or capital goods are subsequently used, the amount so paid can be re-credited in the account.

(iii) Rule 4(5)(a) of CCR prescribes that in case inputs/capital goods sent to job worker are not received back within 180 days/ 2 years, the manufacturer or service provider is required to pay an amount equal to credit taken on such inputs/ capital goods in the first instance. However, when the inputs/ capital goods are subsequently received back from job worker, credit can be retaken of the amount so paid.

Clarification regarding determination of place of removal in the case of exports for purposes of CENVAT credit of input services:

While determining the eligibility of the input services to CENVAT credit, determination of place of removal is required. The following has been clarified in this regard:

(i) Place of removal in case of direct export of goods by the manufacturer exporter to his foreign buyer will be the port/ICD/CFS where the shipping bill is filed by the manufacturer exporter.

(ii) Place of removal in case of clearance of goods from the factory for export by a merchant exporter will be the factory gate. However, in isolated cases, it may extend further also depending on the facts of the case, but in no case, this place can be beyond the Port/ ICD/CFS where shipping bill is filed by the merchant exporter.

[Circular No. 999/6/2015 CX dated 28.02.2015]

RTP May 2016 Amendments:

No refund of CENVAT credit under rule 5B to service providers providing manpower supply/ security services

Since with effect from 01.04.2015, service tax with respect to supply of manpower for any purpose or security services is payable on the basis full reverse charge, service providers of said services will no longer be eligible for refund of CENVAT credit availed on inputs and input services for payment of service tax on such output services. The aforesaid amendment is effective from April 01, 2015. *[Notification No. 15/2015 CE (NT) dated 19.05.2015]*

Reversal of credit under rule 6 not required in case of ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 [Clause (ix) inserted to rule 6(6) of the CENVAT Credit Rules, 2004]

Rule 6 would not apply to ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 i.e. 1st October, 2015 onwards, for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol. In case of such removal, though ethanol is removed without payment of duty, CENVAT credit on inputs/capital goods/input services used in the manufacture of ethanol can be availed. Further, where common inputs/input services are used to manufacture ethanol and other dutiable final product, reversal of credit or payment of amount on removal of ethanol will not be required. *[Notification No. 21/2015 CE (NT) dated 07.10.2015]*

Output service providers allowed to utilize credit of education cess (EC) and secondary and higher education cess (SHEC) for payment of service tax on any output service [Sixth, seventh and eighth provisos inserted to rule 3(7)(b) of the CENVAT Credit Rules, 2004]

Prior to 01.03.2015, education cess (EC) and secondary and higher education cess(SHEC) paid on excisable goods could be availed as CENVAT credit. Further, EC and SHEC paid on taxable services could also be availed as CENVAT credit till 31.05.2015. Credit of EC on excisable goods or taxable services could not be utilised for payment of any other duty except EC payable on excisable goods or taxable services. Similarly, credit of SHEC on excisable goods or taxable services could not be utilised for payment of any other duty except SHEC payable on excisable goods or taxable services. However, pursuant to EC and SHEC leviable on all taxable services ceasing to have effect (with effect from 01.06.2015), an output service provider has been allowed to utilise the following credits of EC and SHEC for the payment of service tax on any output service:

(i) credit of EC and SHEC paid on inputs/ capital goods received in the premises of the output service provider on or after 01.06.2015;

(ii) credit of balance 50% EC and SHEC paid on capital goods received in the premises of the output service provider in the financial year 2014-15; and

(iii) credit of EC and SHEC paid on input service in respect of which the invoice, bill, challan or Service Tax Certificate for Transportation of Goods by Rail (referred to in rule 9), as the case may be, is received by the output service provider on/ after 01.06.2015.

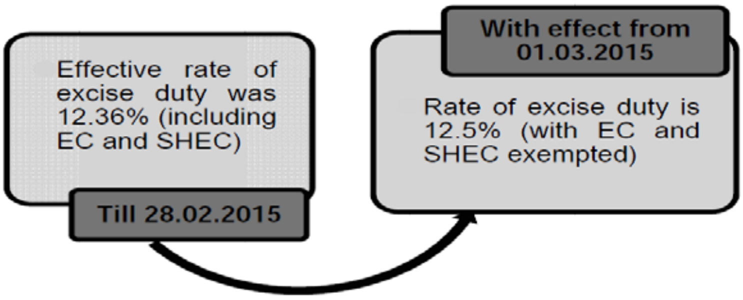
[Notification No. 22/2015 CE (NT) dated 29.10.2015]

Amount payable under rule 6(3)(i) of CENVAT Credit Rules, 2004 enhanced from 6% to 7% of the value of exempted services

[Notification No. 14/2015 CE (NT) dated 19.05.2015]

Central Excise Duty

(i)

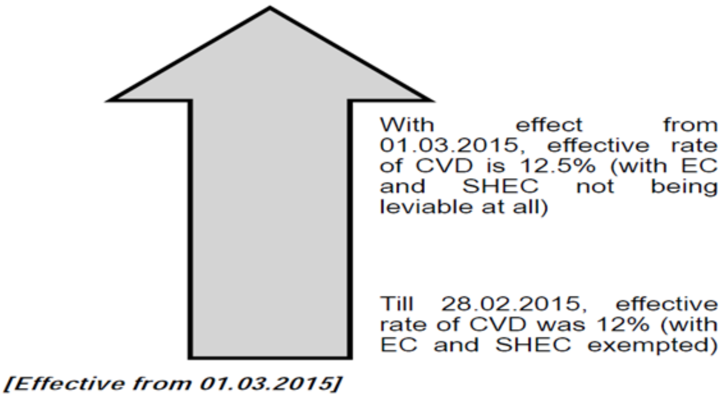


(ii) Central excise registration to be granted online within 2 working days:
With effect from 01.03.2015, only an online application can be made for obtaining central excise registration and the same will be granted within two working days of the receipt of a duly completed application form. Verification of documents and premises, as the case may be, can be carried out after the grant of the registration.
[Notification No. 7/2015 CE (NT) dated 01.03.2015]. [Effective from 01.03.2015]

(iii) Authentication of invoices by digital signatures: An invoice issued under central excise law by a manufacturer may now be authenticated by means of a digital signature. However, where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer would be used for transport of goods.
[Notification No. 8/2015 CE (NT) dated 01.03.2015] [Effective from 01.03.2015]

Customs Duty

(i)



(ii) Education Cess and Secondary & Higher Education Cess leviable on imported goods to continue