



Union Budget 2012

Indirect Taxes

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Fiscal Consolidation Vs. Growth

“In a globalised world with its share of uncertainties and rapid changes, this year brought us some more opportunities and many challenges as we moved ahead with steady steps on the chosen path of fiscal consolidation and high economic growth.”

(Extracts from FY 2011 Budget speech of Mr. Pranab Mukherjee)

Fiscal Consolidation of the Economy

- **GDP Growth Target → 7.6% & 8.6% for FY 2012-13 & 2013-14**
 - Service Sector → 59% of GDP → +9.4%
 - Agriculture → +2.5%
 - Industry → 28% of GDP → 4-5% (\$ 1 Tr – 12th 5 Yr Plan)
- **Inflation → 7% → Monetary Policy & Oil Prices → Supply side measures**
- **Exports by +23.5% (\$243 Bn)/ Imports by +29.4% (\$ 392 Bn)**
- **Forex Reserve → \$ 293 Bn & External Debt → \$ 326 Bn**
- **Employment → +9.11 Lakhs**
- ***Sustainable Development & Climate Change → Normal Monsoon, Stable International prices – Oil, Global growth – G 20 → +2.8%, Euro Zone crisis,***

Goods and Services Tax

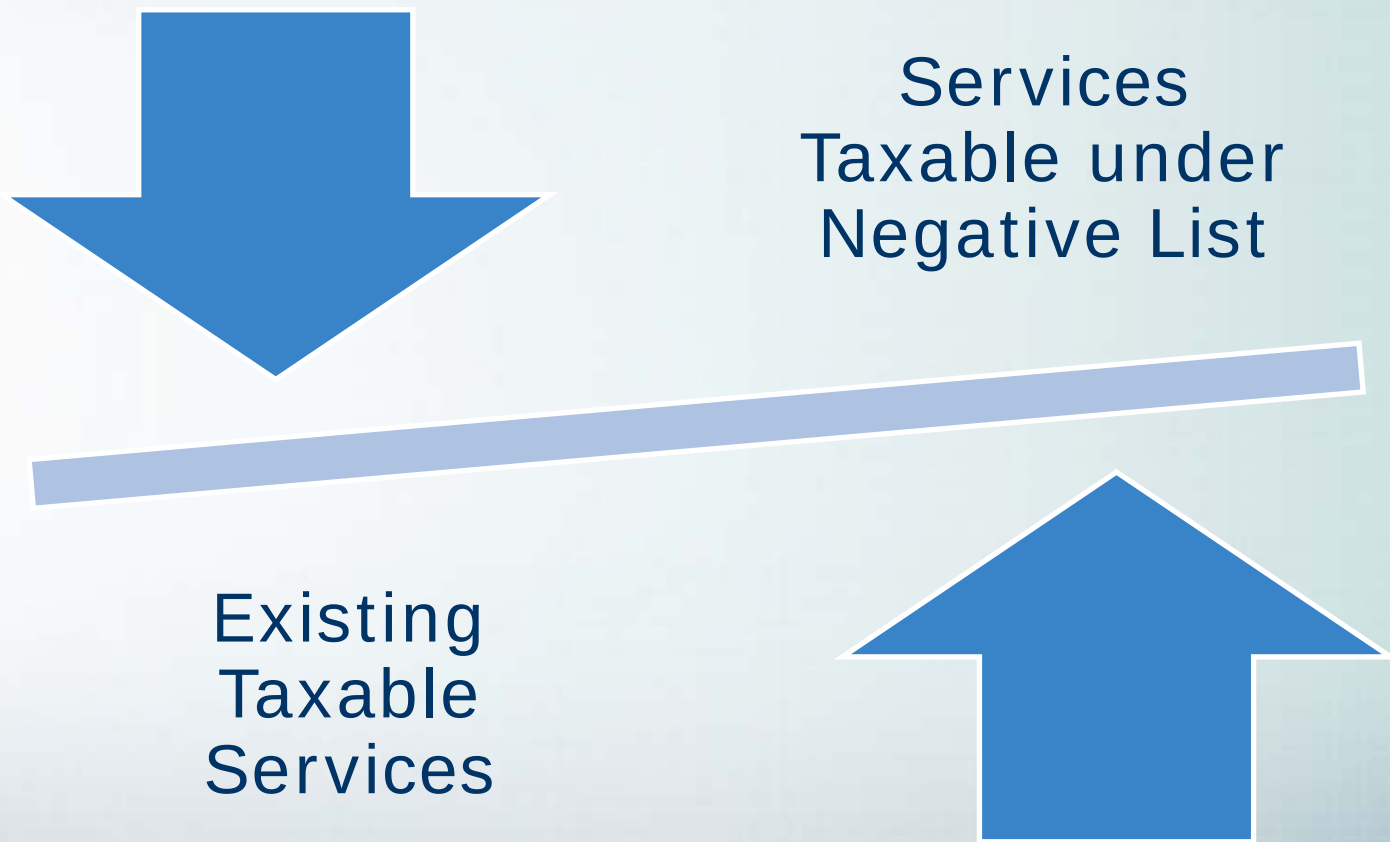
Announcements by the Hon'ble Finance Minister

- Regarding constitution amendment bill, awaiting recommendations of the Parliamentary Standing Committee
- Drafting of model legislation for Centre and State GST in concert with States is under progress
- Structure of GST Network (GSTN) has been approved by the Empowered Committee of State Finance Ministers
- The GSTN will implement common PAN-based registration, returns filing and payments processing for all States on a shared platform
- **GSTN will be operational by August 2012**
- No date has been communicated for implementing GST
- *No Change in CST rate against Form C*

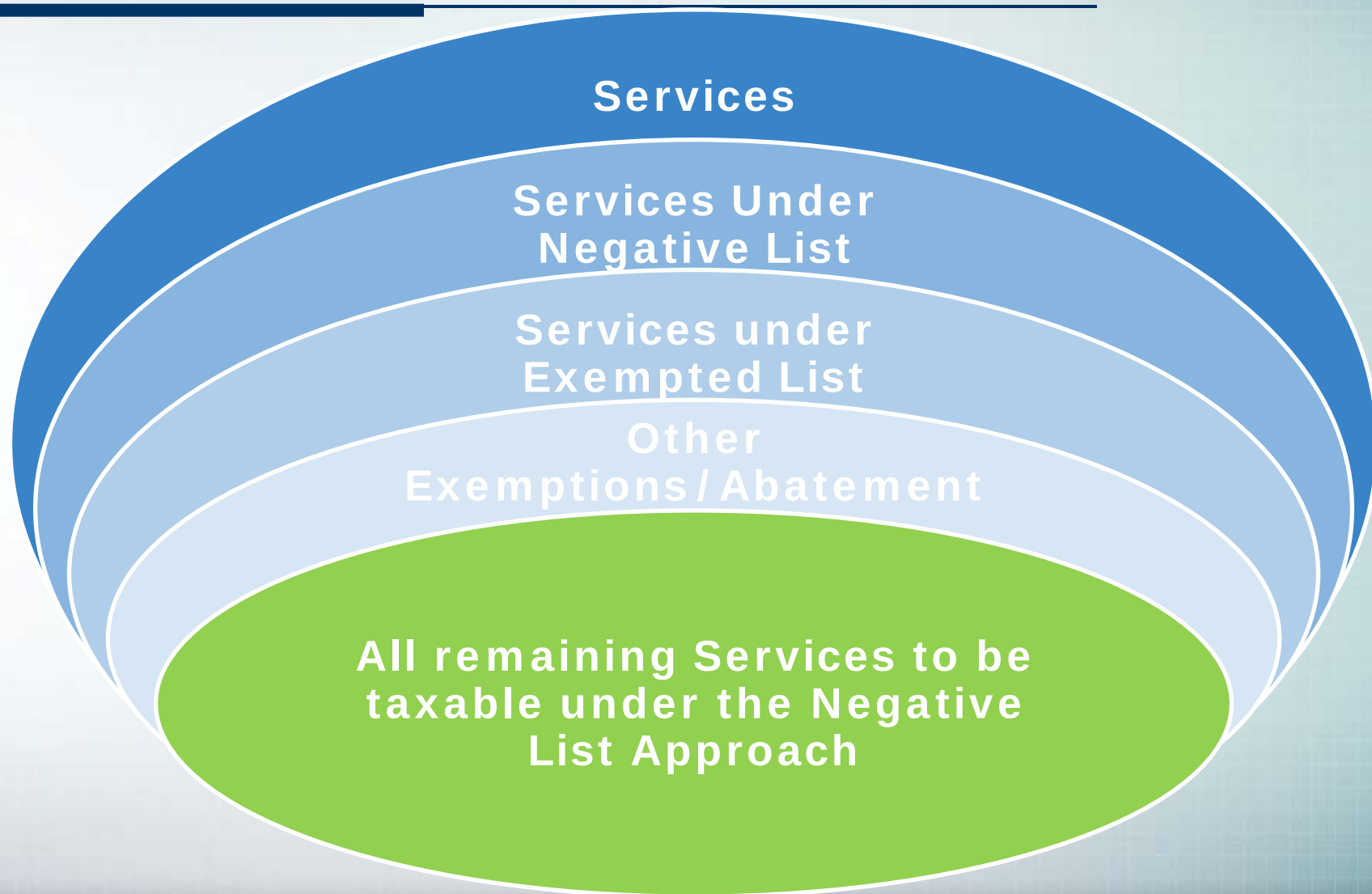
Service Tax - 2012

- **Service tax rate increased** from 10.3% to 12.36% (W.E.F 1/4/2012)
- **Consequent to change in rate of service tax**, changes made in the following services:-
 - **Works Contract Composition Scheme** – rate increased from 4.12% to 4.944%.
 - **Life insurance** - 3% for the first year premiums, 1.5% for the subsequent years - Full Cenvat credit allowed
 - **Money changing** - existing rates increased proportionately by 20%
 - **Air travel** - abatement of 60% with credit of input services allowed (earlier Rs. 150/ 750 – National & International) – No Cenvat credit taken on Inputs/CG

TAXATION OF SERVICES – NEGATIVE LIST



TAXATION OF SERVICES – NEGATIVE LIST



Introduction of Negative Lists

- Proposed that All services would be taxed except certain services specified in the negative list (S.66D)
- Provisions relating to positive list approach, namely, sections 65, 65A, 66, and 66A → cease to operate from a date to be notified later, as and when the negative list approach begins to operate.
- Introduction of Negative List Vide new Sections, namely,
 - 65B (Interpretation of various Terms),
 - 66B (Charging Section),
 - 66C (Determination of Place of Provisions of Service),
 - 66D (Negative Lists),
 - 66E (Declared Service) and
 - 66F (Principle of description of Service)
- Effective from a date to be notified, after passing of Finance Bill, 2012

Introduction of Negative Lists

- For implementing the Negative List approach, a number of changes have been proposed – Placed in the public domain
 - **Consequential changes** in Service Tax Rules, 1994, Service Tax (Determination of Value) Rules, 2006 and Cenvat Credit Rules, 2004 also form part of this Guidance Paper.
 - **Place of Provision of Services Rules, 2012** (S.66C) is being proposed notified after the Finance Bill, 2012 receives the assent of the President
 - Rescind Existing **‘Export of Services Rules, 2005’** and **‘Taxation of Services (Provided from outside India and received in India) Rules, 2006’**

Negative List

- **S. 66D - Negative list comprises 17 heads –**
 - Specified services by Government, local authorities excluding certain specified services
 - Services by RBI
 - Services by foreign diplomatic mission located in India
 - Specified services relating to agriculture
 - Trading of goods
 - Any process amounting to manufacture or production of goods
 - Selling of space or time slots for advertisements other than advertisements broadcast by radio or television
 - Service by way of access to a road or a bridge on payment of toll charges
 - Betting, gambling or lottery;

Negative List

- Admission to entertainment events or access to amusement facilities;
- Transmission or distribution of electricity by an electricity transmission or distribution utility;
- Service relating to preschool education including higher and secondary education, approved vocational education course and qualification recognized by any law;
- Services by way of renting of residential dwelling for use as residence;
- Services by way of deposit, loans or advance or sale or purchase of foreign currency;
- Service of transportation of passengers by specified service providers;

Negative List

- Service by way of transportation of goods subject to conditions;
 - Funeral, burial, crematorium or mortuary services including transportation of the deceased.
-
- **How to determine whether Service is taxable** → Look whether the Service
 - Negative List –S. 66D
 - Mega Exemption List – 12/2012-ST, Dated: March 17, 2012
 - Abatement - 13/2012-ST, Dated: March 17, 2012
 - Liability as Service Provider S. 68(1) / Service Recipient S. 68(2)

SERVICES UNDER EXEMPTED LIST

Service Provided by:

Clinical Establishment/ Doctors/ para-medics	- An educational institution - for transportation of students or staff - Admission
Veterinary Clinic	
Charitable Institution	
Way of motor vehicle parking for general public	- Way of new construction of - any airport, port or railway - Single residential unit - Low costs houses - Agricultural warehouse - Food grain handling or processing system
Way of Collecting/ providing news by independent journalist/PTI/UNI	
Way of training or coaching in recreational activities related to arts, culture or sports	
Way of technical testing or analysis of newly developed drugs	- Way of erection, construction, maintenance etc of : - road, bridge, tunnel - building owned by charitable institutions - pollution control or effluent treatment plant which is not a part of a factory - electric crematorium
Way of renting of a religious place meant for public or to conduct any religious ceremony	
Way of sponsorship of tournaments organized by specified persons	
Folk or classical artist	
General Insurance Companies for specified schemes by Central and State Government.	Transportation by rail or vessel of specified goods.

SERVICES UNDER EXEMPTED LIST

Service Provided by:

Non-air conditioned restaurant, eating joint or mess.	Hotel, inn, guest house, club etc. with room tariff value below Rs. 1000 per day.
Telephone calls from public telephones and free telephones located at airport/hospital	An incubate up to total business turnover of Rs. 50 lacs subject to specified conditions.
- In relation to air journey, starting or terminating in specified states, - Contract carriage for transportation of passengers	- Goods Transport Agency on transportation of specified goods. - Organizer of business exhibition held outside India
Job worker in relation to specified processes	Way of slaughtering of bovine animals

SERVICES UNDER EXEMPTED LIST

Service Provided to:	Other Services exempt from service tax:
- An educational institution - to cater a mid-day meal scheme - for transportation of students or staff - Admission	- Services provided to the government or local authority by way of erection, construction, maintenance etc of: - Civil structure for non commercial use. - Historical monument - Educational, clinical or art or cultural establishment - Canal, dam or other irrigation works - Pipeline, conduit or plant for supply of drinking water supply, water treatment, sewerage treatment or disposal - Residential complex.
- Government or local authority by way of: - Repair of ship, boat - Effluents and sewage treatment - Waste collection or disposal - Storage, treatment of drinking water - Transport of drinking water by pipeline	
UN or Specified International Organization	
- State transport agency, of leasing motor vehicle carrying 12 passengers or more. - Goods Transport Agency, of leasing means of transporting goods	Temporary transfer of copyright in relation to original literary, dramatic, musical, artistic works or cinematograph films

SERVICES UNDER EXEMPTED LIST

Service Provided by:	Service Provided to:
- Individual advocate or - On representation on/as arbitral tribunals	Any person other than business entity
- Specified individual - Recognized Sports Body	Another Recognized sports body
Any society	To its members upto the value of 5000
- Sub-Broker - Authorized person - Mutual fund agent or distributor - Selling agent of lottery tickets - Selling agent/distributor of SIM Cards/ RCV - Business facilitator or correspondent	- Stock broker - Member of commodity exchange - Mutual Fund or AMC - Distributor or selling agent - Any person - Banking or Insurance Company in rural area
Service provider in a non-taxable territory	- Any person other than in relation to business or commerce - A charitable institution

Definition of Service

- Any activity carried out by one person for another for a consideration and includes a declared Services but shall not include
 - a) Activity which constitute merely
 - i. Transfer of title in goods or Immovable property, by Sale/ Gift or any other manner
 - ii. Transaction in money or actionable claim
 - b) Provision of Service by Employee to Employer in Employment
 - c) Fees in any Court or Tribunal established under any Law

Explanation:

- Unincorporated AOP or BOI and Member thereof treated as distinct person
 - Establishment of person in **Taxable territory** & any of his other establishment in a **Non-taxable territory** treated distinct
- Establishment

Definition of Service

All economic
activities not
qualifying as
specified
transactions



Declared
Services



Services

Declared Services –S 66E

Nine Activities declared to be amounting to services:

- Renting of Immovable Property
- Construction of a complex, building, civil structure for which consideration received before issuance of completion certificate
- Temporary Transfer/Permitting Use or Enjoyment of Intellectual Property Rights
- Development, Design, Implementation etc. of Information Technology Software
- Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- Transfer of goods by way of hiring/ leasing/ licensing without transfer of right to use such goods
- Activity in relation to delivery of goods on hire purchase/ any system of payment by instalments
- Service portion in the execution of a works contract
- Service portion in an activity involving supply of food/drinks/article of human consumption

PLACE OF PROVISION OF SERVICES RULES

- To be based on the principle of consumption
- Services provided from Taxable territory to Non-taxable territory not to be taxable
- Services provided from Non-taxable territory to Taxable territory – service recipient to discharge the service tax liability
- Services Export and Import Rules to cease to apply under the New Regime
- Place of Provision of Services to be determined – Placed in public domain for comments

EXPORT OF SERVICES

- Services to qualify as export if:
 - ✓ Service provider located in Taxable Territory
 - ✓ Service recipient located in Non Taxable Territory
 - ✓ Service provided is a service other than in negative list
 - ✓ Payment is received in convertible foreign exchange
 - ✓ 'Place of Provision of Service' determined as per the Rules is outside India

Services covered under exempted list and other exemptions to qualify as export of services – A welcome move

IMPORT OF SERVICES

- Taxable Services to qualify as import if:
 - ✓ Service provider located in Non Taxable Territory
 - ✓ Service recipient located in Taxable Territory

‘Place of Provision of Service’ determined as per the Rules being the taxable territory not a relevant condition – should be incorporated as essential condition for triggering tax liability under RCM

Service Tax – SP/ SR - Both

- **Proviso to Section 68(2) –The Government may by notification provide that service provider may be required to pay tax only on the partial value and on the balance value, service receiver shall pay the tax. This is done to plug evasion of service tax.**

S.No	Description of Service	Service Recipient (Body Corporate)	Service Provider (Individual, Firm, LLP)
1	Hiring of Motor vehicles designed to carry passenger		
	(a)with abatement	100%	NIL
	(b)without abatement	40%	60%
2	Supply of manpower for any purpose	75%	25%
3	Works contract service	50%	50%

Other Changes in Finance Act

- **S. 67A → Date of Determination of Rate of Service tax**, Value of a taxable service and Rate of exchange → in force at the time when the taxable service has been provided or agreed to be provided
- **S. 72A → Special Audit by CA/CWA** - Commissioner may order audit of the service provider by a CA/CWA in specified circumstances
- **S. 73 → Period of Limitation** - SCN can be issued within 18 months (earlier 12 months) from the relevant date & Period of limitation – 5 Yrs from relevant date

Service Tax – Appeals

- **S. 85 → Appeal to Commissioner (Appeals) – Assessee & Revenue**
 - Earlier - 3 months & Now - 2 months
 - Period allowed for condonation is reduced to one month (earlier 3 months)
- **S. 86 → Appeal to Appellate Tribunal - In case of assessee appeal: No Change - 3 months**
 - **Departmental Appeal:** Earlier- 3 months & Now- 4 months
- Revised period is applicable only for the decisions or orders passed after the date on which Finance Bill, 2012
- Introduction of provisions related **Revision of Order passed by Commissioner (Appeal)** - In line with Section 35EE of CEA, 1944; introduced vide Section 83 of the Finance Act, 1994.

Service Tax – CCR

- **Refund to Exporter – Rule 5** – No Nexus required between exports and input services used in such exports → Duties or taxes paid on any goods or services that qualify as inputs or input services will be entitled to be refunded in the ratio of the export turnover to total turnover in line with Circular No. 868/6/2008-CE dated 09.05.2008
- **Capital goods definition amended to include motor vehicles and parts, etc –**
 - All motor vehicles except covered under CETH 8702, 8703, 8704 and 8711 are eligible as capital goods both for manufacturers
 - All motor vehicles for specified service providers
 - Components, spares and accessories of above

Service Tax – CCR

- **Input Services related to Motor Vehicle** amended to include
 - Rent a cab service and supply of tangible goods services, availed shall be considered as input services;
 - General Insurance and service station service also covered as input service in case of vehicle manufacturers and insurance companies;

- **Changes relating to Input Service Distributor** - Rule 7 for input service distributors - To provide distribution of credit of service tax distributed pro rata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.

Service Tax – CCR

- **Rule 10A → Transfer of unutilized Cenvat credit of SAD** – Manufacturer having two or more factories can transfer unutilized Cenvat credit of SAD from one excise unit to another on strength of a transfer challan (W.e.f 1/4/2012)
- **Rule 14 → No interest on Cenvat credit wrongly availed** but not utilized - amended to provide that interest is chargeable if Cenvat credit is “wrongly availed and utilized”. Thus, no interest is chargeable if Cenvat credit is wrongly availed but remains unutilized
- **Rule 15 → No Change relating to Penalty** - in deserving cases, penalty may be charged even if wrongly availed Cenvat credit but not utilized

Service Tax – CCR

- **Rule 9(1)(e) → Availment of credit on the tax payment challan** in case of payment of service tax by all service receivers on reverse charge
- **Rule 3(5) and 3(5A) - Duty payable on scrap at transaction value,** if transaction value more than depreciated Value [effective from 17.03.12]
- **Rule 6(3) → Rate for Cenvat reversal for exempt services** has been revised likewise from 5% to 6%
- **Rule 4(1) & 4(2) → Time when CENVAT could be taken** - Allow credit without bringing them into premises subject to due documentation regarding their delivery and location.

Service Tax – STR

- Notification 03/2012-ST, Dated: March 17, 2012 → CG's power to make Rules U/ S 94 (1) read with (2) – Service Tax (Amendment) Rules, 2012 (W.e.f. 1/4/2012):
- Rule 2(cd) “Partnership firm” includes a limited liability partnership;
- Rule 4A (1) Invoice should be raised within 30 days (earlier 14 days) from the date of completion of service or receipt of payment and 45 days for banks and financial institutions
- Rule 4A - proviso inserted - Invoice not required to be issued if amount received is up to Rs. 1,000 in excess of the amount indicated in the Invoice.

Service Tax – STR

- **Rule 6 → Export of Services** – Payment should be received in the period specified/ extended by the Reserve Bank of India
- **Rule 6 → Service tax on Collection basis - Individuals and partnership firms (including LLP)** - aggregate value of taxable services is less than Rs. 50 lakhs in the previous FY, the service provider shall have the option to pay tax on collection basis on taxable services up to Rs. 50 lakhs in the current financial year
- **Rule 6 (4B) → Adjustment of excess service tax paid** - Excess amount paid can be adjusted without any limitation or condition unless excess amount is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification

Service Tax – STR

- **Rule 6 (7A) (ii) → Service tax on LIC premium – 3% (1st Yr) & 1.5% (Subsequent Yr)**
- **Rule 6 (7B) - Money changing - Existing rates increased proportionately by 20%**
- **Rule 6 (7C) - Promotion, marketing, organizing or in any other manner assisting in organizing lottery, U/S 65(105) (zzzzn) – Corresponding changes of increase in rate of Service tax**

Service Tax – POT

- **Notification No. 04/2012-ST** Dated: March 17, 2012 – CG makes Rules U/S 94 (2) clause (a) i.e. **Collection & Recovery of ST** and clause (hhh) i.e. **Date of determination of ST & Place of provision of Taxable Service - Point of Taxation (Amendment) Rules, 2012 (W.e.f 1/4/2012)**
- **Rule 2(C) → Definition of Continuous supply of service** - amended to capture the concept in a more wholesome manner, namely the recurrent nature of services and the obligation for payment periodically or from time-to-time.
- **New levy** - No tax is chargeable on services where payment has been received and invoice issued within a period of 14 days.

Service Tax – POT

- **Rule 2A – Inserted → Date of payment** — Shall be the earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax Provided that —

(A) the date of payment shall be the date of credit in the bank account when —

(i) there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account; and

(ii) the credit in the bank account is after four working days from the date when there is change in effective rate of tax or a service is taxed for the first time; and

Service Tax – POT

(iii) the payment is made by way of an instrument which is credited to a bank account,

(B) if any rule requires determination of the time or date of payment received, the expression “date of payment” shall be construed to mean such date on which the payment is received;”

- **Rule 3(a) Substituted** → “Provided that where the invoice is not issued within the time period specified in Rule 4A of STR, 1994, Point of taxation shall be the date of completion of provision of the service”

Service Tax – POT

- **Rule 5 – New Clause substituted → “5. Payment of tax in case of New services.—** Where a service is taxed for the first time, then,—
 - (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
 - (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within 14 days of the date when the service is taxed for the first time.

Service Tax – POT

- **Rule 7 – Substituted with New Clause**
- **Determination of point of taxation in case of specified services or persons –U/S 68(2)** - Recipients of service - shall be the date on which payment is made Provided that, where the payment is not made within a period of six months of the date of invoice, the point of taxation shall be determined as if this rule does not exist
- **“Associated enterprises”,** where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier."

Service Tax – POT

- Rule 8A inserted → Where the POT cannot be determined Central Excise officer shall determine the POT after seeking accounts, documents or other evidence.

Service Tax – Retrospective Changes

- **Management, maintenance or repair of Roads –**
 - For the period 16.06.05 to 26.07.09, no service tax shall be levied
 - If any tax has been collected, refund shall be allowed if claim made within 6 months from the date of enactment of Finance Bill 2012

- **No Reversal of Cenvat credit of inputs, input services and capital goods used for providing services to a unit/developer of SEZ Services provided to SEZ** even though exempt, Cenvat credit of inputs, input services and capital goods allowed with retrospective effect from 10.02.06

Service Tax – Significant Changes

- **Penalty** would be waived for those taxpayers who pay the service tax due on the **Renting of immovable property** service (as on 6/3/2012), in full along with interest within six months. Section 80A is being introduced for this purpose. In case of failure to do so regular provisions will apply.
- Provisions for **settlement commission** introduced in service tax. Rules in this regard to be notified
- **No prosecution** on mere non issuance of invoice unless a person knowingly evades payment of service tax
- Exemption from Service Tax on copyright of Films

Service Tax – Significant Changes

- Study Team constituted for **suggesting the common Tax code for Excise & Service Tax**
- The **Small Scale Exemption** has been amended to provide that the first clearances up to Rs 10 lakhs will be considered on the basis of invoices issued and not merely on payments received (effective from 01.04.2012)
- **Service Tax Return/ Applications rationalized (W.e.f 1/4/2012)**
 - Common simplified registration format for Excise/ Service Tax
 - Simplified Return for both Excise & Service Tax – EST 1

Service Tax – Valuation Rules

- **Notification No. 11/2012 - ST., Dated: March 17, 2012**
- **Rule 2A Substituted → Works Contract** (Composition Scheme for Payment of Service Tax) Rules, 2007:-
- Proposed to allow clarity on Works Contract Services →
Value of works contract service = Gross amount charged for the works contract less
 - the value of transfer of property in goods involved in the execution of the said works contract
 - VAT/CST paid on transfer of property in goodsBut ALL Service Charges & Costs of consumables
- **Composition Method → Gross value for service tax purpose:-**
 - In case of Original work (all new constructions and all types of additions and alterations to abandoned or damaged structures to make them workable):- **40% of total amount,**

Service Tax – Valuation Rules

- Otherwise:- **60% of total amount**
- the gross amount charged includes the value of the land For contracts involving construction of complex or building for sale - **25% of the total amount**
- For this purpose the total amount will be gross amount plus the value of any material supplied under the same contract or any other contract.
- CENVAT Credit on Input services and capital goods will be allowed in all three cases

Service Tax – Valuation Rules

- Amendment in Rule 6:-
 - a) Any amount realized as **demurrage**, or by any other name, for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service will be **included in taxable value**
 - b) **Accidental damages** due to unforeseen actions not relatable to the provision of service will be **excluded** from the value of service
 - c) **Interest on loan** has been **substituted** with (a) **Interest on Deposits** and (b) **Interest on delayed payments**. Interest on loans will now be an exempt hence credit reversal will required

Service Tax - Abatement

- Determination of value of taxable service involved in supply of food and drinks in a restaurant or as outdoor catering:-**

S. No	Description of service	Existing taxable portion	Proposed taxable portion	CENVAT Credit availability of Input services, capital goods and inputs (except chapter 1 to 22)
1.	Service portion in the supply of food or any other article of human consumption or drink at a restaurant	30%	40%	Yes
2.	S. No.1 provided from a premises elsewhere(outdoor catering)	50%	60%	Yes

Other Services – Abatement Allowed

Change in Rate of Taxable Portion as per Notification No 1/2006

S.No.	Service	Proposed taxable portion	Existing taxable portion	Cenvat credits
1	Convention center or mandap with catering	70%	60%	All credits, except on inputs, of chapter 1 to 22, will now be available.
2	Pandal or Shamiana with catering	70%	70%	
3	Coastal shipping	50%	75%	No credits as at Present
4	Accommodation in hotel etc.	60%	50%	Credits on input services allowed
5	Railways: goods	30%	30%	All credits will be allowed
6	Railways: passengers	30%	New levy	All credits will be allowed

Service Tax – Service Tax Return

Service Tax Return		
Quarterly return		Monthly return
Individual/Firm/LLP assessee Any amount of tax liability in immediately preceding financial year	Assesses other than Individual/Firm/LLP Tax liability less than 25 lakhs in immediately preceding financial year	Assesses other than Individual/Firm/LLP Tax liability more than 25 lakhs in immediately preceding financial year

Central Excise - 2012

- **Change in Effective Rate of Excise Duty:**
 - Non-petroleum products → 10% to 12% ad valorem
 - Concessional Rate → 5% to 6%
 - 130 Items - 1% imposed in Budget 2011 to 2% - No Credit available - Exceptions:
 - Precious metal Jewellery (7113)
 - Coal (2701)
 - Fertilizer (3100)
- **Branded Ready-Made Garments (Chapter Headings. 61, 62 and 63) → 10% to 12% → Abatement of 70% instead of 55%.**
- **Excise Duty on Parts of Mobile Phones other than cleared to Manufacturer of Mobile Phones → 10% to 2% (No Credit available)**

ED - Reduced

- **Excise duty has been reduced from 10% to 6% :**
 - Matches manufactured by “semi-mechanised” units
 - Iodine, LED lamps
 - Processed food products of soya
 - Parts of Blood Pressure Monitors and Blood glucose monitoring systems (Gluko-meters) on actual user basis
 - Specified raw materials viz. Polypropylene, Stainless Steel Strip and Stainless Steel capillary tube for manufacture of syringe, needle, catheters, and cannulae on actual user basis.
 - Batteries supplied to manufacturers of electrically operated vehicles, including two and three-wheeled electric motor vehicles.
 - Battery packs of lithium ion batteries when supplied to manufacturers of hybrid or electric vehicles.

Full Exemption

- **Full Exemption from Excise duty:**
 - Specified raw materials viz. stainless steel tube and wire, cobalt chromium tube, Hayness Alloy-25 and polypropylene mesh required for manufacture of Coronary stents/ coronary stent system and artificial heart valve on actual user basis
 - Refills and inks in bulk packs (not meant for retail sale) used for manufacture of pens of value not exceeding ` 200 per piece.
 - Foreign-going vessels into India but on the fulfillment of certain conditions viz that a Bill of entry shall be filed for the vessel when it converts into a “coastal” vessel and additional duty would be payable on specified basis:

Other Legislative Changes

- **Other Important Legislative Changes:**
 - The provisions of CEA relating to offences and penalties aligned with those under the Customs Act → Section 9(1)(i) CEA, offences involving excisable goods where the duty leviable exceeds Rs. 1 lakh are punishable with imprisonment for a term which may extend to seven years and with fine. It is proposed to enhance this duty amount to Rs. 30 lakh
 - S. 11AC provides for reduced penalty of 25% if the duty along with interest is paid within 30 days of the communication of the order

Other Legislative Changes

- **Other Important Legislative Changes:**
 - Rule 22(3) of CER to empower the officers of audit, cost accountants and chartered accountants appointed U/S 14A or 14AA to prescribe the time limit within which the units being audited will produce the documents.
- **Amendments in Cenvat Credit Rules, 2004**
 - Rule 3(5) and 3(5A) – Removal of CG – Amount to be reversed - Higher of Cenvat credit taken at the time of receipt reduced by a prescribed percentage Or the duty on transaction value.
 - Rule 14 Interest on Wrong utilization of Credit

Customs Duty - 2012

- **No change in the peak rate of basic customs duty of 10%** applicable to non-agricultural goods with few exceptions
- **The Portion of Cesses i.e. Education & SHE leviable on the CVD** portion of Customs duty is exempted so as to avoid computation of such cesses twice → TTL Duty 26.85% → 26.495%
- **Baggage Allowance:** The duty-free allowance under the Baggage Rules is being increased from Rs. 25000 to Rs. 35000 for passengers of Indian origin and from Rs. 12000 to Rs. 15000 for children up to 10 years of age.

Increase in Duty

- **Increase in the Basic Customs duty (BCD) /CVD on items:**
 - BCD 60% to 75% on Completely Built Units (CBUs) of large cars/ MUVs/ SUVs permitted for import without type approval (value exceeding US\$40,000 and engine capacity exceeding 3000cc for petrol and 2500cc for diesel)
 - BCD 5% to 7.5% on boric acid
 - BCD Nil to 10% on Digital Still Cameras
 - BCD 5% to 7.5% on flat rolled products (HR and CR) of non-alloy steel
 - BCD 2% to 4% on standard gold bars and platinum bars
 - BCD 5% to 10% on non-standard gold
 - CVD 1% to 2% on gold ore/concentrate and dore bars for refining
 - BCD of 2% imposed on cut and polished coloured gemstones.

Customs Duty - 2012

- **Increase in the Basic Customs duty (BCD) /CVD on items:**
 - BCD of 2% imposed on cut and polished coloured gemstones.
 - BCD 10% to 30% on bicycles and from 10% to 20%. on parts of bicycles

Exemption

- **Full Exemption from Basic Customs duty (BCD) on items:**
 - Initial setting up and substantial expansion of fertilizer projects (Valid till 31.03.2015)
 - Steam coal - CVD is reduced from 5% to 1% on (31.3.2014)
 - Natural gas/Liquified Natural Gas imported for power generation by a Power generation company.
 - Uranium concentrate, sintered natural uranium dioxide, sintered uranium dioxide pellets for generation of nuclear power
 - Equipment imported for Road construction projects awarded by Metropolitan Development Authorities along with Nil CVD and Nil SAD
 - Steel tube & wire, cobalt chromium tube, Hayness Alloy-25, etc., for manufacture of coronary stents/systems subject to actual user condition

Exemption

- Full Exemption from Basic Customs duty (BCD) on items:
 - Tunnel excavation and specified lining equipment along with Nil CVD and Nil SAD
 - Coal mining projects
 - New and retreaded aircraft tyres along with Nil CVD
 - Parts of aircraft and testing equipment for maintenance and repair of aircraft imported by third-party Maintenance, Repair and Overhaul (MRO) units
 - Tunnel boring machines/ Parts for hydel and road projects for all infrastructure projects.
 - Tri- band phosphor
 - Waster paper
 - Lithiumion batteries for the manufacture of battery packs for supply to electric or hybrid vehicle manufacturers along with 6% CVD and Nil SAD

Exemption

- Full Exemption from Basic Customs duty (BCD) on Textile Machinery:
 - Shuttle less looms, parts/components of shuttle less looms by actual users for manufacture, specified silk machinery viz. Automatic reeling/ dupion reeling machines and their accessories including cocoon assorting machines, cocoon peeling machines, vacuum permeation machine, cocoon cooking machine, reeled silk humidifier, bale press and raw silk testing equipments. The exemption is available only to new machinery
 - Concessional 5% duty available to specified textile machinery is restricted only to the new textile machinery - Consequently second hand machinery would attract 7.5% basic customs duty

IGCR

- Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 → Further liberalize and simplify the procedure
- **Eligibility Certificate** can be obtained for a period not exceeding **a year** instead of consignment wise or quarterly certificate
- Permitting **re-export of unused rejected goods** imported at concessional duty with the prior permission of the jurisdictional AC / DC of Central Excise subject to
 - Such re-export takes place within **six months** from the date of importation
 - The **re-export value** should not be less than the value of the imports.
- Maintenance of separate accounts for these rules should not be insisted upon as long as the records maintained by the importer contain the requisite information.

Other Changes

- Other Important Changes:
 - **All offences** under the Act (except an offence punishable with term of **imprisonment of three years or more** under section 135) shall be **non-cognizable and bailable**.
 - S. 153 is being amended to bring courier services within its ambit for the purpose of serving any order/ decision/ summons/ notice by the Commissioner
 - **Regarding forged Duty scripts** - At present Customs was not able to recover duty from people who use to get transferable licenses like DEPB by fraudulent means and who use to sell these licenses to innocent importers because under the law duty could not be demanded from persons other than importers - New section 28AAA inserted to provide for recovery of duties, parallel from Importer/ the person to whom the instrument such as duty credit scrip was issued



Question & Answer



Thank You !

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