KGMA

SERVICE TAX AMENDMENTS

EASIEST APPROCH FOR AMENDMENTS

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FINANCE BILL 2015

S.No.	Present	Amendment	Memorandum Explaining Finance Bill
1	66D (*a*) : Services by Government or a Local Authority excluding the following services to the extent they are not covered elsewhere— (*i*) services by the Department of Posts by way of - speed post, - express parcel post, - life insurance and - agency services provided to a person other than Government; (*ii*) services in relation to - an aircraft or - a vessel, inside or outside the precincts of a port or - an airport; (*iii*) transport of - goods or - passengers; or (*iv*) Support services, - other than services covered under clauses (*i*) to (*iii*) above, Provided to business entities Section 65B (49) - "Support Services" means Infrastructural, Operational, Administrative, Logistic, Marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include Advertisement and promotion, construction or works contract, Renting of immovable property, security, testing and analysis.	66D (*a*) : Services by Government or a Local Authority excluding the following services to the extent they are not covered elsewhere— (*i*) services by the Department of Posts by way of - speed post, - express parcel post, - life insurance and - agency services provided to a person other than Government; (*ii*) services in relation to - an aircraft or - a vessel, inside or outside the precincts of a port or - an airport; (*iii*) transport of - goods or - passengers; or (*iv*) ANY services, - other than services covered under clauses (*i*) to (*iii*) above, Provided to business entities Section 65B (49) : omitted **Section 65B (26A):** "Government" means - the Departments of the Central Government, - a State Government and its Departments and - a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder.	Presently, services provided by the Government or a local authority, excluding certain services specified under clause(a) of section 66D, are in the Negative List. Service tax applies on the "support service" provided by the Government or local authority to a business entity. An enabling provision is being made, by amending [section 66D (a)(iv)], to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of "support service" [section 65B(49)] is being omitted. These amendments shall come into effect from a date to be notified by the Central Government in this regard after the enactment of the Finance Bill, 2015. Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service Tax. Definition of Government Services, excluding few specified services, provided by the government have been included in the Negative List. Further, specified services received by the government are also exempt. Hitherto, the term "government" has not been defined in the Act or the notification. This has given rise to interpretational issues. To address such issues, a definition of the term "Government" is being incorporated in the Act.

2	66D (f): any process amounting to manufacture or production of goods Section 65B (40): "process amounting to manufacture or production of goods" means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944) or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force.	66D (f): any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption **Section 65B (40) : "process amounting to manufacture or production of goods"** means a process on which duties of excise are **leviable** under section 3 of the Central Excise Act, 1944 (1 of 1944) or the Medicinal and Toilet Preparations (Excise Duties) Act,1955 or any process amounting to manufacture of ~~alcoholic liquors for human consumption~~, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force.	The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [Section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration. In this context, the definition of the term "process amounting to manufacture or production of goods" [section 65B (40) is being amended] with a consequential amendment in S.No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit. The proposed changes shall come into effect from a date to be notified by the Central Government after enactment of the Finance Bill, 2015.
3	66D (i) betting, gambling or lottery	66D (i) betting, gambling or lottery *Explanation*- For the purposes of this clause, the expression "betting, gambling or lottery" shall not include the activity specified in *Explanation* 2 to clause (*44*) of section 65B. * Please refer to change in section 65B as mentioned below to understand the new explanation inserted to section 66 D (i).	The intention in law has been to levy Service Tax on the services provided by: (i) Chit fund foremen by way of conducting a chit. {insert new Section 65B (23A)} (ii)Distributors or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery. {insert new Section 65B (31A)}

Section 65B (44): "service" means any activity carried out by a person for another for consideration, and includes a declared service, But shall not include-
(*a*) An activity which constitutes merely,
(*i*) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
(ia) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution;
(*ii*) A transaction in money or actionable claim;
(*b*) A provision of service by an employee to the employer in the course of or in relation to his employment;
(*c*) Fees taken in any Court or tribunal established under any law for the time being in force.

Explanation1.• For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,-
(*A*) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member;
(*B*) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(*C*) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.
Explanation 2- For the purposes of this clause, transaction in money shall not include, any activity relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged:".
Explanation 3.- For the purposes of this Chapter,-
(a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
(b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.
Explanation 4.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;

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(*A*) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or
(*B*) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(*C*) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.
Explanation 2- For the purposes of this clause, transaction in money shall not include,
(i) any activity relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged:".
(ii) Any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out––
(*a*) by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner;
(*b*) By a foreman of chit fund for conducting or organizing a chit in any manner.
Explanation 3.- For the purposes of this Chapter,-
(a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
(b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.
Explanation 4.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;

Section 65B (*23A*) "foreman of chit fund" shall have the same meaning as is assigned to the term "foreman" in clause (*j*) of section 2 of the Chit Funds Act, 1982

Section 65B (*31A*) "lottery distributor or selling agent" means a person appointed or authorized by a State for the purposes of promoting, marketing, selling or facilitating in organizing lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998.

However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.
An Explanation is being inserted in the definition of "service" to specifically state the intention of the legislature to levy service tax on activities undertaken by

- Chit fund foremen in relation to chit, and
- Distributors or Selling agents of lottery in relation to lotteries.

4	66D (j) admission to entertainment events or access to amusement facilities Section 65B (24) "Entertainment Event" means an event or a performance which is intended to provide recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or programme. (No active presence of Person is required) Section 65B (9) "Amusement Facility" means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided (active presence of person is required)	66D (j) omitted Section 65B (24) **omitted** Section 65B (9) **omitted** New entries being incorporated in notification No. 25/12-ST, to continue exemption to some of the services that are presently covered by the Negative List entries which are being omitted: • Service by way of right to admission to,- (i) Exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet. (ii) Recognized sporting events. (iii) Concerts, pageants, award functions, musical or sporting event not covered by the above exemption, where the consideration for such admission is up to ` Rs. 500 per person. These changes shall be brought into effect from the date the amendments being made in the Negative List, concerning the service by way of admission to entertainment events, come into effect.	•Service Tax to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places. The Negative List entry that covers access to amusement facility is being omitted [section 66 D (j)]. Consequently, the definition of "amusement facility" [section 65B (9)] is also being omitted. These proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015. • Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than ` 500 for right to admission to such an event. For this purpose, the Negative List Entry that covers admission to entertainment events is being omitted [section 66D (j)]. Consequently, the definition of "entertainment event" [section 66B (24)] is being omitted. However, the existing exemption to service by way of admission to entertainment events, namely, "exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets by way of the Negative List entry shall be continued, irrespective of the amount charged for such service, through the route of exemption. For this purpose a new entry 47, is being inserted in Notification No. 25/2012-ST, dated 20.6.2012. The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015. *The term recognized sporting event has been defined in the proposed amendment in the said notification.

5	66F: Principles of interpretation of specified descriptions of services or bundled services. (*1*) Unless otherwise specified, reference to a service (herein referred to as main service) shall not include reference to a service which is used for providing main service. (*2*) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description. (*3*) Subject to the provisions of sub-section (*2*), the taxability of a bundled service shall be determined in the following manner, namely:– (*a*) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character; (*b*) If various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax. *Explanation.* — For the purposes of sub-section (*3*), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.	66F: Principles of interpretation of specified descriptions of services or bundled services. (*1*) Unless otherwise specified, reference to a service (herein referred to as main service) shall not include reference to a service which is used for providing main service. '*Illustration*' The services by the Reserve Bank of India, being the main service within the meaning of clause (*b*) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (*b*) of the negative list in section 66D and hence, such service is leviable to service tax.'. (*2*) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description. (*3*) Subject to the provisions of sub-section (*2*), the taxability of a bundled service shall be determined in the following manner, namely:– (*a*) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character; (*b*) If various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax. *Explanation.* — For the purposes of sub-section (*3*), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.	Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such service. An illustration is being incorporated in this section to exemplify the scope of this provision.

6	SECTION [67. Valuation of taxable services for charging service tax. — (1) Subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall, — i. in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him; ii. in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration; iii. in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner. (2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged. (3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service. (4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed. *Explanation.* — For the purposes of this section, — (a) ―consideration‖ includes any amount that is payable for the taxable services provided or to be provided; (b) ―gross amount charged includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called ―Suspense account or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.	SECTION [67. Valuation of taxable services for charging service tax. — (1) Subject to the provisions of this Chapter, where service tax is chargeable on any taxable service with reference to its value, then such value shall, — i. in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him; ii. in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money as, with the addition of service tax charged, is equivalent to the consideration; iii. in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner. (2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged. (3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service. (4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed. *Explanation.* — For the purposes of this section, — (a) ―consideration‖ includes i. any amount that is payable for the taxable services provided or to be provided; ii. any reimbursable expenditure or cost incurred by the service provider and charged, in thecourse of providing or agreeing to provide a taxable service, except in such circumstances, andsubject to such conditions, as may be prescribed; iii. any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket. (b) ―gross amount charged includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called ―Suspense account or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.	Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include: (a) All reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision. (b) Amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case maybe, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets. The proposed substitution of the explanation in Section 67 will make all amounts charged by the service provider liable to service tax. However, if any expenditure is incurred by the service recipient then the same will continue not to be subject to service tax and it may be litigated also.

7	SECTION 73. Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded. (1) Where any service tax - has not been levied or paid or - has been short-levied or short-paid or - erroneously refunded, [Central Excise Officer] may, within eighteen months from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice : Provided that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of — (a) fraud; or (b) collusion; or (c) willful mis-statement; or (d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax, by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words ―eighteen months the words ―five years‖ had been substituted. *Explanation.* — Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of eighteen months40 or five years, as the case may be. (*1A*) Notwithstanding anything contained in sub-section (*1*) (except the period of eighteen months of serving the notice for recovery of service tax), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.	SECTION 73. Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded. (1) Where any service tax - has not been levied or paid or - has been short-levied or short-paid or - erroneously refunded, [Central Excise Officer] may, within eighteen months from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice : Provided that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of — (a) fraud; or (b) collusion; or (c) willful mis-statement; or (d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax, by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words ―eighteen months the words ―five years‖ had been substituted. *Explanation.* — Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of eighteen months40 or five years, as the case may be. (*1A*) Notwithstanding anything contained in sub-section (*1*) (except the period of eighteen months of serving the notice for recovery of service tax), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.	Section 73 is being amended in the following manner: (i) a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section73,; and (ii) Sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records is being omitted.

	(2) The [Central Excise Officer] shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined : [omitted w.e.f 08.04.2011] (2A) Where any appellate authority or tribunal or court concludes that the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of,— (a) fraud; or (b) collusion; or (c) willful misstatement; or (d) suppression of facts; or (e) contravention of any of the provisions of this chapter or the rules made thereunder with intent to evade payment of service tax, has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of eighteen months, as if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1) (3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the [Central Excise Officer] of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid : Provided that the Central Excise Officer (CEO) may determine the amount of short-payment of service tax or erroneously refunded service tax, if any, which in his opinion has not been paid by such person and, then, the CEO shall proceed to recover such amount in the manner specified in this section, and the period of 18 months referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.	(*1B*) Notwithstanding anything contained in sub-section (*1*), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (*1*) of section 70, but not paid either in full or in part, the same shall be recovered along with interest thereon in any of the modes specified in section 87, without service of notice under sub-section (*1*). (2) The [Central Excise Officer] shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined : [omitted w.e.f 08.04.2011] (2A) Where any appellate authority or tribunal or court concludes that the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of,— (a) fraud; or (b) collusion; or (c) willful misstatement; or (d) suppression of facts; or (e) contravention of any of the provisions of this chapter or the rules made thereunder with intent to evade payment of service tax, has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of eighteen months, as if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1) (3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the [Central Excise Officer] of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid : Provided that the [Central Excise Officer] may determine the amount of short-payment of service tax or erroneously refunded service tax, if any, which in his opinion has not been paid by such person and, then, the	

	Explanation. [1] — For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the [Central Excise Officer], but for this sub-section. *[Explanation 2.* — For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service tax under this sub-section and interest thereon.] (4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of — (a) fraud; or (b) collusion; or (c) willful misstatement; or (d) suppression of facts; or (e) contravention of any of the provisions of this chapter or the rules made thereunder with intent to evade payment of service tax, [(4A) Notwithstanding anything contained in sub-sections (4), where during the course of any audit, investigation or verification, it is found that any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, but the true and complete details of transactions are available in the specified records, the person chargeable to service tax or to whom erroneous refund has been made, may pay the service tax in full or in part, as he may accept to be the amount of tax chargeable or erroneously refunded along with interest payable thereon under section 75 and penalty equal to one per cent. of such tax, for each month, for the period during which the default continues, up to a maximum of twenty-five per cent. of the tax amount, before service of notice on him and inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under sub-section (1) in respect of the amount so paid and proceedings in respect of the said amount of service tax shall be deemed to have been concluded :	[Central Excise Officer] shall proceed to recover such amount in the manner specified in this section, and the period of —eighteen months referred to in sub-section (1) shall be counted from the date of receipt of such information of payment. *Explanation. [1]* — For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the [Central Excise Officer], but for this sub-section. *[Explanation 2.* — For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service tax under this sub-section and interest thereon.] (4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of — (a) fraud; or (b) collusion; or (c) willful misstatement; or (d) suppression of facts; or (e) contravention of any of the provisions of this chapter or the rules made thereunder with intent to evade payment of service tax, ~~[(4A) Notwithstanding anything contained in sub-sections (4), where during the course of any audit, investigation or verification, it is found that any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, but the true and complete details of transactions are available in the specified records, the person chargeable to service tax or to whom erroneous refund has been made, may pay the service tax in full or in part, as he may accept to be the amount of tax chargeable or erroneously refunded along with interest payable thereon under section 75 and penalty equal to one per cent. of such tax, for each month, for the period during which the default continues, up to a maximum of twenty-five per cent. of the tax amount, before service of notice on him and inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under sub-section (1) in respect of the amount so paid and proceedings in respect of the said amount of service tax shall be deemed to have been concluded :~~	

	Provided that the Central Excise Officer may determine the amount of service tax, if any, due from such person, which in his opinion remains to be paid by such person and shall proceed to recover such amount in the manner specified in sub-section (1). *Explanation.* — For the purposes of this sub-section and section 78, —specified record means records including computerized data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records. (5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003. (6) For the purposes of this section, relevant date means, — i. in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid — a. where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed; b. where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules; c. in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;	~~Provided that the Central Excise Officer may determine the amount of service tax, if any, due from such person, which in his opinion remains to be paid by such person and shall proceed to recover such amount in the manner specified in sub-section (1).~~ ~~*Explanation.* — For the purposes of this sub-section and section 78, —specified record means records including computerized data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.]~~ {omitted} (5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003. (6) For the purposes of this section, relevant date means, — i. in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid — a. where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed; b. where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules; c. in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;	

	ii. in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof; iii. in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.	ii. in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof; iii. in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.	
8	SECTION 76. Penalty for failure to pay service tax. — Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made under this Chapter, who fails to pay such tax, shall pay, in addition to such tax and the interest on that tax in accordance with the provisions of section 75, a penalty which shall not be less than [one hundred rupees] for every day during which such failure continues or at the rate of [one per cent.] of such tax, per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax. Provided that the total amount of the penalty payable in terms of this section shall not exceed [fifty per cent of] the service tax payable.	SECTION 76. Penalty for failure to pay service tax. — (*1*) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or willful misstatement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (*1*) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax: Provided that where such service tax and interest is paid within a period of thirty days of– - (*i*) the date of service of notice under sub-section (*1*) of section 73, no penalty shall be payable; - (*ii*) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (*2*) of section 73, the penalty payable shall be twenty-five percent of the penalty imposed in that order, only if such reduced penalty is also paid within such period.	Section 76 is being amended to rationalize penalty, in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,- (i) penalty not to exceed ten per cent of service tax amount involved in such cases; (ii) no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1); (iii) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

		(*2*) Where the Commissioner (Appeals), the Appellate Tribunal or, the court, as the case may be, modifies the service tax determined under sub-section (*2*) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the proviso to sub-section (*1*) shall be available if such service tax, interest and reduced penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.	
9	SECTION 78. Penalty for suppressing, etc. of value of taxable services. — (1) Where any service tax has not been levied or paid or has been short-levied or short- paid or erroneously refunded, by reason of - (a) fraud; or (b) collusion; or (c) willful mis-statement; or (d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, The person, liable to pay such service tax or erroneous refund, as determined under sub-section (2) of section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him, which shall be equal to the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded Provided that where true and complete details of the transactions are available in the specified records, penalty shall be reduced to fifty per cent. of the service tax so not levied or paid or short-levied or short-paid or erroneously refunded : Provided further that where such service tax and the interest payable thereon is paid within thirty days from the date of communication of order of the Central Excise Officer determining such service tax, the amount of penalty liable to be paid by such person under the first proviso shall be twenty-five per cent. of such service tax :	SECTION 78. Penalty for suppressing, etc. of value of taxable services. (*1*) Where any service tax has not been levied or paid, or has been short-levied or short paid, or erroneously refunded, by reason of fraud or collusion or willful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (*1*) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax: Provided that where such service tax and interest is paid within a period of thirty days of –– - (*i*) The date of service of notice under the proviso to sub-section (*1*) of section 73, the penalty payable shall be fifteen percent of such service tax; - (*ii*) The date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (*2*) of section 73,the penalty payable shall be twenty-five percent of the service tax so determined:	Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,- (i) penalty shall be hundred per cent of service tax amount involved in such cases; (ii) penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within30 days of service of notice in this regard; (iii) a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if

	Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso : Provided also that in case of a service provider whose value of taxable services does not exceed sixty lacs rupees during any of the years covered by the notice or during the last preceding financial year, the period of thirty days shall be extended to ninety days. (2) Where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account : Provided that in case where the service tax to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the second proviso to sub-section (1), shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days or ninety days, as the case may be, of communication of the order by which such increase in service tax takes effect : Provided further that if the penalty is payable under this section, the provisions of section 76 shall not apply. *Explanation.* — For the removal of doubts, it is hereby declared that any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the second proviso to sub-section (1) or the first proviso to sub-section (2) shall be adjusted against the total amount due from such person.	Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of such reduced penalty is also paid within such period. (*2*) Where the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, modifies the service tax determined under sub-section (*2*) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the first proviso to sub-section (*1*) shall be available if such service tax, interest and reduced penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.".	service tax, interest and reduced penalty is paid within 30 days of such appellate order.

10	NEW SECTION, NOT EARLIER	78B. (*1*) Where, in any case,– (*a*) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and no notice has been served under sub-section (*1*) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or (*b*) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (*1*) of section 73 or under the proviso thereto, but no order has been passed under sub-section (*2*) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President, then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable. (*2*) Notwithstanding anything contained in sub-section (*1*), in respect of cases falling under the provisions of sub-section (*4A*) of section 73 as was in force prior to the date of coming into force of the Finance Act, 2015, where no notice under the proviso to sub-section (*1*) of section 73 has been served on any person or, where so served, no order has been passed under sub-section (*2*) of section 73, before such date, the penalty leviable shall not exceed fifty percent of the service tax.".	A new section 78 B is being inserted to prescribe, by way of a transition provision, that,- (i) amended provisions of section 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and (ii) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the service tax amount.
11	SECTION 80. Penalty not to be imposed in certain cases. — (1)Notwithstanding anything contained in the provisions of section 76, [section 77 or [first proviso to sub-section (1) of section 78]], no penalty shall be imposable on the assessee for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure. (*2*) Notwithstanding anything contained in the provisions of section 76 or section 77 or section 78, no penalty shall be imposable for failure to pay service tax payable, as on the 6th day of March, 2012, on the taxable service referred to in sub-clause (*zzzz*) of clause (*105*) of section 65, subject to the condition that the amount of service tax along with interest is paid in full within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President."	SECTION 80. Penalty not to be imposed in certain cases. — **** Omitted ****	Section 80 that provided for waiver of penalty in specified situations is being omitted.

12	SECTION 86. Appeals to Appellate Tribunal. (1) Any assessee aggrieved by an order passed by a [Commissioner] of Central Excise under [section 73 or section 83A [* * *]], or an order passed by a [Commissioner] of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order within three months of the date of receipt of the order. (1A)(i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter. (ii)Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.] (2) The [Committee of Chief Commissioners of Central Excise] may, if it objects to any order passed by the Commissioner of Central Excise under [section 73 or section 83A [* * *]], direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order : [Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion against the order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order. (2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order :] [Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the	SECTION 86. Appeals to Appellate Tribunal. (1) Save as otherwise provided herein, an assessee aggrieved by an order passed by a [Commissioner] of Central Excise under [section 73 or section 83A [* * *]], or an order passed by a [Commissioner] of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order within three months of the date of receipt of the order. "Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate ofduty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944: "Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012, and pending before it upto the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944.". (1A)(i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter. (ii)Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.] (2) The [Committee of Chief Commissioners of Central Excise] may, if it objects to any order passed by the Commissioner of Central Excise under [section 73 or section 83A [* * *]], direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order : [Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion against the order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.	Section 86 is being amended to prescribe that matters involving rebate of service tax shall be dealt with in terms of Section35EE of the Central Excise Act.

	jurisdictional Chief Commissioner who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order. Explanation- For the purposes of this sub-section, jurisdictional Chief Commissioner means the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter. (3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Chief Commissioners or, as the case may be, the Committee of Commissioners. (4) [The Commissioner of Central Excise or [any Central Excise Officer subordinate to him] or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)] by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the [Commissioner] of Central Excise or the [Commissioner] of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3). (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or52 sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within that period.	(2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order :] [Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order. Explanation. For the purposes of this sub-section, jurisdictional Chief Commissioner means the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter. (3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Chief Commissioners or, as the case may be, the Committee of Commissioners. (4) [The Commissioner of Central Excise or [any Central Excise Officer subordinate to him] or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)] by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the [Commissioner] of Central Excise or the [Commissioner] of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3). (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or52 sub-section (3) or sub-section (4) if it is satisfied that there was	

	(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, . (a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; (b) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees; (c) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees : Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2) or sub-section (2A) or a memorandum of cross-objections referred to in sub-section (4). (6A) Every application made before the Appellate Tribunal, (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees : Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be under this sub-section. (7) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing the appeals and making orders under the [Central Excise Act, 1944] (1 of 1944).	sufficient cause for not presenting it within that period. (6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, . (a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; (b) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees; (c) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees : Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2) or sub-section (2A) or a memorandum of cross-objections referred to in sub-section (4). (6A) Every application made before the Appellate Tribunal, (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees. Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be under this sub-section. (7) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing the appeals and making orders under the [Central Excise Act, 1944] (1 of 1944).	

13	SECTION 94. Power to make rules. — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :- (a) collection and recovery of service tax under sections 66 and 68; (aa) the determination of amount and value of taxable service under section 67; (b) the time and manner and the form in which application for registration shall be made [under sub-sections (1) and (2) of section 69 (c) [the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70 (cc) the manner of provisional attachment of property under sub-section (1) of section 73C;] [(ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D; (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified; (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified; (eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service; (eeee) the manner of recovery of any amount due to the Central Government under section 87; (f) provisions for determining export of taxable services;	SECTION 94. Power to make rules. — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :- (a) collection and recovery of service tax under sections 66 and 68; (aa) the determination of amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67; (b) the time and manner and the form in which application for registration shall be made [under sub-sections (1) and (2) of section 69 (c) [the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70 (cc) the manner of provisional attachment of property under sub-section (1) of section 73C;] [(ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D; (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified; (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified; (eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service; (eeee) the manner of recovery of any amount due to the Central Government under section 87; (f) provisions for determining export of taxable services;	

	(g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;	(g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;	
	(h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;	(h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;	
	(hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;	(hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;	
	(hhh) the date for determination of rate of service tax and the place of provision of taxable service under section 66C;	(hhh) the date for determination of rate of service tax and the place of provision of taxable service under section 66C;	
	(*i*) provide for the amount to be paid for compounding and the manner of compounding of offences59;	(*i*) provide for the amount to be paid for compounding and the manner of compounding of offences59;	
	(*j*) provide for the settlement of cases, in accordance with sections 31, 32 and 32A to 32P (both inclusive), in Chapter V of the Central Excise Act, 1944 (1 of 1944.) as made applicable to service tax vide section 83;	(*j*) provide for the settlement of cases, in accordance with sections 31, 32 and 32A to 32P (both inclusive), in Chapter V of the Central Excise Act, 1944 (1 of 1944.) as made applicable to service tax vide section 83;	
	(k) Any other matter which by this Chapter is to be or may be prescribed.	(k) Any other matter which by this Chapter is to be or may be prescribed.	
	(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.	(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.	
	(4) Every rule made under this [Chapter, Scheme framed under section 71 and every notification] issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification	(4) Every rule made under this [Chapter, Scheme framed under section 71 and every notification] issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule	

	in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.	should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.	
14	66B. Charge of service tax There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve percent 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 and collected in such manner as may be prescribed.	66B. Charge of service tax There shall be levied a tax (hereinafter referred to as the service tax) at the rate of FORTEEN percent 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 and collected in such manner as may be prescribed. Levy of Education Cess In the Finance (No. 2) Act, 2004 (herein referred to as 2004 Act), in Chapter VI, section 95 shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. Levy of Secondary Higher Education Cess In the Finance Act, 2007, in Chapter VI, section 140 shall be omitted with effect from such dateas the Central Government may, by notification in the Official Gazette, appoint.	Change in Service Tax rate: • The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%. The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015. Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall be continued to be levied in Service Tax.

REVIEW OF OLD EXEMPTIONS

1	Notification No. 25/2012- S.NO. 12. Services provided to the Government, local authority or governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; (d) canal, dam or other irrigation works; (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation* 1 to clause 44 of section 65 B of the said Act;	Notification No. 25/2012- S.NO. 12. Services provided to the Government, local authority or governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – ~~(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;~~ (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); ~~(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;~~ (d) canal, dam or other irrigation works; ~~(e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or~~ (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation* 1 to clause 44 of section 65 B of the said Act;	Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority (vide S. No. 12 of the said notification) shall be limited onlyto,- (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity; (b) canal, dam or other irrigation work; and (c) Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal. Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

2	Notification No. 25/2012- S.NO. 14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,- (a) an airport, port or railways, including monorail or metro; (b) a single residential unit otherwise than as a part of a residential complex; (c) low- cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the =Scheme of Affordable Housing in Partnership‘ framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or (e) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;	Notification No. 25/2012- S.NO. 14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,- (a) ~~an airport, port~~ or railways, including monorail or metro; (b) a single residential unit otherwise than as a part of a residential complex; (c) low- cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the =Scheme of Affordable Housing in Partnership‘ framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or (e) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;	Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn. The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.
3	Notification No. 25/2012- S.NO. 16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;	Notification No. 25/2012- S.NO. 16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, up to Rs. 1 Lac for a performance excluding services provided by such artist as a brand ambassador;	Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is up to Rs 1, 00,000 for a performance.
4	Notification No. 25/2012- S.NO. 20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods - (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or (g) chemical fertilizer and oilcakes;	Notification No. 25/2012- S.NO. 20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods - (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) food grains including rice & pulses, flour, milk and salt, ~~tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages~~; or (g) chemical fertilizer and oilcakes;	Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.

5	Notification No. 25/2012- S.NO. 20. Services by the following persons in respective capacities – (a) sub-broker or an authorized person to a stock broker; (b) authorized person to a member of a commodity exchange; (c) mutual fund agent to a mutual fund or asset management company; (d) distributor to a mutual fund or asset management company; (e) selling or marketing agent of lottery tickets to a distributer or a selling agent; (f) selling agent or a distributer of SIM cards or recharge coupon vouchers; (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;	Notification No. 25/2012- S.NO. 20. Services by the following persons in respective capacities – (a) sub-broker or an authorized person to a stock broker; (b) authorized person to a member of a commodity exchange; ~~(c) mutual fund agent to a mutual fund or asset management company;~~ ~~(d) distributor to a mutual fund or asset management company;~~ ~~(e) selling or marketing agent of lottery tickets to a distributer or a selling agent;~~ (f) selling agent or a distributer of SIM cards or recharge coupon vouchers; (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;	Exemptions are being withdrawn on the following services: (a) services provided by a mutual fund agent to a mutual fund or assets management company, (b) distributor to a mutual fund or AMC, (c) Selling or marketing agent of lottery ticket to a distributor. Service tax on these services shall be levied on reverse charge basis.
6	Notification No. 25/2012- S.NO. 31. Services by way of making telephone calls from - (a) departmentally run public telephone; (b) guaranteed public telephone operating only for local calls; or (c) free telephone at airport and hospital where no bills are being issued;	Notification No. 25/2012- S.NO. 31. Services by way of making telephone calls from - (a) departmentally run public telephone; (b) guaranteed public telephone operating only for local calls; or (c) free telephone at airport and hospital where no bills are being issued;	Exemption is being withdrawn on the following service,- (a) Departmentally run public telephone; (b) Guaranteed public telephone operating only local calls; and (c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.
All the above changes in notification No. 25/12-ST, dated 20.6.2012 shall come into effect from the 1st day of April, 2015.			

NEW EXEMPTIONS

1	Notification No. 31/2012- Service provided to an exporter - for transport of the said goods - by goods transport agency - in a goods carriage - from any container freight station or inland container depot, - to the port or airport, - as the case may be, from where the goods are exported; or Service provided to an exporter - in relation to transport of the said goods - by goods transport agency - in a goods carriage - directly from their place of removal, - to an inland container depot, a container freight station, a port or airport, - as the case may be, from where the goods are exported.	Notification No. 31/2012- Service provided to an exporter - for transport of the said goods - by goods transport agency - in a goods carriage - from any container freight station or inland container depot - to the port or airport, - as the case may be, from where the goods are exported; or Service provided to an exporter - in relation to transport of the said goods - by goods transport agency - in a goods carriage - directly from their place of removal, - to an inland container depot, a container freight station, a port, airport or Land Custom Station, - as the case may be, from where the goods are exported.	Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS). This shall come into effect from the 1st day of April, 2015.
2	Not Earlier	• Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted. (New entry at S. No. 44 of notification No. 25/12-ST refers). • Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.(New entry at S. No. 43 of notification No. 25/12-ST refers). • Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.(Amended in the entry at S. No. 26A of notification No. 25/12-ST refers). • Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of its members is being exempted.(New entry at S. No. 46 of notification No. 25/12-ST refers). • Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.(Amended in the entry at S. No. 2 of notification No. 25/12-ST refers). • Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve is being Exempted.(Amended in the entry at S. No. 45 of notification No. 25/12-ST refers)	All the New Exemptions shall come into effect from the 1st day of April, 2015.

REVIEW OF ABATEMENTS

1	Transport of goods by rail - 30%	Transport of goods by rail - 30%	At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services Subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
2	Transport of passengers, with or without accompanied belongings by rail - 30%	Transport of passengers, with or without accompanied belongings by rail - 30%	
3	Services of goods transport agency in relation to transportation of goods. -25%	Services of goods transport agency in relation to transportation of goods. -30%	
4	Transport of goods in a vessel -40%	Transport of goods in a vessel -30%	
5	AIR Transport of passengers for economy as well as higher classes – 40%	AIR Transport of passengers - for economy classes – 40% - for other than economy classes – 60%	At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.
6	Services provided in relation to chit -70%	Services provided in relation to chit -100% Taxable	Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015

CHANGE IN SERVICE TAX RULES

S.No.	Present	Amendment	Memorandum Explaining Finance Bill
1	**Rule 21 (1) d (i) of Service Tax Rules, 1994** Person liable for paying service tax means, - (i) in respect of the taxable services notified under sub-section (2) of section 68 of the Act, means (A) In relation to service provided or agreed to be provided by an insurance agent to any person carrying on the insurance business, the recipient of the service. (AA) in relation to service provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a nonbanking financial company, the recipient of the service. (B) in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,— I. any factory registered under or governed by the Factories Act, 1948 (63 of 1948); II. any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; III. any co-operative society established by or under any law; IV. any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; V. Anybody corporate established, by or under any law; or VI. any partnership firm whether registered or not under any law including association of persons; any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage: Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax. (C) in relation to service provided or agreed to be provided by way of sponsorship to anybody corporate or partnership firm located in the taxable territory, the recipient of such service; (D) in relation to service provided or agreed to be provided by,- I. an arbitral tribunal, or II. an individual advocate or a firm of advocates by way of legal services, to any business entity located in the taxable territory, the recipient of such service;	**Rule 21 (1) d (i) of Service Tax Rules, 1994** Person liable for paying service tax means, - (i) in respect of the taxable services notified under sub-section (2) of section 68 of the Act, means (A) In relation to service provided or agreed to be provided by an insurance agent to any person carrying on the insurance business, the recipient of the service. (AA) in relation to service provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a nonbanking financial company, the recipient of the service. (AAA) "in relation to service provided or agreed to be provided by a person involving an aggregator in any manner, the aggregator of the service: Provided that if the aggregator does not have a physical presence in the taxable territory, any person representing the aggregator for any purpose in the taxable territory shall be liable for paying service tax; Provided further that if the aggregator does not have a physical presence or does not have a representative for any purpose in the taxable territory, the aggregator shall appoint a person in the taxable territory for the purpose of paying service tax and such person shall be liable for paying service tax." (B) in relation to service provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,— I. any factory registered under or governed by the Factories Act, 1948 (63 of 1948); II. any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; III. any co-operative society established by or under any law; IV. any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; V. Anybody corporate established, by or under any law; or VI. any partnership firm whether registered or not under any law including association of persons; any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage: Provided that when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.	In respect of any service provided under aggregator model, - The aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. - If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. - In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012. This change comes into effect immediately i.e. w.e.f. 1.3.2015. The definition of "Aggregator" has been introduced to cover the aggregators- persons providing services to enable potential customers to connect with persons providing service. For example, Uber (provide services by enabling cab drivers to connect with the travelers) is covered under the definition of "aggregator". The definition of "Brand Name or Trade Name" has been introduced to support the definition of "aggregator". The definition has been reproduced from the Notification No. 33/2012-ST dated

	(E) in relation to support services provided or agreed to be provided by Government or local authority except,- a. renting of immovable property, and b. services specified sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994, to any business entity located in the taxable territory, the recipient of such service; (EE) in relation to service provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate, the recipient of such service. (F) in relation to services provided or agreed to be provided by way of :- a. renting of a motor vehicle designed to carry passengers, to any person who is not engaged in a similar business; or b. supply of manpower for any purpose [or security services]; or c. service portion in execution of a works contract-by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as a body corporate, located in the taxable territory, both the service provider and the service recipient to the extent notified under sub-section (2) of section 68 of the Act, for each respectively. (G) in relation to any taxable service provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory, the recipient of such service;	(C) in relation to service provided or agreed to be provided by way of sponsorship to anybody corporate or partnership firm located in the taxable territory, the recipient of such service; (D) in relation to service provided or agreed to be provided by,- I. an arbitral tribunal, or II. an individual advocate or a firm of advocates by way of legal services, to any business entity located in the taxable territory, the recipient of such service; (E) in relation to ~~support~~ services provided or agreed to be provided by Government or local authority except,- a. renting of immovable property, and b. services specified sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994, to any business entity located in the taxable territory, the recipient of such service; (EE) in relation to service provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate, the recipient of such service. (EEA) in relation to service provided or agreed to be provided by a mutual fund agent or distributor to a mutual fund or asset management company, the recipient of the service (EEB) in relation to service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent, the recipient of service. (F) in relation to services provided or agreed to be provided by way of :- a. renting of a motor vehicle designed to carry passengers, to any person who is not engaged in a similar business; or b. supply of manpower for any purpose [or security services]; or c. service portion in execution of a works contract-by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as a body corporate, located in the taxable territory, both the service provider and the service recipient to the extent notified under sub-section (2) of section 68 of the Act, for each respectively. (G) in relation to any taxable service provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory, the recipient of such service;	20.06.2012. New entry, Item EEA in sub-clause (i) of Rule 2(1)(d) *"in relation to service provided or agreed to be provided by a mutual fund agent or distributor to a mutual fund or asset management company, the recipient of the service"* Services of distribution of mutual fund by mutual fund distributor or an agent were taxable under reverse charge mechanism w.e.f. 01.04.2005. However, w.e.f. 01.07.2012 the aforesaid services have been exempted vide entry no. 29 of mega exemption Not. No. 25/2012. Hence, were exempt from Service Tax. However, vide notification no. 6/2015 dated 01.03.2015, same has been omitted and vide notification no. 5/2015 dated 01.03.2015; same has again been brought under the net of Reverse Charge. Consequentially liability of Service Tax has been placed on the recipient of service i.e. mutual fund or asset Management Company New entry, Item EEB in sub-clause (i) *"in relation to service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent, the recipient of the service"* Till 28.02.2015, services provided or agreed to be provided by selling or marketing agent of lottery tickets to a lottery distributor or selling agent were covered by item no. e of the entry no. 29 of mega exemption Not. No. 25/2012. Hence, were exempt from Service Tax. However, vide notification no. 6/2015 dated

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<td>Rule 2 (1) (aa):"aggregator" means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator"
Rule 2 (1) (bca):"brand name or trade name" means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person"</td>
<td>01.03.2015, same has been omitted and vide notification no. 5/2015 dated 01.03.2015, same has been brought the net of Reverse Charge. Consequentially liability of Service Tax has been placed on the recipient of service i.e. lottery distributor or selling agent.</td>
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<td>2</td>
<td>Rule 4. REGISTRATION
(1) Every person liable for paying the service tax shall make an application to the concerned Superintendent of Central Excise in Form ST-1 for registration within a period of thirty days from the date on which the service tax under section 66B of the Finance Act, 1994 (32 of 1994) is levied:

Provided that where a person commences the business of providing a taxable service after such service has been levied, he shall make an application for registration within a period of thirty days from the date of such commencement:

Provided further that a person liable for paying the service tax in the case of taxable services referred to in sub-section (4) or sub-section (5) of section 66 of the Finance Act, 1994 (32 of 1994) may make an application for registration on or before the 31st day of December, 1998:
Provided also that a person liable for paying the service tax in the case of taxable services referred to in sub-clause (zzp) of clause (105) of section 65 of the Act may make an application for registration on or before the 31st day of March, 2005.

(1A) For the purposes of sub-rule (1), the Central Board of Excise and Customs may, by an order specify the documents which are to be submitted by the assessee along with the application within such period, as may be specified in the said order.</td>
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Provided also that a person liable for paying the service tax in the case of taxable services referred to in sub-clause (zzp) of clause (105) of section 65 of the Act may make an application for registration on or before the 31st day of March, 2005.

<s>(1A) For the purposes of sub-rule (1), the Central Board of Excise and Customs may, by an order specify the documents which are to be submitted by the assessee along with the application within such period, as may be specified in the said order.</s>
*OMITTED</td>
<td>Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.
Refer Order No. 01/2015 as given below for ready reference:
The legal provisions for registration in service tax are contained in section 69 of the Finance Act, 1994, rule 4 of the Service Tax Rules, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005. Paragraph 2 of Circular 97/8/2007-Service Tax dated 23-8-2007 and Order No. 2/2011-Service Tax dated 13-12-2011 also explain some of the procedural aspects of registration in service tax.
In supersession of Order No. 2/2011-Service Tax dated 13-12-2011, the Central Board of Excise and Customs specifies the following documentation, time limits and procedure with respect to filing of registration applications for single premises, which shall come into effect from 1-3-2015.
2. General procedure
i. Applicants seeking registration for single premises in service tax shall file the application online in the Automation of Central Excise and Service Tax (ACES) website www.aces.gov.in in Form ST-1.
ii. Registration shall mandatorily require that the Permanent Account Number (PAN) of the proprietor or the legal entity being registered be quoted in the application with the exception of Government Departments for whom this requirement shall be non-mandatory. Applicants, who are not Government Departments, shall not be granted registration in the</td>
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	(2) Where a person, liable for paying service tax on a taxable service, (i) provides such service from more than one premises or offices; or (ii) receives such service in more than one premises or offices; or (iii) is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax, and has centralized billing system or centralized accounting system in respect of such service, and such centralized billing or centralized accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralized billing or centralised accounting systems are located. (3) The registration under sub-rule (2), shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralised billing or accounting is done, are located: Provided that nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralised billing or centralised accounting systems, prior to the 2nd day of November, 2006. (3A)Where an assessee is providing a taxable service from more than one premises or offices, and does not have any centralized billing systems or centralized accounting systems, as the case may be, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise. (4) Where an assessee is providing more than one taxable service, he may make a single application, mentioning therein all the taxable services provided by him, to the concerned Superintendent of Central Excise. (5) The Superintendent of Central Excise shall after due verification of the application form or an intimation under sub-rule (5A), as the case may be, grant a certificate of registration in	(2) Where a person, liable for paying service tax on a taxable service, (i) provides such service from more than one premises or offices; or (ii) receives such service in more than one premises or offices; or (iii) is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax, and has centralised billing system or centralised accounting system in respect of such service, and such centralised billing or centralised accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralised billing or centralised accounting systems are located. (3) The registration under sub-rule (2), shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralised billing or accounting is done, are located: Provided that nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralised billing or centralised accounting systems, prior to the 2nd day of November, 2006. (3A)Where an assessee is providing a taxable service from more than one premises or offices, and does not have any centralized billing systems or centralized accounting systems, as the case may be, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise. (4) Where an assessee is providing more than one taxable service, he may make a single application, mentioning therein all the taxable services provided by him, to the concerned Superintendent of Central Excise. (5) The Superintendent of Central Excise shall after due verification of the application form or an intimation under sub-rule (5A), as the case may be, grant a certificate of registration in Form ST-2 within	absence of PAN. Existing registrants, except Government departments not having PAN shall obtain PAN and apply online for conversion of temporary registration to PAN based registration within three months of this order coming into effect, failing which the temporary registration shall be cancelled after giving the assessee an opportunity to represent against the proposed cancellation and taking into consideration the reply received, if any. iii. E-mail and mobile number mandatory: The applicant shall quote the email address and mobile number in the requisite column of the application form for communication with the department. Existing registrants who have not submitted this information are required to file an amendment application by 30-4-2015. iv. Once the completed application form is filed in ACES, registration would be granted online within 2 days, thus initiating trust-based registration. On grant of registration, the applicant would also be enabled to electronically pay service tax. v. Further, the applicant would not need a signed copy of the Registration Certificate as proof of registration. Registration Certificate downloaded from the ACES web site would be accepted as proof of registration dispensing with the need for a signed copy. 3. Documentation required The applicant is required to submit a self-attested copy of the following documents by registered post/ Speed Post to the concerned Division, within 7 days of filing the Form ST-1 online, for the purposes of verification:- i. Copy of the PAN Card of the proprietor or the legal entity registered. ii. Photograph and proof of identity of the person filing the application namely PAN card, Passport, Voter Identity card, Aadhar Card, Driving license, or any other Photo-identity card issued by the Central Government, State Government or Public Sector Undertaking. iii. Document to establish possession of the premises to be registered such as proof of ownership, lease or rent agreement, allotment letter from

	Form ST-2 within seven days from the date of receipt of the application or the intimation. If the registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted. (5A)Where there is a change in any information or details furnished by an assessee in Form ST-1 at the time of obtaining registration or he intends to furnish any additional information or detail, such change or information or details shall be intimated, in writing, by the assessee, to 112 Service Tax in India the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, within a period of thirty days of such change. (6) Where a registered assessee transfers his business to another person, the transferee shall obtain a fresh certificate of registration. (7) Every registered assessee, who ceases to provide the taxable service for which he is registered, shall surrender his registration certificate immediately to the Superintendent of Central Excise. (8) On receipt of the certificate under sub-rule (7), the Superintendent of Central Excise shall ensure that the assessee has paid all monies due to the Central Government under the provisions of the Act, and the rules and the notifications issued thereunder, and thereupon cancel the registration certificate.	seven days from the date of receipt of the application or the intimation. If the registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted. (5A)Where there is a change in any information or details furnished by an assessee in Form ST-1 at the time of obtaining registration or he intends to furnish any additional information or detail, such change or information or details shall be intimated, in writing, by the assessee, to 112 Service Tax in India the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise, as the case may be, within a period of thirty days of such change. (6) Where a registered assessee transfers his business to another person, the transferee shall obtain a fresh certificate of registration. (7) Every registered assessee, who ceases to provide the taxable service for which he is registered, shall surrender his registration certificate immediately to the Superintendent of Central Excise. (8) On receipt of the certificate under sub-rule (7), the Superintendent of Central Excise shall ensure that the assessee has paid all monies due to the Central Government under the provisions of the Act, and the rules and the notifications issued thereunder, and thereupon cancel the registration certificate. (9) The registration granted under this rule shall be subject to such conditions, safeguards and procedure as may be specified by an order issued by the Board.	Government, No Objection Certificate from the legal owner. iv. Details of the main Bank Account. v. Memorandum/Articles of Association/List of Directors. vi. Authorization by the Board of Directors/Partners/Proprietor for the person filing the application. vii. Business transaction numbers obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number, Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application. 4. Where the need for the verification of premises arises, the same will have to be authorized by an officer not below the rank of Additional /Joint Commissioner. 5. The registration certificate may be revoked by the Deputy/Assistant Commissioner in any of the following situations, after giving the assessee an opportunity to represent against the proposed revocation and taking into consideration the reply received, if any: i. The premises are found to be non-existent or not in possession of the assessee. ii. No documents are received within 15 days of the date of filing the registration application. iii. The documents are found to be incomplete or incorrect in any respect. 6. The sub-rules (5A) and (6) of rule 4 of the Service Tax Rules, 1994 may be referred to regarding change in any information or details furnished by an asses see and transfer of business to another person, respectively. Similarly, sub rule (7) may be referred to in case a registered person ceases to provide the service for which he has been granted registration. 7.Paragraph 2.0 of Circular 97/8/2007-Service Tax dated 23-8-2007, sub-paragraphs 2.1 to 2.7 may be treated as withdrawn since there have been changes in the relevant legal provisions since the issuance of that Circular. The current legal provisions in the Service Tax Rules, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005 may also be referred to.

3	NOT EARLIER RULE 5. ACCOUNTS AND RECORDS (1) The records including computerized data as maintained by an assessee in accordance with the various laws in force from time to time shall be acceptable. (2) Every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time or the 31st day of January, 2008, whichever is later, a list in duplicate, i. all the records prepared or maintained by the assessee for accounting of transactions in regard to, a. providing of any service,; b. receipt or procurement of input services and payment for such input services; c. receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods; d. other activities, such as manufacture and sale of goods, if any. ii. all other financial records maintained by him in the normal course of business. (3) All such records shall be preserved at least for a period of five years immediately after the financial year to which such records pertain.	Rule 4C. AUTHENTICATION BY DIGITAL SIGNATURE- (1)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. (2)The Board may, by notification, specify the conditions, safeguards and procedure to be followed by any person issuing digitally signed invoices. RULE 5. ACCOUNTS AND RECORDS (1) The records including computerized data as maintained by an assessee in accordance with the various laws in force from time to time shall be acceptable. (2) Every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time or the 31st day of January, 2008, whichever is later, a list in duplicate, i. all the records prepared or maintained by the assessee for accounting of transactions in regard to, a. providing of any service,; b. receipt or procurement of input services and payment for such input services; c. receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods; d. other activities, such as manufacture and sale of goods, if any. ii. all other financial records maintained by him in the normal course of business. (3) All such records shall be preserved at least for a period of five years immediately after the financial year to which such records pertain. (4) Records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature. (5) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records. Explanation-For the purposes of rule 4C and sub-rule (4) and (5) of this rule,- (i)The expression “authenticate” shall have the same meaning as assigned in the Information Technology Act, 2000 (21 of 2000) (ii)The expression “digital signature” shall have the meaning as defined in the Information Technology Act, 2000 (21 of 2000) and the expression “digitally signed” shall be construed accordingly.	Provision for issuing digitally signed invoices is being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.

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<td>4</td>
<td>Rule 6A.
Where an amount of service tax payable has been self-assessed under sub-section (1) of section 70 of the Act, but not paid, either in full or part, the same, shall be recoverable along with interest in the manner prescribed under section 87 of the Act.</td>
<td>~~Rule 6A.~~
~~Where an amount of service tax payable has been self-assessed under sub-section (1) of section 70 of the Act, but not paid, either in full or part, the same, shall be recoverable along with interest in the manner prescribed under section 87 of the Act.~~
*OMITTED</td>
<td>Rule 6 (6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to amendment in section 73 for enabling such recovery.</td>
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<td>5</td>
<td colspan="2">Special Rates of Service Tax (Rule 6) {applicable w.e.f date to be notified after enactment}
<table>
<tr><td>sub-Rule</td><td>Description of taxable service</td><td>Current applicable rates of Service tax</td><td>Proposed Rate of Service Tax</td><td>Amount to be charged on</td></tr>
<tr><td>7</td><td>On the services provided by the Travel Agent in relation to booking of tickets

(a) On Domestic Bookings

(b) On International bookings</td><td>0.60%[EC+SHEC Extra]

1.12%[EC+SHEC Extra]</td><td>0.70%

1.40%</td><td>On Basic Fare</td></tr>
<tr><td>7A</td><td>Composition Scheme for Life Insurer
(a) Premium Charged from Policy holder in First Year
(b) Premium Charged from policy holder in Subsequent Years</td><td>3%[EC+SHEC Extra]

1.5%[EC+SHEC Extra]</td><td>3.5%

1.75%</td><td>On Premium Charged</td></tr>
<tr><td>7B</td><td>Composition Scheme for money changer
(a)For an amount upto Rs100000/-

(b) For an amount exceeding Rs 100000 but upto Rs 10,00,000/-

(c) For an amount exceeding Rs 10,00,000/-</td><td>0.12% (Minimum of Rs 30) [EC+SHEC Extra]

Rs 120+0.06% of the excess over Rs 100,000[EC+SHEC Extra]

Rs 660+0.012% of the excess over Rs 10,00,000 [EC+SHEC Extra] (Maximum of Rs 6000)</td><td>0.14%(minimum of Rs 35)

Rs 140+0.07% of the excess over Rs 100,000

Rs 770+0.014% of the excess over Rs 10,00,000 (Maximum of Rs 7000)</td><td>On Gross Amount of Currency Exchanged</td></tr>
<tr><td>7C</td><td>Composition Scheme for Lottery agent/ Distributor
(a) If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%

(b) If the lottery pr lottery scheme is one where the guaranteed prize payout is less than 70%</td><td>Rs 7000/- on every Rs 10Lakh (or a part of Rs 10lakh) of aggregate face value of lottery tickets printed by the organizing state for a draw
Rs 11000/- on every Rs 10Lakh (or a part of Rs 10lakh) of aggregate face value of lottery tickets printed by the organizing state for a draw</td><td>Rs 8200/- on every Rs 10Lakh (or a part of Rs 10lakh) of aggregate face value of lottery tickets printed by the organizing state for a draw
Rs 12800/- on every Rs 10Lakh (or a part of Rs 10lakh) of aggregate face value of lottery tickets printed by the organizing state for a draw</td><td></td></tr>
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<td>In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules. These amendments shall come into effect as and when the new service tax rate comes into effect.</td>
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CHANGE IN REVERSE CHARGE MACHANISM (applicable from 01.04.2015)

S.No.	Present	Amendment	Memorandum Explaining Finance Bill
1	NOTIFICATION 30/2012 Manpower supply for any purposes or security services: - By individual, HUF, firm, or AOP (25%) - To Body Corporate (75%)	NOTIFICATION 30/2012 Manpower supply for any purposes or security services - By individual, HUF, firm, or AOP (Nil) - To Body Corporate (100%)	Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.
2	Not Earlier	In Respect of Mutual Fund Services - By Mutual fund agents and mutual fund distributors services - To assets management company or, as the case may be,by the mutual fund receiving such services. In respect of sub-agents of lottery, - Service Tax shall be paid - By the distributor or selling agent of lottery.	Services provided by mutual fund agents, mutual fund distributors and agents of lottery distributor are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be,by the mutual fund receiving such services. In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.

CHANGE IN CENVAT CREDIT RULES (applicable from 01.04.2015)

1	RULE 4. Conditions for allowing CENVAT credit — (1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service : [Provided that in respect of final products, namely, articles of [jewellery or other articles of precious metals falling under Heading 7113 or 7114, as the case may be] of the First Schedule to the Excise Tariff Act, the CENVAT credit of duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who get such final products manufactured on his behalf, onjob work basis, subject to the condition that the inputs are used in the manufacture of such final product by the job worker.] [Provided further that the CENVAT credit in respect of inputs may be taken by the provider of output service when the inputs are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the inputs.] [Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after six months of the date of issue of any of the documents specified in sub- rule (1) of rule 9.] (2)(a) The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service [or outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory,] at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent. of the duty paid on such capital goods in the same financial year : Provided that the CENVAT credit in respect of capital goods shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year if such capital goods are cleared as such in the same financial year :	RULE 4. Conditions for allowing CENVAT credit — (1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service or in the premises of the 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: [Provided that in respect of final products, namely, articles of [jewellery or other articles of precious metals falling under Heading 7113 or 7114, as the case may be] of the First Schedule to the Excise Tariff Act, the CENVAT credit of duty paid on inputs may be taken immediately on receipt of such inputs in the registered premises of the person who get such final products manufactured on his behalf, onjob work basis, subject to the condition that the inputs are used in the manufacture of such final product by the job worker.] [Provided further that the CENVAT credit in respect of inputs may be taken by the provider of output service when the inputs are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the inputs.] [Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after ~~six months~~ one year of the date of issue of any of the documents specified in sub- rule (1) of rule 9.] (2)(a) The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service or outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory,or in the premises of the job worker, in case capital 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 at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent. of the duty paid on such capital goods in the same financial year : Provided that the CENVAT credit in respect of capital goods shall be allowed for the whole amount of the duty paid on such capital goods in the same	It is now being specifically clarified that even if inputs are sent directly to the job worker on the direction of Manufacturer or provider of output service, CENVAT Credit of excise duty in respect of said inputs shall be available to such Manufacturer or provider of output service. With the insertion of abovementioned words in Rule 4 (2) it is specifically clarified that, even if the Capital Goods are sent directly to the job worker on the direction of Manufacturer or provider of output service, CENVAT Credit of excise duty paid in respect of said capital goods shall be available to such Manufacturer or provider of output service.

	[Provided further that the CENVAT credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, [* * * *] in respect of capital goods shall be allowed of the capital goods in the factory of a manufacturer:] [Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, the CENVAT credit in respect of capital goods received by such assessee shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year. [Provided also that the CENVAT credit in respect of capital goods may be taken by the provider of output service when the capital goods are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the capital goods.] Explanation. - For the removal of doubts, it is hereby clarified that an assessee shall be —eligible‖ if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.] (b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory materials, moulds and dies and goods falling under [heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804] of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years. Illustration. - A manufacturer received machinery on the 16th day of April, 2002 in his factory. CENVAT of two lakh rupees is paid on this machinery. The manufacturer can take credit up to a maximum of one lakh rupees in the financial year 2002-2003, and the balance in subsequent years.	financial year if such capital goods are cleared as such in the same financial year : [Provided further that the CENVAT credit of the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, [* * * *] in respect of capital goods shall be allowed of the capital goods in the factory of a manufacturer:] [Provided also that where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year, the CENVAT credit in respect of capital goods received by such assessee shall be allowed for the whole amount of the duty paid on such capital goods in the same financial year. [Provided also that the CENVAT credit in respect of capital goods may be taken by the provider of output service when the capital goods are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the capital goods.] Explanation. - For the removal of doubts, it is hereby clarified that an assessee shall be —eligible‖ if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year computed in the manner specified in the said notification did not exceed rupees four hundred lakhs.] (b) The balance of CENVAT credit may be taken in any financial year subsequent to the financial year in which the capital goods were received in the factory of the manufacturer, or in the premises of the provider of output service, if the capital goods, other than components, spares and accessories, refractories and refractory materials, moulds and dies and goods falling under [heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804] of the First Schedule to the Excise Tariff Act, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years. Illustration. - A manufacturer received machinery on the 16th day of April, 2002 in his factory. CENVAT of two lakh rupees is paid on this machinery. The manufacturer can take credit up to a maximum of one lakh rupees in the financial year 2002-2003, and the balance in subsequent years.	

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<td>(3) The CENVAT credit in respect of the capital goods shall be allowed to a manufacturer, provider of output service even if the capital goods are acquired by him on lease, hire purchase or loan agreement, from a financing company.

(4) The CENVAT credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer or provider of output service claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).

(5)(a) The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, re-conditioning [, or for the manufacture of intermediate goods necessary for the manufacture of final products] or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or provider of output service taking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are not received back within one hundred eighty days, the manufacturer or provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer or provider of output service can take the CENVAT credit again when the inputs or capital goods are received back in his factory or in the premises of the provider of output service.

[(b) The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to, -
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(ii) a job worker for the production of goods on his behalf, according to his specifications.]</td>
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(ii) a job worker for the production of goods on his behalf, according to his specifications.]</td>
<td>In case, Input/Capital goods are not received back within the stipulated period, Manufacturer or provider of output service shall be required to pay CENVAT Credit availed earlier (either by debiting CENVAT Credit or otherwise). However, the same can be availed again as and when the said Input/Capital Goods are received back in the factory or premises of the provider of output service.
<table>
<tr><th>Article</th><th>Present</th><th>Amended</th></tr>
<tr><td>Input</td><td>Input sent to job worker should be brought back in the premises, of Manufacturer or provider of output service, within 180 days from the date of removal or receipt of said input by job worker directly; as the case may be.</td><td>Same as earlier</td></tr>
<tr><td>Capital Goods</td><td>Capital Goods sent to job worker should be brought back in the premises of Manufacturer or provider of output service, within 180 days from the date of removal or receipt of said Capital Goods by job worker directly; as the case may be.</td><td>Capital Goods sent to job worker should be received back into the premises of Manufacturer or provider of output service, within 2 years from the date of removal or receipt of said Capital Goods by job worker directly; as the case may be.</td></tr>
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	(6) The [Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be,] having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker. [(7) The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received : Provided that in respect of input service where whole of the service tax is liable to be paid by the recipient of service, credit shall be allowed after the service tax is paid: Provided further that in respect of an input service, where the service recipient is liable to pay a part of service tax and the service provider is liable to pay the remaining part, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9: Provided also that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9, except in respect of input service where the whole of the service tax is liable to be paid by the recipient of service, is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of	(6) The [Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be,] having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker. [(7) The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received : Provided that in respect of input service where whole of the service tax is liable to be paid by the recipient of service, credit shall be allowed after the service tax is paid: Provided further that in respect of an input service, where the service recipient is liable to pay a part of service tax and the service provider is liable to pay the remaining part, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of ~~the value of input service and~~ the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9: Provided also that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9, except in respect of input service where the whole of the service tax is liable to be paid by the recipient of service, is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules	Rule 4(7) is being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

	these rules Provided also that if any payment or part thereof, made towards an input service is refunded or a credit note is received by the manufacturer or the service provider who has taken credit on such input service, he shall pay an amount equal to the CENVAT credit availed in respect of the amount so refunded or credited. Provided also that CENVAT credit in respect of an invoice, bill or, as the case may be, challan referred to in rule 9, issued before the 1st day of April, 2011 shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9. Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after six months of the date of issue of any of the documents specified in sub-rule (1) of rule 9. Explanation I. - The amount mentioned in this sub-rule, unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March. Explanation II. - If the manufacturer of goods or the provider of output service fails to pay the amount payable under this sub-rule, it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken. Explanation III - In case of a manufacturer who avails the exemption under a notification based on the value of clearances in a financial year and a service provider who is an individual or proprietary firm or partnership firm, the expressions, —"following month" and —"month of March" occurring in sub-rule (7) shall be read respectively as —"following quarter" and —"quarter ending with the month of March".]	Provided also that if any payment or part thereof, made towards an input service is refunded or a credit note is received by the manufacturer or the service provider who has taken credit on such input service, he shall pay an amount equal to the CENVAT credit availed in respect of the amount so refunded or credited. Provided also that CENVAT credit in respect of an invoice, bill or, as the case may be, challan referred to in rule 9, issued before the 1st day of April, 2011 shall be allowed, on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or, as the case may be, challan referred to in rule 9. Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after ~~six months~~ one year of the date of issue of any of the documents specified in sub-rule (1) of rule 9 Explanation I. - The amount mentioned in this sub-rule, unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March. Explanation I. - The amount mentioned in this sub-rule, unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, when such payment shall be made on or before the 31st day of the month of March. Explanation II. - If the manufacturer of goods or the provider of output service fails to pay the amount payable under this sub-rule, it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken. Explanation III - In case of a manufacturer who avails the exemption under a notification based on the value of clearances in a financial year and a service provider who is an individual or proprietary firm or partnership firm, the expressions, —"following month" and —"month of March" occurring in sub-rule (7) shall be read respectively as —"following quarter" and —"quarter ending with the month of March".]	

2	RULE [5. Refund of CENVAT Credit. — (1) A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette : $\text{Refund amount} = \dfrac{\text{(Export turnover of goods + Export turnover of services)}}{\text{Total turnover}} * \text{Net Cenvat Credit}$ Where, - (A) Refund amount‖ means the maximum refund that is admissible; (B) Net CENVAT credit‖ means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period; (C) Export turnover of goods‖ means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking; (D) Export turnover of services means the value of the export service calculated in the following manner, namely :- Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period - advances received for export services for which the provision of service has not been completed during the relevant period;	RULE [5. Refund of CENVAT Credit. — (1) A manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to procedure, safeguards, conditions and limitations, as may be specified by the Board by notification in the Official Gazette : $\text{Refund amount} = \dfrac{\text{(Export turnover of goods + Export turnover of services)}}{\text{Total turnover}} * \text{Net Cenvat Credit}$ Where, - (A) Refund amount‖ means the maximum refund that is admissible; (B) Net CENVAT credit‖ means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period; (C) Export turnover of goods‖ means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking; (D) Export turnover of services means the value of the export service calculated in the following manner, namely :- Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period - advances received for export services for which the provision of service has not been completed during the relevant period;	

	(E) ―Total turnover‖ means sum total of the value of - a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported; b) export turnover of services determined in terms of clause (D) of sub-rule (1) above and the value of all other services, during the relevant period; and c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed. (2) This rule shall apply to exports made on or after the 1st April, 2012 : Provided that the refund may be claimed under this rule, as existing, prior to the commencement of the CENVAT Credit (Third Amendment) Rules, 2012, within a period of one year from such commencement : Provided further that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the [Service Tax Rules, 1994] in respect of such tax. *Explanation 1.* - For the purposes of this rule, - (1) ―export service‖ means a service which is provided as per [rule 6A of the Service Tax Rules, 1994]; (2) ―relevant period‖ means the period for which the claim is filed. *Explanation 2.* - For the purposes of this rule, the value of services shall be determined in the same manner as the value for the purposes of sub-rules (3) and (3A) of rule 6 is determined.]	(E) ―Total turnover‖ means sum total of the value of - a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported; b) export turnover of services determined in terms of clause (D) of sub-rule (1) above and the value of all other services, during the relevant period; and c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed. (2) This rule shall apply to exports made on or after the 1st April, 2012 : Provided that the refund may be claimed under this rule, as existing, prior to the commencement of the CENVAT Credit (Third Amendment) Rules, 2012, within a period of one year from such commencement : Provided further that no refund of credit shall be allowed if the manufacturer or provider of output service avails of drawback allowed under the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995, or claims rebate of duty under the Central Excise Rules, 2002, in respect of such duty; or claims rebate of service tax under the [Service Tax Rules, 1994] in respect of such tax. *Explanation 1.* - For the purposes of this rule, - (1) ―export service‖ means a service which is provided as per [rule 6A of the Service Tax Rules, 1994]; (2) ―relevant period‖ means the period for which the claim is filed. *Explanation* 1A. – For the Purpose of this rule,- Export Goods – means any goods which are to be taken out of India to a place outside India. *Explanation 2.* - For the purposes of this rule, the value of services shall be determined in the same manner as the value for the purposes of sub-rules (3) and (3A) of rule 6 is determined.]	This explanation is inserted, to clarify the meaning of the 'Exported Goods'. The definition signifies that the only such goods which are to be taken outside the territories of India to a place outside India will be considered as Export Goods. In view of said definition, identification of goods to be exported will become easier.

3	RULE 6. Obligation of a manufacturer or producer of final products and a provider of output service]. — (1) The CENVAT credit shall not be allowed on such quantity of [input used in or in relation to the manufacture of exempted goods or for provision of exempted services, or input service used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services], except in the circumstances mentioned in sub-rule (2). [Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.	RULE 6. Obligation of a manufacturer or producer of final products and a provider of output service]. — (1) The CENVAT credit shall not be allowed on such quantity of [input used in or in relation to the manufacture of exempted goods or for provision of exempted services, or input service used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services], except in the circumstances mentioned in sub-rule (2). [Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule. Explanation 1 – For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory. Explanation 2 – Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.	Insertion of Explanation 1 above in Rule 6 (1) further clarify the meaning of exempted goods and final products defined under Rule 2(d) and Rule 2(h) respectively, stating that such exempted goods or final product shall include non-excisable goods also, provided such goods are cleared from the factory for a consideration. Further Explanation 2 clarifies the method as per which the value of non-excisable goods shall be determined which shall either be the invoice value and if invoice value is not available then such value as determined by using reasonable methods consistent with the principles of valuation contained in Excise Act and Rules.
4	RULE 9. Documents and accounts. (4) The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such first stage dealer or second stage dealer, as the case may be, has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on *pro rata* basis has been indicated in the invoice issued by him.	RULE 9. Documents and accounts. (4) The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such first stage dealer or second stage dealer, as the case may be, has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on *pro rata* basis has been indicated in the invoice issued by him.	Sub-Rule (4) of Rule 9 determines the situation wherein CENVAT Credit of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed. The situations are as follows – a. Such first stage dealer or second stage dealer has maintained records indicating that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods, And

		Provided that provisions of this sub-rule shall apply mutatis mutandis to an importer who issues an invoice on which CENVAT credit can be taken.	b. The amount of such duty is indicated on pro rata basis in the invoice. Inserting aforementioned proviso after Rule 9(4) signifies that, importer has been brought at par with First and second stage dealer. Such two situations mentioned above would be applicable on mutatis mutandis basis in case the input or capital goods are purchased from importer by the manufacturer or provider of output service or input service distributor.
5	RULE 12AAA. Power to impose restrictions in certain types of cases. Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.	RULE 12AAA. Power to impose restrictions in certain types of cases. Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, registered importer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a an importer or dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.	Rule 12AAA provides power to the Central Government to take necessary measures to prevent the misuse of provisions of CENVAT Credit as specified in CENVAT Credit Rules 2004. Before the introduction of present amendment in Rule 12AAA, such necessary measures could have been taken against manufacturer, first stage and second stage dealer, provider of output service or an exporter. Such necessary measure could be taken by issuance of a notification proposing following action- a. suspension of registration in case of dealer and b. Type of facilities to be withdrawn, with procedure for issue of such order by the Chief Commissioner of Central Excise. With insertion of abovementioned words, such aforementioned action via issuance of notification by the Central Government could also be taken against a 'Registered importer' to prevent the misuse of the provision of CENVAT Credit.

6	RULE 14. Recovery of CENVAT credit wrongly taken or erroneously refunded. — Where the CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same along with interest shall be recovered from the manufacturer or the provider of the output service and the provisions of sections 11A [and 11AA] of the Excise Act or sections 73 and 75 of the Finance Act, shall apply *mutatis mutandis* for effecting such recoveries.	RULE 14. Recovery of CENVAT credit wrongly taken or erroneously refunded. (1) (i) Where the CENVAT credit has been taken wrongly but not utilised, the same shall be recovered from the manufacturer or the provider of output service, as the case may be, and the provisions of section 11A of the Excise Act or section 73 of the Finance Act, 1994 (32 of 1994), as the case may be, shall apply mutatis mutandis for effecting such recoveries; (ii) Where the CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same shall be recovered along with interest from the manufacturer or the provider of output service, as the case may be, and the provisions of sections 11A and 11AA of the Excise Act or sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such recoveries. (2) For the purposes of sub-rule (1), all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely: - (i) the opening balance of the month has been utilised first; (ii) credit admissible in terms of these rules taken during the month has been utilised next; (iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter."	Rule 14 of CCR 2004 deals with the recovery of CENVAT Credit wrongly taken or utilized or erroneously refunded to manufacturer or the provider of output service. Presently, recovery of CENVAT along with interest, as per sections 11A and 11AA of Excise Act or section 73 and 75 of the Finance Act as the case may be, could be made, in the following situations: ➢ Wrong availment and utilization of CENVAT Credit; or ➢ CENVAT Credit erroneously refunded. It means, prior to an amendment, recovery from manufacturer or provider of output service cannot be made till the time it utilizes inadmissible CENVAT Credit. Further, it does not deal with the manner how CENVAT credit inadmissibly claimed by manufacturer or provider of output service shall be recovered? Department, w.e.f. March 01, 2015, has come up with a Notification [*N. No 6/2015-Central Excise (N.T.) dated 01.03.2015]* which clears the ambiguity regarding procedure and manner of recovery of CENVAT Credit wrongly taken or utilized by manufacturer or provider of output service and the same has been discussed herein below: ➢ Where manufacturer or provider of output service have taken inadmissible CENVAT Credit but has not utilized it while discharging its service tax liability, same shall be recovered in accordance with section 11A and 11AA of Excise Act or section 73 of the Finance Act

			as the case may be. In this scenario, no interest u/s section 75 will be charged. ➢ However, if manufacturer or provider of output service wrongly taken and utilizes CENVAT Credit, same shall be recovered along with interest and the provisions of sections 11A and 11AA of Excise Act or section 73 and 75 of the Finance Act as the case may be, shall apply. Manner for utilization of CENVAT Credit CENVAT Credit shall be deemed to have been utilized on FIFO basis (by manufacturer or provider of output service) in the following manner: ➢ opening balance of CENVAT Credit for the subject month has been utilized first; ➢ admissible CENVAT Credit taken of the subject month has been utilized next; Inadmissible Credit pertain to subject month has been utilized thereafter
7	RULE 15. Confiscation and penalty. — (1) If any person, takes or utilises CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater.	RULE 15. Confiscation and penalty. — (1) If any person, takes or utilises CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty ~~not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater~~ in terms of clause (a) or clause (b) of sub-section (1) of section 11AC of the Excise Act or sub-section (1) of section 76 of the Finance Act (32 of 1994), as the case may be.	Penalty modified in case of CENVAT credit wrongly availed/utilized (Rule 15) (applicable from the date of enactment) Finance Bill 2015 has substituted Rule 15 wherein with effect from date of enactment of said Bill, the penalty for wrongly taken or utilized CENVAT Credit shall be determined as per Section 76 & 78 of the Finance Act which provides as under-

(2) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of section 11AC of the Excise Act.

(3) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then, the provider of output service shall also be liable to pay penalty in terms of the provisions of section 78 of the Finance Act.

(4) Any order under sub-rule (1), sub-rule (2) or sub-rule (3) shall be issued by the Central Excise Officer following the principles of natural justice.

(2) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of ~~section 11AC of the Excise Act~~ clause (c), clause (d) or clause (e) of sub-section (1) of section 11AC of the Excise Act.

(3) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then, the provider of output service shall also be liable to pay ~~penalty in terms of the provisions of section 78 of the Finance Act~~ penalty in terms of the provisions of sub-section (1) of section 78.

(4) Any order under sub-rule (1), sub-rule (2) or sub-rule (3) shall be issued by the Central Excise Officer following the principles of natural justice.

Period	Under Sec 76(1)	Under Sec 78(1)
After 30 days of SCN/Order	10% of the service tax	100% of the service tax
Within 30 days of service of SCN	NIL	NIL
Within 30 days of receipt of order	25% of penalty imposed in such order	25% of the service tax so determined by such order

Illustration:
For the period 2013-14, Company had wrongly availed/utilized Cenvat credit amounting Rs 1,00,000/-. In this case, penalty shall be payable as under:

Period	Under Sec 76(1)	Under Sec 78(1)
After 30 days of SCN/Order	10,000/-	1,00,000/-
Within 30 days of service of SCN	NIL	15,000/-
Within 30 days of receipt of order	2,500/-	25,000/-

MISCELLANEOUS CHANGES			
1	Notification No. 42/2012 In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service received by an exporter of goods (hereinafter referred to as the exporter) and used for export of goods (hereinafter referred to as the said goods), of the description specified below (hereinafter referred to as the specified service), from so much of the service tax leviable thereon under section 66B of the said Act, as is calculated on a value up to ten per cent of the free on board value of export goods for which the said specified service has been used, subject to the conditions specified in column (3) of the said Table, namely:- Specified Service Service provided by a commission agent located outside India and engaged under a contract or agreement or any other document by the exporter in India, to act on behalf of the exporter, to cause sale of goods exported by him.	~~Notification No. 42/2012~~ ~~In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service received by an exporter of goods (hereinafter referred to as the exporter) and used for export of goods (hereinafter referred to as the said goods), of the description specified below (hereinafter referred to as the specified service), from so much of the service tax leviable thereon under section 66B of the said Act, as is calculated on a value up to ten per cent of the free on board value of export goods for which the said specified service has been used, subject to the conditions specified in column (3) of the said Table, namely:-~~ ~~Specified Service~~ ~~Service provided by a commission agent located outside India and engaged under a contract or agreement or any other document by the exporter in India, to act on behalf of the exporter, to cause sale of goods exported by him.~~	•Existing exemption, vide notification No.42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

AMENDMENTS IN RESPECT TO ADVANCE RULINGS VIDE NOTIFICATION NO. 9/2015-ST DATED 01.03.2015 W.E.F. 01.03.2015

The facility of advance ruling has been made available to all residents firms and for this purpose the relevant terms has been defined by way of explanation to the aforementioned notification. The same is reproduced hereunder:

a. “firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932) , and includes-
   (i) the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or
   (ii) limited liability partnership which has no company as its partner; or
   (iii) the sole proprietorship; or
   (iv) One Person Company.

b. (i) “Sole proprietorship” means an individual who engages himself in an activity as defined in sub-clause (a) of section 96A of the Finance Act, 1994.
   (ii) “One Person Company” means as defined in clause (62) of section 2 of the Companies Act, 2013 (18 of 2013).

c. “Resident” shall have the meaning assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far as it applies to a resident firm.

CHAPTER VI
SWACHH BHARAT CESS

(1) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(2) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Swachh Bharat Cess, as service tax on all or any of the taxable services at the rate of two percent on the value of such services for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

(3) The Swachh Bharat Cess leviable under sub-section (*2*) shall be in addition to any cess or service tax leviable on such taxable services under Chapter V of the Finance Act, 1994, or under any other law for the time being in force.

(4) The proceeds of the Swachh Bharat Cess levied under sub-section (2) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilize such sums of money of the Swachh Bharat Cess for such purposes specified in sub-section (2), as it may consider necessary.

(5) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Swachh Bharat Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

MEMORANDUM EXPLAINING FINANCE BILL

Swachh Bharat Cess (SBC):

- An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.
- This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.