CA – IPCE

Amendments in Indirect Taxation

Covers:

Supplementary 2016 & RTP May 2017

Relevant for May & Nov 2017 Exams

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CA – IPCE

Amendments in Indirect Taxation

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Basic Concepts of Indirect Taxes

UNIT – 2: Central Excise Duty

1. Excise duty of 1% (without CENVAT credit) or 12.5% (with CENVAT credit) has been levied on articles of jewellery [excluding silver jewellery]. A jewellery manufacturer will be eligible for exemption from excise duty on first clearances upto Rs. 10 crore during a financial year, if his aggregate domestic clearances during preceding financial year did not exceed Rs. 15 crore.

[Notification No. 28/2016 CE dated 26.07.2016 to carry out the above amendment]
[Effective from 26.07.2016]

2. Where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the same which is self-attested by the manufacturer is used for transport of goods. Such manual attestation of the transporter's copy of invoice has been done away with.

[Notification No. 8/2016] [Effective from 01.03.2016]

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

[Notification No. 8/2016] [Effective from 01.04.2016]

4. The central excise return can now be revised by the end of the calendar month in which the original return is filed.

[Notification No. 8/2016] [Effective from 17.08.2016]

5. Interest payable on delayed payment of excise duty has been reduced from 18% to 15%.

[Notification No. 15/2016] [Effective from 01.04.2016]

UNIT – 3: Customs Duty

1. Central Government has been empowered to permit certain class of importers and exporters to make deferred payment of customs duties or charges in prescribed manner.

[Effective from 14.05.2016]

2. Warehousing of imported goods:

(i) The importer may not clear the goods for home consumption and request the goods to be warehoused. In such a case, he shall file an Into-Bond Bill of Entry for warehousing and is assessed to duty. Thereafter, he shall execute a bond binding himself in a sum equal to ***thrice*** the amount of the duty assessed on such goods.

(ii) The proper officer after satisfying himself that all the requirements have been fulfilled shall make an order permitting the deposit of the goods in a warehouse.

(iii) Subsequently, the importer of any warehoused goods may clear them for home consumption provided:- (a) an ex-Bond Bill of Entry has been presented to the proper officer and duty is assessed and paid by him, and (b) an order for clearance of such goods for home consumption has been made by the proper officer. ***[Effective from 14.05.2016]***

3. Transitional product specific safeguard duty on imports from the People's Republic of China abolished. ***[Effective from 14.05.2016]***

UNIT – 4: Central Sales Tax

Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and

such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another.

[Explanation 3 has been inserted to section 3 of the Central Sales Tax Act, 1956]

[Effective from 14.05.2016]

Basic Concepts of Service Tax

Charge of Service Tax [Section 66B]:
Tax shall be levied at the rate of **14%** on Value of all taxable services.

Swachh Bharat Cess (SBC): (w.e.f. 15.11.2015): *- Levied and collected on all the taxable services at the rate of **0.5% of value of taxable service.***
- Charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code.
- No Cenvat credit

Krishi Kalyan Cess (KKC): (w.e.f. 01.06.2016): *- Levied and collected on all the taxable services at the rate of **0.5% of value of taxable service.***
- Charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code.
- Cenvat credit available against KKC.

Example: *Value of Taxable Service: Rs 100*
Service Tax = 100 14% = 14*
*SBC = 100 * 0.5% = 0.5*
*KKC = 100 * 0.5% = 0.5*
Total = 15 (i.e 14 + 0.5 + 0.5)
Thus Effective Rate becomes 15%

Services billed and provided prior to 01st June, 2016 exempted from Krishi Kalyan Cess (KKC): Taxable services the invoice for which have been issued on or before the 31st May, 2016 have been exempted from the whole of Krishi Kalyan Cess if the provision of service has been completed on or before the 31st May, 2016. [Effective from 23.06.2016]

"Transaction in Money or Actionable Claim" – Not a service - Hence taxable
Following excluded from "Transaction in Money or Actionable Claim" - Hence taxable:
(a) Activity by a lottery distributor or selling agent on behalf of the State Government in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind in accordance with the provisions of the Lotteries (Regulation) Act, 1998; [Effective from 14.05.2016]
(b) Activity by a foreman of chit fund for conducting or organising a chit in any manner.

With effect from **01.04.2016**, Services of a foreman to a chit fund	Abatement of 30%	No CENVAT credit

Negative list of services [Section 66D]:

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

		-By Government/LA/GA by way of- **Any activity in relation to any function entrusted to a Panchayat** **[Effective from 13.04.2016]** **- By Government by way of deputing officers after office hours or on holidays for inspection etc in relation to import export cargo on payment of Merchant Overtime charges (MOT)** **[Effective from 13.04.2016]** ***- One time upfront amount payable on long term leases of industrial plots granted by State Government Industrial Development Corporations/ Undertakings to industrial units exempted from service tax. However, subsequent payments, if any, will not enjoy such an exemption and will be liable to service tax.*** ***[Effective from 22.09.2016]***

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

Education Services:		
Taxable (Examples)	***Exempt - Amendment***	**Exempt by Notification**
(1) Private Tuitions, Coaching Class etc (2) Education service for obtaining a qualification recognized by a law of a foreign country **(CFA)** **(3) Recruitment & Pre - recruitment** services **(4) Services provided by the IIM by way of Executive Development Programme**	***(i) Pre-school education and education up to higher secondary school or equivalent; (CBSE, ICSE, SSC, HSC, International School)*** ***(ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force (B.Com etc)*** ***(iii) Education as a part of an approved vocational education course. [Effective from 14.05.2016]***	**(i)Recreational coaching or training:** Services by way of training or coaching in recreational activities relating to arts, culture or sports are exempt from service tax. **(ii) Educational services:** Services provided- (a) BY an educational institution to its students, faculty and staff; (b) TO an educational institution, by way of,- (i) Transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Government; (iii) Security or cleaning or house-keeping services performed in such educational institution; (iv) Services relating to: admission/admission test 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 **Approved National/Vocational Skill Development Programme** **(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.**

Service of transportation of passengers:		
Negative List (Not Taxable)	**Taxable**	**Exempt by Notification**
(i) Railways - 2nd class or general class, sleeper class (ii) Metro, monorail or tramway; (iii) Inland waterways; (iv) Public transport, other than for tourism purpose, **in a vessel** between places located in India (Eg.: Mumbai – Alibaug) (v) metered cabs (Kaali – Peeli) or auto rickshaws	**Examples:** Radio Taxis (Ola/Meru/Uber etc) *Ropeway, cable car or aerial tramway* ***(With effect from 01.04.2016)*** **Air Conditioned contract carriage** **Contract Carriage for tourism, charter or hire** ***Air Conditioned stage carriage [Effective from 01.06.2016]***	(a) **Air**, 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; **(b) Non air-conditioned contract carriage other than radio taxi, for the transportation of passengers, excluding tourism, conducted tour, charter or hire;** **(Eg.: Office Buses / Society Complex Buses)** ***(C) Non Air-Conditioned stage carriage (Vehicles which can carry more than six passengers for hire for separate fares paid by individual passengers i.e Public transport) [Effective from 01.06.2016]***

Abatements:
Transport of Passengers:

By Rail (AC/1st Class)	70%	Cenvat Credit is available only for Input Services
By Air: Economy Class Other than Economy Class ***Transport of passengers by air embarking from or terminating in Regional Connectivity Scheme (RCS) Airport for a period of 1 year [Effective from 30.08.2016]***	60% 40% ***90%***	Cenvat Credit is available only for Input Services No Cenvat Credit Available
Contract Carriage other than Motor Cab (Eg: Family Picnic by Bus) or by Radio Taxis ***Air-conditioned stage carriage [Effective from 01.06.2016]***	60%	No Cenvat Credit Available

Example: *CD Pvt. Ltd. provides services by way of transportation of passengers by buses (both contract and stage carriages). It has furnished the following details for the month of July, 2016:*

S.No.	Particulars	(₹)
(i)	*Transportation of passengers by contract carriage (Out of the total receipts of ₹ 10,00,000, ₹ 5,00,000 is for transportation of passengers in non-air conditioned contract carriages)*	*10,00,000*
(ii)	*Transportation of passengers by stage carriage (Out of the total receipts of ₹ 12,00,000, ₹ 8,00,000 is for transportation of passengers in air conditioned stage carriages)*	*12,00,000*

Compute the value of taxable service and service tax liability of CD Pvt. Ltd. for the month of July, 2016. CD Pvt. Ltd. does not avail any CENVAT credit and is desirous of availing exemptions, if any.

Note: Ignore exemption for small service providers under Notification No. 33/2012 ST dated 20.06.2012. Service tax and cesses have been charged separately, wherever applicable. Make suitable assumptions wherever required.

Answer:

Computation of value of taxable service and service tax for the month of July, 2016

Particulars	(₹)
Transportation of passengers by non air-conditioned contract carriage [Note 1]	Exempt
Transportation of passengers by air-conditioned contract carriage [Note 2]	5,00,000
Transportation of passengers by non air-conditioned stage carriage [Note 3]	Exempt
Transportation of passengers by air-conditioned stage carriage [Note 3]	8,00,000
Value of taxable service	**13,00,000**
Service tax @ 6% [15 (inclusive of SBC and KKC) x 40% - Note 4]	**78,000**

Services by way of transportation of goods:		
Negative List	**Taxable (Examples)**	**Exempt by Notification**
(i) By road except the services of a goods transportation agency & a courier agency; ***~~(ii) By an aircraft or a vessel from a place outside India up to India; or~~*** ***[Effective from 01.06.2016]*** (iii) By inland waterways;	(i) Goods transportation agency services (person who provides service in relation to transport of goods by road) (ii) Courier agency (Angadia) (iii) ***Services by way of transportation of goods by a vessel from a place outside India up to the customs station in India [Effective from 01.06.2016]***	**(i) Transportation of Railway Equipments & Materials by Rail / Vessel** **(ii) Transportation of Goods by Road by GTA:** a) If Gross Amount charged for transportation in a single goods carriage does not exceed Rs. 1500 b) If Gross Amount charged for transportation for a single consignee does not exceed Rs. 750 **(iii) Transportation of Following goods by Rail/Vessel/Road is exempt:** -agriculture produce -milk, salt, food grains including ***rice*** -chemical fertilizers -relief materials -defense/ military equipments -cotton, ginned or bailed ***(iv) Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India. [Effective from 01.06.2016]***

Services of transportation of goods by a vessel from outside India upto customs station in India which have been billed prior to 01st June, 2016 exempted from service tax on fulfilment of specified conditions:

(i) the import manifest or import report required to be delivered under section 30 of the Customs Act, 1962 has been delivered on or before 31.05.2016; and

(ii) the service provider or recipient produces customs certified copy of such import manifest or import report

[Notification No. 36/2016 ST dated 23.06.2016] [Effective from 23.06.2016]

Abatements:

By Indian Rail ***Other than Indian Rail***	*70%* *60%*	*Cenvat Credit is available only for Input Services*
By Vessel	*70%*	*Cenvat Credit is available only for Input Services*
By GTA: ***Transportation Services & Ancillary Services provided*** ***Transportation Services for household goods***	 *70%* *60%*	*No Cenvat Credit Available*

All testing and ancillary activities to testing rendered during testing of seeds are covered in the negative list and are thus, not liable to service tax

[Circular No.189/8/2015 ST dated 26.11.2015]

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]

Specific rule making powers in respect of Point of Taxation Rules, 2011 obtained under section 67A [Section 67A(2)] ***[Effective from 14.05.2016]***

Point of Taxation

RULE 5- NEW SERVICE:

No Service Tax if: 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. *[Effective from 01.03.2016]* *[*Example: SBC*]*

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) Date of Entry in Books of service receiver **or** (b) Date of payment, whichever is earlier.
Services provided by Government or local authority to business entities *[Effective from 13.04.2016]*	(a) Date on which payment becomes due or (b) Date of Payment, whichever is earlier
Reverse charge (Others)	(a) date of payment to service provider **or** (b) first day that occurs immediately after a period of 3 months from the date of invoice whichever is earlier.
Change in Service Tax Liability of above + Date of Invoice & Date of Completion of Service is before change + Payment after change *[Effective from 30.03.2016]*	Date of Invoice

Valuation of Taxable 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]***

Exemptions and Abatements

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 senior advocate by way of legal service. (Senior - 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) An advocate or partnership firm of advocates providing **legal services with turnover upto Rs. 10 lakh in the preceding financial year ;** (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.	

TAXABLE:

Service Provider	Service Recipient	
A person represented on an arbitral tribunal	An arbitral tribunal	**Exemption withdrawn w.e.f. 01.04.2016 (Now under Forward Charge)**
(a) An arbitral tribunal, or (b) An individual advocate or a firm of advocates by way of legal services. (c) Senior Advocate	***Any business entity with a turnover of more than Rs. 10 Lakhs***	***(Reverse Charge Applicable) [Circular dated 18.05.2016] & <u>Notification No. 34/2016 ST dated 06.06.2016</u>***
Senior Advocate	*An advocate or partnership firm of advocates providing **legal services with turnover Exceeding Rs. 10 lakh in the preceding financial year***	

[With effect from 06.06.2016]

Notification No. 34/2016 ST dated 06.06.2016:

(i) Where legal services are provided by senior advocates to business entities, service tax will be payable by the recipient of service.

(ii) Where representational services are provided by the senior advocates to any business entity, service tax will be payable by the recipient of service which is the business entity who is litigant, applicant, or petitioner.

(iii) Where the contract for representational services provided by the senior advocates to any business entity has been entered through another advocate or a firm of advocates, service tax will be payable by the recipient of service which is the business entity who is litigant, applicant, or petitioner.

[Effective from 06.06.2016]

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

Yoga included in list of specified activities (Amendment) [Effective from 21.10.2015]

No service tax on services by way of advancement of yoga provided by entities registered under section 12AA of the Income-tax Act, 1961 from 01.07.2012 to 20.10.2015

[Effective from 01.07.2012 till 20.10.2015]

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. ***[Effective from 01.04.2016]***

General Insurance:

Niramaya Health Insurance Scheme exempted [Effective from 01.04.2016]

Annuity under the National Pension System (NPS) exempted[Effective from 01.04.2016]

Services by the following persons in respective capacities are exempt from service tax:

Services provided by (i) business facilitator/business correspondent with respect to Basic Savings Bank Deposit Accounts covered by Pradhan MantriJan Dhan Yojana and

(ii) an intermediary (Bank Mitra) to business facilitator/business correspondent with respect to such services, exempt from service tax. [Effective from 21.10.2015]

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)

For the purposes of 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]

Services by Tour Operator:

Solely for Accommodation ***Any other package***	***Abatement of 90%*** ***Abatement of 70%***	***Cenvat Credit is available only for Input Services of Tour***

[Effective from 01.04.2016]

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

Exemption to services received by a developer/units of a SEZ:

After the imposition of Krishi Kalyan Cess (KKC), it is provided that the refund of KKC will also be available along with service tax and SBC. Further, where specified services are not used exclusively in authorised operations, the refund amount of SBC and KKC will be determined as under:

$$= \frac{(A) \times \text{Sum of effective rates of SBC and KKC}}{\text{Rate of service tax}}$$

$$= \left(\frac{(A) \times (0.5 + 0.5)}{14} \right)$$

$$= \left(\frac{(A) \times 1}{14} \right)$$

[Effective from 01.06.2016]

Service Tax Procedures

Service	Service Provider	Service Recipient	Person liable to pay Service Tax
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)** ***[Effective from 01.04.2016]***

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 <u>individual or a proprietary firm or a partnership firm or HUF or OPC (conditional)</u> :-

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

Individuals/partnership firms with aggregate value of taxable services of Rs.50 lakh or less in previous year allowed to pay service tax on <u>receipt basis</u> 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	6th day of the following quarter in which the payment is received
2.	In any other case	5th day of the following quarter in which the payment is received
3.	In the case payment is received in the quarter ending in March	31st 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)

SPECIAL PROVISION FOR PAYMENT OF SERVICE TAX (Composition Scheme) (Rule 6 of Service Tax Rules, 1944)

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 & KKC extra payable as per note below)

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** ***[Effective from 01.04.2016]***	**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**

(Plus SBC & KKC extra payable as per note below)

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 & KKC extra payable as per note below)

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 & KKC extra payable as per note below)

<u>Note on SBC & KKC [Effective from 01.06.2016]:</u> *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:-*

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

KKC *= Service Tax liability as calculated above* $\times \frac{0.5\%}{14\%}$.

Example: *Compute the service tax liability of Mr. A, an air travel agent, for the quarter ended September, 2016 assuming that he opts for the special provision for payment of service tax as provided under rule 6 of the Service Tax Rules, 1994 instead of paying service tax at normal rates:*

Mr. A is not eligible for the small service provider exemption under Notification No. 33/2012 ST dated 20.06.2012 and service tax and cesses have been charged separately.

Particulars	***(₹)***
Basic air fare collected for domestic booking of tickets	*50,00,000*
Basic air fare collected for international booking of tickets	*80,00,000*
Commission received from the airlines on the sale of above domestic and international tickets	*5,00,000*

Answer

Computation of service tax liability of Mr. A

Particulars	**(₹)**
0.7% of the basic air fare collected for domestic booking of tickets [₹50,00,000 × 0.7%]	35,000
1.4% of the basic air fare collected for international booking of tickets [₹80,00,000 × 1.4%]	1,12,000
Service tax	1,47,000
Add: SBC (₹ 1,47,000 x 0.5/14)	5,250
Add: KKC (₹ 1,47,000 x 0.5/14)	5,250
Total service tax payable	**1,57,500**

<u>Interest on delayed payment of service tax [Section 75]:</u>

<u>With effect from 14.05.16:</u>

S. No.	**Situation**	**Rate of simple interest payable p.a.**
1.	Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due	**24%**
2.	Other than in situations covered under serial number 1 above	**15%**

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 @ 15% p.a. & Concession of 3% Available [with effect from 14.05.16]

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 assessees from filing such annual return.

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

-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

[Effective from 01.04.2016]

Form ST 3 amended to include KKC etc:

Service tax return form ST 3 has been amended vide Notification No. 43/2016 ST dated 28.09.2016 to incorporate columns and entries relating to KKC, disclosure of reversal of CENVAT credit under rule 6 of CENVAT Credit Rules, 2004 etc.

[Effective from 28.09.2016]

CENVAT Credit

(i) Scope of definition of capital goods widened [Rule 2(a)]

The scope of definition of capital goods has been widened to include within its ambit the following goods:

(a) Wagons falling under sub-heading 8606 92 of the Central Excise Tariff

(b) Equipment or appliance used in an office located within a factory - It may be noted that CENVAT credit will be allowed only on those equipment or appliance which are used in an office located within the factory and not outside the factory.

(c) Capital goods used outside the factory of the manufacturer of the final products for pumping of water, for captive use within the factory.

[Effective from 01.04.2016]

(ii) Goods transport by vessel from customs station of clearance in India to a place outside India excluded from the definition of exempted service [Rule 2(e)]

[Effective from 01.03.2016]

(iii) Scope of definition of inputs widened [Rule 2(k)]:

The scope of definition of inputs has been widened to include within its ambit the following goods:

(a) All goods used for pumping of water for captive use.

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

[Effective from 01.04.2016]

(iv) Services by way of sale of dutiable goods on commission basis is sales promotion and thus, an eligible input service [Rule 2(l)] ***[Effective from 03.02.2016]***

(v) Output service provider allowed to take CENVAT credit of the KKC on taxable services [Rule 3(1a)]

[Effective from 01.06.2016]

(vi) SBC and KKC cannot be paid by utilizing CENVAT credit of any duty / tax specified in rule 3(1) and credit of KKC to be utilized only for payment of KKC [Rules 3(4) and 3(7)]

[Effective from 03.02.2016 & Effective from 01.06.2016]

(vii) CENVAT credit of only NCCD to be utilised for payment of the NCCD payable on all goods [Rule 3(4)]

[Effective from 01.03.2016]

(viii) CENVAT credit not to be used for payment of non – CENVATable infrastructure cess [Rule 3(4)]

[Effective from 01.03.2016]

(ix) Jewellery manufacturer (excluding manufacturer of plain silver jewellery) with turnover upto Rs. 15 crore in preceding year eligible to avail 100% CENVAT credit on capital goods in the year of purchase [Rule 4(2)(a)] ***[Effective from 26.07.2016]***

(x) CENVAT credit allowed on tools of Chapter 82 of the Central Excise Tariff sent to another manufacturer or job-worker for production of goods [Rule 4(5)(b)]

Rule 4(5)(b) has now been amended to allow CENVAT credit on tools, when the same are sent to another manufacturer or a job-worker and shall not be reversed even if they are not returned.

A manufacturer has also been allowed to take credit on such goods when the same are sent directly to the premises of another manufacturer or job-worker without bringing them to his own premises.

[Effective from 01.04.2016]

(xi) Permission given by an Asst/Deputy Commissioner for sending inputs/partially processed inputs outside factory to a job-worker and clearance there from on payment of duty to be valid for 3 financial years instead of one year earlier. [Rule 4(6)]

[Effective from 01.04.2016]

(xii) Rule 4(7): 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]***

(a) CENVAT credit of service tax paid in a financial year, on the one time charges payable in full upfront or in installments, for the service of assignment of the right to use any natural resource by the Government, local authority or any other person, will be spread evenly over a period of three years.

(b) Where the manufacturer of goods or output service provider, as the case may be, further assigns such right assigned to him by the Government or any other person, in any financial year, to another person against consideration, such amount of balance CENVAT credit shall be allowed in the same financial year.

(xiii) Rule 5 – Refund of CENVAT credit:

Refund application for CENVAT credit under rule 5 in case of export of services to be filed within 1 year from the date of:

(a) receipt of payment, if provision of service has been completed prior to receipt of such payment or

(b) issue of invoice, if payment has been received in advance prior to the date of issue of the invoice

[Notification No. 27/2012 CE (NT) dated 18.06.2012] [Effective from 01.03.2016]

<u>(xiv) Rule 6 – Obligation of manufacturer or producer of final products and a provider of output service *[Amended with effect from 01.04.2016]*:</u>

(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,

<u>Has 2 options:</u>

(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).

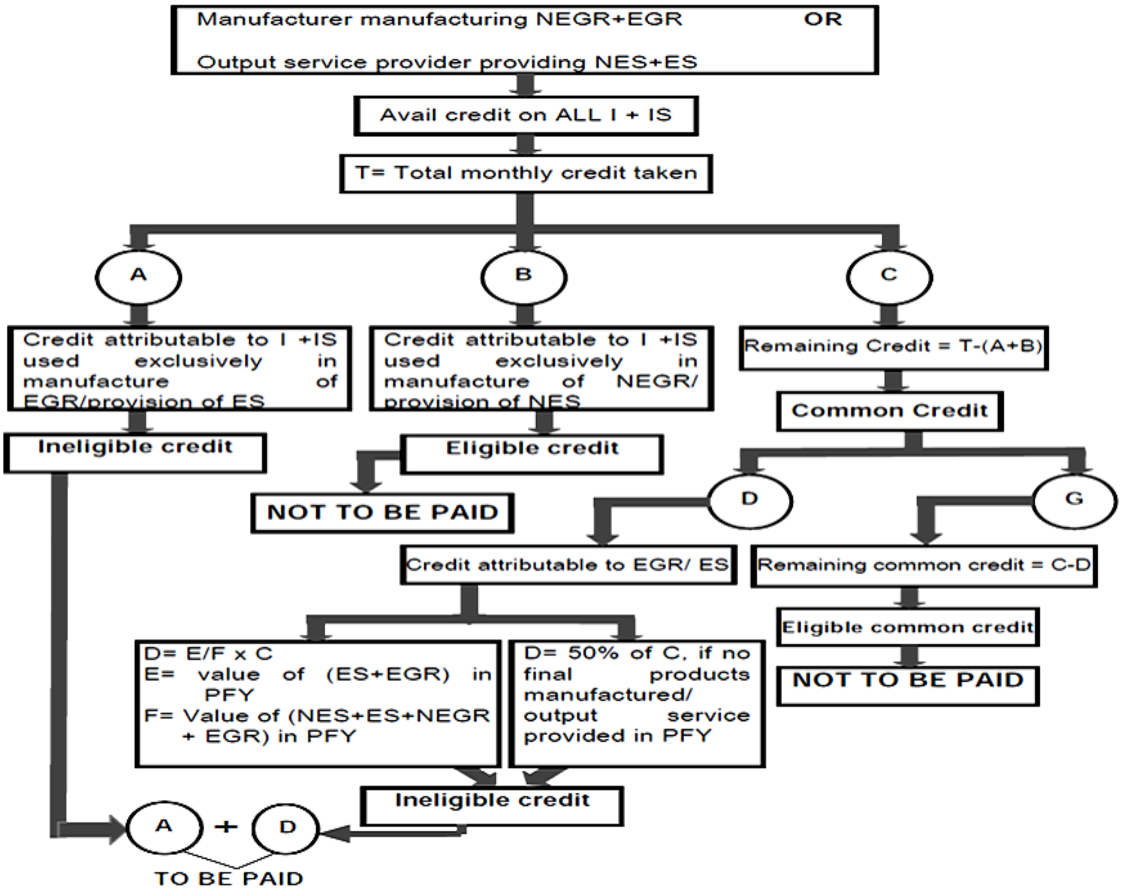
(3) If any duty of excise is paid on the exempted goods, the same will be reduced from the amount payable under Option (i).
For example, goods cleared under *Notification No. 1/2011* are exempted goods and excise duty @ 2% is paid on such goods. Therefore, such 2% duty will be reduced from 6% amount.
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% of the abated value of the service to be paid in case of partially exempted services with no facility of credits of inputs and input services.

(5) Reversal of 2% in case of transport of goods/passengers by rail

(6) 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]***

<u>Sub-rule (4):</u>

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]***

<u>Extra:</u>

Credit reversal provisions not applicable in case of transportation of goods by a vessel from customs station of clearance in India to a place outside India.

Example

X is an output service provider providing taxable as well as exempted services. Turnover of services of X during the year ended 31.3.2016 is as under:

Particulars	**₹**
Value of exempted services	*40,00,000*
Value of taxable services	*60,00,000*
Total	***1,00,00,000***

Details of CENVAT credit for the month of April, 2016 are as under:

Particulars	**₹**
CENVAT credit on input services	*50,000*
The above CENVAT credit on input services includes the following:	
(i) Credit on input services exclusively used for provision of exempted services	*10,000*
(ii) Credit on input services exclusively used for provision of taxable services	*10,000*

What would be X's entitlement to CENVAT credit if he followed option under rule 6(3)(ii) of the CENVAT Credit Rules, 2004?

Answer

Out of common credit of ₹ 30,000 (Refer Note below), CENVAT credit on input services attributable to rendering of exempted services during April, 2016

= (₹ 40,00,000/ ₹1,00,00,000) x ₹ 30,000 = ₹ 12,000

Note: Out of total credit of ₹ 50,000, ₹ 10,000 is deducted for input services exclusively used for / provision of exempted services and another ₹ 10,000 is deducted for input services exclusively used for /provision of taxable services.

Computation of CENVAT credit available for set off

Particulars	**₹**
Credit on input services	50,000
Less: Credit on exempted service	(10,000)
Less: Reversal under rule 6(3)(ii)	<u>(12,000)</u>
CENVAT credit available for set off	**28,000**

(xv) 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.

(xvi) 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]***

(xvii) Invoice issued by a service provider for clearance of inputs/capital goods also to be an eligible document under rule 9 [Rule 9(1)(a)(i)]

[Effective from 01.04.2016]

(xviii) Certificate issued by an Appraiser of Customs to be a valid document under rule 9 for goods imported through authorised courier [Rule 9(1)(d)]

[Effective from 31.12.2015]

(xix) Requirement of enclosing photocopies of the railway receipts with STTG (Service Tax Certificate for Transportation of Goods by Rail) for availing CENVAT credit dispensed with [Rule 9(1)(fa)]

As per the amended rule 9(1)(fa), Service Tax Certificate for Transportation of Goods by Rail issued by the Indian Railways will be an eligible document for availing CENVAT credit.

[Effective from 20.09.2016]