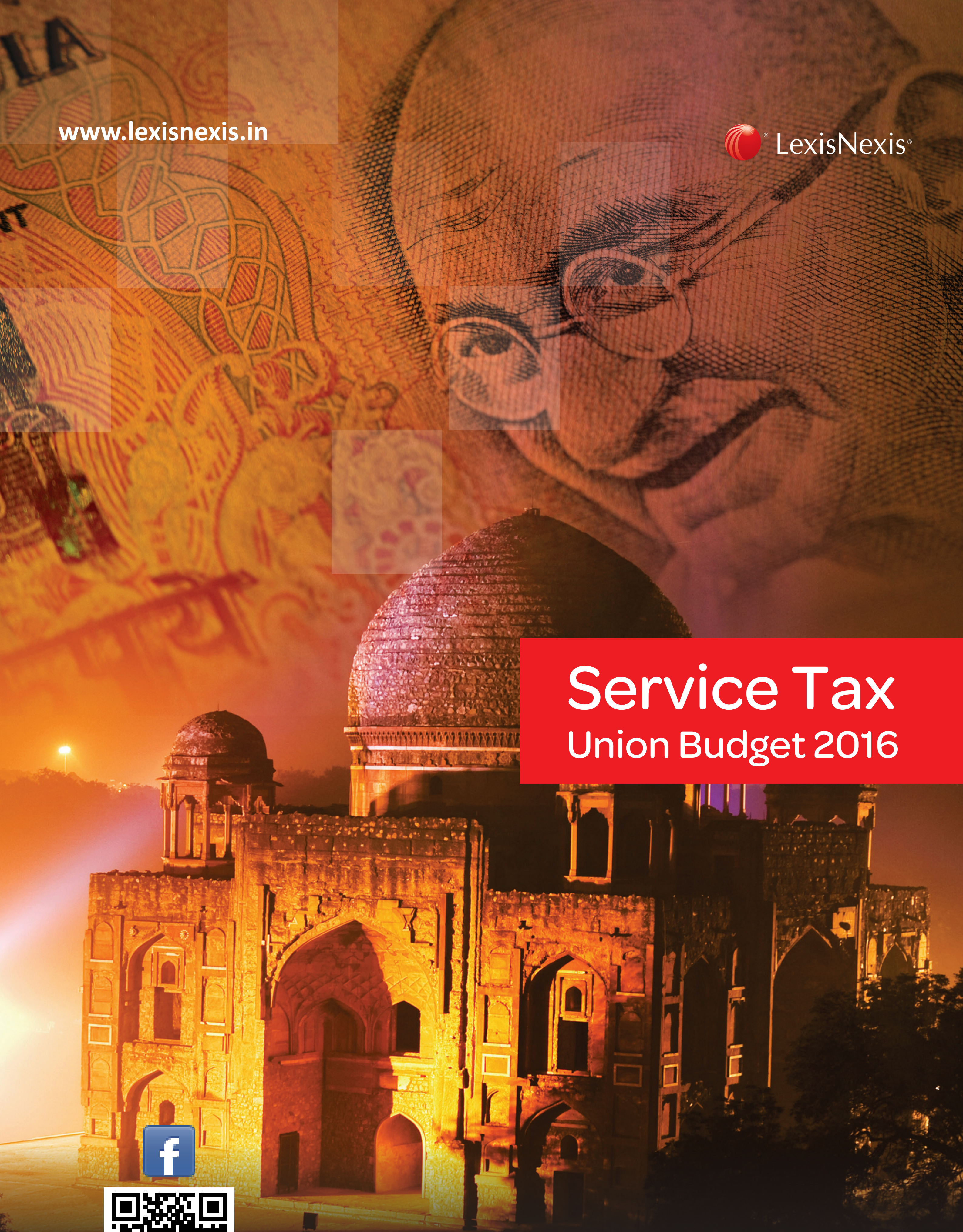

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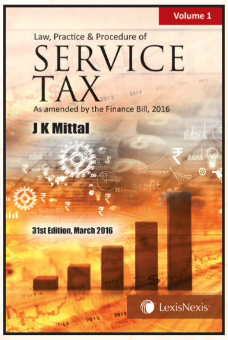

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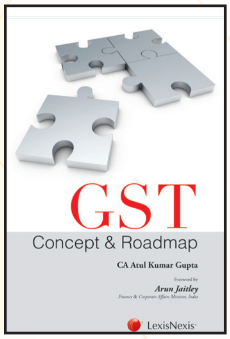

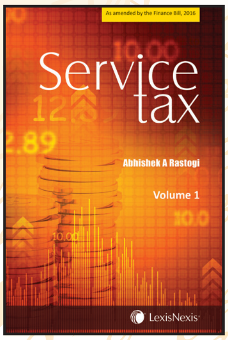

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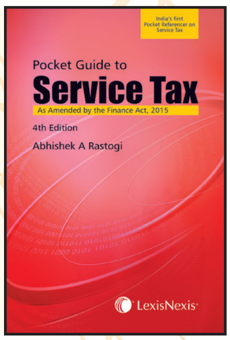

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Prologue

On February 29, 2016 Finance Minister Sh. Arun Jaitley presented his third Union Budget. The government is struggling to get GST into action; however, Prime Minister Narendra Modi and his team are not going to compromise over the ultimate benefits of GST. Therefore, they have framed this budget for the low income group and it also reflects the intention to bring out more transparency in the compliances including tax compliances. PM Modi is trying hard to attract foreign investors in India & to do so, the Finance Ministry is continuously bringing transparency in tax laws. Since the ultimate target is to get the GST into action soon, the government is phasing out the exemptions and simplifying tax credit system, taking the current tax rates to the GST rates as proposed by the committee led by Chief Economic Advisor. Krishi Kalyan Cess is to be imposed from June 1, 2016, so now service tax rate will go up to 15%, which is exactly the revenue neutral rate as reported by the committee.

The government is also concerned about reducing litigations to collect the disputed money as soon as possible, so that it can be channelized towards infrastructure, innovation and technology. Therefore, the Ministry has also announced Dispute Resolution Scheme 2016 in this budget.

Apart from this, negative list has been reviewed, more exemptions have been introduced in mega exemption notification, abatements with credit benefits have been provided for and reverse charge notification is also amended to introduce forward charge at some places.

Interest rates have been reconciled for all indirect taxes and limitation period has been extended to capture the tax evaders; however, arrest and prosecution provisions have been relaxed.

With this handbook, we have attempted to convey all the amendments that are proposed in the Service Tax Law by the Finance Bill, 2016.

For detailed analysis, you can refer to our forthcoming service tax publications. We are committed to provide you quality commentary. In this endeavor, we are keen to know directly from our customers about our publications, so you can share your feedback at Saurabh.chhabra@lexisnexis.com

Saurabh Chhabra
Tax Team |Lexis Nexis India

04-03-2016

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Service Tax

Finance Bill, 2016

The Finance Minister has, while presenting the Union Budget 2016-17, introduced the Finance Bill, 2016 in the Lok Sabha on the 29th of February, 2016. Clauses 145 to 157 of the Bill cover the amendments made to Chapter V of the Finance Act, 1994. A Brief analysis of each clause is as follows:

Clause 145 of the Bill seeks to amend **section 65B** of the Finance Act, 1994 (hereinafter referred to as the 1994 Act so as to—

- omit clause *(11)*;
- amend clause *(44)*

Clause 146 of the Bill seeks to amend **section 66D** of the 1994 Act so as to—

- omit clause *(l)*;
- omit sub-clause *(i)* of clause *(o)* and sub-clause *(ii)* of clause *(p)* with effect from the 1st day of June, 2016.

Clause 147 of the Bill seeks to amend **section 66E** of the 1994 Act so as to insert clause (j) therein to include *assignment by the Government of the right of use the radio-frequency spectrum and its subsequent transfers as a declared service.*

Clause 148 of the Bill seeks to amend **section 67A** of the 1994 Act so as to insert a new sub-section *(2)* therein to *empower the Central Government to prescribe the time or the point in time with respect to the rate of service tax.*

Clause 149 seeks to amend **section 73** of the 1994 Act to substitute the words "**thirty months**" for the words "eighteen months" wherever they occur, so as *to increase the period of limitation in cases not involving fraud, suppression, etc.*

Clause 150 of the Bill seeks to amend **section 75** of the 1994 Act to insert a proviso therein, so as to *empower the Central Government to specify, by notification, separate rate of interest in the case of person who collects service tax but fails to pay such amount so collected to the credit of the Central Government on or before the due date of payment.*

Clause 151 of the Bill seeks to insert an Explanation in ***section 78A*** *of the 1994 Act so as to provide for deemed conclusion of proceedings against any person liable under that section subject to the conclusion of proceedings as provided therein.*

Clause 152 of the Bill seeks to amend sub-section *(1)* of **section 89 (Offences & Penalties)** of the 1994 Act so as *to increase the monetary limit of rupees fifty lakh to rupees two hundred lakh.*

Clause 153 of the Bill seeks to omit sub-section *(2)* of **section 90** of the 1994 Act *as the power of arrest in respect of offences under clauses (a), (b) and (c) of sub-section (1) of section 89 is proposed to be withdrawn*.

Clause 154 of the Bill seeks to amend sub-section *(1)* and omit sub-section *(3)* of **section 91** of the 1994 Act as the *power of arrest in respect of offences under clauses (a), (b) and (c) of sub-section (1) of section 89 is proposed to be withdrawn.*

Clause 155 of the Bill seeks to amend **section 93A** of the 1994 Act so as *to empower the Central Government to grant rebate by way of notification as well.*

Clause 156 of the Bill seeks to insert **new sections 101, 102 and 103 in the 1994 Act** with a view *to extend service tax exemption retrospectively for the services specified in the respective sections.*

Clause 157 of the Bill seeks to amend the notification specified in column (*1*) of the Tenth Schedule (**Service Tax Notification no 41/2012**) in the manner specified in column (*2*) of that Schedule, retrospectively, for the period specified in column (*3*) thereof.

Clause 158 of the Bill seeks to insert new Chapter-VI so as to ***levy a cess to be called the Krishi Kalyan Cess***, as service tax on all or any of the taxable services for the purposes of the Union for financing and promoting initiatives to improve agriculture or for any other purpose relating thereto

Effective Date of Amendments:

It may be noted that changes being made in the Budget are coming into effect on various dates, as indicated below:

- Changes coming into effect immediately **w.e.f. the 1st day of March, 2016**;
- Changes coming into effect from the **1st day of April, 2016**;
- The amendments which will get incorporated in the Finance Act, 1994 **on enactment of the Finance Bill, 2016;**
- The amendments made in the Finance Act, 1994, which will come into effect from **1st day of June, 2016** after the enactment of the Finance Bill, 2016; and
- **Chapter VI of the Finance Bill, 2016**, regarding levy of Krishi Kalyan Cess on all taxable services will come into effect **from 1st June 2016**.

The salient features of the changes being made are discussed below:

***1) Rate of Service Tax*:** Now effective rate of Service Tax will be 15% from 01-06-2016

KRISHI KALYAN CESS (*Chapter VI of Finance Bill, 2016) (Refer Annexure 1 & Clause 158)*

- It shall come into force on the 1st day of June, 2016; on all or any of the taxable services at the rate of 0.5 per cent; for the purposes of financing and promoting initiatives to improve agriculture.

- It 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.

- Credit of Krishi Kalyan Cess paid on input services shall be allowed to be used for payment of the proposed Cess on the service provided by a service provider.

- The proceeds of the Krishi Kalyan 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, utilise such sums of money of the Krishi Kalyan Cess for such purposes

2) Indirect tax Dispute Resolution Scheme, 2016 (Refer Annexure 2) wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in cases:

- ✓ where prosecution has already been launched
- ✓ involving narcotics & psychotropic substances
- ✓ Involving detention under COFEPOSA.

3) Definitions: (Clause 145)

- ☞ The definition of „approved vocational education course [clause (11) of section 65B] is also proposed to be omitted from the Finance Act and is being incorporated in the general exemption notification **(Notification No. 25/2012-ST as amended by notification No 09/2016- ST, dated 1st March, 2016 refers).**

- ☞ Explanation 2 in section 65B(44) is proposed to be amended to clarify that activity carried out by a lottery distributor or selling agents of the State Government under the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is leviable to service tax

4) Changes in Negative List: (Clause 146)

Finance Bill 2016

Education Services

- ☞ The Negative List entry covering 'educational services by way of (a) pre-school education and education up to higher and secondary school or equivalent, (b) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and (c) education as a part of an approved vocational education course [Section 66D (l)] and the definition of 'approved vocational education course' [section 65B (11)] are being omitted. *However, the exemption shall continue by way of exemption notification No. 25/2012 – ST.*
- ☞ Consequently, the definition of „approved vocational education course [clause (11) of section 65B] is also proposed to be omitted from the Finance Act and is being incorporated in the general exemption notification **(Notification No. 25/2012-ST as amended by notification No 09/2016-ST, dated 1st March, 2016 refers).**
- ☞ This amendment in the notification shall come into effect from the date of enactment of Finance Bill, 2016.

Transportation of Passengers

- ☞ The Negative List entry that covers 'service of transportation of passengers, with or without accompanied belongings, by a stage carriage' is being omitted with effect from 1st June, 2016.
- ☞ *Service Tax is being levied on transportation of passengers by air conditioned stage carriage* with effect from 1st June, 2016, at the same level of abatement as applicable to the transportation of passengers by a contract carriage, that is, 60% without credit of inputs, input services and capital goods.
- ☞ *However, such services by a non-air-conditioned stage carriage will continue to be exempted by way of exemption notification [**Notification No. 25/2012-ST, as amended by notification No. 09/2016-ST, dated 1st March, 2016 refers].***

Transportation of Goods

- *The Negative List entry that covers transportation of goods by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or is being omitted with effect from 1st June, 2016 to impose Service Tax on services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India with effect from 1st June, 2016 so as to complete the credit chain and enable Indian Shipping Lines to avail and utilize input tax credits.*
- However such services by an aircraft will continue to be exempted by way of exemption notification **[Not. No. 25/2012-ST, as amended by notification No. 09/2016-ST dated 1st March, 2016 refers]**
- The domestic shipping lines registered in India will pay service tax under forward charge while the services availed from foreign shipping line by a business entity located in India will get taxed under reverse charge at the hands of the business entity. The service tax so paid will be available as credit with the Indian manufacturer or service provider availing such services (subject to fulfillment of the other existing conditions).
- It is clarified that service tax levied on such services shall not be part of value for custom duty purposes. In addition, Cenvat credit of eligible inputs, capital goods and input services is being allowed for providing the service by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India. Consequential amendments are being made in Cenvat Credit Rules, **2004 [Not. No. 23/2004-CE (N.T.), as amended by Sl. Nos. 2(b) and 5(h) of notification No. 13/2016-C.E. (N.T.) dated refers.]**

Finance Act 2015 (6/2016 & 15/2016) (Applicable from 1st April 2016)

- **In section 66D clause (a), in sub-clause (iv), for the words "support services", the words "any service" shall be substituted**
- **The definition of "support service" [section 65B (49)] is also to be omitted**, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax

5) Declared Services: Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is being declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods **(Clause 147)**

6) **Mega Exemption (Amendments in Notification no-25/2012) (By 7/2017 & 9/2016)**

New Exemptions Introduced from 01-03-2016

Entry 9B

Services provided by the ***Indian Institutes of Management, as per the guidelines of the Central Government***, to their students, by way of the following educational programmes, except Executive Development Programme, -

- two year full time residential Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management;

- ☞ fellow programme in Management;
- ☞ Five year integrated programme in Management.

Entry 12A

Services provided ***to the Government, a local authority or a governmental authority*** by way of **construction**, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

- ☞ a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- ☞ a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or
- ☞ 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;
- ☞ under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date:

Provided that nothing contained in this entry shall apply on or after the 1st April, 2020;

Entry 13

(ba) a civil structure or any other **original works** pertaining to the „In-situ rehabilitation of existing slum dwellers using land as a resource through private participation "**under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers.**

(bb) a civil structure or any other original works pertaining to the „**Beneficiary-led individual house construction / enhancement** under the **Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana**;

Entry 14

(ca) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under:

(i) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;
(ii) any housing scheme of a State Government.

Entry 14A

Services by way of construction, erection, commissioning, or installation of original works pertaining to an **airport or port** provided under a contract which had been entered into **prior to 1st March, 2015** and on which appropriate stamp duty, where applicable, had been paid prior to such date:

Provided that Ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, certifies that the contract had been entered into before the 1st March, 2015:

Provided further that nothing contained in this entry shall apply on or after the 1st April, 2020;

New Exemptions Introduced from 01-04-2016

Entry 9C

Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under **Skill Development Initiative (SDI) Scheme**;

Entry 9D
Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of **offering skill or vocational training courses certified by National Council For Vocational Training."**

Entry 26
"(q) **Niramaya Health Insurance Scheme** implemented by Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Entry 26C
Services of **life insurance business provided by way of annuity under the National Pension System** regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory And Development Authority Act, 2013 (23 of 2013);

Entry 48
Services provided by Government or a local authority to a business entity with a turnover up to rupees ten lakh in the preceding financial year."

Entry 49
Services provided **by Employees Provident Fund Organisation (EPFO)** to persons governed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

Entry 50
Services provided **by Insurance Regulatory and Development Authority of India (IRDA)** to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999);

Entry 51
Services provided **by Securities and Exchange Board of India (SEBI)** set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market;

Entry 52
Services provided **by National Centre for Cold Chain Development** under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination;

New Exemptions Introduced from 01-06-2016

Entry 53
Services by way of **transportation of goods by an aircraft from a place outside India upto the customs station** of clearance in India

New Exemptions at Glance

Sl. No	New Exemptions	*Existing Rate	*New Rate
1.	Services by way of construction etc. in respect of- (i) housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY);	5.6%	NIL

	(ii) low cost houses up to a carpet area of 60 square metres in a housing project under "Affordable housing in Partnership" component of PMAY, (iii) low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government, are being exempted from Service Tax **with effect from 1st March, 2016**.		
2.	The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from Service Tax **with effect from 1st April, 2016.**	3.5%	NIL
3.	Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from Service Tax **with effect from 1st April, 2016**	14%	NIL
4.	Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from Service Tax **with effect from 1st April, 2016.**	14%	NIL
5.	The regulatory services provided by Securities and Exchange Board of India (SEBI) are being exempted from Service Tax **with effect from 1st April, 2016**	14%	NIL
6.	The rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, **with effect from 1st April, 2016. (Amendment in Rule 6(7A) of STR,1994)**	3.5%	1.4%
7.	The services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from Service Tax **with effect from 1st April, 2016**.	14%	NIL
8.	Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from Service Tax **with effect from 1st April, 2016**.	14%	NIL
9.	Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubatees are being exempted from Service Tax **with effect from 1st April, 2016**.	14%	NIL
10.	Services provided by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana	14%	NIL

	are being exempted from Service Tax **with effect from 1st April, 2016**.		
11.	Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from Service Tax **with effect from 1st April, 2016**.	14%	NIL
12.	The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event **with effect from 1st April, 2016.**	14%	NIL
13.	Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 1st March, 2016.	14%	NIL

Restoration of Exemption (Relief Measure)

1.	Exemptions on services of: a) Construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc. b) construction of ports, airports, [which were withdrawn with effect from 01.04.2015], are being restored in respect of services provided under contracts which had been entered into prior to 01.03.2015 on payment of applicable stamp duty, **with retrospective effect from 01.04.2015.**	5.6% of total amount	Nil
2.	Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature, during the period ***from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment.***	5.6% of total amount	Nil

***Rates do not include cess which is to be added additionally (0.5% already applicable + 0.5% will be applicable from 1-6-2016). Here cess applies on value of Taxable service not on Tax calculated.**

Amendments in existing Entries

From 1-3-2016

Entry No 14

The **services by way of construction, erection, commissioning or installation of original works pertaining to monorail or metro brought under the service tax** *however where contracts were entered into before 1st March, 2016, on which appropriate stamp duty, was paid, shall remain exempt*

Effective Rate: 5.6% + Cess

From 1-4-2016

Entry No 6
Exemption on services provided by,-

- a **senior advocate** to an advocate or partnership firm of advocates providing legal service; and
- a person represented on an arbitral tribunal to an arbitral tribunal;

is being withdrawn with effect from 1st April, 2016 and Service Tax is being levied under forward charge.

Note: "**Senior advocate** has the meaning assigned to it in section 16 of the Advocates Act, 1961 (25 of 1961);

Crux
Legal services to a person other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession by the senior Advocate are exempt; **all other services by Senior Advocates will be Taxable.**

Effective Rate: 14% + Cess

Entry No 16
Services by an artist by way of a performance in folk or classical art form of
- Music
- Dance
- Theatre

If the consideration charged for such performance is not more than ~~one lakh rupees~~ **one lakh fifty thousand rupees**

Key Note - Still no exemption to any artist acting as a brand ambassador

Entry No 23
- Non-AC stage carriages are also brought under Mega Exemption **with effect from 1st June, 2016**.
- Exemption on the services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is being withdrawn with effect from 1st April, 2016.

From the Date of President Assent following definitions in Mega Exemption will be Amended/Added

"**Educational institution**" means an institution providing services by way of:
- pre-school education and education up to higher secondary school or equivalent;
- education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- **education as a part of an approved vocational education course;";**

"**Approved vocational education course**" means, -
- a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
- a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;;

7) Abatement under Service Tax Law (Relief Measures)

Abatement in Service tax law means levy of service tax on abated (Reduced) Value (specified % of amount mentioned on the invoice) & partial/full input credit cannot availed as specified in the notification issued in this behalf.

These are provided due to following reasons-

- To compensate for the other taxes charged.
- To promote the new industries.
- To stabilize the prices of goods and services.
- To rationalize the burden of taxes on low margin products/services.

Abatement in Service Tax was First Introduced Vide Principal Notification No. 26/2012-Service Tax, dated 20th June 2012 and subsequently been amended vide

- Notification No. 02/2013 -Service Tax, Dated 1st March, 2013,
- Notification No. 09/2013 -Service Tax, Dated 8th May 2013,
- Notification No. 08/2014 -Service Tax, Dated 11th July 2014,
- Notification No. 08/2015 -Service Tax, Dated 1st March 2015,
- Notification No. 13/2015 -Service Tax, Dated 19th May, 2015,
- ***Notification No. 08/2016 -Service Tax, Dated 01st March,2016***

Following Amendments are proposed by Budget Notification: 8/2016

Sl. No	**Rationalization of Abatements**	**Existing**	**Proposed**
1.	Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
2.	Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
3.	Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.	4.2% Without credit	5.6% **With input service credit**
4.	Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
5.	The abatement rate in respect of services by way of **construction** of residential complex, building, civil structure, or a part thereof, is being **rationalized at 70%** by merging the two existing rates (70% for high end flats and 75% for low end flats).	3.5%/ 4.2%	4.2%
6.	The abatement rate in respect of services by a **tour operator** in relation to packaged tour (defined where tour operator provides	3.5%/ 5.6% of Amount	4.2% of amount

	to the service recipient transportation, accommodation, food etc) and other than packaged tour is being **rationalized at 70%.**	charged	charged
7.	The **abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60%,** without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged).	4.2%	5.6%
8.	The abatement rate on **services of a foreman to a chit fund is being rationalized at the rate of 30%, without CENVAT credit on inputs, input services and capital goods.**	14%	9.8%

Service Tax rate abatement chart ***<u>as applicable from 01.04.2016</u>*** updated with changes made vide Budget 2016 notification no.8/2016 is as follows:

Sl.no	**Description of taxable service**	**Percentage of taxable value**	**Conditions**
1)	Services in relation to financial leasing including hire purchase (Refer Note-1)	10	Nil
2)	Transport of goods by rail **(other than service specified at Sl. No. 2A below)**	30	CENVAT credit on inputs, capital goods ~~**and input services**~~, used for providing the taxable service, has not been taken
2A)	**Transport of goods in containers by rail by any person other than Indian Railways**	**40**	**CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.";**
3)	Transport of passengers, with or without accompanied belongings by rail	30	Same as above
4)	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function together with renting of such premises (Refer Note- 2)	70	(i) CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for Providing the taxable service has not been taken.
5)	Transport of passengers by air, with or without		CENVAT credit on

	accompanied belongings in (i) economy class (ii) other than economy class	 40 60	inputs and capital goods, used for providing the taxable service, has not been taken.
6)	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60	Same as above
7)	Services of goods transport agency in relation to transportation of goods **(other than used household goods.)**	30	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service Provider
7A)	**Services of goods transport agency in relation to transportation of used household goods.**	**40**	**CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken.**
8	**Services provided by a foreman of chit fund in relation to chit**	**70**	**CENVAT credit on inputs, capital goods and input services, used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004.";**
9)	Renting of motor cab	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken CENVAT credit on input service of renting of motor cab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner (a) Full CENVAT credit of such input service received from a person who is paying service tax on forty percent of the value; or (b) Up to forty percent

			CENVAT credit of such input service received from a person who is paying service tax on full value; CENVAT credit on input services other than those specified above, has not been taken
9A)	Transport of passengers, with or without accompanied belongings, by a contract Carriage other than ☞ motor cab ☞ radio taxi or ☞ **a stage carriage (w.e.f 1-6-2016)**	40	CENVAT credit on inputs, capital goods ~~and input services,~~ used for providing the taxable service, has not been taken
10)	Transport of goods in a vessel	30	Same as above
11)	Services by a tour operator in relation to,- ~~(i) a package tour (Refer Note-4)~~ (i) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour (Refer Note-5) (ii) tours other than (i) above	~~25~~ 10 ~~40~~30	CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable Service has not been taken The invoice, bill or challan issued indicates that it is towards the charges for such accommodation This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable

			Service has not been taken The bill issued for this purpose indicates that it is inclusive of charges for such a tour and the amount charged in the bill is the gross amount charged for such a tour.
12)	*Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly, except where entire consideration is received after issuance of completion certificate by the competent authority* ~~(a) for a residential unit satisfying both the following conditions, namely:~~ ~~(i) the carpet area of the unit is less than 2000 square feet;~~ ~~and~~ ~~(ii) the amount charged for the unit is less than rupees one crore;~~ ~~(b) For other than the (a) above (Refer Note-3)~~	~~25~~ 30	CENVAT credit on inputs used for providing the taxable service has not been taken The value of land is included in the amount charged from the service receiver

Note-1 **for the purposes of exemption at Serial number 1 –**

- The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installments paid towards repayment of the lease amount and the principal amount contained in such installments;

- the exemption shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee, which shall be added to the amount calculated in terms of (i) above.

Note-2 **for the purposes of exemption at Serial number 4 –**

The amount charged shall be the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink (whether or not intoxicating) and whether or not supplied under the same contract or any other contract, after deducting-

- ☞ the amount charged for such goods or services supplied to the service provider, if any; and
- ☞ the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

<u>Note-3</u> **for the purposes of exemption at Serial number 9 –**

The amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods (**including fuel***) and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

***A** condition mandating inclusion of cost of fuel in the consideration for availing abatement on the services by way of renting of motor-cab is being prescribed with effect from 1st April, 2016.

<u>Note-4</u> **For the purposes of exemption at Serial number 12 –**

The amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract, after deducting-

- ☞ the amount charged for such goods or services supplied to the service provider, if any; and
- ☞ the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

~~Note-4 "package tour" means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour.~~

<u>Note-5</u> "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.

8) Amendment in Point of Taxation Rules, 2011(10/2016)

<u>From 1-3-2016</u>

<u>Amendment in rule 5</u>

- ☞ This rule shall apply mutatis mutandis in case of new levy on services.
- ☞ New levy or tax shall be payable on all the cases other than following 2 cases:
    - o Where invoices has been issued and payment has been received against such invoices before such new levy or tax has been Imposed;

- Where payment has been received before service become taxable & invoice has been issued within 14 days of the date when such new levy comes in force.

9) Exemption to Information Technology Software recorded on a media (11/2016)

From 1-3-2016

on which it is required, under the provisions of the Legal Metrology Act, 2009 (1 of 2010) or the rules made thereunder or under any other law for the time being in force, to declare on package of such media thereof, **the retail sale price**

***Condition*:**

- value of the package of such media has been determined under section 4A of the Central Excise Act, 1944
- In case of domestic manufacturing ,appropriate duties of excise on such value have been paid or
- In case of Import, appropriate duties of customs including the additional duty of customs on such value, have been paid by the importer
- declaration made by the service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on such media has been recovered from the customer

Summary

Service tax on the services of Information Technology Software on media bearing RSP is being exempted from Service Tax with effect from 1st March, 2016 provided Central Excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act

Mutual exclusiveness of levy of excise duty and Service Tax on Information Technology Software in respect of software recorded on media "NOT FOR RETAIL SALE" is being ensured by exempting from excise duty only that portion of the transaction value on which Service Tax is paid.

10) Bio-incubators recognized by the Biotechnology Industry Research Assistance Council, under Department of Biotechnology, Government of India will be eligible for STEB exemption provided under 32/2012.**(12/2016)**

11) Amendment of section 75 (Interest on Delayed Payment of Service Tax) (Clause 150)

Interest rates on delayed payment of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, *except in case* of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due.

In case of assessees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.

Change in Interest Rates (13/2016)

In supersession of the notification No. 12/2014-Service Tax, dated the 11th July, 2014 following Interest Rates are proposed from the date of President Assent to Finance Bill, 2016:

Serial Number	Situation	Rate of Interest Per Annum
1	Collection of any amount as service tax but ***failing to pay the amount so collected to the credit of the Central Government on or before***	24%

	the date on which such payment becomes due.	
2	Other than in situations covered under serial number 1 above	***15%***

12) Rate of Interest u/s 73B: Interest on Amount collected in Excess (Amendment in Notification No 8/2006(last amended by15/2011) (14/2016))

This Rate of Interest has been proposed to be increased to 18% from the day the Finance Bill, 2016 receives the assent of the President

13) Reverse Charge under Service Tax: (16/2016) (18/2016)

Reverse charge means where government has shifted liability to pay service tax on person other than service provider. (Even a contract between parties where service provider agrees to pay service tax on services under reverse charge cannot override the law)

Person made liable to pay has to pay first but if contract provides otherwise this law should not be assumed to prejudice the right to recover back taxes as per contract from the other party liable as per contract.

Ever civil suit is also maintainable to recover taxes paid as per contract from the other party but government is not liable to refund if the other party is declared insolvent by the court.

Reverse Mechanism and Partial Reverse Mechanism in Service Tax was First Introduced Vide Principal Notification No. 30/2012-Service Tax Dated- 20th June, 2012 and Subsequently been amended vide

- Corrigendum Notification [F. No.334/1/2012 -TRU], Dated 29-6-2012,
- Notification No.45/2012-Service Tax, Dated 7th August, 2012,
- Notification No.10/2014-Service Tax Dated- 11th July, 2014
- Notification No. 7/2015-Service Tax Dated- 1st March, 2015 and
- **Notification No. 18/2016-Service Tax Dates- 1st March,2016**

I have compiled the Reverse and Partial Reverse Mechanism Chart as Applicable ***from 01.04.2016**** as follows:

Sl. No.	Description of a service	Service Provider (%) (Effective Rate)	Person Other than SP (%) (Effective Rate)
1	In respect of services provided or agreed to be provided by an **insurance agent** to any person carrying on insurance business	Nil	100% (14.50%)
1A	in respect of services provided or agreed to be provided by a **recovery agent** to a banking company or a financial institution or a nonbanking financial company **(Effective from 01.04.2015)**	Nil	100 %(14.50%)
~~1B~~	~~in respect of services provided or agreed to be provided by~~	~~Nil~~	~~100%~~

	~~a mutual fund agent or distributor,~~ ~~to~~ ~~a mutual fund or asset management company~~ ~~**(Effective from 01.04.2015)**~~ **(w.e.f 1-4-2016) (18/2016)**		
1C	~~In respect of service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent.~~ **(w.e.f 1-4-2016) (18/2016)** provided or agreed to be provided **by a selling or marketing agent of lottery tickets in relation to a lottery in any manner** to a lottery distributor or selling agent of the State Government under the provisions of the Lottery (Regulations) Act, 1998 (17 of 1998);";	Nil	100 %(14.50%)
2	in respect of service provided or agreed to be provided by a **goods transport agency** in respect of transportation of goods by road to Company, Partnership Firm, Registered Factory, Registered Society, co-operative society, AOP, LLP, Person Registered Under Central Excise Act, 1944 including Excise Dealers	Nil	100 %(4.35%)
3	in respect of services provided or agreed to be provided by way of **sponsorship** to anybody corporate or partnership firm	Nil	100 %(14.50%)
4	in respect of services provided or agreed to be provided by an **arbitral tribunal** to Any Business entity	Nil	100 %(14.50%)
5	~~in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services~~ "in respect of services provided or agreed to be provided **by a firm of advocates or an individual advocate other than a senior advocate by way of legal services"; (w.e.f 1-4-2016)(18/2016)** to any Business Entity	Nil	100 %(14.50%)
5A	in respect of services provided or agreed to be provided by a **director of a company** or a body corporate to the said company or the body corporate	Nil	100 %(14.50%)
6	in respect of services provided or agreed to be provided by **Government or local authority** ~~by way of support services~~ **(w.e.f 1-4-2016)(18/2016)** excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of	Nil	100 %(14.50%)*

	clause (a) of section 66D of the Finance Act,1994 to any Business Entity		
7	(a)in respect of services provided or agreed to be provided by way of **renting of a motor vehicle designed to carry passengers on abated value** to any person who is not engaged in the similar line of business by individual, HUF, firm or AOP to Body	Nil	100 %(5.80%)
7	(b) in respect of services provided or agreed to be provided by way of **renting of a motor vehicle designed to carry passengers on non-abated value** to any person who is not engaged in the similar line of business by individual, HUF, firm or AOP to Body Corporate **Revised wef 01.10.2014**	50 %(7.25%)	50 %(7.25%)
8	in respect of services provided or agreed to be provided by way of **supply of manpower for any purpose or security services** by individual, HUF, firm or AOP to Body Corporate	Nil	100 %(14.50%)
9	in respect of services provided or agreed to be provided in service portion in **execution of works contract** by individual, HUF, firm or AOP to Body Corporate - original works - maintenance or repair or reconditioning or restoration or servicing	 50 %(2.90%) 50 %(5.075%)	 50 %(2.90%) 50 %(5.075%)
10	in respect of any taxable services provided or agreed to be **provided by any person who is located in a nontaxable territory** and received by any person located in the taxable territory	Nil	100 %(14.50%)*
11	in respect of any service provided or agreed to be provided by a person involving an **aggregato**r in any manner to any Business Entity **(Effective from 01.03.2015)**	Nil	100 %(14.50%)

Explanation-I – The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
Explanation-II – In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

Explanation-III Hitherto, support services provided by a Government/Local authority to any business entity was subject to 100% reverse charge. The scope of reverse charge has now been extended in case of all services provided by the Government/Local authority to such business entities. The exclusion from reverse charge on renting of immovable property and some specified services of Sec. 66D of the Act shall continue

* In SI. 6 & 10 indicates that the rates are subject to the type of service provided.
**Effective rates are calculated without considering Krishi Kalyan cess which is proposed to be applicable from 1-6-2016 @0.5% of value of taxable services which will be in same line with Swachh Bharat cess (Refer Annexure 1)

14) Amendments in Service Tax Rules, 1994(19/2016)

Amendment in Rule 2(1)(d)
It is being modified so that legal services provided by a senior advocate shall be on forward charge.

Amendment in Rule 6(1)

- The benefit of quarterly payment of Service Tax is being extended to 'One Person Company' (OPC) whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year and HUF with effect from 1st April, 2016

- The facility of payment of Service Tax on receipt basis is also extended to 'One Person Company' (OPC) whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year with effect from 1st April, 2016

Amendment in Rule 6(7A)

- The rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, with effect from 1st April, 2016.

Rule 7(3A) Inserted (Annual Return Concept in Service Tax)
The annual return will also have to be filed by Service Tax assessees, above a certain threshold, taking total number of returns to three in a year for them. This change shall come into effect from 1st April, 2016.

The Central Government may, subject to such conditions or limitations, specify by notification an assessee or class of assesses who may not be required to submit the annual return referred to in sub-rule (3A). **(Rule 7(3B))**

Rule 7B(2) Inserted (Revision of Annual Return)
An assessee who has filed the annual return referred to in sub-rule (3A) of rule 7 by the due date may submit a revised return *within a period of one month from the date of submission of the said annual re*turn

Rule 7C(2) Inserted (Delay in furnishing of Annual Return)
Where the annual return referred to in sub-rule (3A) of rule 7 is filed by the assessee after the due date, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day for the period of delay in filing of such return, subject to a maximum of twenty thousand rupees

15) Rebate of Service Tax to Exporters (41/2012 amended by 01/2016) (Clause 157)

Amendment of notification issued under section 93A of Finance Act, 1994.
The notification issued under section 93A of the Finance Act, 1994 granting rebate of service tax paid on the taxable services which are received by an exporter of goods and used for export of goods, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Tenth Schedule, on and from and up to the corresponding dates specified in column (3) of the Schedule, and accordingly, any action taken or anything done or purported to have taken or done under the said notification as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the said notification as amended by this sub-section had been in force at all material times.

Rebate of all such service tax shall be granted which has been denied, but which would not have been so denied had the amendment made by sub-section (1) been in force at all material times.

Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of rebate of service tax under sub-section (2) shall be made within the period of one month from the date of commencement of the Finance Act, 2016.

Notification No. 41/2012- ST, dated the 29th June, 2012 was amended by notification No.1/2016-ST dated 3rd February, 2016 so as to, *inter alia*, ***allow refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods.*** This amendment is being made effective from the date of application of the parent notification (i.e. 1st July 2012).

16) Amendments in CENVAT Credit Rules with effect from 1st April, 2016 (Refer Annexure 4)

- The rules are being amended so as *to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.*

- The rules are being amended to *improve credit flow, reduce the compliance burden and associated litigation, particularly those relating to apportionment of credit* between exempted and non-exempted final products / services. Changes are also being made in the provisions *relating to input service distributor*, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these rules will also *enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits* to the individual manufacturing units**.**

- The rules are being amended to provide for *reversal of CENVAT Credit of inputs/input services which have been commonly used in providing taxable output service and an activity which is not a 'service'* under the Finance Act,1994.

- The CENVAT credit rules are being amended so as *to allow CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource*, **over such period of time as the period for which the rights have been assigned.**

- **Notification No. 27/2012 – C.E. (N.T.) dated 18.06.2012** is being amended with effect from 1st March, 2016 so as to provide that time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services, is 1 year from the date of :

- ✓ receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
- ✓ Issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.

17) The power to arrest in Service Tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs 2 crore. The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion.**(Section 89,90 & 91) (Clause 152,153& 154)**

18) Amendment in section 78A of the Finance Act, 1994: (Clause 151)

- ☞ It is proposed to provide that penalty proceedings under section 78A shall be deemed to be closed in cases where the main demand and penalty proceedings have been closed under section 76 or section 78, by making suitable changes to section 78A by addition of an explanation

19) Amendment of section 73 (Period for issuing demand notices)
Section 73 of the Finance Act, 1994 is being amended so as to increase the limitation period from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax. **(Clause 149)**

20) Section 67A is being amended to obtain rule making powers in respect of the Point of Taxation Rules, 2011, so as to provide that the point in time when service has been provided or agreed to be provided shall be determined by rules made in this regard. Point of Taxation Rules, 2011 is being amended accordingly **(Clause 148)**

21) Section 93A of the Finance Act, 1994 is being amended so as to allow rebate by way of notification as well as rules **(Clause 155)**

Annexure 1
Cess Concept in Service Tax

CHAPTER VI

SWACHH BHARAT CESS
(Effective Date 15/11/2015)

Section 119 of Finance Act 2015

(*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 per cent 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, utilise 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.

Clarification on Swachh Bharat Cess

1. What is Swachh Bharat Cess (SBC)?

☞ It is a Cess which shall be levied and collected in accordance with the provisions of Chapter VI of the Finance Act, 2015, called Swachh Bharat Cess, as service tax on all the taxable services at the rate of 0.5% of the value of taxable service.

2. What is the date of implementation of SBC?

☞ The Central Government has appointed **15th day of November, 2015** as the date from which provisions of Swachh Bharat Cess will come into effect (notification No.21/2015-Service Tax, dated 6th November, 2015 refers).

3. Whether SBC would be leviable on exempted services and services in the negative list?

☞ Swachh Bharat Cess is not leviable on services which are fully exempt from service tax or those covered under the negative list of services.

4. How will the SBC be calculated?

☞ SBC would be calculated in the same way as Service tax is calculated. Therefore, SBC would be levied on the same taxable value as service tax.

5. Whether SBC would be required to be mentioned separately in invoice?

☞ SBC would be levied, charged, collected and paid to Government independent of service tax. This needs to be charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code which would be notified shortly. SBC may be charged separately after service tax as a different line item in invoice. It can be accounted and treated similarly to Education cesses.

6. Whether separate accounting code will be there for Swachh Bharat Cess?

☞ Yes, for payment of Swachh Bharat Cess, a separate accounting code would be notified shortly in consultation with the Principal Chief Controller of Accounts. These are as follows:-

✓ Swachh Bharat Cess (Minor Head) 0044-00-506

7. What would be effective rate of service tax and SBC post introduction of SBC?

☞ Effective rate of service tax plus SBC, post introduction of SBC, would be [14% + 0.5%].

8. Whether SBC is a 'Cess' on tax' and we need to calculate SBC @ 0.50% on the amount of service tax like we were earlier doing for calculating Education Cess and SHE Cess?

☞ **No, SBC is not a cess on Service Tax. SBC shall be levied @ 0.5% on the value of taxable services.**

9. Whether SBC is levied on all or selected services?

☞ The Central Government was empowered to impose SBC either on all or some of the taxable services. Vide notification No 22/2015-ST dated 6-11- 2015, Government has notified that SBC shall be applicable on all taxable services except services which are either fully exempt from service tax under any notification issued under section 93(1) of the Finance Act, 1994 or are otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

10. How will the SBC be calculated for services under reverse charge mechanism?

☞ In case of reverse charge under section 68(2) of the Finance Act, 1994, the liability has been shifted from service provider to the service recipient. As per section 119 (5) of the Finance Act, 2015, the provisions of Chapter V of the Finance Act, 1994, and the rules made thereunder are applicable to SBC also. Thus, the reverse charge under section 68(2) of the Finance Act, 1994, is made applicable to SBC. In this context, to clarify, Government has issued notification No. 24/2015-Service Tax dated 12th November, 2015 to provide that reverse charge under notification No.30/2012-Service Tax dated 20th June, 2012 shall be applicable for the purpose of levy of Swachh Bharat Cess mutatis mutandis.

11. How will SBC be calculated for services where abatement is allowed?

☞ Taxable services, on which service tax is leviable on a certain percentage of value of taxable service, will attract SBC on the same percentage of value as provided in the notification No. 26/2012-Service Tax dated 20th June, 2012. So, this notification would apply for SBC also in the same manner as it applies for service tax.

☞ For example, in the case of GTA, [Service Tax + SBC] % would be (14% Service Tax + 0.5% SBC) * 30% = 4.35% (4.20%+0.15%).

12. Whether Cenvat Credit of the SBC is available?

☞ **SBC is not integrated in the Cenvat Credit Chain. Therefore, credit of SBC cannot be availed. Further, SBC cannot be paid by utilizing credit of any other duty or tax.**

13. What would be the **point of taxation** for Swachh Bharat Cess?

☞ As regards Point of Taxation, since this levy has come for the first time, all services (except those services which are in the Negative List or are wholly exempt from service tax) are being subjected to SBC for the first time. SBC, therefore, is a new levy, which was not in existence earlier. ***Hence, rule 5 of the Point of Taxation Rules would be applicable in this case.*** Therefore, in cases where payment has been received and invoice is raised before the service becomes taxable, i.e. prior to 15th November, 2015, there is no liability of Swachh Bharat Cess.

In cases where payment has been received before the service became taxable and invoice is raised within 14 days, i.e. up to 29th November, 2015, even then the service tax liability does not arise. Swachh Bharat Cess will be payable on services which are provided on or after 15th Nov, 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date. Swachh Bharat Cess will also be payable where service is provided on or after 15th Nov, 2015 but payment is received prior to that date and invoice in respect of such service is not issued by 29th Nov, 2015.

☞ Amendment in Point of Taxation Rules (Rule 5) is also proposed in this Intend.

14. How would the tax (Service Tax and SBC) be calculated on services covered under Rule 2A, 2B or 2C of Service Tax (Determination of Value) Rules, 2006?

☞ The tax (Service Tax and SBC) on services covered by Rule 2A, 2B or 2C of Service Tax (Determination of Value) Rules, 2006, would be computed by multiplying the value determined in accordance with these respective rules with [14% + 0.5%]. Therefore, effective rate of Service Tax plus SBC in case of original works and other than original works under the works contract service would be 5.8% [(14% + 0.5%)*40%] and 10.15% [(14% + 0.5%)*70%] respectively. Similar, would be the tax treatment for restaurant and outdoor catering services.

15. How would the tax be calculated on restaurant services covered under Service Tax (Determination of Value) Rules, 2006?

☞ Swachh Bharat Cess would be calculated on the value arrived at in accordance with the Service Tax (Determination of Value) Rules, 2006. For example, the effective Swachh Bharat Cess in respect of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air–conditioning or central air-heating in any part of the establishment, would be 0.5% of 40% of the total amount, i.e, 0.2% of the total amount. The cumulative service tax and Swachh Bharat Cess liability would be [14% ST + 0.5% SBC] of 40% of the total amount, i.e., 5.8% of the total amount charged.

16. Whether SBC would be applicable on services covered by Rule 6 of Service Tax Rules (i.e. air travel agent, life insurance premium, purchase and sale of foreign currency and services by lottery distributors/selling agents)?

☞ Sub-rule (7D) to rule 6 has been inserted vide notification 25/2015-Service Tax, dated 12th November, 2015 so as to provide that the person liable for paying the service tax under sub- 6 rule (7), (7A), (7B) or (7C) of rule 6 of Service Tax Rules, shall have the option to pay SBC as determined as per the following formula:-

☞ Service Tax liability [calculated as per sub-rule (7), (7A), (7B) or (7C)] * 0.5%/14%

☞ The option under this sub-rule once exercised, shall apply uniformly in respect of such services and shall not be changed during a financial year under any circumstances.

17. How would liability be determined in case of reverse charge services where services have been received prior to 15.11.2015 but consideration paid post 15.11.2015?

- ☞ In respect of reverse charge mechanism, SBC liability is determined in accordance with Rule 7 of Point of Taxation Rules, as per which, point of taxation is the date on which consideration is paid to the service provider.
- ☞ Thus, SBC liability in such case will be - 0.5% * Value of taxable service.

18. Does a person providing both exempted and taxable service and reversing credit @ 7% of value of exempted service under Rule 6 of Cenvat Credit Rules, does he need to reverse the SBC also?

- ☞ As SBC is not integrated in the Cenvat Credit chain and reversal under Rule 6 is payment of amount equal to 7% of the value of exempted services, hence, reversal of SBC is not required under Rule 6 of Cenvat Credit Rules, 2004.

<u>Related Notifications & Circulars</u>

Notification No	Subject	Description
21/2015-ST dt. 06-11-2015	Date of SBC	Effective Date 15-11-2015
22/2015-ST dt. 06-11-2015	Rate of SBC	Effective Rate 0.5% & No SBC on Exempt Services
23/2015-ST dt. 12-11-2015	Swachh Bharat Cess will be calculated on abated value.	SBC on Abated Value
24/2015-ST dt. 12-11-2015	Reverse charge notification 30/2012 is applicable for SBC also	RCM apply on SBC also
25/2015-ST dt. 12-11-2015	Seeks to provide composition rate for Swachh Bharat Cess as applicable to ST under sub-rules 7,7A,7B,7C of rule 6 of STR, 1994	option to pay SBC as determined by multiplying total service tax liability calculated under sub-rule (7), (7A), (7B) or (7C) of rule 6 by 0.5 and dividing the product by 14 (fourteen), during any calendar month or quarter, as the case may be.
05/2016-ST dt. 17-02-2016	No SBC on Exempt services	SBC shall not be payable on exempt services (u/s 93(1) or(2))

CHAPTER VI

KRISHI KALYAN CESS
(Effective Date: 1-06-2016)

<u>Clause 158 of Finance Bill, 2016</u>

(*1*) This Chapter shall come into force on the **1st day of June, 2016**.

(*2*) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Krishi Kalyan Cess, as service tax on all or any of the taxable services **at the rate of 0.5 per cent** on the value of such services for the purposes of financing and promoting initiatives to improve agriculture or for any other purpose relating thereto.

(*3*) The Krishi Kalyan 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 Krishi Kalyan 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, utilise such sums of money of the Krishi Kalyan 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 Krishi Kalyan Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under the said Chapter or the rules made thereunder, as the case may be.

So from 1-6-2016 effective rate of Service Tax would be 15% & all calculations will be similar to Swachh bharat cess.

Annexure 2

CHAPTER XI

THE INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

Clause 209: Applicability
(*1*) This Scheme may be called the Indirect Tax Dispute Resolution Scheme, 2016.
(*2*) It shall be applicable to the declarations made ***up to the 31st day of December, 2016***.
(*3*) It shall come into force ***on the 1st day of June, 2016.***

Clause 210 : Definitions
(*1*) In this Scheme, unless the context otherwise requires,—

a. **Act** means the Customs Act, 1962 or the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994, as the case may be;
b. **Assistant Commissioner** means the Assistant Commissioner of Customs or the Assistant Commissioner of Central Excise or the Assistant Commissioner of Service Tax, as the case may be;
c. **Commissioner** means the Commissioner of Customs or the Commissioner of Central Excise or the Commissioner of Service Tax, as the case may be;
d. **Declarant** means any person who makes a declaration under sub-section (*1*) of section 211;
e. **Designated authority** means an officer not below the rank of Assistant Commissioner who is authorised to act as Assistant Commissioner by the Commissioner for the purposes of this Scheme;
f. **Impugned order** means any order which is under challenge before the Commissioner (Appeals);
g. ***Indirect tax dispute*** *means a dispute in respect of any of the provisions of the Act which is pending before the Commissioner (Appeals) as an appeal against the impugned order as on the 1st day of March, 2016;*
h. **Prescribed** means prescribed by rules made under this Scheme;
i. **Tax** includes duty or tax levied under the Act.

(*2*) Words and expressions used herein and not defined but defined in the Act or the rules made thereunder shall have the meanings respectively assigned to them in the Act or the rules made thereunder.

Clause 211 :Declaration, Payment & Discharge order

(*1*) Subject to the provisions of this Scheme, a person may make a *declaration to the designated authority on or before the 31st day of December, 2016* in such form and manner as may be prescribed.

(*2*) The designated authority shall *acknowledge the declaration* in such form and manner as may be prescribed.

(*3*) The declarant shall *pay tax due along with the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent of the penalty imposed in the impugned order, within fifteen days of the receipt of acknowledgement under sub-section (2) and intimate the designated authority within seven days of making such payment* giving the details of payment made along with the proof thereof.

(*4*) On receipt of the proof of payment of tax, interest and penalty under sub-section (*3*), the *designated authority shall, within fifteen days of the receipt of such proof; pass an order of discharge of dues* referred to in sub-section (*3*) in such form as may be prescribed.

Clause 212 : Non-Applicability

The provisions of this Scheme *shall not apply*, if—

(*a*) The impugned order is in respect of *search and seizure proceeding*; or

(*b*) *Prosecution* for any offence punishable under the Act has been *instituted before the 1st day of June, 2016; or*

(*c*) The impugned order is in respect of *narcotic drugs or other prohibited goods*; or

(*d*) impugned order is in respect of any offence punishable under the *Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988;* or

(*e*) Any detention order has been passed under the *Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.*

Clause 213 :Immunity & Conclusive order

(*1*) Notwithstanding anything contained in any provision of the Act, upon the passing of an order under sub-section (*4*) of section 211, the appeal pending before the Commissioner (Appeals) shall stand disposed of and the declarant shall get *immunity from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme.*

(*2*) A declaration made under sub-section (*1*) of section 211 *shall become conclusive upon the issuance of an order under sub-section (4) of section 211 and no matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.*

Clause 214 : Refund

(*1*) Any amount paid in pursuance of a declaration made under sub-section (*1*) of section 211 shall *not be refunded.*

(*2*) Any order passed under sub-section (*4*) of section 211 *shall not be deemed to be an order on merits and has no binding effect.*

Explanation.— For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant *other than the benefit, concession or immunity granted under section 213.*

Clause 215:Power to make rules

(*1*) The Central Government may, by notification in the Official Gazette, make *rules* for carrying out the provisions of this Scheme.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and the manner in which a declaration may be made under sub-section (*1*) of section 211;

(*b*) the form and the manner of acknowledging the declaration under sub-section (*2*) of section 211;

(*c*) the form and the manner of issuing an order of discharge under sub-section (*4*) of section 211;
(*d*) *any other matter* which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.
(*3*) Every rule made under this Scheme shall be laid, as soon as may be after it is made, 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 both Houses agree that the rule should not be made, the rule 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.

Annexure 3
Retrospective Relief
Insertion of new sections 101, 102 and 103

***Section 101*: Special provision for exemption in certain cases relating to construction of canal, dam, etc.**

(*1*) Notwithstanding anything contained in section 66B, *no service tax shall be levied or collected* during the period commencing from the *1st day of July, 2012 and ending with the 29th day of January, 2014* (both days inclusive) in respect of *taxable services provided to an authority or a board* or any other body—

- ✓ Set up by an Act of Parliament or a State Legislature; or
- ✓ Established by the Government,

With ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution, *by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation wor*ks.

(*2*) *Refund shall be made* of all such service tax which has been collected but which would not have been so collected had sub-section (*1*) been in force at all material times.

(*3*) Notwithstanding anything contained in this Chapter, an application for the claim of *refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent* of the President.

***Section 102: Special provision for exemption in certain cases relating to construction of Government buildings*.**

(*1*) Notwithstanding anything contained in section 66B, *no service tax shall be levied or collected* during the period commencing from the *1st day of April, 2015 and ending with the 29th day of February, 2016* (both days inclusive), in respect of *taxable services provided to the Government, a local authority or a 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 structure meant predominantly *for use as—*

- ✓ an educational establishment;
- ✓ a clinical establishment; or
- ✓ an art or cultural establishment;

(*c*) a *residential complex* predominantly meant for self-use or for the use of their employees or other persons specified in *Explanation* 1 to clause (*44*) of section 65B of the said Act, under a contract entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date.

(*2*) *Refund* shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (*1*) been in force at all the material times.

(*3*) Notwithstanding anything contained in this Chapter, *an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent* of the President.

Section 103: Special provision for exemption in certain cases relating to construction of airport or port.
(*1*) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing *from the 1st day of April, 2015 and ending with the 29th day of February, 2016* (both days inclusive), in respect of services provided *by way of construction, erection, commissioning or installation of original works pertaining to an airport or port, under a contract which had been entered into before the 1st day of March, 2015* and on which appropriate stamp duty, where applicable, had been paid before that date, subject to the condition that Ministry of Civil Aviation or, as the case may be, the Ministry of Shipping in the Government of India certifies that the contract had been entered into before the 1st day of March, 2015.

(*2*) *Refund* shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (*1*) been in force at all material times.

(*3*) Notwithstanding anything contained in this Chapter, an application for the *claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.*

Annexure 4

Important changes in Cenvat Credit Rules, 2004 effective from 01.04.2016

With a view to simplify and rationalize the Cenvat Credit Rules, 2004, a number of amendments are being carried out in them. Following are the important changes:

(a) Wagons of sub heading 8606 92 of the Central excise Tariff and equipment and appliance used in an office located within a factory are being included in the definition of capital goods so as to allow Cenvat credit on the same. **[Amendment in rule 2, clause (a) sub-clause (A) item (i) and condition no. (1) of the Rules refers].**

(b) CENVAT credit on inputs and capital goods used for pumping of water, for captive use in the factory, is being allowed even where such capital goods are installed outside the factory. **[Amendment in rule 2 clause (a), sub-clause (A) condition (1A) and clause (k) sub-clause (ii) of the Rules refers].**

(c) All capital goods having value up to Rs. ten thousand per piece are being included in the definition of inputs. This would allow an assessee to take whole credit on such capital goods in the same year in which they are received**. [Amendment in rule 2 clause (k) refers]**

(d) Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of „exempted service. This would allow shipping lines to take credit on inputs and input services used in providing the said service**. [Amendment in rule 2, clause (e) refers]**

(e) Manufacturer of final products is being allowed to take CENVAT credit on tools of Chapter 82 of the Central Excise Tariff in addition to credit on jigs, fixtures, moulds & dies, when intended to be used in the premises of job-worker or another manufacturer who manufactures the goods as per specification of manufacturer of final products. It is also being provided that a manufacturer can send these goods directly to such other manufacturer or job-worker without bringing the same to his premises. **[Amendment in Rule 4(5) (b) refers]**

(f) Presently, the permission given by an Assistant Commissioner or Deputy Commissioner to a manufacturer of the final products for sending inputs or partially processed inputs outside his factory to a Job-worker and clearance there from on payment of duty is valid for a financial year. It is being provided that the same would be valid for three financial years. **[Amendment in rule 4(6) refers].**

(g) It is being provided that CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource such as radio-frequency spectrum, mines etc. shall be spread over the period of time for which the rights have been assigned. It is also being provided that where the manufacturer of goods or provider of output service further assigns such right to use assigned to him by the Government or any other person, in any financial year, to another person against a consideration, balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year. It is also being provided that CENVAT credit of annual or monthly user charges payable in respect of such assignment shall be allowed in the same financial year. **[Amendment in rule 4, sub-rule (7) refers]**

(h) Rule 6 of Cenvat Credit Rules, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being redrafted with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit.
(i) sub rule (1) of rule 6 is being amended to first state the existing principle that CENVAT credit shall not be allowed on such quantity of input and input services as is used in or in relation to manufacture of exempted goods and exempted service. The rule then directs that the procedure for calculation of credit not allowed is provided in sub-rules (2) and (3), for two different situations.

(ii) sub-rule (2) of rule 6 is being amended to provide that a manufacturer who exclusively manufactures exempted goods for their clearance up to the place of removal or a service provider who exclusively provides exempted services shall pay (i.e. reverse) the entire credit and effectively not be eligible for credit of any inputs and input services used.

(iii) sub-rule (3) of rule 6 is being amended to provide that when a manufacturer manufactures two classes of goods for clearance upto the place of removal, namely, exempted goods and final products excluding exempted goods or when a provider of output services provides two classes of services, namely exempted services and output services excluding exempted services, then the manufacturer or the provider of the output service shall exercise one of the two options, namely, (a) pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services, subject to a maximum of the total credit taken or (b) pay an amount as determined under sub-rule (3A).

(iv) The maximum limit prescribed in the first option would ensure that the amount to be paid does not exceed the total credit taken. The purpose of the rule is to deny credit of such part of the total credit taken, as is attributable to the exempted goods or exempted services and under no circumstances this part can be greater than the whole credit.

(v) Sub-rule (3A) is being amended to provide the procedure and conditions for calculation of credit allowed and credit not allowed and directs that such credit not allowed shall be paid, provisionally for each month. The four key steps for calculating the credit required to be paid are :-

(a) No credit of inputs or input services used exclusively in manufacture of exempted goods or for provision of exempted services shall be available;

(b) Full credit of input or input services used exclusively in final products excluding exempted goods or output services excluding exempted services shall be available;

(c) Credit left thereafter is common credit and shall be attributed towards exempted goods and exempted services by multiplying the common credit with the ratio of value of exempted goods manufactured or exempted services provided to the total turnover of exempted and non- exempted goods and exempted and non-exempted services in the previous financial year;

(d) Final reconciliation and adjustments are provided for after close of financial year by 30th June of the succeeding financial year, as provided in the existing rule.

(vi) A new sub-rule (3AA) is being inserted to provide that a manufacturer or a provider of output service who has failed to follow the procedure of giving prior intimation, may be allowed by a Central Excise officer, competent to adjudicate such case, to follow the procedure and pay the amount prescribed subject to payment of interest calculated at the rate of fifteen per cent per annum

(vii) A new sub-rule (3AB) is being inserted as transitional provision to provide that the existing rule 6 of CCR would continue to be in operation upto 30.06.2016, for the units who are required to discharge the obligation in respect of financial year 2015-16.

(viii) Sub-rule (3B) of rule 6 is being amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.

(i) Following are the other changes being made in rule 6 of the Cenvat Credit Rules: (i) Explanations 3 and 4 are being inserted in rule 6, sub-rule (1) so as provide for reversal of CENVAT Credit on inputs/input services which have been commonly used in providing taxable output service and an activity which is not a „service under the Finance Act, 1994.

(ii) Sub-rule (4) is being amended to provide that where the capital goods are used for the manufacture of exempted goods or provision of exempted service for two years from the date of commencement of commercial production or provision of service, no CENVAT credit shall be allowed on such capital goods. Similar provision is being made for capital goods installed after the date of commencement of commercial production or provision of service.

(iii) Sub-rule (7) is being amended so as to provide that credit taken on inputs and input services used in providing a service by way of "transportation of goods by a vessel from customs station of clearance in

India to a place outside India" shall not be required to be reversed by the shipping lines. It may be mentioned here that this service presently qualifies as an "exempted service" on account of Rule 10 of Place of Provision of Supply Rules. Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of „exempted service by amending rule 2(e) of the rules as discussed above. Amendment in sub-rule (7) coupled with the corresponding amendment in the definition of Exempted Service is aimed at allowing credit of eligible inputs, input services and capital goods for providing the said service and providing Indian shipping lines a level playing field vis a vis the foreign shipping lines. The credit available may be used by Indian shipping lines to pay service tax on the services of transportation of goods by a vessel from outside India to the customs station of clearance in India, which would become taxable w.e.f 1st June 2016 after enactment of Finance Bill 2016.

(j) Rule 7 of the Rules dealing with distribution of credit on input services by an Input Service Distributor is being completely rewritten to allow an Input Service Distributer to distribute the input service credit to an outsourced manufacturing unit also in addition to its own manufacturing units. Outsourced manufacturing unit is being defined to mean either a job-worker who is required to pay duty on the value determined under the provisions of rule 10A of the Central Excise Valuation (Determination of Price Of Excisable Goods) Rules, 2000, on the goods manufactured for the Input Service Distributor or a manufacturer who manufactures goods, for the Input Service Distributor under a contract, bearing the brand name of the Input Service Distributor and is required to pay duty on value determined under the provisions of section 4A of the Central Excise Act, 1944. **(Amendment in rule 2 (m) and rule 7 refers)**

(k) Presently, rule 7 provides that credit of service tax attributable to service used by more than one unit shall be distributed pro rata, based on turnover, to all the units. It is now being provided that an Input Service Distributor shall distribute CENVAT credit in respect of service tax paid on the input services to its manufacturing units or units providing output service or to outsourced manufacturing units subject to, inter alia, the following conditions, ,:

- credit attributable to a particular unit shall be attributed to that unit only.
- credit attributable to more than one unit but not all shall be to attributed to those units only and not to all units.
- credit attributable to all units shall be attributed to all the units. Credit shall be distributed pro rata on the basis of turnover as is done in the present rules.

(l) It is also being provided that an outsourced manufacturing unit shall maintain separate account of credit received from each of the input service distributors and shall use it for payment of duty on goods manufactured for Input Service Distributor concerned. The credit of service tax paid on input services, available with the Input Service Distributor as on 31st of March, 2016 shall not be distributed to an outsourced manufacturing unit. Further, provisions of rule 6 of Cenvat Credit Rules, 2004 relating to reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, shall apply to the units availing the CENVAT credit distributed by Input Service Distributor and not to the Input Service Distributor.

(m) Rule 7B is being inserted in Cenvat Credit Rules, 2004 so as to enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units. It is also being provided that a manufacturer having one or more factories shall be allowed to take credit on inputs received under the cover of an invoice issued by a warehouse of the said manufacturer, which receives inputs under cover of an invoice towards the purchase of such inputs. Procedure applicable to a first stage dealer or a second stage dealer would apply, mutatis mutandis, to such a warehouse of the manufacturer.

(n) Presently, an invoice issued by a manufacturer for clearance of inputs or capitals goods is a valid document for availing CENVAT credit. It is being provided that an invoice issued by a service provider for clearance of inputs or capitals goods shall also be a valid document for availing CENVAT credit. **[Amendment in Rule 9 (a) (i) refers.]**

(o) Rule 9A of the Rules is being amended to provide for filing of an annual return by a manufacturer of final products or provider of output services for each financial year, by the 30th day of November of the succeeding year in the form as specified by a notification by the Board.

(p) The existing sub- rule (2) of rule 14 prescribes a procedure based on FIFO method for determining whether a particular credit has been utilized. The said subrule is being omitted. Now, whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit.

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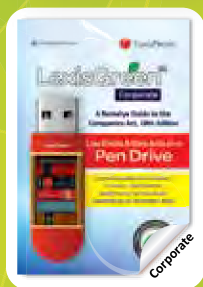

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