

Revisionary Notes for CA – IPCE – Indirect Taxation

Relevant for Nov.’ 2016 Exams

These Notes Include:

- All Important Provisions relevant for Exam point of view
- Amendments applicable for Exam

Entire IDT in merely 53 pages

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CA – IPCE

Indirect Taxation

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Commerce Eduworld's Revisionary Notes contains all the Important Provisions relevant from Exam Point of View.

However, these Notes are meant for REVISION ONLY.

These Notes include all the Amendments that are applicable for Nov. 2016 Attempt.

Central Excise Duty

Excise duty is a tax upon manufacture of goods and not upon sale of goods.

Central excise duty is levied vide Entry 84 of the Union List.

Entry 84 includes excise duty on

- Tobacco, Other goods manufactured or produced in India, Medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drugs and narcotics

Entry 84 excludes excise duty on

- Alcoholic liquors for human consumption & Opium, Indian hemp and other narcotic drugs and narcotics

Applicable excise duties:

Basic Excise Duty (CENVAT) - 12.5%

EC & SHEC exempted w.e.f. 01.03.2015

Levy of duty:

Application of central excise law:

CEA and CETA apply to whole of India (including Jammu and Kashmir) and - also extends to designated areas in the Continental Shelf and Exclusive Economic Zone of India (EEZ). The EEZ extends upto 200 nautical miles inside the sea from base line

Though the levy of excise duty arises on manufacture but the same is collected on removal of goods from the factory

Other propositions of charging section:

- No distinction between excisable goods produced by Government and those produced by others, with regard to payment of excise duty.
- Excise duty leviable on goods sold by an EOU in DTA = Total customs duties leviable under the Customs Act/other applicable law on like goods produced/manufactured outside India, if imported into India.

Goods, Excisable goods, Non-excisable goods, Non-dutiable goods, Exempted Goods

Goods:

Two fundamental aspects of the term 'goods' are that they should be (a) 'moveable' and (b) 'marketable'.

Excisable goods – Taxable Goods, Goods with Nil Rate, Non-dutiable goods with 100% Exemption

Non Excisable goods – Goods with Blank Rate or No Mention in CETA

Captive Consumption:

- Intermediate goods produced will be chargeable to duty if they arise in the course of manufacture/production, are moveable and marketable in such intermediate stage, listed in the Tariff, and are subject to duty of excise in the Tariff.
- However, if duty is payable on final product, excise duty is exempted on intermediate product used in manufacture of such final products.

Assembly vis a vis manufacture

- Assembly would not amount to manufacture in as much as an already manufactured item may be put in a readily usable form.
- However, if the assembly results in new commercial commodity with a distinct name, character and use, then it would amount to manufacture.

Dutiability of waste and scrap

- Waste/scrap can be 'excisable goods' if they are known in commercial parlance, are marketable and specified in Central Excise Tariff.
- Since excise duty is leviable on manufacture, waste and scrap (which are excisable goods) **actually generated** in the course of manufacture alone is chargeable to duty and waste and **scrap generated without any process** is not liable to excise duty.
- Waste of exempted goods is exempt from excise duty.

Who is a manufacturer?

A person carrying out manufacture in terms of any of the three clauses of section 2(f) of CEA is the manufacturer. Following are also included:-

- a manufacturer who manufactures through hired labour
- a manufacturer who manufactures on his own account
- deemed manufacturer

Raw material supplier/ Brand name owner vis a vis manufacturer

- Person carrying out **actual manufacturing process is manufacturer** even if raw material is supplied by someone else and goods have been manufactured as per his specifications.
- A person supplying raw material/brand name owner will be considered as Manufacturer only if he supervises and controls the activities of the job worker
- If **no Supervision**, then the person actually carrying the manufacturing, shall be the Manufacturer

Collection of duty

Time for payment of duty

- Taxable event is manufacture, but collection at the stage of removal.

Person liable to pay duty

- Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse is liable to pay excise duty on removal of goods.

Exception: Where molasses are produced in a Khandsari sugar factory, the person who procures (purchases) such molasses (not the person who produces the same) is liable to pay duty on such molasses when the molasses are received in his factory.

Some special aspects (change of rate)

On the Date of Manufacture	On the Date of Removal	Leviability
Non – Excisable	Excisable	Not Excisable
Excisable @ Lower Rate	Rate Increased	Higher Rate
Excisable (Nil Rate/Exempt)	Rate Imposed	New Rate

Rate of duty - Rate of duty in respect of each tariff entry is specified in CETA.

- Effective rate of duty is ascertained by considering the exemption(s) available in respect of a particular item.

Valuation of excisable goods- Basis of computing duty payable

Specific duty - Duty payable on units like length, weight, volume etc (Eg.: Cigarettes)

Compounded levy scheme - - **Optional** duty payable on the basis of specified factors relevant to production of the goods covered under the scheme at specified rates for specified period.

Duty based on capacity of production

- **Mandatory** duty payable on **notified goods** on the basis of production capacity, without any reference to the actual production.

Duty based on value

- Duty payable on the basis of Tariff Value [Section 3(2) of CEA]

- Duty payable on the basis of Retail Sale Price [Section 4A of CEA]

- Duty payable on the basis of Transaction Value [Section 4 of CEA]

Tariff value [Section 3(2)]

- Central Government fixes/alters tariff values in respect of notified goods. Duty payable is a percentage of such tariff value.

Retail sale price (RSP) based valuation [Section 4A]

Applicable in respect of excisable goods

- which are notified by Central Government as goods in relation to which duty will be paid on the basis of RSP less abatements, if any; and

- declaration of RSP on package of such goods is required under Legal Metrology Act, 2009.

Value = RSP printed on the package – Abatement, if any, notified by the Government

- More than one RSP on package of excisable goods - Maximum of such price to be deemed as the RSP.

- Different RSPs on different packages meant for sale in different areas - Each such RSP to be the RSP in the relevant area.

- RSP increased after clearance from the place of manufacture - Increased RSP to be deemed as the RSP.

- RSP declaration is not mandatory on wholesale packages, packaged commodities for institutional/ industrial consumers, agricultural farm produce etc.

Transaction value [Section 4] - Residual method of valuation – If goods cannot be valued by any of the methods described above, they are to be valued as per provisions of section 4.

Definition of Transaction Value

- Transaction value means the price actually paid or payable for the goods, when sold, **and includes** in addition to the amount charged as price,

<u>Inclusions in transaction value</u>	<u>Exclusions from transaction value</u>
- Outward handling upto <u>place of removal</u> - <u>All forms of packing</u> (special, general, protective, etc.) - <u>Dharmada or charity</u> - <u>Design</u>, development and engineering charges specific to goods produced - <u>Bought out essential items</u> if the same are fitted to the main article at the time of removal. - <u>Consultancy charges relating to design</u>,	- <u>Durable/reusable packing</u> as it is amortized and included in the cost of product itself - <u>Optional bought out items</u> and accessories - <u>Independent testing</u> done by the buyer himself or through a third party - <u>All forms of discount</u> if actually passed on to the buyers. - Notional <u>interest on deposits</u>, advances unless it can be proved that price has been lowered on account of receipt of such

layout, etc. of final product done <u>upto place of removal</u> - <u>Testing & inspection charges</u> - <u>Pre-delivery inspection charges</u> and after sales service charges collected by the manufacturer - <u>Freight from factory to depot</u> if sale is from depot	advance from the buyer - <u>Interest on delayed payment</u> of receivables - <u>Bank charges</u> for collection of sale proceeds - <u>Delayed payment charges</u> - <u>Outward freight</u> from <u>factory/depot to place of customer.</u> - <u>Transit insurance</u>
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Price-cum-duty

Price actually paid for the goods sold + Money value of the additional consideration = Price-cum-duty - Sales tax and other taxes actually paid = Price-cum-duty deemed to be inclusive of the duty payable on such goods

$$\text{Assessable Value} = \frac{\text{Price - cum- duty (exclusive of sales tax/local tax)} \times 100}{(100 + \text{Rate of excise duty})}$$

Price charged (exclusive of sales tax/local tax) will be taken as price cum- duty:

- If the assessee has collected less duty from the buyer than what is due; or
- If the assessee has not collected any duty from the buyer even though the product is liable to duty; or
- If the assessee has paid duty on lesser value due to receipt of additional consideration.
- Amount of duty should be indicated prominently in all the documents/invoice, etc.
- Person liable to pay duty should forthwith deposit any sum collected from the buyer in name of excise duty with the Government.

Small scale industry (SSI) exemption:

Conditions:

Units having Turnover upto Rs. 4 Crores in the Previous Financial Year
 &

Manufacturing goods specified in SSI Exemption Notification

Are exempted from DUTY upto Turnover of Rs. 1.5Crores in the current financial year

- SSI exemption is not available in respect of clearances bearing a brand name of another person. However, goods manufactured in rural area, packing material, account books, registers, writing pads etc. are entitled to SSI exemption even though they bear the brand name of other person.

Higher threshold exemption (SSI exemption) for jewellery manufacturers:

With effect from 01.03.2016, excise duty of 1% (without CENVAT credit) or 12.5% (with CENVAT credit) has been levied on articles of jewellery [excluding silver jewellery, other than studded with diamonds/other precious stones]. The SSI exemption for such jewellery manufacturers would be upto Rs. 6 crore in a year with an eligibility limit of Rs. 12 crore in the preceding year. Thus, a jewellery manufacturer will be eligible for exemption from excise duty on first clearances upto Rs. 6 crore during a financial year, if his aggregate domestic clearances during preceding financial year did not exceed Rs. 12 crore.

[Effective from 01.03.2016]

General procedures:

(1) **Registration:** Every manufacturer of excisable goods is required to get his premises/warehouse registered.

(2) **Payment of excise duty:** The due dates and other provisions relating to payment of duty have been tabulated below:

		Due date for payment of duty	
Type of Assessee	Periodicity	In case of e-payment	Other than e-payment
Assessee eligible for <u>SSI exemption</u>	<u>Quarterly</u> payment of duty	<u>6th day</u> of the month <u>following</u> the relevant <u>quarter</u>	<u>5th day</u> of the month following the relevant quarter
		For goods removed during the <u>quarter ending in March, 31st day of March</u>	
<u>Other Assessee</u> s	<u>Monthly</u> of duty	<u>6th day</u> of the month <u>following</u> the relevant <u>month</u>	<u>5th day</u> of the month following the relevant month
		For goods removed during the <u>month of March, 31st day of March</u>	

· **E-payment of duty:** All assesseees are mandatorily required to pay the excise duty electronically through internet banking. However, the Assistant/Deputy Commissioner of Central Excise may for reasons to be recorded in writing, allow the assessee to deposit excise duty by any mode other than internet banking.

· **Interest @ 15% on delayed payment of duty**

· **Duty may be paid in cash or by utilizing CENVAT credit:** Duty may be paid in cash through account current, popularly known as PLA (Personal Ledger Account). Duty can also be paid by utilizing the CENVAT credit balance available at the end of the month, even though duty is payable by 5th/6th of following month.

(3) **Invoice:** An invoice is the document under cover of which the excisable goods are to be cleared by the manufacturer. Therefore, excisable goods cannot be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorized agent.

Serially numbered: The invoice should be serially numbered. The serial number shall commence from 1st April every year (beginning of a financial year). Such serial numbers need to be intimated to the Superintendent of Central Excise having jurisdiction over the factory of the assessee, before issuing the invoices.

Contents: The invoice should contain the registration number, address of the jurisdictional Central Excise Division, name of consignee, description, classification, time and date of removal, rate of duty, quantity, mode of transport, vehicle registration number and value of goods and the duty payable thereon.

Number of copies: The invoice has to be prepared in triplicate in the following manner, namely:-

- i. the original copy being marked as ORIGINAL FOR BUYER;
- ii. the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;
- iii. the triplicate copy being marked as TRIPLICATE FOR ASSESSEE.

(4) Returns under central excise:

Form of Return	Category of assessee	Periodicity	Due Date
<u>ER-1</u>	All assessees <u>except SSI</u>	<u>Monthly</u>	By <u>10th day</u> of the month <u>following the relevant month</u>
<u>ER-3</u>	Assessees eligible for <u>SSI concession</u> (even if he does not avail the concession)	<u>Quarterly</u>	By <u>10th day</u> of the month <u>following the relevant quarter</u>
<u>ER-4</u> (Annual Financial Information Statement)	Assessees paying <u>duty of Rs. 1 crore or more</u> per annum either through PLA or CENVAT or both together	<u>Annually</u>	By <u>30th November</u> of the succeeding year

Note: All the above returns have to be filed electronically.

Important Points:

1) Central excise registration to be granted online within 2 working days:

2) 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

3) In place of Annual Financial Information Statement [ER-4], an Annual Return will have to be filed by central excise assessee by 30th November of the succeeding year

[Effective from 01.04.2016]

Customs Duty

Meaning of customs duty

A duty or tax, which is levied by the Central Government on:-

- ♦ import of goods into, and
- ♦ export of goods from, India

Power to levy customs duty is conferred by Entry 83 of the Union List [*Duties of customs including export duties*]

LEVY OF CUSTOMS DUTY:

Applicability of the Act:

- ♦ The Customs Act, 1962 applies to the whole of India. India includes territorial waters of India.
- ♦ Besides, the Customs Act, 1962 and Customs Tariff Act, 1975 have been further extended to:-
 - (i) the notified designated areas in the Continental Shelf of India (CSI) and Exclusive Economic Zone of India (EEZI) and
 - (ii) whole of EEZI and CSI for the purpose of processing for extraction or production of mineral oils and supply of any goods in connection thereto.

Charging section [Section 12]:

- ♦ Customs duties shall be levied-
- ♦ at such rates as may be specified under the Customs Tariff Act, 1975. [*The two schedules of the Tariff specify the rates: First schedule specifies import duty rates and Second schedule specifies export duty rates*]
- ♦ on goods [*whether belonging to Government or not*]
- ♦ imported into and exported from India.

Determination of duty where goods consist of articles liable to different rates of duty

Where goods consist of a set of articles, duty shall be calculated as follows: -

Articles which are liable to duty with reference to:	shall be chargeable to
<u>quantity</u>	<u>that duty</u>
<u>value</u> and liable to duty at same rate	duty at that <u>rate</u>
value and liable to duty at <u>different rates</u>	duty at the <u>highest</u> of such rates
<u>Articles not liable to duty</u>	<u>shall be chargeable to duty at the rate at which articles liable to duty with reference to <u>value</u> are liable</u>

- ♦ Accessories, spare parts or maintenance and repairing implements for any article are chargeable at the same rate of duty as that of article.
- ♦ If the importer produces evidence to the satisfaction of the proper officer or the evidence is available regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

Taxable event in case of import/export:

Imports:

<u>In case of</u>	<u>taxable event is</u>
goods cleared for <u>home consumption</u>	time when the goods <u>become part of the mass of goods within the country.</u>
goods cleared for <u>warehousing</u>	time when the goods are <u>cleared from the warehouse for home consumption.</u>

Exports:

Export of goods is complete when the goods cross the territorial waters of India.

Basis	Pilferage of goods under section 13	Loss or destruction of goods under section 23(1)
Meaning	The word 'pilfer' means to steal, especially in small quantities; petty theft.	The word 'lost' or 'destroyed' refers to total loss of goods i.e. loss is forever and beyond recovery.
Duty on goods	Duty is not at all leviable on such goods.	The duty paid on the goods shall be remitted to the importer.
Subsequent restoration of goods	Where the pilfered goods are restored to the importer after pilferage, the importer becomes liable to duty.	In case of destruction of goods, the restoration of goods is not possible.
Warehoused goods	Provisions of section 13 are not applicable to warehoused goods.	Provisions of section 23(1) apply to warehoused goods also.
Onus to prove the pilferage/destruction or loss of goods	The onus to prove the pilferage does not lie on the importer.	The importer has to prove the loss/destruction to the satisfaction of the Assistant/ Deputy Commissioner of Customs.
Time of occurrence of pilferage or loss/destruction	The imported goods must have been pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse.	The imported goods should have been lost/destroyed at any time before clearance for home consumption.

No duty in case of relinquishment of the title to the goods:

- ◆ The owner of any imported goods may,
- ◆ at any time before an order for clearance of goods for home consumption or an order for permitting the deposit of goods in a warehouse has been made,
- ◆ relinquish his title to the goods and thereupon,
- ◆ he shall not be liable to pay the duty thereon.

Such relinquishment is not allowed in respect of such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

"Relinquish" means to give over possession/control of, to leave off.

Abatement of duty on damaged or deteriorated goods:

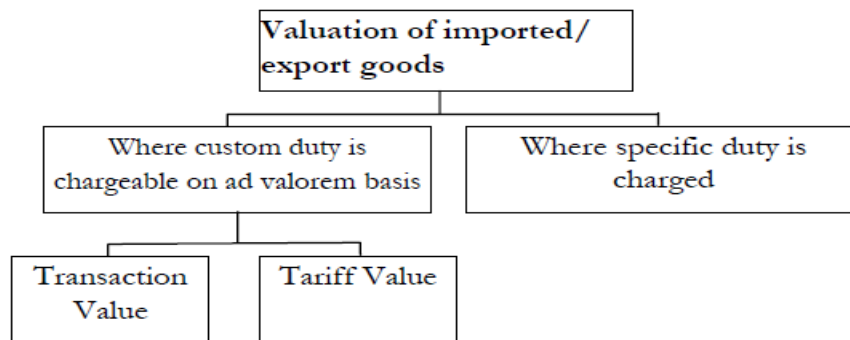
- ◆ The importer has an option to pay the reduced duty
- ◆ if it is shown to the satisfaction of the Assistant Commissioner/ Deputy Commissioner of Customs that
- ◆ the goods are damaged/deteriorated under any of the following circumstances:
 - before or during the unloading of the goods in India
 - on account of any accident, at any time after the unloading thereof in India but before their examination for assessment by the customs authorities
 - on account of any accident at any time before clearance for home consumption

EXEMPTION FROM CUSTOMS DUTY:

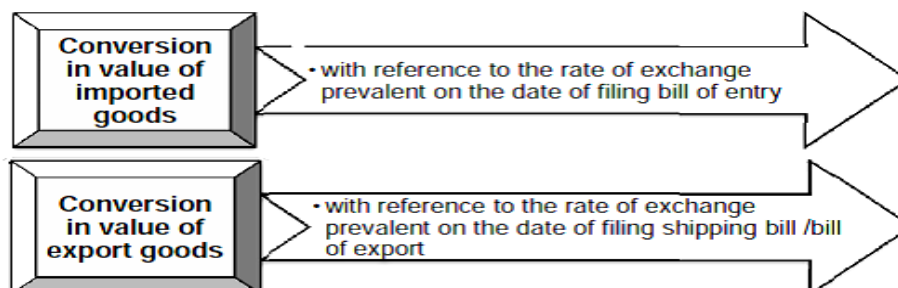
Central Government may grant exemption from customs duty if it is satisfied that it is necessary in the public interest to do so.

General exemption & Special Exemption

VALUATION OF IMPORTED AND EXPORT GOODS:



Date relevant for determination of rate of exchange:



For the purpose of valuation under customs, rate notified by CBEC (Board) shall be taken into account.

DATE FOR DETERMINING THE RATE OF DUTY AND TARIFF VALUATION OF IMPORTED GOODS

In case of:	Rate of Duty as on:
Goods cleared for <u>Home Consumption</u>	Date of <u>Presentation of Bill of Entry</u> OR <u>Date of Entry Inwards</u> of Vessel/Vehicle/Aircraft, whichever is later
Goods cleared <u>for Home Consumption from Warehouse</u>	Date of <u>Presentation of Bill of Entry</u> for Home Consumption
<u>Any Other Goods</u>	<u>Date of Payment of Duty</u>

DATE FOR DETERMINING THE RATE OF DUTY AND TARIFF VALUATION OF EXPORT GOODS

In case of:	Rate of Duty as on:
Goods Entered for <u>Export</u>	The Date on which proper officer makes an <u>order permitting clearance</u>
<u>Any Other Goods</u>	<u>Date of Payment of Duty</u>

TYPES OF CUSTOMS DUTIES:

- 1) **Basic customs duty @ 10%**
- 2) **Additional customs duty under section 3(1) of the Customs Tariff Act, 1975 [also known as Countervailing duty (CVD)] @ 12.5%**
equal to excise duty for the time being in force leviable on a like article if produced or manufactured in India
- 3) **Special CVD under section 3(5) of the Customs Tariff Act, 1975 @ 4%**
♦ to counter-balance the sales tax, VAT, local tax or any other charges for the time being in force leviable on a like article on its sale, purchase or transportation in India**
- 4) **Education cess (EC)**
at the rate of 2% on aggregate of customs duties leviable on such goods.
- 5) **Secondary and Higher Education cess (SHEC)**
at the rate of 1% on aggregate of customs duties leviable on such goods.

Steps for computation of basic customs duty, CVD, special CVD & education cesses:

S.No.	Particulars	₹
(1)	Assessable value for computing basic customs duty [Transaction value under section 14(1)/Tariff value under section 14(2)]	xxxx
(2)	Add: Basic custom duty [(1) × Rate of BCD]	xxxx
(3)	Total value for computing additional customs duty u/s 3(1) [(1)+(2)]	xxxx
(4)	Additional custom duty u/s 3(1) [(3) × Rate of CVD]	xxxx
(5)	Total duty amount for education cess of customs [(2)+(4)]	xxxx
(6)	Education cess @ 2% of (5)	xx
(7)	Secondary and higher education cess @ 1% of (5)	xx
(8)	Total duty payable before additional customs duty u/s 3(5) [(5)+(6)+(7)]	xxxx
(9)	Total value for computing additional customs duty u/s 3(5) [(1)+(8)]	xxxx
(10)	Additional customs duty u/s 3(5) [(9) × Rate of special CVD]	xxxx
(11)	Total duty payable [(8)+(10)]	xxxx

Value Added Tax (VAT)

What is VAT?

- VAT is a tax on the value added to the commodity at each stage in production and distribution chain.
- When tax is levied on tax i.e, tax leviable at each stage is chargeable on a value which includes the tax paid at earlier stage; it leads to cascading of taxes.
- Under VAT, tax is not levied on tax paid at earlier stage; it is levied only on the value added as credit of tax paid at earlier stages is allowed to be set off against the tax payable at the next stage. Thus, VAT helps in eliminating cascading of taxes.

Three variants of VAT:-

Gross product variant: Here deduction is allowed on purchase of raw materials, but not on capital goods. i.e. ITC on raw materials

Vat payable = output tax – input vat on raw materials.

Income variant: Here deduction is allowed on purchase of raw materials as well as on capital goods, but in proportion of depreciation. i.e. ITC on raw materials is available in full but ITC on capital goods, is available on pro rata basis.

Consumption variant: Here dealer can claim ITC on raw materials & capital goods immediately.

Three methods used for Computation of Tax:

Addition Method: As VAT is levied on “Value Addition”, in this method, factor payments (expenses) are aggregated with profit & then VAT is levied on it. Mainly used with income variant of VAT.

Subtraction Method: In this method, the tax rate is applied to the difference between the value of output (sales) & cost of input (purchases). Suitable for gross product variant of VAT. Applied where tax is not charged separately.

Tax Credit Method/Invoice Method: In this method VAT = Output Tax – Input Tax. Also called as 'Tax Credit Method' or 'Voucher Method'. Mainly used with consumption variant of VAT.

Merits of VAT:

- 1) Eliminates multiple taxation on the full selling price at every stage.
- 2) Lowering tax burden because of input tax credit.
- 3) Simple method & Transparency
- 4) Assessee can themselves assess their VAT liability.
- 5) No complicated definitions of business, sales, purchases etc like in sales tax act.
- 6) No tax evasion as ITC is given only against original invoice.
- 7) Greater uniformity in taxation.
- 8) Neutral: VAT does not depend upon location of business or type of business or type of business organization as it was in sales tax act.
- 9) Stable source of income for government.
- 10) It reduces the cascading effect.
- 11) Abolishing of various taxes which were imposed in sales tax act. Etc e.g. Surcharge, Turnover tax etc. Therefore, overall tax burden is rationalized.

Demerits:

- 1) VAT is a form of consumption tax, more part of income is spent by consumption by poor people as compared to the rich ones.
Therefore, more burden on poor. Hence it is regressive in nature.
- 2) Value addition is done by wholesalers, retailers and other intermediaries but the ultimate burden shifts to the user (consumer).
- 3) Lots of exemptions have been notified by the VAT act which leads to distortions.
- 4) Earlier it was decided to maintain a floor rate in the VAT system but ultimately there are different rates i.e. 1%, 5%, 12.5%, & 20%.
- 5) Administration cost of the government increases to have better collection of taxes.
- 6) There is no proper definition of various products. for e.g. paper is covered under schedule c which is taxed as 5% while sand paper and tissue paper is covered under schedule E i.e. 12.5%.
- 7) The working cap requirement increases due to multipoint taxation.
- 8) The account maintaining cost increase as the assessee had to maintain various records under VAT system.

Rates of Taxes:

0%	Natural and unprocessed products in unorganized sector - Items which are legally barred from taxation and items which have social implications
1%	Precious stones, bullion, gold and silver ornaments etc
5%	Items of basic necessities like medicines and drugs, all agricultural and industrial inputs, declared goods & capital goods.
12.5/13.5%	All other goods not chargeable to any of the above rates. Originally White Paper had proposed 12.5% rate as the revenue neutral rate but most of the States have subsequently increased this rate to 13.5%.

Coverage of goods under VAT

Generally, all the goods, including declared goods are covered under VAT (benefit of input tax credit allowed).

Liquor, lottery tickets, petrol, diesel, aviation turbine fuel and other motor spirit are not covered under VAT.

Though sale of liquor, petrol, diesel and aviation turbine fuel (ATF) is charged to tax under VAT laws in many States, taxes paid on them are not allowed as credit to the buyer. Thus, they are outside the VAT chain.

<u>Input Tax</u>	Input tax is the <u>tax paid or payable in the course of business on purchases of any goods</u> (inputs, capital goods and other goods) from a registered dealer <u>OF THE STATE</u> .
<u>Output Tax</u>	<u>Output tax is the tax charged or chargeable under the Act, by a registered dealer on the sale of goods in the course of business.</u>

Input Tax Credit (ITC)**Purchases eligible for ITC:**

Taxable goods should be purchased for any of the following purposes:

- for intra-State or inter-State sale/resale;
- for being used in the execution of a works contract;
- for making zero-rated sales other than exports
- As per White Paper, input tax credit on capital goods can be adjusted over a maximum of 36 equal monthly installments.

Purchases not eligible for ITC:

- purchases from unregistered dealers;
- purchases from registered dealer who opts for composition scheme;
- invoice less purchases;
- purchase where invoice does not show amount of tax separately;
- purchases for being utilized in the manufacture of exempted goods or purchase of goods when sales are exempt;
- purchase of goods for personal use/consumption;
- imports and inter-State purchases

Some special aspects:

In case of stock transfer, input tax paid in excess of 2% is allowed as ITC.

Whereas for zero rated sales ITC can be availed, it cannot be availed in respect of exempt sale.

After utilizing ITC for payment of VAT and CST, excess credit, if any, can be carried forward.

As per White Paper, if goods are exported, input tax paid is to be refunded within a period of 3 months from the end of the period in which export took place.

As per White Paper, SEZ units and EOU are granted either exemption from payment of input tax or refund of input tax paid within three months.

Composition Scheme:

White Paper provides an optional composition scheme for small registered dealers where tax is paid at a small percentage (composition rate) of the gross turnover. Composition rate can be reduced to as low as 0.25%.

Eligible dealer:

A registered dealer who is liable to pay VAT and whose turnover does not exceed Rs. 50 lakh in preceding financial year and whose purchases and sales are within the State, can opt for Composition Scheme.

Non-eligible dealer:

Dealer making inter-state purchases/sales;

Dealer importing/exporting goods for sale in/outside India;

Dealer stock transferring goods outside the State;

Dealer desirous of issuing VAT-able invoice.

<u>Advantages</u>	<u>Disadvantages</u>
1) Simple calculation	1) No ITC therefore cost of goods increases therefore higher tax is to be paid.
2) Less amount of tax payable	2) Cannot issue tax invoice.
3) Simple records to be maintained. Therefore less accounting cost.	3) As the purchaser would not get any ITC

4) Simple VAT returns to be filled.	for the purchases made from such composition dealer, such purchases desirous of availing ITC may not prefer to buy from composition scheme dealers. Hence the profitability may get affected.
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VAT and Works Contract:

<u>Basic principles</u>	◆ Works contract is a <u>deemed sale</u> (composite contract of goods and services) and is thus, <u>liable to VAT</u>. ◆ While <u>VAT is leviable on goods involved</u> in the execution of works contract, <u>service tax is levied on value of services</u>.
<u>VAT Turnover</u>	◆ Where <u>labour and other service charges are quantifiable</u>, <u>taxable turnover would be contract price less labour</u> and other service charges. ◆ Where <u>labour and other service charges are not quantifiable</u> - <u>taxable turnover can be cost of goods plus cost of conversion and profit margin</u>
<u>Tax rates</u>	<u>As per respective States (Usually 12.5% or 13.5%)</u>

VAT and Lease Transactions

<u>Lease</u>	Under a lease, a party owning the asset (called the 'lessor') provides that asset for use over a certain period of time to another party (called the 'lessee') for consideration (called 'rentals'). Legal ownership of the asset remains with the lessor, but the lessee retains the possession and uses the asset over the period of the lease.
	◆ Lease is a <u>deemed sale and is thus, liable to VAT</u>. ◆ <u>If complete possession and control is not handed over</u> in respect of an asset given on rent, <u>transaction is not a deemed sale</u> but a service and is thus, liable to service tax. ◆ <u>Input tax credit is allowed to lessor on purchase of the asset</u> which is to be leased.
<u>VAT Turnover</u>	◆ Taxable turnover is the amount of valuable consideration paid or payable for any sale during the given period.

VAT and Hire Purchase

<u>Hire Purchase (HP)</u>	Whereas under HP, hirer acquires the goods immediately on signing the hire-purchase agreement but ownership or title of the same is transferred only when last installment is paid, under installment payment system, buyer gets ownership of the goods with the payment of first installment.
	◆ Since <u>HP transactions are deemed sales</u>, they are liable to VAT. ◆ Tax may not be payable when transaction fructifies into a concluded sale as tax has already been paid on installments.

VAT and Sale of Food Articles

	◆ <u>Sale of food in a hotel is a deemed sale liable to VAT</u> . <u>Service portion involved</u> in such a sale is declared to be a service liable to service tax.
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VAT procedures

(1) Registration: Registration is the process of obtaining certificate of registration (RC) from the authorities.

Tax Payer's Identification Number (TIN): TIN (Tax Payer's Identification Number) is the registration number of the dealer consisting of 11 digit numerals throughout the country. First two characters represent the State code as used by the Union Ministry of Home Affairs. The set of the next nine characters are however, different in different States.

(2) Invoice: Invoice is a document listing goods sold with price, tax charged and other details as may be prescribed and issued by a dealer authorized under the Act.

Importance of VAT invoice (tax invoice): Invoices are crucial documents for administering VAT. In the absence of invoices, VAT paid by the dealer on the inputs/capital goods cannot be claimed as set off. Invoices should be preserved with full care. In case any original invoice is lost or misplaced, a duplicate authenticated copy must be obtained from the issuing dealer.

Contents of VAT invoice: Generally, the various legislations provide that the tax invoice should have the following contents:

- (i) the words 'tax invoice' in a prominent place;
- (ii) name and address of the selling dealer;
- (iii) registration number of the selling dealer;
- (iv) name and address of the purchasing dealer;
- (v) registration number of the purchasing dealer (may not be required under all VAT legislations);
- (vi) pre-printed or self-generated serial number;
- (vii) date of issue;
- (viii) description, quantity and value of goods sold;
- (ix) rate and amount of tax charged in respect of taxable goods;
- (x) signature of the selling dealer or his regular employee duly authorized by him for such purpose.

(3) Returns: A registered dealer has to required to file monthly/quarterly/annual returns as per the provisions of the State Acts/Rules along with the tax payment challans.

(4) Audit by Chartered Accountants: Apart from the Departmental Audit, many States have also incorporated the concept of audit of accounts by Chartered Accountants. However, auditing for all types of dealers may not be necessary. For example, in Maharashtra and Rajasthan, the dealer whose turnover exceeds Rs. 100 lakhs in any year is required to get his accounts audited in respect of such year.

Role of CA in VAT:

Record keeping

Handling audit by departmental auditors

Procedure requirement of VAT laws

External audit of Vat records

Advisory to Clients

Representations before Authority on behalf of clients

Central Sales Tax Act, 1956

- CST on sales made from one state to another (inter-state).
- Powers from Entry 92A of Union List.
- CST Act, 1956
- CST is collected by that SG from where the movement of goods is commenced.
- CST on sale of all goods other than electrical energy/ newspapers.

Inter State Sale u/s. 3:

- 1) Section 3(a) – Direct Inter State Sale**
- 2) Section 3(b) – Sale by Transfer of Documents**

Section 3(a) – Direct Inter State Sale:

Example 1:

Even if the buyer and seller are in the same State, it is an inter -State sale if the sale occasions the movement of goods from one State to another.

Example 2:

Movement of goods on the basis of telephonic conversation is sufficient to be held as inter-State sale

Example 3:

Even if the buyer is located outside the State, sale is not an inter -State sale if the goods do not move outside the State

Section 3(b) – Sale by Transfer of Documents:

Transport by road – Lorry Receipt
Transport by rail – Railway Receipt
Transport by sea – Bill of Lading
Transport by air – Airway Bill

Inter-State stock transfer/inter-State consignment transfer [Section 6A]:

When goods are transferred outside the state to other place of business, it is considered as Inter State Stock Transfer.

Since it is a transfer & not sale, CST is not applicable, provided Form F is furnished to the assessing authority.

No CST is payable provided there was no pre-existing agreement for the sale of the goods so transferred.

Other Concepts:

1) Sale in course of import/export [Section 5]

CST shall not be attracted in these cases

2) Penultimate sales, i.e. the sale preceding the sale occasioning the export.

A sale is considered as penultimate sale if:

- (i) There is a pre-existing agreement or order in relation to export.
- (ii) Penultimate sale must be, after the agreement with the foreign buyer, for the purpose of complying with such agreement or order in relation to export.

(iii) Same goods which are sold in penultimate sale must be exported, though may not be in the same form.

Selling dealer needs to furnish **Form H** obtained from the exporter to whom the goods are sold.

3) If any designated Indian carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export.

4) No CST on subsequent sales:

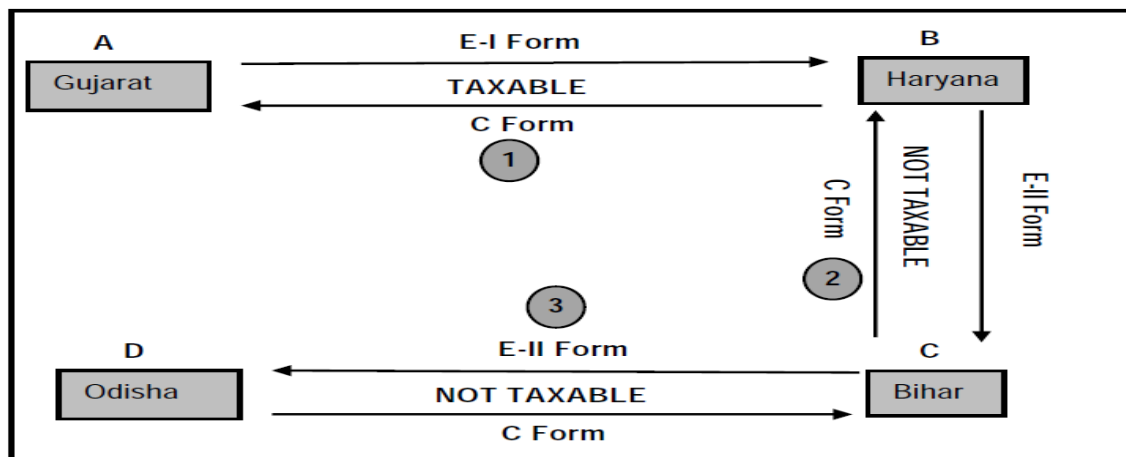
First sale should be an inter-State sale and Form C should be obtained from the buying dealer.

Subsequent inter-State sale is exempt only if purchaser is a registered dealer.

The dealer effecting the subsequent sale needs to furnish following certificates/declaration:-

(a) Form E-I/Form E-II: obtained from the registered dealer from whom he has purchased the goods, and

(b) Form C: obtained from buying dealer if the subsequent sale is made to a registered dealer*.



5) No CST on sale to foreign missions or UN etc if:

(i) Such buyer has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(ii) The dealer selling such goods furnishes to the prescribed authority **Form J** obtained from such buyer.

6) Exemption from CST to a sale to unit/developer in SEZ

A registered dealer in SEZ (unit in SEZ/developer of SEZ) can obtain goods from outside SEZ, for specified purposes, without payment of CST provided:-

Form I has been furnished by the purchasing dealer

RATES OF TAX ON SALES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE:

The concessional rate of CST is:-

(i) 2% of the turnover of the dealer

or

(ii) Rate applicable to the sale or purchase of such goods inside the appropriate state under the sales tax law of that State whichever is lower.

Conditions to be fulfilled for concessional rate of CST:

- Sale has been made to a registered dealer.
- Selling dealer has obtained a declaration in **Form C** from the purchasing dealer and furnish it to the prescribed authority.

Rates of CST at a glance:-

In case rate of sales tax within the State is	CST rate in case of sale to registered dealers is	CST rate in case of sale to unregistered dealers is
less than 3%	applicable rate of sales tax within the State	applicable rate of sales tax within the State
3% or more	2%	

DETERMINATION OF TURNOVER FOR CENTRAL SALES TAX:

Deductions to be made from the aggregate of the sale prices while computing the turnover:

(i) Central sales tax payable

$$\text{Turnover} = \frac{\text{Aggregate of sales price} \times 100}{100 + \text{Rate of tax}}$$

(ii) Sale price of all **goods returned** to the dealer by the purchasers of such goods within a period of 6 months from the date of delivery of the goods.

The period of six months for return of goods is not applicable in respect of **rejected goods** as it is a case of unfructified sale.

Meaning of sale price

Inclusions: Any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof

Exclusions:

Cash discount

Cost of freight/ delivery or cost of installation where such cost is separately charged by the dealer.

Other Inclusions and Deductions from sale price

Dharmada includible because so far as the purchaser is concerned, he has to pay the whole amount for purchasing the goods.

Weighment dues includible if the services of weighing are in respect of the goods and incidental to their being sold.

Insurance charges includible if incurred by the assessee prior to the delivery of the goods.

Packing charges packing charges and cost of packing material are includible.

Indemnity/ Guarantee charges excluded as it is recovered from the same buyers to incur loss during transit at buyers' request.

Excise duty includible

Government subsidies excluded

Design Charges includible if charged separately in respect of goods manufactured as per design and sold to buyer

Deposits for returnable containers excluded

Free of cost material supplied by customer excluded

Basic Concepts of Service Tax

Service Tax Law Consists of:

- (a) Finance Act, 1994: Chapter V & VA of the Finance Act, 1994.
- (b) Rules on service tax
- (c) Notifications on service tax
- (d) Circulars or Office Letters (Instructions) on service tax

Persons involved: 1) Service Provider 2) Service recipient

Extent, Commencement and Application [Section 64]:

The Act extends to whole of India except the state of Jammu & Kashmir

Provisions of the Act do not extend to Jammu & Kashmir:

- (a) Service provided in Jammu & Kashmir not liable to service tax.
- (b) Services provided from Jammu & Kashmir outside Jammu & Kashmir liable to service tax.

India means:(a) The territory of the Union (**States and the Union Territories**)

- (b) Its territorial **waters** (up to 12 nautical miles from the Indian land mass), continental shelf, exclusive economic zone or any other maritime zone (for specified purpose)
- (c) The seabed and the subsoil underlying the territorial waters; (**under water**)
- (d) The air space above its territory and territorial waters; (**above water**)

Charge of Service Tax [Section 66B]:

- Tax shall be levied at the rate of 14% - on the value of **all services - other than** those services specified in the negative list - **provided or agreed to be provided** -in the **taxable territory** - **by one person to another**

Swachh Bharat Cess (SBC): (w.e.f. 15.11.2015)

- It is a **Cess** which shall be levied and collected as service tax on all the taxable services at the rate of 0.5% of the value of taxable service.

SBC needs to be charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code.

Example:

Value of Taxable Service: Rs 100

Service Tax = $100 * 14\% = 14$

SBC = $100 * 0.5\% = 0.5$

Total = 14.5 (i.e 14 + 0.5)

Thus Effective Rate becomes 14.5%

Definition of service [Section 65B(44)]:

Service means:(i) any **activity for consideration** (ii) carried out **by a person for another** and (iii) includes a **declared service**.

(Therefore services provided by one branch of a company to another or to its head office or vice-versa are not taxable as they are not provided by one person to another)

Exclusions: (Not a Service - So Not taxable)

Not a service - So Not taxable:

- (i) Sale, Gift
- (ii) Deemed Sale (Hire Purchase etc.)
- (iii) Transaction in money or actionable claim
- (iv) Service by an employee to the employer in the course of employment;
- (v) Court Fees
- (vi) Functions by MP / MLA / Corporators etc; or
- (vii) Duties performed by person who holds post as per provisions of Constitution (E.g CAG)
- (viii) Duties performed by person as a Chairperson or a Member in a body established by the CG or SG or local authority. (E.g. Service by president of ICAI as a president)

Extra Examples

- An artist performing on a street where passersby may drop some coins in his bowl kept either after feeling rejoiced.
- Personal obligations e.g. pocket money
- Amount paid as alimony for divorce
- Donations without conditions
- Tips and ex-gratia payments
- Award is received in consideration for life time contribution (Reason - There is no Immediate connection. E.g. Nobel Prize)

For Service = Activity + Consideration. So if No Consideration - No Service. So Not Taxable:

- (i) Fine or penalty for violation of law.
- (ii) Security deposit forfeited for accidental damages not relatable to provision of service.
- (iii) Excess amount received if returned.

Only one person involved - So Not Taxable:

Services provided by one branch of a company to another or to its head office or vice-versa
Deemed Distinct Person - So taxable:

- (i) Services by an unincorporated association to its members and vice versa.
- (ii) Services by an establishment of a person in the taxable territory to any of his other establishment in a non-taxable territory and vice versa.
- (iii) Services provided by the members of the Joint Venture (JV) to the JV and vice versa or between the members of the JV

Extra Points:

If a transaction is only in money, then it is not a service and hence not taxable. But any activity for which a fee or commission is charged, and then such fee or commission charged is taxable.

Following are taxable: (ST on the Margin kept)

- (a) Activity by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;
- (b) Activity by a foreman of chit fund for conducting or organising a chit in any manner.

Negative list of services [Section 66D]:

This 'Negative List' is of importance because every activity not covered under this list is chargeable to service tax.

(a) Services provided by Government or a local authority:		
Negative List (Not Taxable)	Taxable	Exempt by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):
Services provided by Government or a local authority by way of: - <u>Basic mail, inland letter, registered post, transfer of money through money orders, operation of savings accounts, issue of postal orders, pension payments.</u> - <u>All other service</u> if not specified in taxable list.	(i) Services by the Department of Posts by way of <u>speed post, express parcel post, life insurance, and agency services</u> (distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills) <u>provided to a person other than Government;</u> (ii) Services in relation to an <u>aircraft or a vessel;</u> (iii) <u>Transport of goods or passengers;</u> or (iv) <u>Support Services provided to business entities (Reverse Charge);</u>	-By governmental authority by way of any activity in relation to any function entrusted to a municipality. -By Government/LA to <u>a business entity with a turnover up to Rs. 10 lakh</u> in the preceding financial year.[Effective from 01.04.2016] -By Government/LA to <u>another Government/LA.</u> [Effective from 13.04.2016] -By way of <u>issuance of passport, visa, driving licence, birth certificate or death certificate.</u> [Effective from 13.04.2016] - By Government/LA to <u>Business Entities, where gross amount charged does not exceed Rs. 5000</u> [Effective from 13.04.2016] - By Government/LA by way of tolerating non-performance of a contract for <u>finer or liquidated damages</u> is payable to the Government or the local authority under such contract [Effective from 13.04.2016] -By Government/LA by way of- (a) <u>registration required</u> under any law for the time being in force; (b) <u>testing, calibration, safety check or certification</u> relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force [Effective from 13.04.2016] -By Government/LA by way of- <u>Assignment of right to use any natural resource</u> where such right to use was assigned before <u>1st April, 2016</u> are exempt from service tax.

		-By Government/LA by way of- <u>Assignment of right to use natural resources to an individual farmer for the purposes of agriculture</u> are exempted from service tax, even when assigned <u>on or after 1st April, 2016</u>. -By Government/LA/GA by way of- Any activity in relation to any function entrusted to a <u>Panchayat</u> [Effective from 13.04.2016] - By Government by way of <u>deputing officers after office hours</u> or on holidays for inspection etc in relation to import export cargo on <u>payment of Merchant Overtime charges (MOT)</u> [Effective from 13.04.2016]
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Other Points:

Definition of Governmental Authority:

Authority or board or body set up by act of parliament or state legislature or established by Government; with 90% or more participation by way of equity or control; to carry out functions entrusted to municipality under constitution.

Following are exempt from Service Tax:

(i) Services provided to Government/LA or a Governmental authority by way of:

(a) Water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or

(b) Repair or maintenance of a vessel is exempt from service tax.

(ii) Services provided to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession; from a provider of service located in a non-taxable territory

(b) Services provided by the Reserve Bank of India

Negative List (Not Taxable)	Taxable	Exempt by Notification (Not a part of negative list)
All Services provided by RBI	Eg.: Services provided to RBI other than →	Services <u>provided to RBI, from outside India in relation to management of foreign exchange reserves</u> are exempt from service tax.

(c) Services provided by a foreign diplomatic mission located in India

[GHAR AAYE MEHMAAN]

Negative List (Not Taxable)	Taxable	Exempt by Notification
All Services <u>provided by them</u>	-	Services <u>provided to foreign diplomatic mission</u> for official/personal use.

(d) Services relating to agriculture or agricultural produce		
Negative List (Not Taxable)	Taxable	Exempt by Notification (Not a part of negative list)
(i) <u>Agricultural operations</u> ; (ii) Supply of farm labour; (iii) Processes carried out at an agricultural farm (Eg.: cutting, harvesting, etc) which do not alter the essential characteristics of agricultural produce but <u>make it only marketable for the primary market</u>; (iv) <u>Renting of agro machinery or vacant land</u>; (v) <u>Loading, unloading, packing, storage or warehousing of agricultural produce</u>; (vi) Agricultural extension services <u>(farmer education or training)</u> (vii) <u>Services by any Agricultural Produce Marketing Committee (APMC) or by a commission agent for sale or purchase of agricultural produce</u>; Note: <u>Testing includes all type of testing, viz. seed testing, soil testing etc.</u>	Process which makes agricultural produce marketable <u>in the retail market</u> <u>Supply of Labour to Warehouse (Manpower Services)</u>	(i) Many such benefits have been extended to <u>rice</u> by way of appropriate entries in the mega exemption notification as follows:- (a) Services by way of <u>loading, unloading, packing, storage or warehousing of rice</u> are exempt from service tax. (b) Carrying out an <u>intermediate production</u> process as job work in relation to agriculture is exempt from service tax. It is clarified that <u>paddy milled into rice</u>, 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) Services by way of <u>loading, unloading, packing, storage or warehousing of cotton ginned or baled</u> are exempt from service tax. <u>Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables</u> which do not change the characteristic of the product are exempted (Amendment)

Other Points:

Agriculture means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products. (Stud Farm)

Circular No.177/03/2014 ST dated 17.02.2014 has clarified that the above definition of agricultural produce covers 'paddy'; but excludes 'rice'. It implies that benefits available to agricultural produce in the negative list are not available to rice.

(e) Trading of goods		
Negative List (Not Taxable)	Taxable	Exempt by Notification
(i) Normal Trading (ii) Forward / Future contracts in commodities	(i) Activities of a <u>commission agent</u> (ii) <u>Auxiliary services</u> relating to future contracts or commodity futures	-

(f) Any process amounting to manufacture or production of goods		
Negative List (Not Taxable)	Taxable	Exempt by Notification
<u>Provided</u> duties of excise are <u>leviable</u> on such processes under the Central Excise Act, 1944 or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	<u>Alcoholic liquor for human consumption</u>	Carrying out an <u>intermediate production</u> process as job work in relation to - (a) <u>Agriculture</u> , printing or textile processing; (b) <u>Cut and polished diamonds</u> and gemstones; or plain and studded jewellery of gold and other precious metals; (c) Any goods on which <u>appropriate duty is payable</u> by the principal manufacturer; or (d) Processes of <u>electroplating, zinc plating, anodizing</u> , etc. during the course of manufacture of parts of cycles or sewing machines – <u>Last year less than Rs. 150 Lakhs then current year upto Rs. 150 - Exempt</u> <u>Information Technology Software</u> (IT Software) on media <u>bearing RSP</u> is exempted from service tax <u>provided central excise duty is paid on RSP</u> in accordance with section 4A of the Central Excise Act.(With effect from 01.03.2016)

(g) Selling of space or time slots for advertisements		
Negative List (Not Taxable)	Taxable	Exempt by Notification
Selling of space for advertisements <u>in print media</u> “Print media” means: <u>Book & Newspaper</u>	Advertisement in <u>business directories, yellow pages and trade catalogues</u> which are primarily meant for commercial purposes <u>Making or preparing advertisements.</u> <u>Canvassing advertisement</u> for publishing on a commission basis	-

(h) Service by way of access to a road or a bridge on payment of toll charges		
Negative List (Not Taxable)	Taxable	Exempt by Notification
<u>Toll Paid</u>	<u>Collection charges paid to any toll collecting agency</u>	-
(i) Betting, gambling or lottery		
Negative List (Not Taxable)	Taxable	Exempt by Notification
Betting, gambling or lottery	<u>Auxiliary services</u> that are used for organizing or promoting betting or gambling events	-

(j) Entry to amusement facility		
Negative List (Not Taxable)	Taxable	Exempt by Notification
Earlier it was covered in Negative List. However now it has been deleted from Negative List. Therefore it is fully taxable subject to exemptions.	Everything other than those mentioned →	Admission to museum/animal habitats/entertainment events: A. Admission to <u>museum/animal habitats</u> B. Admission to <u>entertainment events</u>: (i) exhibition of <u>cinematographic film, circus, dance</u> , or theatrical performance including drama or ballet (No Limit); (ii) <u>recognized sporting event</u> (No Limit); (iii) <u>award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event</u> , where admission <u>fees</u> is ≤ Rs. 500.

(k) Transmission or distribution of electricity by an electricity transmission or distribution utility		
Negative List (Not Taxable)	Taxable	Exempt by Notification
Transmission or Distribution	-	-

(l) Education Services:		
Negative List (Not Taxable)	Taxable	Exempt by Notification
(i) <u>Pre-school</u> education and education <u>up to higher secondary</u> school or equivalent; (CBSE, ICSE, SSC, HSC, International School) (ii) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force (B.Com etc) (iii) Education as a part of an	(1) <u>Private Tuitions, Coaching Class etc</u> (2) Education service for obtaining a <u>qualification recognized by a law of a foreign country</u> (CFA/CPA) <u>Recruitment & Pre-recruitment</u> services Services provided by the IIM by	(i) <u>Recreational coaching or training</u>: Services by way of training or coaching in recreational activities relating to <u>arts, culture or sports</u> are exempt from service tax. (ii) Educational services: Services provided- (a) <u>BY</u> an educational institution <u>to its students, faculty and staff</u>; (b) <u>TO</u> an educational institution, by way of,- (i) <u>Transportation of students, faculty and staff</u>; (ii) <u>catering</u>, including any mid-day meals scheme sponsored by the Government; (iii) <u>Security or cleaning or house-keeping</u> services performed in such educational institution; (iv) Services relating to: <u>admission/admission test</u> or conduct of examination by such institution. (iii) Skill development services: Services provided by:- The National Skill Development Corporation (NSDC) / Sector Skill Council (SSC) & approved assessment agency, approved training partner in relation to <u>Approved</u>

<u>approved vocational education course.</u> (Mobile Repair Course/Carpentry)	<u>way of Executive Development Programme</u>	<u>National/Vocational Skill Development Programme</u> (iv) Services of public libraries by way of lending of books (v) Services provided by the Indian Institutes of Management (IIM) to their students, by way of the specified educational programmes. (With effect from 01.03.2016) Eg.: (a) two year full time residential Post Graduate Programmes in Management (b) fellow programme in Management; (c) five year integrated programme in Management.
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(m) <u>Renting Services</u> by way of renting of residential dwelling for use as residence – Not taxable.		
Negative List (Not Taxable)	Taxable	Exempt by Notification
<u>Residential on Rent for Use as Residence</u>	<u>Hotel, motel, inn, guest house, camp– site, lodge, house boat, or like places meant for temporary stay</u> <u>Furnished own flats given on rent for a short stay for different persons</u> over a period of time	-

(n) Financial Service:		
Negative List (Not Taxable)	Taxable	Exempt by Notification
(i) <u>Interest or Discount;</u> (ii) <u>Sale or purchase of foreign currency amongst banks/dealers</u>	(i) Any <u>charges/commission</u> charged (ii) <u>Brokerage</u> for dealing in foreign exchange with client.	-

(o) Service of transportation of passengers:		
Negative List (Not Taxable)	Taxable	Exempt by Notification
(i) <u>A stage carriage</u> (Vehicles which can carry more than six passengers for hire for separate fares paid by individual passengers i.e Public transport) (ii) <u>Railways - 2nd class or general class, sleeper class</u> (iii) <u>Metro, monorail or tramway;</u> (iv) <u>Inland waterways;</u>	Eg.: <u>Radio Taxis</u> (Ola/Meru/Uber etc) <u>Ropeway, cable car or aerial tramway</u> (With effect from 01.04.2016)	(a) <u>Air</u> , embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;

(v) <u>Public transport, other than for tourism purpose, in a vessel</u> between places located in India (Eg.: Mumbai – Alibaug) (vi) <u>metered cabs</u> (Kaali – Peeli) or <u>auto rickshaws</u>	<u>Air Conditioned contract carriage</u> <u>Contract Carriage for tourism, charter or hire</u>	(b) <u>Non air-conditioned contract carriage other than radio taxi, for the transportation of passengers, excluding tourism, conducted tour, charter or hire;</u> (Eg.: Office Buses / Society Complex Buses)
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Abatements:

Transport of Passengers:

By Rail (<u>AC/1st Class</u>)	<u>70%</u>	Cenvat Credit is available only for Input Services
By Air: <u>Economy Class</u> <u>Other than Economy Class</u>	<u>60%</u> <u>40%</u>	Cenvat Credit is available only for Input Services
<u>Contract Carriage other than Motor Cab (Eg: Family Picnic by Bus) or by Radio Taxis</u>	<u>60%</u>	No Cenvat Credit Available

(p) Services by way of transportation of goods:

Negative List (Not Taxable)	Taxable	Exempt by Notification
(i) <u>By road except the services of a goods transportation agency & a courier agency;</u> (ii) <u>By an aircraft or a vessel from a place outside India up to India;</u> or (iii) <u>By inland waterways;</u>	(i) <u>Goods transportation agency</u> services (person who provides service in relation to transport of goods by road) (ii) <u>Courier agency</u> (Angadia)	(i) <u>Transportation of Railway Equipments & Materials by Rail / Vessel</u> (ii) <u>Transportation of Goods by Road by GTA:</u> a) If <u>Gross Amount charged for transportation in a single goods carriage does not exceed Rs. 1500</u> b) If <u>Gross Amount charged for transportation for a single consignee does not exceed Rs. 750</u> Transportation of Following goods by Rail/Vessel/Road is exempt: - <u>agriculture produce</u> -milk, salt, food grains including <u>rice</u> -chemical fertilizers -relief materials -defense/ military equipments -cotton, ginned or bailed

Abatements:		
<u>By Indian Rail</u>	<u>70%</u>	Cenvat Credit is available only for Input Services
<u>Other than Indian Rail</u>	<u>60%</u>	
<u>By Vessel (By Coastal Ways)</u> <u>Eg.: Mumbai – Goa</u>	<u>70%</u>	Cenvat Credit is available only for Input Services
<u>By GTA:</u>		No Cenvat Credit Available
<u>Transportation Services & Ancillary Services provided</u>	<u>70%</u>	
<u>Transportation Services for household goods</u>	<u>60%</u>	

(q) Funeral, burial, crematorium or mortuary services including transportation of the deceased		
Negative List (Not Taxable)	Taxable	Exempt by Notification
<u>Funeral</u> , burial, crematorium or mortuary services <u>including transportation</u> of the deceased		<u>Ambulance services provided</u> by all service providers (whether or not by clinical establishment or an authorised medical practitioner or paramedics) exempted (Amendment)

Incentives received by air travel agents from computer reservation system companies (CCRS) are liable to service tax [DOF No. 334/8/2016 TRU dated 29.02.2016]

Services provided by Institutes of Language Management (ILMs) are liable to service tax [DOF No. 334/8/2016 TRU dated 29.02.2016]

Point of Taxation

Point of Taxation Rules, 2011:

- Helps to decide the point in time when service is deemed to be provided.
- This further helps to decide the Due Date of Payment, Rate of Service Tax & value of Taxable Service.

RULE 3 - DETERMINATION OF POINT OF TAXATION

Case	POT
When <u>Invoice is issued on time</u> (i.e. within 30/45 days of Service)	<u>Date of Invoice</u> or <u>Date of Payment</u> whichever is <u>earlier</u>
When <u>Invoice is not issued on time</u>	<u>Date of Completion of Service</u> or <u>Date of Payment</u> whichever is earlier

Explanation: In case service provider receives any advance towards provision of taxable service, the Point of Taxation shall be the date of each such advance.

"Date of payment": Earlier of Entry in Books of Account or Credit to Bank Account

"Continuous supply of service":

For rule 3: Point of Taxation is calculated for each event which requires payment of consideration using Rule 3.

RULE 4 - Change of rate of tax: Notwithstanding anything contained in Rule 3.
(Change in Rate of Tax includes Change in Value)

Provision of Service	Issuance of Invoice	Payment	Point of Taxation
Before change of rate	After change of rate	After change of rate	Date of invoice or payment, whichever is earlier
	Before change of rate	After change of rate	Date of invoice
	After change of rate	Before change of rate	Date of payment
After change of rate	Before change of rate	After change of rate	Date of Payment
	Before change of rate	Before change of rate	Date of invoice or payment, whichever is earlier
	After change of rate	Before change of rate	Date of invoice

Hint for remembering Rule 4: Step 1: Consider three dates i.e Date of Provision (Completion) of Service, Date of Invoice & Date of Payment

Step 2: Divide these dates into two parts: Before change and After change

Step 3: The Part with two out of three dates contains the Answer

Step 4: Answer can never be Date of Provision. So other date on the part with two dates is the answer. However if part with two dates contain date of payment and date of invoice both then earlier of date of payment or date of invoice is the answer.

RULE 5- NEW SERVICE:

No Service Tax if

1) Date of Invoice & Date of Payment is before Date of Taxability

2) Date of Payment before taxability & Invoice issued within 14days of Date of Taxability

All Other cases taxable

This rule applies in case of New Levy also. Example: SBC

“Date of payment for Rule 4 and Rule 5”:

The Date of payment = **date of credit in bank account ONLY**, when

- 1) Change is between such entry in books of accounts & its credit in the bank account +
- 2) Credit in the bank account is after 4 workings days from Change +
- 3) Payment is made by way of an instrument which is credited to a bank account.

Rule 7: Determination of point of taxation in case of person liable to pay service tax under reverse charge or in case of associated enterprises (Notwithstanding anything contained in rules 3, 4, and 8)

“Associated Enterprises” (where the person providing the service is located outside India)	(a) <u>Date of Entry in Books</u> of service receiver or (b) <u>Date of payment</u> , whichever is <u>earlier</u> .
Services provided <u>by Government or local authority to business entities</u>	(a) Date on which <u>payment becomes due</u> or (b) <u>Date of Payment</u> , whichever is <u>earlier</u>
<u>Reverse charge</u> (Others)	(a) <u>date of payment to service provider</u> or (b) <u>first day</u> that occurs <u>immediately after a period of 3 months from the date of invoice</u> whichever is earlier.
Change in Service Tax Liability of above + Date of Invoice & Date of Completion of Service is before change + Payment after change	<u>Date of Invoice</u>

RULE 8 - ROYALTIES, COPYRIGHT ETC:

Date of Payment or Date of Invoice whichever is earlier

Valuation of Taxable Service

SECTION 67 - VALUATION OF TAXABLE SERVICES [read with Service Tax (determination of Value) Rules, 2006]

1) If consideration wholly in money, then value = gross amount charged (GAC) by SP.

Example: Mr. A charges Mr. B, Rs 10,000/- Plus service tax for Service Provided, then Value of Service = Rs 10,000/-

2) If consideration not wholly in money, then value = amount, which with the addition of service tax charged is equivalent to the consideration.

Example: Mr. A receives from Mr. B, Gold Coin worth Rs 10,000/- for Service Provided, then Value of Service = $10,000 \times 100/114.5$. Therefore Value = 8,734/-

3) If consideration is not ascertained, then value = amount as determined in the prescribed manner [**Rule 3 STVR**]

4) Where the gross amount charged (GAC) by SP is **inclusive of service tax** payable,

$$\text{Value of taxable services} = \frac{\text{amount charged} \times 100}{100 + \text{Rate of service tax}}$$

Example: Mr. A charges Mr. B, Rs 10,000/- all inclusive for Service Provided, then Value of Service = $10,000 \times 100/114.5$. Therefore Value = 8,734/-

Service Tax (Determination of value) rules, 2006:

RULE 3: Where the consideration received is not ascertainable, the value shall be :-

1) Gross amount charged (GAC) by the SP to provide similar service to any other person in ordinary course of business and where the gross amount charged is the sole consideration.

2) When above cannot be determined, value = equivalent money value of such consideration which shall, in no case be less than the cost of provision of such taxable service.

FORMULA: 67(1) + Rule 5(1) – Rule 5(2) + Rule 6(1) –Rule 6(2)

RULE 5 (1): Include all expenses, reimbursements and cost incurred by SP and charged to SR.

RULE 5 (2): But exclude expenditure incurred by SP as **“Pure Agent”**

RULE 6(1): The following will be **included** in value of taxable services;

- **Insurance:** Amount of premium charged by the insurer from the policy holder.
- **Authorised Service Station:** Reimbursement received from the manufacture of motor vehicles for carrying out any service.
(Consideration can move from 3rd Person)
- The amount realised as demurrage or by any other name whatever called for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service.

RULE 6(2): The following will be excluded from value of taxable services; [TGIA]

- Taxes Levied by any govt. on any passenger travelling by air if shown separately on ticket.
- Grants & Subsidies disbursed by the Government, not directly affecting the value of service
- Interest on delayed payment of any consideration for the provision of service or sale of property, whether moveable or immoveable.
- Accidental damages due to unforeseen actions not relatable to the provision of service.

In case of service provided by Government to a business entity, interest chargeable on deferred payment to be included in the value of the taxable service. [Rule 6(2)(iv) of the Service Tax Determination of Value Rules, 2006] *[Effective from 13.04.2016]*

Determination of value of service in relation to money changing [Rule 2B]

For a currency, when exchanged from, or to, Indian Rupees (INR):

Value = Difference in the buying/selling rate and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Where the RBI reference rate for a currency is not available:

Value shall be 1% of the gross amount of Indian Rupees provided or received

Where neither of the currencies exchanged is Indian Rupee:

Value = 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Exemptions and Abatements

Exemptions: Mega Exemption Notification [Notification No 25/2012- ST]

1. Services provided to United Nations/specified international organization Exempted. However, services **provided BY** these organizations are chargeable to service tax.

2. Health care services:

(a) Health care services provided **BY** a clinical establishment, an authorized medical practitioner or Para-medics, and

(b) Services provided **BY** a veterinary clinic in relation to health care of animals or birds are exempt from service tax.

Health care services which are exempt: -

- **Diagnosis or treatment** or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and

- **Transportation of the patient** to and from a clinical establishment, but

- **Hair transplant or cosmetic or plastic surgery** when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma

Recognized systems of medicines: Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani or any other system that may be recognized by Central Government

3. Stem cell banking services: Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from service tax.

4. Common bio-medical waste treatment: Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto are exempt from service tax. **Treatment of effluent by Common Effluent Treatment Plant operator exempted (Amendment) [Effective from 01.04.2015]**

5. Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities:

In order to claim exemption under this head, following two conditions must be satisfied:-

(i) The entity is registered with income tax authorities under section 12AA of the Income tax Act, 1961, and

(ii) The entity carries out one or more of the **specified charitable activities**.

Specified Charitable Activities means activities relating to -

(i) Public health - specified

(ii) Advancement of religion or spirituality;

(iii) Advancement of educational programmes or skill development - specified

(iv) Preservation of environment including watershed, forests and wildlife.

(v) **Yoga (Amendment)**

Services provided TO such Charitable Institutions by Service Provider located in Non Taxable territory for Charitable purpose are exempt

6. Religious places/ceremonies: Services BY a person by way of Conduct of any religious ceremony are exempt from service tax. **[PANDITJI]**

Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.

Pilgrimage services: Religious pilgrimage organized by the Haj Committee and Kumaon Mandal Vikas Nigam Ltd. are Exempt.

7. Legal services: EXEMPTIONS

Service Provider	Service Recipient	
(a) An arbitral tribunal	(i) Any person other than a business entity; or (ii) A business entity with a turnover up to Rs 10 lakh in the preceding financial year.	 (Exempted)
(b) An individual as an advocate or partnership firm of advocates by way of legal services	(i) An advocate or partnership firm of advocates providing legal services ; (ii) Any person other than a business entity; or (iii) A business entity with a turnover up to Rs 10 lakh in the preceding financial year.	
(c) A person represented on an arbitral tribunal	an arbitral tribunal	
TAXABLE:		
Service Provider	Service Recipient	
A senior advocate (If the Supreme Court/High Court is of opinion that such advocate has Special knowledge or experience in law he is deserving of such distinction.)	(i) To an advocate or partnership firm of advocates providing legal service; (ii) To a business entity with a turnover up to Rs. 10 lakh in the preceding financial year	 Exemption withdrawn w.e.f. 01.04.2016 (Now under Forward Charge)
A person represented on an arbitral tribunal	an arbitral tribunal	
(a) An arbitral tribunal, or (b) An individual advocate or a firm of advocates by way of legal services.	Any business entity with a turnover of more than Rs. 10 Lakhs	(Reverse Charge Applicable)

8. Sports services: Services provided **TO** a recognized sports body **BY-**

(a) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;

(b) Another recognized sports body are exempt from service tax.

(Therefore, Services of Curator or Commentator are taxable)

9. Artist performance: Artist performance: Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from service tax, if the consideration charged for such performance is not more than Rs. 1,50,000.

However payment made to Brand ambassador is chargeable.

Also, payment made to Artist cum Brand Ambassador is chargeable

10. Services by way of collecting or providing news: By an independent journalist, Press Trust of India or United News of India are exempt from service tax.

11. Insurance business services:

A. General Insurance: Services of general insurance business provided under various schemes are exempt from service tax

Added in the list are also exempted (Amendment):

- **Pradhan Mantri Suraksha Bima Yojna exempted.**

- **Niramaya Health Insurance Scheme exempted [Effective from 01.04.2016]**

B. Life Insurance: (a) Janashree Bima Yojana (JBY); or (b) Aam Aadmi Bima Yojana (AABY) (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Rs 50,000

Added in the list are also exempted (Amendment):

Life insurance	Varishtha Pension Bima Yojna, Pradhan Mantri Jeevan Jyoti Bima Yojna and Pradhan Mantri Jan Dhan Yojna exempted (Amendment)
Collection of contribution	Atal Pension Yojna (APY) exempted (Amendment) [Effective from 30.04.2015]
Annuity Plan	National Pension System (NPS) exempted [Effective from 01.04.2016]

12. Services provided by an incubatee up to a total turnover of Rs 50 lakh in a financial year subject to the following conditions, namely:-

(a) The total turnover had not exceeded Rs 50 lakh during the preceding financial year; and

(b) a period of three years has not elapsed from the date of entering into an agreement as an incubate, are exempt from service tax.

13. Services by the following persons in respective capacities are exempt from service tax –

(a) Sub-broker (b) Authorized person to a member of a commodity exchange;

(c) Selling agent or a distributor of SIM cards or recharge coupon vouchers;

(d) Business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or

(e) Business facilitator/business correspondent / Intermediary (Bank Mitra) with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana

14. Services by an organizer to any person in respect of a business exhibition held outside India is exempt from service tax.

15. Services by way of slaughtering of animals are exempt from service tax.

16. Service Provider & Recipient – Non Taxable Territory - Exempt from service tax.

17. Services by way of public conveniences (facilities of bathroom, washrooms, lavatories, urinal or toilets) are exempt from service tax.

18. Services provided by a tour operator to a foreign tourist in relation to a tour wholly conducted outside India are exempt from service tax. For example, service provided by an Indian tour operator to a Chinese National for a tour conducted in Sri Lanka will be exempt from service tax under this entry.

Services provided by following are exempted:

- Power System Development Fund Scheme of the Ministry of Power
- SEBI by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
- Employee Provident Fund Organisation (EPFO) to employees.
- Bio-incubators recognized by the BIRAC, under Department of Biotechnology, Government of India [BIRAC stands for Biotechnology Industry Research Assistance Council]
- National Centre for Cold Chain Development (NCCCD) under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination
- Assessing bodies empanelled centrally by Directorate General of Training (DGT), Ministry of Skill Development & Entrepreneurship under Skill Development Initiative (SDI) scheme
- Skill/vocational training by Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY) training providers
- Insurance Regulatory and Development Authority of India (IRDA) to insurers

Other Exemptions:

(I) Small service provider's (SSP) exemption:

Current Year – Value of Services Exempted upto Rs. 10 lakhs if aggregate value of taxable services rendered by the service provider from one or more premises, does not exceed Rs 10 lakh in the preceding financial year.

Services in respect of which SSP exemption is not available:

- (i) Taxable services provided under brand name of another person (Jawed Habib)
- (ii) Services taxed under reverse charge mechanism

No Cenvat Credit on Input, Input Service & Capital Goods is available to SSP's during exemption.

(II) Exemption from service tax equal to R&D cess payable on import of technology:

The amount of R & D cess payable shall be allowed as a deduction from the service tax payable on the taxable service involving the import of technology provided:

- (a) R & D Cess is paid before payment for the service +
- (b) R & D Cess is paid within 6 months from the date of invoice +
- (b) Necessary records will have to be maintained so as to establish a linkage between the invoice and the cess payment challan.

Abatements in respect of various taxable services: Notification No. 26/2012 ST dated 20.06.2012

<u>With effect from 01.04.2016, Services of a foreman to a chit fund restored</u>	<u>Abatement of 30%</u>	<u>No CENVAT credit</u>
<u>Services by Tour Operator: Solely for Accommodation Any other package</u>	<u>Abatement of 90%</u> <u>Abatement of 70%</u>	Cenvat Credit is available only for Input Services of Tour

Services of Renting of Motor Cab: (Eg.: Car on Rent) - Abatement of 60% is available.
Only Cenvat Credit of Input Service of Renting of Motor Cab is available as follows:

Eg.: Mr. A gives Renting of Motor Cab Service to Mr. B & Mr.B gives renting of motor cab service to Mr. C.

For Mr.B, Service recd from Mr. A is input service.

- (i) Mr. B can avail full Cenvat Credit if Mr. A has opted for Abatement**
- (ii) Mr. B can avail only Cenvat Credit of 40% if Mr. A has not opted for Abatement)**

Value of Service for Renting of Motor Cab = Amount Charged + fair market value of all goods (including fuel) + Services supplied by the recipient(s) [Effective from 01.04.2016]

Service Tax Procedures

Registration (Premise wise) [Section 69 & rule 4 of the Service Tax Rules, 1994]

(1) Persons requiring registration:

- (i) Every person liable to pay service tax (ii) An input service distributor; and
- (iii) Any provider of taxable service whose aggregate value of taxable service in a financial year exceeds Rs 9,00,000.

(2) Procedure for registration: Application for registration is to be made by every person liable for paying the service tax in Form ST-1 (For Other than SSP's)

- (i) Within 30 days from the date on which service tax is levied or
- (ii) Within 30 days from the date of commencement of business whichever is later, to the concerned Superintendent of Central Excise having jurisdiction.

Application by provider of taxable service whose aggregate value of taxable service in a financial year exceeds Rs 9,00,000: (For SSP's)

Within a period of 30 days of exceeding the aggregate value of taxable service of Rs 9,00,000.

Centralized registration: Where a person, liable for paying service tax on a taxable service has more than one premise & has centralised billing system or centralised accounting system he may, at his option, register such premise or office where centralized billing or centralised accounting systems are located.

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

It has also been prescribed that henceforth registration for single premises will be granted within two days of filing the application.

General procedure

1. Online application in Form ST-1.
2. Details like PAN, Email, Mobile No. to be submitted
3. Registration would be granted online within 2 days of filing the complete application form.

Documentation required for physical submission: To be submitted within 7 days of filing the Form ST-1 online, for the purposes of verification:

PAN, Photograph and ID Proof, Place of Business Proof, Bank A/c Details, MOA/AOA/List of Directors, Signature of Applicant, Business transaction numbers obtained from other Government departments (Eg.: VAT Tin, CST No. IEC etc.)

Revocation of registration certificate by the Deputy/Assistant Commissioner IF:

- Premises found to be nonexistent or not in possession of the assessee.
- No documents are received within 15 days of the date of filing the registration application.
- Documents are found to be incomplete or incorrect in any respect.

TIME LIMIT FOR ISSUE OF INVOICE/BILL/CHALLAN (Serially Numbered)

Such an invoice has to be issued within 30 days from the date of:-

- (i) Completion of such taxable service or
- (ii) Receipt of any payment towards the value of such taxable service whichever is earlier.

Time limit for issue of invoice/bill/challan in case of:

(a) Continuous supply of service: Within 30 days of the date when each event specified in the contract, which requires the service receiver to make any payment to service provider, is completed.

(b) Banking and other financial institution including NBFC: 45 days

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

New rule 4C provides that any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature.

[Effective from 01.03.2015]

Person liable to pay service tax [Section 68 & Rule 2(1)(d) of the Service Tax Rules, 1994]:

Section 68(1): Generally - Service provider liable to pay service tax.

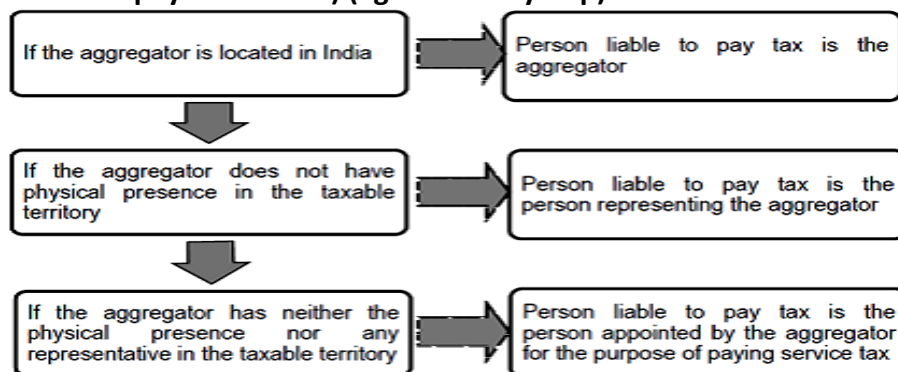
Section 68(2): Services where entire service tax is payable by the person other than service provider:- (Reverse Charge)

Service	Service Provider	Service Recipient	Person liable to pay Service Tax
Insurance agent's services	Insurance agent	Insurance Company	Insurance Co.
Goods transport agency's services	GTA	If Person who pays freight is: Registered factory/ Society/Co-operative society /Dealer of excisable goods/ Any body-corporate/ Partnership firm <u>whether registered or not</u> / Association of persons.	Such Specified Person liable to pay service tax, otherwise GTA
Sponsorship services	Sponsoree (Eg.: College)	Any body-corporate or partnership firm (Sponsor)	Such body-corporate or partnership firm
Renting of a motor vehicle (on abated value)	Individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory	(i) Any person who is not engaged in the similar line of business + ii) A business entity registered as body corporate, located in the taxable territory.	Such Business Entity receiving service
Renting of a motor vehicle (on non abated value)	Individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory	(i) Any person who is not engaged in the similar line of business + ii) A business entity registered as body corporate, located in the taxable territory.	Liability: Service Provider: 50% Service Receiver: 50%

Taxable Services	Any person who is located in a non-taxable territory	Any person located in the taxable territory	Receiver of Service
Director's services	Director of a company or a body corporate	Body Corporate	Body Corporate receiving service
Recovery agent's services	Recovery agent	Banking company or a financial institution or a NBFC	Banking company or a financial institution or a NBFC
Supply of manpower services / Security Service	Any individual/HUF/partner ship firm (whether registered or not) including association of persons, located in the taxable territory	Business entity registered as body corporate, located in the taxable territory.	Business entity receiving service
Mutual fund agent/distributor's services	Agent / Distributor	MF Company	Mutual fund or asset management company receiving service (Upto 31.03.2016) From 01.04.2016 – The Agent/Distributor
Lottery selling or marketing agent's services	Small Agents (Lottery selling or marketing agent)	Big Agents (Lottery Distributor or Selling Agent)	Lottery Distributor or Selling Agent receiving service (Big Agent)

Services involving an aggregator: The taxable services provided or agreed to be provided by a person involving an aggregator in any manner.

(Aggregator liable to pay service tax) (Eg.: Make my Trip)



Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) by an individual or a proprietary firm or a partnership firm or HUF or OPC (conditional) :-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following quarter
2.	In any other case	5 th day of the following quarter
3.	In the case service is deemed to be provided in the quarter ending in March	31 st day of March

Note: With effect from 01.04.2016 above provision of quarterly payment has been extended to One Person Company (OPC) whose aggregate value of services provided is up to Rs.50 lakh in the previous financial year and an HUF

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) in any other cases (E.g. Company):-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following month
2.	In any other case	5 th day of the following month
3.	In the case service is deemed to be provided in the month of March	31 st day of March

Individuals/partnership firms with aggregate value of taxable services of Rs.50 lakh or less in previous year allowed to pay service tax on receipt basis in current year upto a total of Rs.50 lakh:

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following quarter in which the payment is received
2.	In any other case	5 th day of the following quarter in which the payment is received
3.	In the case payment is received in the quarter ending in March	31 st day of March

Note: With effect from 01.04.2016 above provision of payment of service tax on receipt basis has been extended to One Person Company (OPC)

E-payment of service tax: Every assessee shall electronically pay the service tax payable by him, through internet banking. However, the jurisdictional Assistant/Deputy Commissioner of Central Excise may for reasons to be recorded in writing, allows the assessee to deposit service tax by any mode other than internet banking.

SPECIAL PROVISION FOR PAYMENT OF SERVICE TAX (Composition Scheme)

In the following cases, 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%:-

A. In case of air travel agent:

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

(Plus SBC extra payable as per note below)

Points to be noted: 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.

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:

Particulars	Taxability
Bifurcation of Risk & Investment Component not available (not intimated to such policyholder)	Service Tax = (i) 3.5% of Total Premium (1 st year) (ii) 1.75% of Total Premium (Subsequent years)
However if the above one is a : Single premium annuity (insurance) policies	Service Tax = 1.4% of the total premium
Bifurcation of Risk & Investment Component available (intimated to the policy holder)	Service Tax @ 14% only on Premium of Risk Component only
Only Risk Policy	Service Tax = 14% of the total premium

C. In case of sale/purchase of foreign currency including money changing:

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

(Plus SBC extra payable as per note below)

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

D. In case of service of promotion, marketing or organising/assisting in organizing lottery:

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.

(Plus SBC extra payable as per note below)

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.

Note on SBC:

The person liable for paying the service tax above (i.e Air Travel agent, Money Changer, Life insurance, Distributer of Lottery Tickets) shall have the option to pay SBC, determined as per the following formula:-

$$\text{SBC} = \text{Service Tax liability as calculated above} \times \frac{0.5\%}{14\%}$$

Interest on delayed payment of service tax [Section 75]:

<i>Extent of delay</i>	<i>Simple interest rate per annum</i>
<i>Up to 6 months</i>	<i>18%</i>
<i>More than 6 months & upto 1 year</i>	<i>18% for first 6 months, and 24% for the period of delay beyond 6 months</i>
<i>More than 1 year</i>	<i>18% for first 6 months, 24% for second 6 months, and 30% for the period of delay beyond 1 year</i>

Period for which interest is payable: After Due Date till Date of Payment.

Concession of 3% for specified assesses: In case of a service provider, whose value of taxable service provided in a financial year does not exceed Rs 60 lakh during the preceding financial year.

Service tax collected from the recipient of service must be paid to the Central Government in case it was excess or not required to be collected. [Section 73A]

Period for which interest is payable: 1st day of the next month till Date of Payment.

Interest Rate @ 18% p.a. & Concession of 3% Available

Service Tax Returns:**(a) Manner of filing return**

1.	Form of return	Return/revised return has to be furnished in Form ST-3 .
2.	Periodicity of filing return	Service tax return has to be filed on a half-yearly basis .
3.	Details to be furnished	Return must indicate <i>inter alia</i> , monthwise: (i) the value of taxable services charged/billed; (ii) the value of taxable service realised; (iii) the amount of service tax payable/paid etc.

(b) Due dates for filing of service tax returns:

Half year	Due date
1 st April to 30 th September	25 th October
1 st October to 31 st March	25 th April

(c) Late fee for delayed return:

S. No.	Period of delay	Late fee
(a)	15 days from the date prescribed for submission of the return	₹ 500
(b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return	₹ 1,000
(c)	Beyond 30 days from the date prescribed for submission of the return	An amount of ₹ 1,000 plus ₹ 100 for every day from the 31 st day till the date of furnishing the said return

Maximum late fees: Total late fee for delayed submission of return shall not exceed Rs20,000.

(d) Revised return [Rule 7B]: An assessee can submit a revised return, in **Form ST-3**, in **triplicate**, to correct a mistake or omission, within a period of **90 days** from the date of submission of the original return.

(e) Single return for multiple service providers: (Details in Each Column Separately)

(f) Nil return: Even if no service has been provided during a half year and no service tax is payable; the assessee has to file a Nil return within the prescribed time limit.

(g) E-filing of returns: E-filing of returns is mandatory for all assessees.

Annual Return:

-Every assessee will submit an annual return for the financial year to which the return relates by the 30th day of November of the succeeding financial year. The form and manner of filing the return will be specified in the notification by the CBEC.

-CBEC may also extend the due date for filing of such Annual Return under circumstances of special nature

-Central Government may, subject to such conditions or limitations, exempt an assessee or class of assessee from filing such annual return.

-Annual return filed by the due date may be revised within 1 month from the date of its submission [Effective from 01.04.2016]

-Delayed filing of Annual Return to attract a late fee of Rs. 100 per day for the period in default subject to a maximum of Rs. 20,000

CENVAT Credit

Concept: Same as that of VAT

Here credit of Excise Duty, Certain Custom Duty & Service Tax paid on Input, Input Service & Capital Goods is available, subject to rules and conditions.

Applicability:

The CENVAT Credit Rules, 2004 extend to the whole of India. However, the provisions of these rules in relation to availment and utilization of credit of service tax do not apply to the State of Jammu and Kashmir.

Rule 2 – Definitions:

(1) Capital Goods [Rule 2(a)]: Capital goods means:

Considered as Capital Goods	
(i) All goods falling under Chapter 82 (Tools), Chapter 84 (Machinery, Mechanical Appliance), Chapter 85 (Electrical Machinery), Chapter 90 (Optical, Photographic, Medical instrument) etc	used – (1) In the factory of the manufacturer of the final products, but does not include any equipment used in an office; (Amendment: With effect from 01.04.2016, The equipment and appliance used in an office located within a factory are to be included in the definition of capital goods so as to allow CENVAT credit on the same) or (1A) outside the factory of the manufacturer of the final products for: -generation of electricity for captive use within the factory or - for pumping of water for captive use within the factory (with effect from 01.04.2016); or (2) For providing output service.
(ii) Pollution control equipment;	
(iii) Components, spares and accessories of the goods specified at (i) and (ii);	
(iv) Moulds and dies, jigs and fixtures;	
(v) Refractories and refractory materials;	
(vi) Tubes and pipes and fittings thereof;	
(vii) Storage tank, and	
(viii) Motor vehicles if not specified other than those falling under tariff headings 8702, 8703, 8704, 8711**,	
(ix) Dumpers and tippers	
(x) Wagons falling under sub-heading 8606 92 of the Central Excise Tariff (01.04.16)	

Motor vehicle for <u>transportation of goods</u> registered in the <u>name of the service provider</u>	when used for providing an output service of (i) <u>Renting of such motor vehicle</u> ; (ii) <u>Transportation of inputs and capital goods</u> used for providing an output service; or (iii) Providing an output service of <u>courier agency</u> .
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Motor vehicle designed to <u>carry passengers</u> , registered in the name of the service provider	when used for providing output service of- (i) <u>Renting of such motor vehicle</u> ; or (ii) <u>Transportation of passengers</u> ; or (iii) Imparting <u>motor driving skills</u> .
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Notes:

1) Capital Goods include Components, spares and accessories of motor vehicles which are capital goods for the assessee.

2) ****Tariff headings 8702, 8703, 8704, 8711 are as follows:-**

(i) Motor vehicles for the transport of 10 or more persons, including the driver.

(ii) Motor cars and other motor vehicles principally designed for the transport of persons (Other than those covered in (i) above), including station wagons and racing cars.

(iii) Motor vehicles for transport of goods.

(iv) Motorcycles

3) Only those goods which are mentioned in above definition are Capital Goods for the purpose of Cenvat Credit. Other goods like say furniture are not considered as Capital Goods for the purpose of Cenvat Credit even if we normally capitalize them in Accounts/

4) Capital goods upto the value of Rs. 10,000 per piece are included in the definition of inputs (With effect from 01.04.2016).

(2) Exempted Goods [Rule 2(d)]:

Means:

-Excisable goods that are – 100% Exempt or "Nil" rate of duty

-Non – Excisable Goods (Only for Cenvat)

-Goods on which Excise duty @ 2% is paid under Notification No.1/2011 and

-Goods on which Excise duty @ 1% is paid on coal & fertilizers under Notification No.12/2012.

(3) Exempted Service [Rule 2(e)]: Exempted service means -

(i) Negative list services

(ii) Fully exempt service; or

(iii) Taxable services on which abatement is available provided no credit of inputs and input services is taken; (Eg: GTA, Chit Fund)

(4) First Stage Dealer [Rule 2(ij)]

(5) Inputs [Rule 2(k)]:

Input means-

(i) All goods used in the factory by the manufacturer of the final product; or

(ii) Any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and Goods used for providing free warranty for final products; or

(iii) All goods used for generation of electricity or steam for captive use; or

All goods used for pumping of water for captive use (01.04.16); or

(iv) All goods used for providing any output service;

(v) All capital goods which have a value up to Rs. 10,000 per piece (01.04.16)

(vi) Capital Goods when used as parts or components in the manufacture of a final product

But **excludes-**

(A) Light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) Any goods used for -

(a) Construction or execution of works contract of a building or a civil structure or a part thereof; or

- (b) Laying of foundation or making of structures for support of capital goods;
- (C) Capital goods;
- (D) Motor vehicles;
- (E) Any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and
- (F) Any goods which have no relationship whatsoever with the manufacture of a final product.

(6) Input Service [Rule 2(l)]:

I. Meaning: Input service means any service, -

- (i) Used by a provider of output service for providing an output service; or
- (ii) Used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal.

II. Inclusions: Input service includes:-Services used in relation to:

- modernisation, renovation or repairs (Factory/Location of Service Provider)
- advertisement or sales promotion,

(Services by way of sale of dutiable goods on commission basis is sales promotion and thus, an eligible input service [Effective from 03.02.2016])

- market research,
- storage upto the place of removal,
- procurement of inputs,
- accounting, auditing, financing,
- recruitment
- quality control,
- coaching and training,
- computer networking,
- credit rating,
- share registry,
- security,
- business exhibition,
- legal services,
- inward transportation of inputs or capital goods
- outward transportation upto the place of removal;

III. Exclusions: Input service excludes:-

(A) Services for Construction or execution of works contract of a building or a civil structure or a part thereof or laying of foundation or making of structures for support of capital goods

(B) Services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which are not capital goods.

(BA) Service of general insurance business, servicing, repair and maintenance, if they relate to a motor vehicle which is not capital goods.

(C) Services such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life

insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee.

Note:

In case of:

- (a) A manufacturer of a motor vehicle which is manufactured by him; (eg. Stock of Santro made by Hyundai) or
- (b) An insurance company in respect of a motor vehicle insured or reinsured (eg. New India Assurance does insurance of Santro Car)

Services of General Insurance, Servicing & Repairs/Maintenance relating to above Motor Vehicles will be considered as Input Services

Rule 3 – CENVAT Credit:

Duties/tax eligible for CENVAT credit (CREDIT TO CENVAT A/C):

A manufacturer or an output service provider can take CENVAT credit of-

- (i) Basic excise duty; (Can be used for any eligible payment)
However, CENVAT credit of basic excise duty is not allowed if paid under Notification No.1/2011 or 12/2012.
- (ii) National calamity contingent duty; (Can be used to pay only NCCD)
- (iii) Additional duty leviable under section 3 of the Customs Tariff Act (CVD), equivalent to the duty of excise;
- (iv) Additional duty leviable under section 3(5) of the Customs Tariff Act (Special CVD); (can be used to pay for any eligible payment except service tax)
- (v) Service tax; (Can be used for any eligible payment)
- (vi) Additional duty of excise leviable on pan masala and tobacco products under the Finance Act, 2005 (Can be used to pay only the same)

It implies that Credit of any other tax/duty other than above is not available (Eg.: Swatch Bharat Cess)

Utilization of CENVAT credit: (DEBIT TO CENVAT A/C)

(i) Eligible payments: CENVAT credit can be utilized for payment of **Any** excise duty on any final products or Service tax on any output service.

(ii) Non-eligible payments: CENVAT credit cannot be utilized/used for payment of:

- (a) Any duty of excise on goods in respect of which the benefit of an exemption under Notification No. 1/2011 is availed.
- (b) Service tax in respect of services where the person liable to pay tax is the service recipient.
- (c) Clean energy cess

(d) Swachh Bharat Cess [Effective from 03.02.2016]

(iii) CENVAT credit available on the last day of the month/quarter only to be utilized:

While paying excise duty or service tax, the CENVAT credit can be utilised only to the extent such credit is available on the last day of the month or quarter for payment of duty or tax relating to that month or the quarter.

Reversal of CENVAT credit on inputs/capital goods/input services:

Reverse CENVAT Credit means debit to CENVAT A/c or Make E-Payment

(i) Inputs/capital goods removed as such: Rule 3(5)

Input/Capital Goods Received by Manufacturer or Service Provider – Credit Taken

Above Input/Capital Goods removed as such – Reverse the Credit

Person who buys such goods can avail the credit on the basis of Invoice issued by Manufacturer/ **Service Provider**

(ii) Capital goods removed after being used: Rule 3(5A),

Capital Goods Received by Manufacturer or Service Provided – Credit Taken

Above Capital Goods are removed after use – Reverse the Credit partially as follows:

Credit taken (-) % Points as given in table below	} Whichever is higher
OR	
Excise Duty on Transaction Value	

Person who buys such goods can avail the credit on the basis of Invoice.

Table:

S.No.	Type of capital goods	Percentage points calculated by straight line method	
1.	Computers and computer peripherals	For each quarter in	Percentage
		Year* 1	10 %
		Year 2	8 %
		Year 3	5 %
		Year 4 & 5	1 %
2.	Other capital goods	2.5% for each quarter	

(iii) Capital goods removed as waste or scrap: Rule 3(5A),

Capital Goods Received by Manufacturer or Service Provided – Credit Taken

Above Capital Goods are removed after use as scrap then, Credit Reverse =

Excise Duty on Transaction Value

Person who buys such goods can avail the credit on the basis of Invoice.

(iv) Inputs/capital goods written off before use: Rule 3(5B),

Input/Capital Goods Received by Manufacturer or Service Provided – Credit Taken

Above Input/Capital Goods written off before use – Reverse proportionate Credit

Above Input/Capital Goods were used after sometime – Re-Credit of the amount reversed earlier.

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

(v) Remission of duty on final product: Rule 3(5C):

Input/Input Services were received – Credit Taken

Those were utilised to Manufacture Final Goods

However, such goods were destroyed/became useless – Duty Remitted by Excise Officer

Then – Reverse the Credit taken on Input/Input Services earlier

Restriction on ship breaking units to avail only 85% CENVAT credit of CVD u/s 3(1) done away with (i.e. now 100% Credit available)

Rule 4 – Conditions for allowing CENVAT credit:

A. INPUTS

(1) Instant credit on inputs after receipt in the:

- factory of the manufacturer, or
- premises of the provider of output service, **or**
- **premises of job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be .**

(2) Credit to be availed maximum within 1 year of the date of invoice (Amendment)

B. CAPITAL GOODS

(1) Upto 50% credit on capital goods in the year of receipt & Balance in one or more subsequent financial years provided the capital goods are still in the possession of the manufacturer or the output service provider.

Credit in case of components, spares accessories etc the condition regarding possession of the capital goods in the second year is not applicable.

(2) Cases where 100% credit on capital goods is allowed in the year of receipt:

(i) Receipt of capital goods by SSI incl Jewellery Manufacturer claiming SSI

(ii) Capital goods cleared as such in the year of acquisition

(iii) Credit of CVD under section 3(5)

(3) Credit vis a vis depreciation on capital goods: Manufacturer or provider of output service cannot enjoy the benefit of both depreciation allowance under income tax as well as CENVAT credit under indirect tax laws.

C. INPUT SERVICE

Invoice Received – Take Credit

If Payment of that Input Service is not made within 3 months of date of invoice – Then Reverse Credit

If subsequently payment is made – Then take Re-Credit

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

Credit to be availed maximum within 1 Year of the date of invoice (Amendment)

CENVAT credit of service tax paid under partial reverse charge or full reverse charge by the service receiver will be allowed on payment of service tax alone without linking it to the payment to the service provider.

Service tax paid on assignment charges of a natural resource to be allowed as CENVAT credit spread over 3 years
[Effective from 13.04.2016]

Job Work provisions [Rule 4(5) and 4(6)]:

Input/Capital Goods Received by Manufacturer/Service Provider/Job Worker – Credit Taken
Goods sent to Job Worker for processing – Do not reverse.

If Inputs not received within 180 days then Reverse the Credit of Inputs

If CG not received within 2 years then Reverse the Credit of CG

If Subsequently received, Take the Re-credit

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

If tools, jigs, fixtures, moulds and dies are sent to another manufacturer/job worker, then Cenvat Credit will not be reversed even if they are not returned.

Rule 6 – Obligation of manufacturer or producer of final products and a provider of output service [Amended with effect from 01.04.2016]:

1) Sub-rule (1): CENVAT credit will not be allowed on:-

Input/input service used for manufacture of exempted goods or for provision of exempted services

(2) Sub-rule(3):

(a) A manufacturer who manufactures two classes of goods, namely:
non-exempted goods & exempted goods,

or

(b) an output service provider who provides two classes of services, namely:
non-exempted services & exempted services,

Has 2 options:

(i) First Take Credit of Entire Input & Input Services

Then Pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services

OR

(ii) Pay an amount as determined under sub-rule (3A).

(3) If any duty of excise is paid on the exempted goods, the same will be reduced from the amount payable under Option (i).

For example, goods cleared under *Notification No. 1/2011* are exempted goods and excise duty @ 2% is paid on such goods. Therefore, such 2% duty will be reduced from 6% amount.

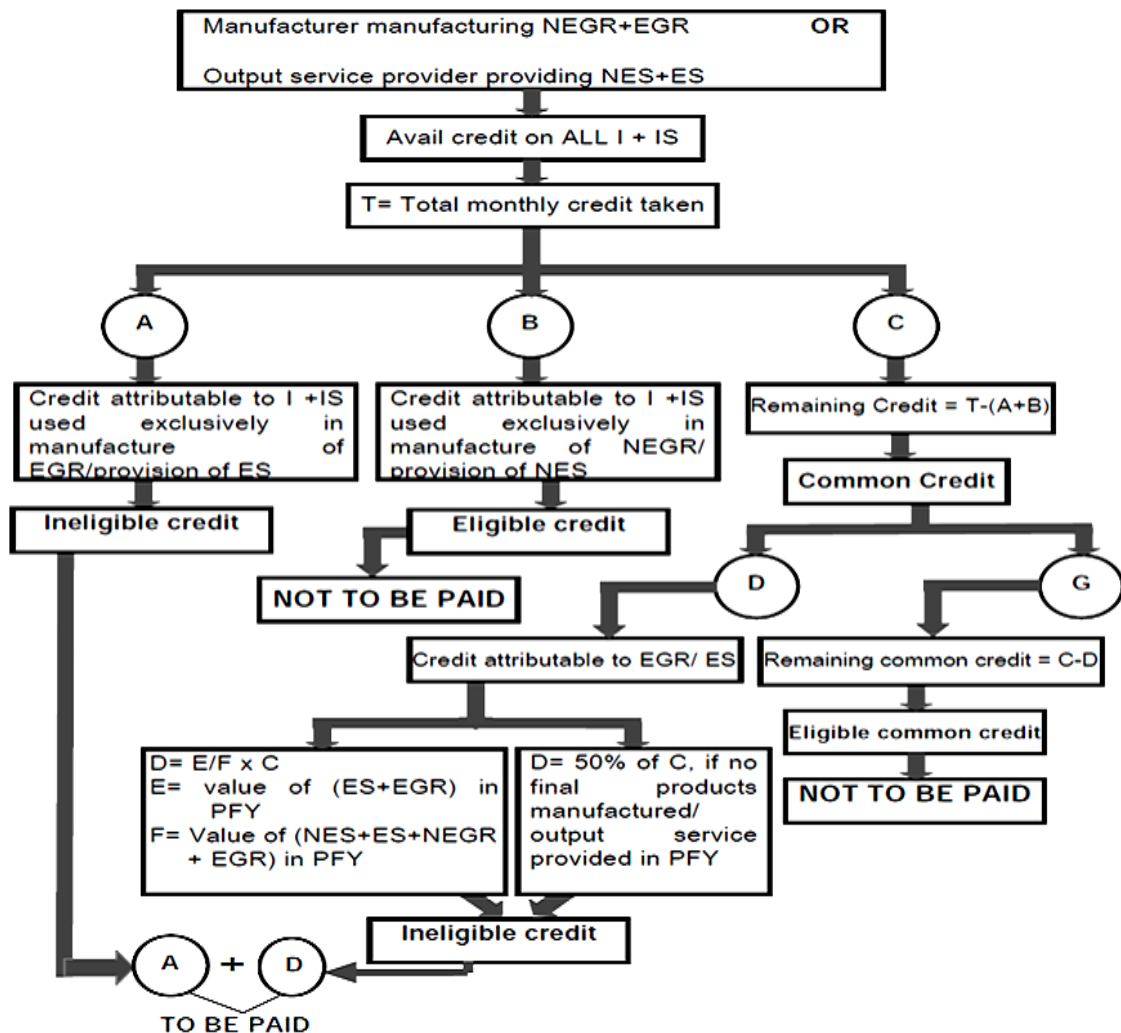
For example, goods cleared under *Notification No. 12/2012* are exempted goods and excise duty @ 1% is paid on such goods. Therefore, such 1% duty will be reduced from 6% amount.

(4) 7% will be paid after Abatement.

(5) Option exercised applicable for all exempted goods or exempted services and whole financial year

Sub-rule (3A): Procedures and conditions for reversing proportionate credit:

The manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise giving the prescribed particulars.



At the end of the year actual amounts of A + D will be computed for the whole year in the similar manner as described above by taking annual figures of T B & C and H [value of ES + EGR during the FY] & I [Value of NES + ES + NEGR + EGR during the FY] in place of E & F.

Shortfall, if any, will be paid by 30th June of the SFY failing which interest @ 15% will be payable from 30th June of SFY till the date of payment of such amount.

Excess amount paid, if any, can be taken as credit. If the amount to be paid provisionally is not paid by the due date of payment, interest @ 15% will be payable from the due date of payment till the date of payment of such amount.

NEGR	: Non exempted goods removed
EGR	: Exempted goods removed
NES	: Non exempted services
ES	: Exempted service
I	: Inputs
IS	: Input Services
PFY	: Preceding Financial Year
FY	: Financial Year
SFY	: Succeeding Financial Year

Sub-rule (3B):

Banks/other financial institutions can either reverse CENVAT credit in terms of sub-rule (3) OR reverse 50% of the credit availed every month.

[Effective from 01.04.2016]

Sub-rule (4): CENVAT credit not allowed on capital goods used exclusively in manufacture of exempted goods/provision of exempted services for 2 years from commencement of commercial production/provision of services

[Effective from 01.04.2016]

Bagasse, dross and skimmings of non-ferrous metals or any such by product or waste, which are non-excisable goods need to be treated like exempted goods.

Rule 7 – Manner of distribution of credit by input service distributor: *[wef 01.04.2016]*:

The input service distributor shall distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or unit providing output service or an outsourced manufacturing units subject to the following conditions:

- (a) Credit distributed does not exceed the amount of service tax paid thereon.
- (b) Credit of service tax attributable to a particular unit shall be distributed only to that unit.
- (c) Credit of service tax attributable as input service to more than one unit but not to all the units shall be distributed only amongst such units to which the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover of such units.
- (d) Credit of service tax attributable as input service to all the units shall be distributed to all the units *pro rata* on the basis of the turnover of such units.
- (e) Outsourced manufacturing unit shall maintain separate account for input service credit received from each of the input service distributors and shall use it only for payment of duty on goods manufactured for the input service distributor concerned
- (f) Credit of service tax paid on input services, available with the input service distributor, as on the 31st of March, 2016, shall not be transferred to any outsourced manufacturing unit and such credit shall be distributed amongst the units excluding the outsourced manufacturing units.

Manufacturers with multiple manufacturing units enabled to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units [New rule 7B]: Procedures applicable to a first stage dealer or a second stage dealer would apply, *as it is*, to such a warehouse of the manufacturer ***[Effective from 01.04.2016]***

CENVAT credit returns (Mandatory to file Electronically):

Monthly return for a manufacturer: 10 days from the close of each month. [ER-1]

Quarterly Return for SSI units: 10 days after the close of the quarter. [ER-3]

Quarterly return for a first / second stage dealer: 15 days from the close of each quarter.

Half-yearly return for an output service provider: By the end of the month following the particular half year.

Half-yearly return for an input service distributor: By the end of the month following the half year.

Revision of return: Within 60 days from the date of filing of original return.

Annual return is to be filed by a manufacturer of final products or provider of output services for each financial year, by the 30th day of November of the succeeding year.

Certificate issued by an Appraiser of Customs to be a valid document for claiming CENVAT Credit of goods imported through authorised courier