Basic of Service Tax & Reverse Charge

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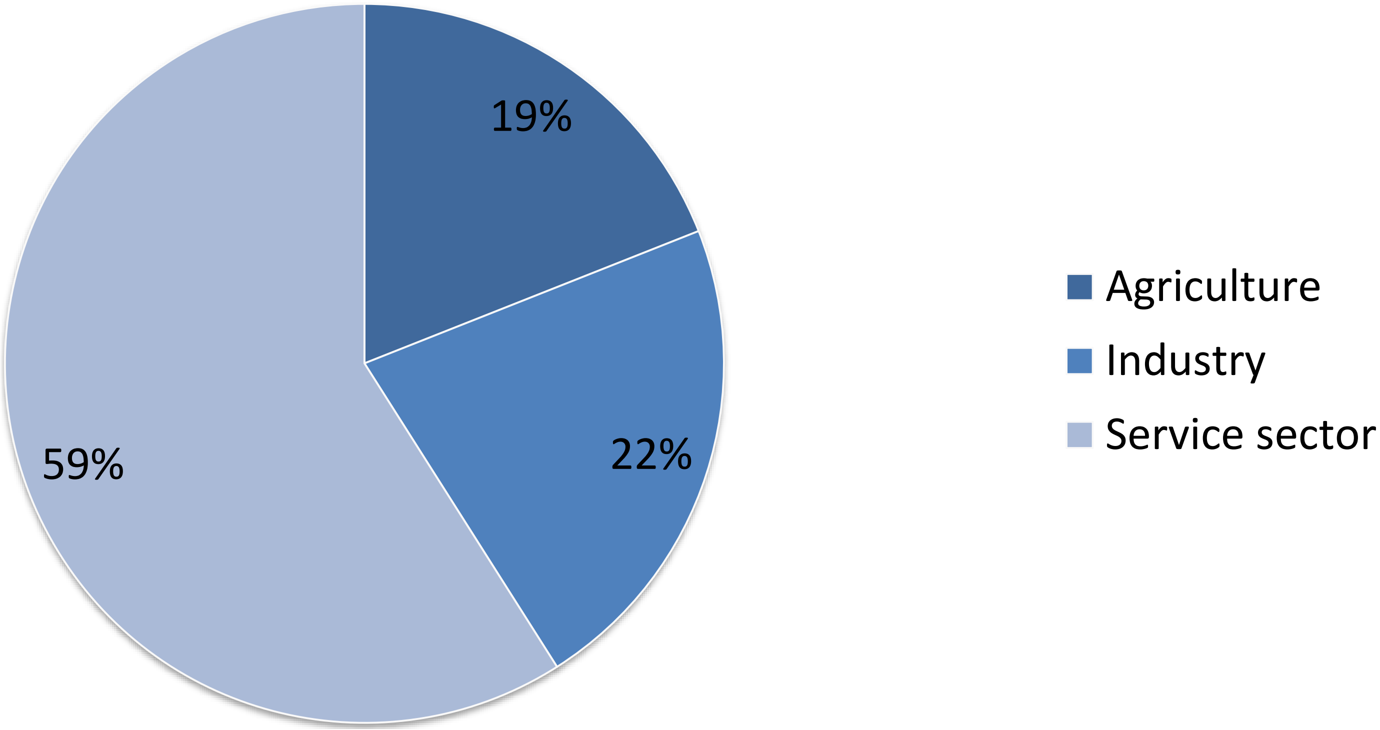
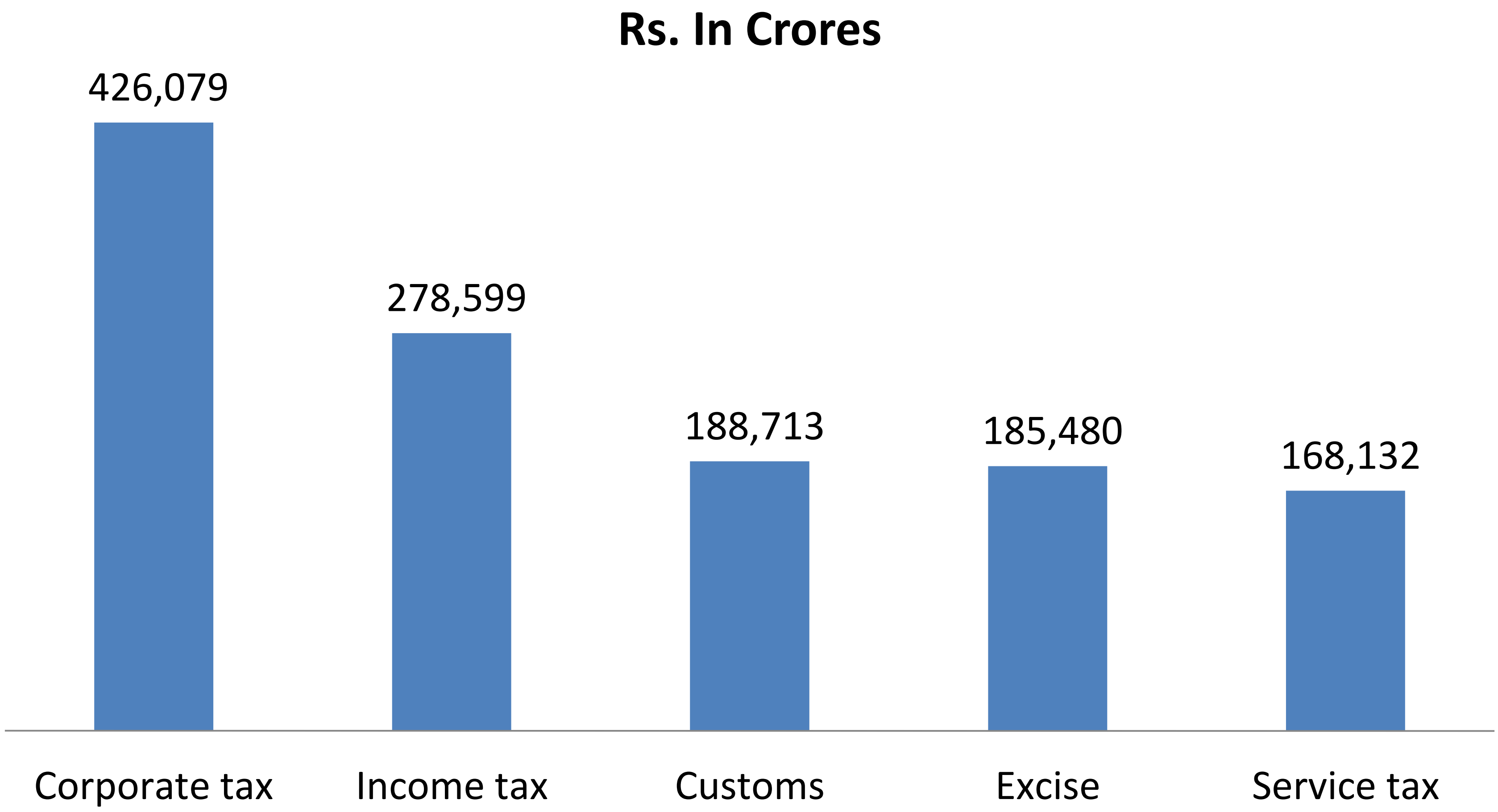
India’s GDP Components (Sector)



Gross Domestic Product (**GDP**) is the broadest **quantitative measure of a nation's total economic activity.** More specifically, **GDP** represents the **monetary value of all goods and services produced** within a nation's geographic borders **over a specified period of time.**

India Tax Revenue in 2014-15



What is Service Tax ?

- Tax on **Services.**
- It is an **Indirect tax.**
- It is actually **borne by the Consumers.**
- It came into existence under the **Finance Act, 1994.**
- **Service tax** is a **tax** levied by **Central Government** of India on services provided or to be provided excluding services covered under negative list and considering the Place of Provision of Services Rules, 2012 and collected as per Point of Taxation Rules, 2011 from the person liable to pay service tax.

Contd……

- Person liable to pay service tax is governed by Service Tax Rules, 1994 he may be service provider or service receiver or any other person made so liable.
- Few services are presently exempt in public interest via Mega Exemption Notification 25/2012-ST as amended up to date & few services are charged service tax at abated rate as per Notification No. 26/2012-ST as amended up to date.
- Presently from 15 November 2015, service tax rate has been increased to @ **14.50%**(including 0.5% Swatch Bharat Cess) of value of services provided or to be provided.

History of Service tax

- Dr. Raja Chelliah Committee on tax reforms recommended the introduction of service tax. The tax collections have grown substantially since 1994-95 i.e. from ₹407 crore in 1994-95 to ₹1,68,132 crore in 2014-15. The total number of Taxable services also increased from 3 (Telephone, Stock Broker & General Insurance) in 1994 to 119 in 2012. However, from 1 July 2012 the concept of taxation on services was changed from a 'Selected service approach' to a 'Negative List regime'. This changed the taxation system of services from tax on some Selected services to tax being levied on the every service other than services mentioned in Negative list.

Service tax rate since 1994

Period	Rate
From 01.07.1994 to 13.05.2003	5%
From 14.05.2003 to 09.09.2004	8%
From 10.09.2004 to 17.04.2006	10%
From 18.04.2006 to 10.05.2007	12.24%*
From 11.05.2007 to 24.02.2009	12.36%*
From 25.02.2009 to 31.03.2012	10.30%*
From 01.04.2012 to 31.05.2015	12.36%*
From 01.06.2015 to 14.11.2015	**14%**
Now At Present	**14.50%***

*Inclusive of cess

Applicability

- Section 64 Applicable to the whole of India except Jammu & Kashmir.
- India includes Territorial Waters(TWI), Continental Shelf, Exclusive Economic Zone(EEZ) and Union territory.
- It will not apply to outside India.

Charging of Service tax

- Section 66-B of the Finance Act, 1994 levis a charge of service tax on the **"Value of taxable services"** provided or to be provided.

9 Declared Services

1. Renting of Immovable Property.
2. Construction of a complex, building, civil structure or a part thereof.
3. Temporary Transfer or permitting the use or enjoyment of any IPR.
4. Development, design programming, customization, adaptation, up gradation, enhancement, implementation of IT Software.
5. Agreeing to the obligation to refrain from an act, or To tolerate an act or a situation, or To do an act;.

Contd……

6. Transfer of Goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods.
7. Activities in relation to delivery of goods on Hire Purchase or any system of payment by installments.
8. Service portion in the execution of a Works Contract.
9. Service portion an activity where in goods, being food or any other article of human consumption or any drink is supplied in any manner as a part of the activity.

NEGATIVE LIST OF SERVICES COVERS SPECIFIED 17 SERVICES

1. Services provided by Government or local authority.
2. Services provided by Reserve Bank of India.
3. Services by a foreign diplomatic mission located in India.
4. Services relating to agriculture or agricultural Produce.
5. Trading of goods.
6. Any Processes amounting to manufacture or production of goods.
7. Selling of space for advertisements in Print Media.
8. Access to a road or a bridge on payment of toll charges.
9. Betting, gambling or lottery.

Contd……

10. Entry to Entertainment Events or Access to Amusement Facilities.
11. Transmission or distribution of electricity.
12. Specified services relating to education.
13. Services by way of renting of residential dwelling for use as residence.
14. Financial sector.
15. Service relating to transportation of passengers.
16. Service relating to transportation of goods (except GTA & Courier Agency).
17. Funeral, burial, crematorium or mortuary services including transportation of the deceased.

Valuation Of Taxable Services

- As per the provision of the section 67 of the Act, the value of Taxable Services shall be the **"Gross amount charged"** by the services provider for services provided or to be provided.

Service tax valuation Rules, 2006

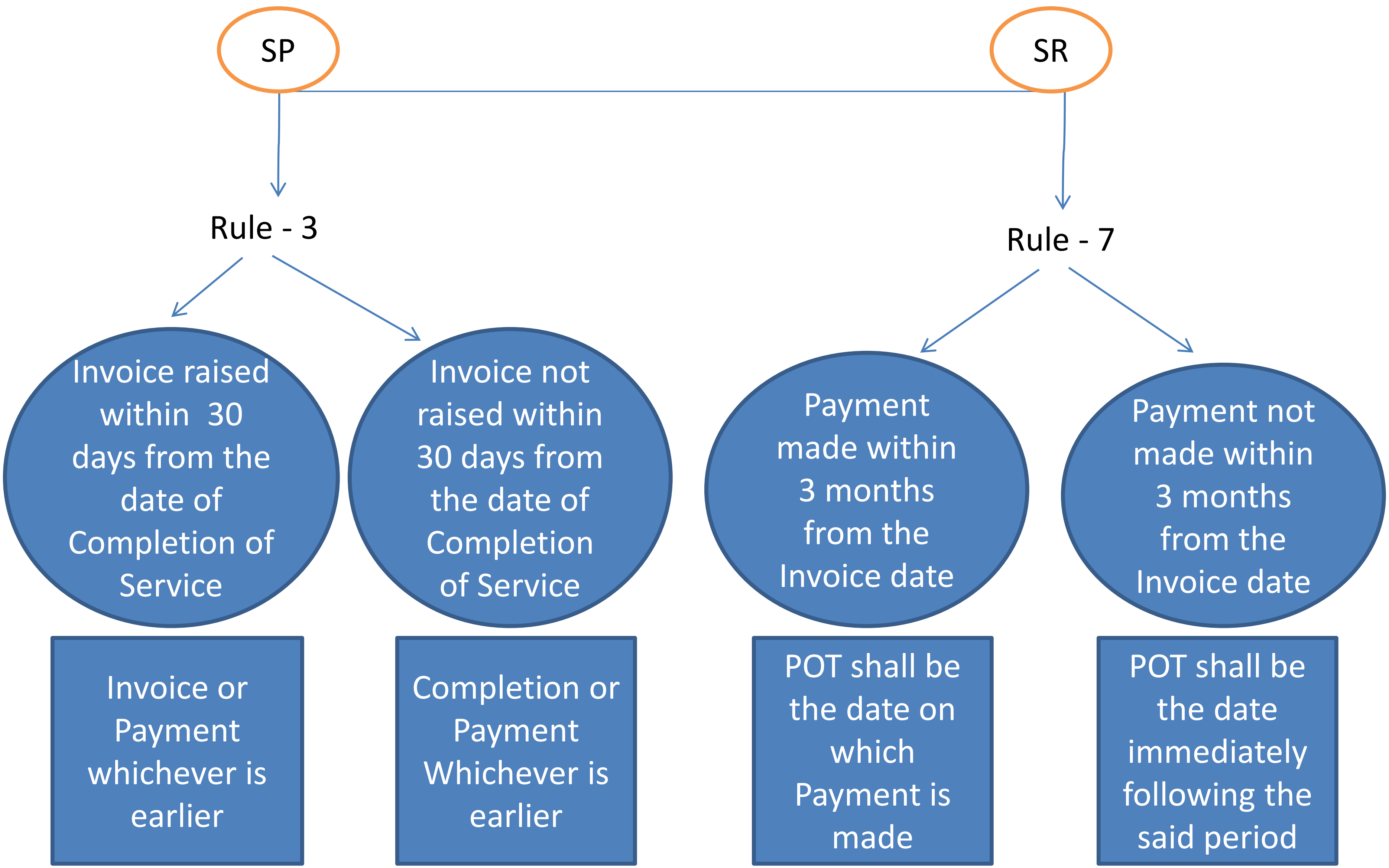
Work Contract

- Original Works – 40% of the total amount charged.
- All other works contract- 70% of the total amount charged.

Restaurant or Outdoor Catering

- Restaurant – 40% of total amount charged.
- Outdoor Catering - 60% of total amount charged.

POT Rules, 2011



POPS Rules, 2012

- Rule-3 Default Rule

  Location of SR(If location of SR is not available then location of SP).
- Rule-4 Service provided in respect of Goods/ Services provided to an Individual

  Place of Performance of Service.
- Rule-5 Services in relation to Immovable Property

  Location of Immovable Property.
- Rule-6 Event Organization

  Location where event held.
- Rule-7 Provisioning of Service rendered at Multiple Locations

  Location where the greatest proportion of the service is provided.

Contd……

- Rule-8 (SP+SR)TT
  Location of SR(i.e. TT).
- Rule-9 HOBI
  Location of SP.
- Rule 10 Transport of Goods
  Destination of Goods.
- Rule-11 Transport of Passengers
  Place of Embarkation of Passenger.
- Rule-12 Catering etc. on Board
  First Scheduled Departure Point of Conveyance.
- Rule 13
- Rule 14 Later is better.

Full-Reverse Charge

12 cases-100% ST to be paid by SR

Status	Person liable to pay ST
Insurance Agent	Insurance Company
Recovery Agent	Bank/FI/NBFC
Lottery Marketing Agent	Lottery Distributor
MF Agent/Distributor	Mutual Fund/Asset Management Co.
GTA(Transport of Goods by road)	Any person liable to Pay freight
Any Person(Sponsorship)	Body Corporate/ Partnership Firm
Arbitral Tribunal	Business Entity
Lawyer/Law Firm	Business Entity
Govt./Local Authority	Business Entity
HIPA(Supply of Manpower/Security Service)	BBC
Director	Company/Body Corporate
Any Person(Any Taxable Service)	Any Person
Any Person(Any Taxable Service-Involving Aggregator)	Any Person

Partial-Reverse Charge

2 cases - ST to be paid by SP and SR

HUF/Indl./Partnership/AOP/BOI		Business entity registered as Body Corporate
50%	← Execution of Work Contract →	50%
0%	← Renting of Passenger Vehicle →	100%(After Abatement 40%)
50%	←→	50%

Procedural Part

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Registration under Service Tax

- **Registration**
  - Application for registration is to be made by every person liable for paying the Service Tax.
  - In Form ST-1 within 30 days from the date on which Service Tax is levied or within 30 days from the date of commencement of business whichever is later, to the Central Excise Officer having jurisdiction.
  - Failure to take registration – Maximum Penalty Rs. 10,000/-.

Contd……

- Any provider of taxable services whose aggregate value of taxable service in a financial year exceeds **Rs. 9 lacs,** has to get themselves registered.
- Up to Rs. **10 lacs,** no Service tax to be levied.
- Exemption limit is One time benefit in life of assessee not in each year.

E-Payment is Mandatory for all assessee

- Individuals, Proprietary concern and Partnership Firms.

Payable on amounts received during the Quarter	Payable on or before
1st April to 30th June (Quarter I)	6th July
1st July to 30th September (Quarter II)	6th October
1st October to 31st December (Quarter III)	6th January
1st January to 31st March (Quarter IV)	31st March

- For all others (like Company, HUF, etc)

Payable on amounts received during the Quarter	Payable on or before
For April to February	6th of following month
For March	31st March

- Failure to pay ST electronically – Max. 10,000 Penalty.

Delay in deposit of Payments

Period of Delay	Applicable rate of Interest	Applicable rate of Interest for Small Assessee#
First 6 months of delay	18% p.a.	15% p.a.
For next 6 months	24% p.a.	21% p.a.
For period in excess of 1 Year	30 % p.a.	27% p.a.

#Small Assessee – Whose value of taxable services provided during the last preceding financial year up to 60 lakhs.

Returns

- Every assessee (Provider/Receiver) shall submit the half-yearly return electronically in Form 'ST-3'.

For the Half year	To be filed on or before
1st April to 30th September	25th October
1st October to 31st March	25th April

- Return can be revised within a period of 90 days from the date of submission of the return.

Delay in Filing Return

Period of Delay	Late fee Payable
Up to to 15 days	Rs. 500
16 to 30 days	Rs. 1000
Beyond 30 days	Rs.1000/- plus Rs.100/- per day from the 31st day till date of filing return

The maximum Late fee shall not be exceeded Rs. 20,000/-

Exemption Notification 26/2012

Sn	Taxable Service	Abatement	Taxable Portion
1	Financial Leasing	90%	10%
2	Transport of Goods by rail	70%	30%
3	Transport of Passengers by rail	70%	30%
4	Bundled service by way of Supply of food, etc in a premise together with Renting of such premise	30%	70%
5	Transport of Passengers by Air	60%/40%	40%(E)/60%(OE)
6	Renting of Hotels, guest house, etc	40%	60%
7	Transport of Goods by road by GTA	70%	30%
8	Omitted		
9	Renting of Motor Cab	60%	40%
9A	Transport of Passengers by a contract carriage other than motor cab or a radio taxi	60%	40%
10	Transport of Goods in a vessel	70%	30%
11	Tour Operator	75%/90%/60%	25%/10%/40%
12	Construction of a complex, building, civil structure	75%/70%	25%/30%

Mega Exemption – 25/2012

- Till date 47 Services specified in Mega Exemption.

Export of Service Conditions

- The provider of service is located in the TT.
- The recipient of service is located outside India.
- Not a negative list service.
- POPS is Outside India.
- The Payment received in convertible foreign exchange.
- The provider and recipient should not be associated persons.

CENVAT Credit- Some Aspects

- CENVAT stands for Central Value Added Tax.
- CENVAT Credit Rules, 2004 are made effective from 10-09-2004.
- These rules deal with both manufacturers and with providers.
- The interest and penalty amounts cannot be taken as credit.

Assessment

- The Act provides for the self-assessment by the Assessee i.e. the assessee shall himself assess and pay the tax.

- Thus every Assessee (Service Provider or Service Receiver) has to himself assess his Service Tax provide/paid and thereafter file returns in Form No. ST-3 on Half yearly basis.

Thank you….