SIGNIFICANT CIRCULARS/NOTIFICATIONS ISSUED BETWEEN 1.5.2009 AND 30.4.2010

INCOME-TAX

I CIRCULARS

1. Circular No. 7/2009 dated 22.10.2009

The CBDT has, through this circular, withdrawn the following circulars:

(a) Circular No. 23 issued on 23rd July 1969 regarding taxability of income accruing or arising through, or from, business connection in India to a non-resident, under section 9 of the Income-tax Act, 1961.

(b) Circulars No. 163 dated 29th May, 1975 and No.786 dated 7th February, 2000 which provided clarification in respect of certain provisions of Circular No.23 dated 23rd July, 1969.

2. Circular No. 8/2009, dated 24.11.2009

The CBDT has, through this circular, clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals etc.

Consequently, all such past transactions between TPAs and hospitals would fall within the provisions of section 194J and consequence of failure to deduct tax or after deducting tax failure to pay on all such transactions would make the deductor (TPAs) deemed to be an assessee in default in respect of such tax and also liable for charging of interest under section 201(1A) and penalty under section 271C.

However, no proceedings under section 201 may be initiated after the expiry of six years from the end of the financial year in which payments have been made without deducting tax at source etc. by the TPA's. Further, the tax demand arising out of section 201(1) in situations arising above, may not be enforced if the deductor (TPA) satisfies the officer in charge of TDS that the relevant taxes have been paid by the deductee-assessee (hospitals etc.). A certificate from the auditor of the deductee-assessee stating that the tax and interest due from deductee-assessee has been paid for the assessment year concerned would be sufficient compliance for the above purpose. However, this will not alter the liability to charge interest under section 201(1A) till payment of taxes by the deductee-assessee or liability for penalty under section 271C, as the case may be.

3. Circular No. 3/2010, dated 2.3.2010

The CBDT has, vide this circular, given a clarification regarding deduction of tax at source on payment of interest on time deposits under section 194A by banks following Core-branch Banking Solutions (CBS) software. It has been clarified that Explanation to section 194A (See Note below) is not meant to apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software. It has been further clarified that since no constructive credit to the depositor's / payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only. In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank or as per the depositor's / payee's requirement or on maturity or on encashment of time deposits, whichever event takes place earlier, whenever the aggregate of amounts of interest income credited or paid or likely to be credited or paid during the financial year by the banks exceeds the limits specified in section 194A.

Note – The Explanation to section 194A provides that, for the purposes of this section, where any income by way of interest other than interest on securities is credited to any account, whether called 'Interest payable account' or 'Suspense Account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly".

II NOTIFICATIONS

1. Notification No. 67/2009 dated 9.9.2009

The Central Government has, vide notification no.67/2009 dated 9.9.2009, specified the cost inflation index (CII) for the financial year 2009-10. The CII for F.Y. 2009-10 is 632.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161

9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632

2. Notification No. 70/2009, dated 22.9.2009

The CBDT has, in exercise of the powers conferred by section 139(1B), made an amendment in the notification of the Government of India relating to qualifications of an e-Return intermediary. The qualifications of an e-Return Intermediary, as amended, are detailed hereunder -

(1) An e-Return Intermediary shall have the following qualifications, namely:-

(a) it must be a public sector company as defined in section 2(36A) of the Act or any other company in which public are substantially interested within the meaning of section 2(18) of the Act and any subsidiary of those companies; or

(b) a company incorporated in India, including a bank, having a net worth of rupees one crore or more; or

(c) a firm of Chartered Accountants or Company Secretaries or Advocates, if it has been allotted a permanent account number; or

(d) a Chartered Accountants or Company Secretaries or Advocates or Tax Return Preparers, if he has been allotted a permanent account number; or

(e) a Drawing or Disbursing Officer (DDO) of a Government Department.

(2) The e-intermediary shall have at least class II digital signature certificate from any of the Certifying authorities authorized to issue such certificates by the Controller of Certifying authorities appointed under section 17 of the Information Technology Act, 2002.

(3) The e-intermediary shall have in place security procedure to the satisfaction of e-Return Administrator to ensure that confidentiality of the assessees information is properly secured.

(4) The e-intermediary shall have necessary archival, retrieval and, security policy for the e-Returns which will be filed through him, as decided by e-Return Administrator from time to time.

(5) The e-intermediary or its Principal Officer must not have been convicted for any professional misconduct, fraud, embezzlement or any criminal offence.

3. Notification No. 94/2009, dated 18.12.2009

In exercise of the powers conferred by section 295 read with section 17(2), the CBDT has, consequent to removal of fringe benefit tax, substituted Rule 3 of the Income-tax Rules, 1962. The new perquisite valuation rules shall be deemed to have come into force on 1st April, 2009.

For the purpose of computing the income chargeable under the head "Salaries", the value of perquisites provided by the employer directly or indirectly to the employee or to any member of his household by reason of his employment shall be determined in accordance with new Rule 3.

Valuation of residential accommodation [Sub-rule (1)]

The value of residential accommodation provided by the employer during the previous year shall be determined in the following manner -

Sl. No.	Circumstances	In case of unfurnished accomodation	In case of furnished accomodation
(1)	(2)	(3)	(4)
(1)	Where the accommodation is provided by the Central	License fee determined by the Central Government or any State Government in	The value of perquisite as determined under column (3) and increased by 10%

	Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State.	respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee.	per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment). If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year should be added to the value of the perquisite determined under column (3).
(2)	Where the accommodation is provided by any other employer (a) where the accommodation is owned by the employer	(i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; (ii) 10% of salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census; (iii) 7.5% of salary in other areas, in respect of the period	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or

		during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.	payable for the same by the employee during the previous year, should be added to the value of perquisite determined under column (3).
	(b) where the accommodation is taken on lease or rent by the employer.	Actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower, as reduced by the rent, if any, actually paid by the employee.	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year should be added to the value of perquisite determined under column (3).
(3)	Where the accommodation is provided by any employer, whether Government or any other employer, in a hotel.	Not applicable	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee. However, where the

			employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another, there would be no perquisite.

Notes:

(1) If an employee is provided with accommodation, on account of his transfer from one place to another, at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower perquisite value, as calculated above, for a period not exceeding 90 days and thereafter, the value of perquisite shall be charged for both such accommodations.

(2) Any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site would not be treated as a perquisite, provided it satisfies either of the following conditions -

(i) the accommodation is of temporary nature, has plinth area not exceeding 800 square feet and is located not less than eight kilometers away from the local limits of any municipality or a cantonment board; or

(ii) the accommodation is located in a remote area i.e. an area that is located at least 40 kms away from a town having a population not exceeding 20,000 based on latest published all-India census.

(3) Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-

(i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and

(ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No.(2)(a) of the above table, as if the accommodation is owned by the employer.

(4) “Accommodation” includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure.

(5) "Hotel" includes licensed accommodation in the nature of motel, service apartment or guest house.

Motor Car [Sub-rule (2)]

The value of perquisite by way of use of motor car to an employee by an employer shall be determined in the following manner -

VALUE OF PERQUISITE PER CALENDAR MONTH

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	Where the motor car is owned or hired by the employer and –		
(a)	is used wholly and exclusively in the performance of his official duties	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.
(b)	is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged form the employee for such use.	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged form the employee for such use.

(c)	is used partly in the performance of duties and partly for private or personal purposes of his own or any member of his household and- (i) the expenses on maintenance and running are met or reimbursed by the employer	Rs.1,800 (plus Rs.900, if chauffeur is also provided to run the motor car)	Rs.2,400 (plus Rs.900, if chauffeur is also provided to run the motor car)
	(ii) the expenses on running and maintenance for private or personal use are fully met by the assessee.	Rs.600 (plus Rs.900, if chauffeur is also provided by the employer to run the motor car)	Rs.900 (plus Rs.900, if chauffeur is also provided by the employer to run the motor car)
(2)	Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and –		
(i)	such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.

(ii)	such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee or any member of his household.	The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).	The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).
(3)	Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed to him by the employer and		
(i)	such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in the note (2) below the table are maintained by the employer.	Not applicable.
(ii)	such reimbursement is for the use of vehicle partly for official purposes and partly for personal or private purposes of the employee	The actual amount of expenditure incurred by the employer as reduced by the amount of Rs.900. (Also see note (2) below the table)	

Notes:

(1) Where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all of any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car as if the employee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal

purposes and the amount calculated in respect of the other car or cars as if he had been provided with such car or cars exclusively for his private or personal purposes.

(2) Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(ii) or 3(ii) of the above table, he may claim a higher amount attributable to such official use and the value of perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled :-

(a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;

(b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

(3) For computing the perquisite value of motor car, the normal wear and tear of a motor-car shall be taken at 10% p.a. of the actual cost of the motor-car or cars.

Valuation of benefit of provision of domestic servants [Sub-rule (3) of Rule 3]

(i) The value of benefit to the employee or any member of his household resulting from the provision by the employer of the services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer.

(ii) The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

Valuation of gas, electricity or water supplied by employer [Sub-rule (4) of Rule 3]

(i) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water.

(ii) Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer.

(iii) Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

Valuation of free or concessional educational facilities [Sub-rule (5) of Rule 3]

(i) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees' household are allowed in any other educational institution by reason of his being in employment of that employer, the value of the perquisite to the employee shall be determined with reference to the cost of such education in a similar institution in or near the locality.

(ii) Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered.

(iii) However, where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed Rs.1,000 p.m.

Free or concessional tickets [Sub-rule (6) of Rule 3]

The value of any benefit or amenity resulting from the provision by an employer who is engaged in the carriage of passengers or goods, to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity.

However, there would be no such perquisite to the employees of an airline or the railways.

Valuation of other fringe benefits and amenities [Sub-rule (7) of Rule 3]

Section 17(2)(viii) provides that the value of any other fringe benefit or amenity as may be prescribed would be included in the definition of perquisite. Accordingly, the following other fringe benefits or amenities are prescribed and the value thereof shall be determined in the manner provided hereunder :-

(i) Interest-free or concessional loan [Sub-rule 7(i) of Rule 3]

(a) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household. "Maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month.

(b) However, no value would be charged if such loans are made available for medical treatment in respect of prescribed diseases (like cancer, tuberculosis, etc.) or where the amount of loans are petty not exceeding in the aggregate Rs.20,000.

(c) Further, where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

(ii) Travelling, touring and accommodation [Sub-rule 7(ii) of Rule 3]

(a) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than leave travel concession or assistance, shall be determined as the sum equal to the amount of the expenditure incurred by such employer in that behalf.

(b) Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public.

(c) Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity.

(d) However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(iii) Free or concessional food and non-alcoholic beverages [Sub-rule 7(iii) of Rule 3]

(a) The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

(b) However, the following would not be treated as a perquisite -

(1) free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof either case does not exceed fifty rupees per meal or

(2) tea or snacks provided during working hours or

(3) free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) Value of gift, voucher or token in lieu of such gift [Sub-rule 7(iv) of Rule 3]

(a) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift:

(b) However, if the value of such gift, voucher or token, as the case may be, is below Rs.5,000 in the aggregate during the previous year, the value of perquisite shall be taken as 'nil'.

(v) Credit card expenses [Sub-rule 7(v) of Rule 3]

(a) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax as reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:

(b) However, such expenses incurred wholly and exclusively for official purposes would not be treated as a perquisite if the following conditions are fulfilled.

(1) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure and the nature of expenditure;

(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(vi) Club expenditure [Sub-rule 7(vi) of Rule 3]

(a) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

(b) Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite provided the following conditions are fulfilled:-

(1) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure, the nature of expenditure and its business expediency;

(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(c) There would be no perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(vii) Use of moveable assets [Sub-rule 7(vii) of Rule 3]

The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other than assets already specified in this rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 10% per annum of the actual cost of such asset or the amount of rent or charge paid or payable by the employer, as the case may be, as reduced by the amount, if any, paid or recovered from the employee for such use.

(viii) Transfer of moveable assets [Sub-rule 7(viii) of Rule 3]

The value of benefit to the employee arising from the transfer of any movable asset belonging to the employer, directly or indirectly, to the employee or any member of his household shall be determined to be the amount representing the actual cost of such assets to the employer as reduced by the cost of normal wear and tear and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer.

The cost of normal wear and tear has to be calculated at the rate of 10% of the actual cost for each completed year during which such asset was put to use by the employer. However, in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50% and in the case of motor cars at the rate of 20% by the reducing balance method.

(ix) Other benefit or amenity [Sub-rule 7(ix) of Rule 3]

The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arm's length transaction as reduced by the employee's contribution, if any. However, the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer, would not be a taxable perquisite.

Valuation of specified security or sweat equity share for the purpose of section 17(2)(vi) [Sub-rule (8)]

The fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner -

(1) In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange.

    However, where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.

    Further, where on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

    (a) the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or

    (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

    "Closing price" of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange. However, where the stock exchange quotes both "buy" and "sell" prices, the closing price shall be the "sell" price of the last settlement.

    "Opening price" of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange. However, where the stock exchange quotes both "buy" and "sell" prices, the opening price shall be the "sell" price of the first settlement.

(2) In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

    For this purpose, "specified date" means,—

    (i) the date of exercising of the option; or

    (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Valuation of specified security not being an equity share in a company for the purpose of section 17(2)(vi) [Sub-rule (9)]

The fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

For this purpose, "specified date" means,—

(i) the date of exercising of the option; or

(ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Definitions for the purpose of perquisite rules

The following definitions are relevant for applying the perquisite valuation rules -

(i) "member of household" shall include-

  (a) spouse(s),

  (b) children and their spouses,

  (c) parents, and

  (d) servants and dependants;

(ii) "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:-

  (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

  (b) employer's contribution to the provident fund account of the employee;

  (c) allowances which are exempted from payment of tax;

  (d) the value of perquisites specified in clause (2) of section 17;

  (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17;

  (f) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;

4. Notification No. 07/2010, dated 3.2.2010

Section 10(15)(iv)(h) exempts interest on bonds/debentures issued by any public sector company and notified by the Central Government in the Official Gazette. Accordingly, the Central Government has notified the tax free secured, redeemable, non-convertible

Railway Bonds issued by the Indian Railway Finance Corporation (IRFC), interest from which would be exempt under section 10(15)(iv)(h).

5. Notification No. 08/2010 dated 3.2.2010 & Notification No.24/2010 dated 8.4.2010

Section 2(48) defining zero coupon bonds requires that such bonds should be notified by the Central Government. Accordingly, the Central Government has specified the following bonds as zero coupon bonds for the purpose of section 2(48) –

(i) Bhavishya Nirman Bond, a ten year zero coupon bond of National Bank of Agriculture and Rural Development (NABARD), to be issued on or before 31.3.2011

(ii) ten year Deep Discount Bond (Zero Coupon Bond) of Rural Electrification Corporation Limited (REC) to be issued on or before 31.3.2011.

6. Notification No 23/2010 dated 8.4.2010

The Finance (No. 2) Act, 2009 had inserted clause (vii) in section 56(2) to bring within its scope, the value of any property received without consideration or for inadequate consideration. The said clause provides that, if a property other than immovable property is received without consideration, the aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient if it exceeds Rs.50,000. In case the property other than immovable property is received for inadequate consideration, and the difference between the aggregate fair market value and such consideration exceeds Rs.50,000, such difference would be taxed as the income of the recipient. For this purpose, "fair market value" of a property, other than immovable property, means the value determined in accordance with the method as may be prescribed.

Accordingly, the CBDT has, vide this notification, made rules for determination of fair market value of the property other than immovable property, which would be effective from 1st October, 2009.

(a) Valuation of jewellery

(i) the fair market value of jewellery shall be estimated to be the price which such jewellery would fetch if sold in the open market on the valuation date;

(ii) in case the jewellery is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the jewellery shall be the fair market value;

(iii) In case the jewellery is received by any other mode and the value of the jewellery exceeds Rs.50,000, then, the assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date.

(b) Valuation of archeological collections, drawings, paintings, sculptures or any work of art

   (i) the fair market value of archeological collections, drawings, paintings, sculptures or any work of art (artistic work) shall be estimated to be price which it would fetch if sold in the open market on the valuation date;

   (ii) in case the artistic work is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the artistic work shall be the fair market value;

   (iii) in case the artistic work is received by any other mode and the value of the artistic work exceeds Rs.50,000, then, the assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date.

(c) Valuation of shares and securities

   (a) the fair market value of quoted shares and securities shall be determined in the following manner, namely;-

      (i) if the quoted shares and securities are received by way of transaction carried out through any recognized stock exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange;

      (ii) if such quoted shares and securities are received by way of transaction carried out other than through any recognized stock exchange, the fair market value of such shares and securities shall be,-

         (1) the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and

         (2) the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange, in cases where on the valuation date, there is no trading in such shares and securities on any recognized stock exchange.

   (b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner namely;-

   The fair market value of unquoted equity shares = $\frac{(A-L)}{PE} \times (PV)$

   Where,

   A = Book value of the assets in Balance Sheet drawn up on the valuation date as reduced by any amount paid as advance tax under the Income-tax Act and any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset.

L = Book value of liabilities shown in the Balance Sheet drawn up on the valuation date but not including the following amounts:-

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;

(iii) reserves, by whatever name called, other than those set apart towards depreciation;

(iv) credit balance of the profit and loss account;

(v) any amount representing provision for taxation, other than amount paid as advance tax under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(vi) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;

(vii) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

PE = Total amount of paid up equity share capital as shown in Balance Sheet drawn up on the valuation date.

PV = the paid up value of such equity shares.

(c) the fair market value of unquoted shares and securities other than equity shares in a company which are not listed in any recognized stock exchange shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.

Note – “Valuation date” means the date on which the respective property is received by the assessee.

EXCISE

A. AMENDMENTS IN THE CENTRAL EXCISE RULES, 2002:

1. Certain manufacturers exempt from the submission of Annual Installed Capacity Statement [Rule 12(2A)(b)]

Rule 12(2A)(b) provides that the Central Government may specify assessee or class of assessees who may not require to submit an Annual Installed Capacity Statement.

The Central Government has exempted, vide Notification No. 26/2009 CE (NT) dated 18.11.2009, the assessees, from the submission of the Annual Installed Capacity Statement, who manufacture the following goods, namely,-

(i) biris, manufactured without the aid of machines falling under tariff item 2403 10 31.

(ii) matches manufactured without the aid of power falling under heading 3605.

(iii) reinforced cement concrete pipes falling under heading 6810.

2. Quantum of excise duty reduced for e-payment from Rs. 50 lakh to Rs. 10 lakh

Prior to amendment

Earlier, an assessee was required to deposit the excise duty electronically through internet banking if he had paid the total duty of Rs. 50 lakh or more (including the amount of duty paid by utilisation of CENVAT credit) in the preceding financial year [Third proviso to rule 8(1)].

Amendment made by Notification No. 04/2010-CE (NT) dated 19.02.2010

The aforesaid limit of Rs. 50 lakh has now been reduced to Rs. 10 lakh. Third proviso to rule 8(1) has accordingly been amended to provide that an assessee shall deposit the excise duty electronically through internet banking if he has paid the total duty of Rs. 10 lakh or more (including the amount of duty paid by utilisation of CENVAT credit) in the preceding financial year.

The said amendment is effective from 1st April, 2010.

Further, the procedure for electronic payment of excise duty has been detailed in Circular No. 919 / 09 / 2010 – CX dated 23.03.2010.

3. E-filing of returns made mandatory for assessees paying excise duty of Rs. 10 lakh or more in the previous year

Prior to amendment

The facility of e-filing of returns was earlier optional for the assessees.

Amendment made by Notification No. 04/2010-CE (NT) dated 19.02.2010

Third proviso inserted to rule 12(1) has now made the electronic filing of returns mandatory for the assessee who has paid total duty of Rs. 10 lakh or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year.

The said amendment is effective from 1st April, 2010.

Further, the procedure for electronic filing of central excise return has been detailed in Circular No. 919 / 09 / 2010 – CX dated 23.03.2010.

4. Payment of duty on quarterly basis rather than on monthly basis by an SSI

Prior to amendment

As per second proviso to rule 8(1), in case of an assessee availing the exemption under a Notification based on the value of clearances in a financial year (i.e. SSI), the duty on goods cleared during a calendar month was to be paid:

(i) If duty was paid electronically through internet banking: by the 16th day of the following month.

(ii) In any other case: by the 15th day of the following month.

(iii) In the case of goods removed during the month of March: by the 31st day of March.

Amendment made by the Notification No. 5/2010-CE (NT) dated 27.02.2010

As per amended second proviso to rule 8(1), in case of an assessee availing the exemption under a Notification based on the value of clearances in a financial year (SSIs), the duty on goods cleared during a quarter shall be paid:

(i) If the duty is paid electronically through internet banking: by the 6th day of the month following that quarter.

(ii) In any other case: by the 5th day of the month following that quarter.

(iii) In the case of goods removed during the month of March: by the 31st day of March.

Availability of the relaxation

Above relaxation is available to a unit who is "eligible" to claim SSI exemption regardless of whether he actually claims it or opts to pay duty. Further, the said relaxation is available to an "eligible" unit for the entire financial year even if it crosses the limit of Rs. 400 lakh (aggregate value of clearances) in the current financial year.

Meaning of eligible

An "eligible" unit is one whose aggregate value of clearances did not exceed Rs. 400 lakh in the preceding financial year.

The said amendment is effective from 1st April, 2010.

5. Pre-authentication of invoices dispensed with

Prior to amendment

Earlier, each foil of the invoice had to be pre-authenticated by the assessee-i.e. by owner, working partner, Managing Director or the Company Secretary or any person duly authorized for this purpose, before being brought to use [Rule 11(5)].

Amendment made by the Notification No. 5/2010-CE (NT) dated 27.02.2010

The aforesaid rule has been omitted. Therefore, for the purpose of procedural simplification, pre-authentication of invoices is not required now.

The said amendment is effective from 1st April, 2010.

6. Date of filing of quarterly returns by SSI units aligned with non-SSI units

Prior to amendment

An assessee availing the exemption under a notification based on value of clearances in a financial year (SSI) was required to file a quarterly return of production and removal of goods within 20 days after the close of the quarter to which the return relates [Clause (a) of the second proviso to rule 12(1)].

Amendment made by the Notification No. 5/2010-CE (NT) dated 27.02.2010

Clause (a) of the second proviso to rule 12(1) has been omitted and third proviso to rule 12(1) has been inserted which provides as follows:-

An assessee availing the exemption under a notification based on value of clearances in a financial year (SSI) shall file a quarterly return of production and removal of goods within 10 days after the close of the quarter to which the return relates.

Availability of the relaxation

Above relaxation is available to a unit who is "eligible" to claim SSI exemption regardless of whether he actually claims it or opts to pay duty. Further, the said relaxation is available to an "eligible" unit for the entire financial year even if it crosses the limit of Rs. 400 lakh (aggregate value of clearances) in the current financial year.

Meaning of eligible

An "eligible" unit is one whose aggregate value of clearances did not exceed Rs. 400 lakh in the preceding financial year.

Reason for amendment

D.O.F. No. 334/1/2010-TRU dated 26.02.2010 clarifies that the purpose of aforesaid amendment is to align the date of filing of quarterly returns by SSI units with the date for non-SSI units so that all returns are required to be filed by the 10th of the month following the said quarter.

The said amendment is effective from 1st April, 2010.

B. CENVAT CREDIT RULES, 2004:

(a) Amendments in the CENVAT Credit Rules, 2004

1. Simplified provisions prescribed for computing the CENVAT credit allowable in respect of inputs/capital goods cleared on/after 07.09.2009 from an EOU/EHTP/STP

Prior to amendment

Earlier the provisions, relating to CENVAT credit allowable in respect of inputs/capital goods procured from EOU/EHTP/STP, were quite complicated.

Amendment made by the Notification No.22/2009 CE (NT) dated 07.09.2009

W.e.f. 07.09.2009, the said procedure has been simplified. For this purpose, second proviso has been inserted after the first proviso in rule 3(7)(a) which provides as follows:-

CENVAT credit in respect of inputs and capital goods cleared on or after the 07.09.2009 from an export-oriented undertaking (EOU) or by a unit in Electronic Hardware Technology Park (EHTP) or in a software technology park (STP), as the case may be, on which such undertaking or unit has paid –

A. excise duty leviable under section 3 of the Excise Act read with serial number 2 of the Notification No. 23/2003 CE, dated 31.03.2003; and

B. the education cess and the secondary and higher education cess on the excise duty referred to in (A),

shall be the aggregate of –

(a) that portion of excise duty referred to in (A), as is equivalent to -

- the additional duty leviable under section 3(1) of the Customs Tariff Act (Countervailing duty) , which is equal to the duty of excise under section 3(1)(a) of the Excise Act;
- the additional duty leviable under section 3(5) of the Customs Tariff Act (special countervailing duty @ 4%); and

(b) the education cess and the secondary and higher education cess referred to in (B).

2. Lower percentage of CENVAT credit reversal required in case of used computers and computer peripherals

Prior to amendment

Earlier, if the capital goods, on which the CENVAT credit has been taken, are removed after being used, the manufacturer/output service provider was required to pay an amount equal to CENVAT credit taken on the said capital goods reduced by 2.5% for each quarter of the year or part thereof from the date for taking the CENVAT credit [Second proviso to rule 3(5)].

Amendment made by the Notification No. 6/2010-CE (NT) dated 27.02.2010

Second proviso to rule 3(5) has been substituted with the new proviso which provides as follows:-

If the capital goods, on which the CENVAT credit has been taken, are removed after being used, the manufacturer/output service provider shall pay an amount equal to the CENVAT credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT credit, namely:-

S.No.	Type of capital goods	Percentage points calculated by straight line method	
1.	Computers and computer peripherals	For each quarter in	Percentage
		Year 1	10 %
		Year 2	8 %
		Year 3	5 %
		Year 4 & 5	1 %
2.	Other capital goods	2.5% for each quarter	

3. Full CENVAT credit on capital goods in one installment in the year of receipt of such capital goods in the factory to an SSI

   Prior to amendment

   CENVAT credit in respect of capital goods could be taken only for an amount not exceeding 50% of the duty paid on such capital goods in the year of receipt of such capital goods in the factory in case of both SSIs and non-SSIs [Rule 4(2)(a)].

   Amendment made by the Notification No. 6/2010-CE (NT) dated 27.02.2010

   Third proviso to rule 4(2)(a) has been inserted which provides as follows:-

   An assessee eligible to avail of the exemption under a notification based on the value of clearances in a financial year is allowed to take the CENVAT credit in respect of capital goods for the whole amount of the duty paid on such capital goods in the same financial year.

   Above relaxation is available to a unit who is "eligible" to claim SSI exemption regardless of whether he actually claims it or opts to pay duty.

   An "eligible" unit is one whose aggregate value of clearances did not exceed Rs. 400 lakh in the preceding financial year.

   The said amendment is effective from 1st April, 2010.

4. Relaxation from brand name restriction under the SSI exemption scheme extended to plastic containers and plastic bottles used as packing materials

   Prior to amendment

   SSI exemption is available to following packing materials even if they bear the brand name of others:-

- printed cartons of paper or paper board
- metal containers
- HDPE woven sacks
- adhesive tapes
- stickers
- PP caps
- crown corks
- metal labels
- plastic bags
- printed laminated rolls

Amendment made by the Notification No. 4/2010-C.E. dated 27-2-2010

The aforesaid exemption would be available to the plastic containers and plastic bottles also, provided that such plastic containers or plastic bottles are meant for use as packing materials by the person whose brand name such goods bear.

5. Removal of jigs, moulds, dies, fixtures and dies to vendors permitted without reversal of CENVAT credit

   Prior to amendment

   The CENVAT credit, in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to a job worker for the production of goods on his behalf according to his specifications is allowed [Rule 4(5)(b)].

   Amendment made by the Notification No. 6/2010-CE (NT) dated 27.02.2010

   Rule 4(5)(b) has been substituted with the new clause which provides as follows:-

   CENVAT credit is allowed, in respect of jigs, fixtures, moulds and dies sent by manufacturer of final products to:-

   (a) another manufacturer for the production of goods, or

   (b) a job worker for the production of goods on his behalf

   according to his specifications.

6. CENVAT credit admissible on the inputs and input services used in the manufacture of exempted goods supplied to specified mega power projects

   Prior to amendment

Rule 6(6)(vii) provides that provisions of sub-rule (1) to (4) of rule 6 are not applicable in case of the goods supplied against International Competitive Bidding if such goods are exempt from customs duty when imported into India.

Amendment made by the Notification No. 6/2010-CE (NT) dated 27.02.2010

Rule 6(6)(vii) has been substituted with the new clause which provides as follows:-

The provisions of sub-rule (1) to (4) of rule 6 are not applicable to all the excisable goods exempt from customs duty when imported in India and are supplied:-

(a) against International Competitive Bidding; or

(b) to a power project from which power supply has been tied up through tariff based competitive bidding; or

(c) to a power project awarded to a developer through tariff based competitive bidding.

7. Rule 15 [Confiscation and penalty] substituted with the new rule 15

New rule 15 provides as follows:-

1. Wrongful availment/utilization of CENVAT credit on inputs, capital goods or input services

   If any person, takes or utilises CENVAT credit in respect of input/capital goods/input services,

   wrongly or in contravention of any of the provisions of these rules,

   then:-

   (a) all such goods shall be liable to confiscation and,

   (b) such person, shall be liable to a penalty not exceeding:-

      (i) the duty or service tax on such goods or services, as the case may be,

      or

      (ii) Rs. 2,000

      whichever is greater.

2. Wrongful availment/utilization of CENVAT credit by reason of fraud etc. with the intent to evade the payment of duty

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

3. Wrongful availment/utilization of CENVAT credit by reason of fraud etc. with the intent to evade the payment of service tax

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

4. Principle of natural justice

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

[Notification No. 6/2010-CE (NT) dated 27.02.2010]

(b) Clarifications relating to the CENVAT Credit Rules, 2004

1. Treatment of CENVAT credit taken on inputs used in WIP/finished goods written off in the books of accounts

Rule 3(5B) of the CENVAT Credit Rules, 2004 provides for the payment of the CENVAT credit taken on the inputs written off in the books of accounts.

Circular No. 907/27/2009-CX dated 07.12.2009 has clarified about the treatment of the CENVAT credit taken on the inputs, which have gone into manufacture of work in progress (WIP), semi finished goods and finished goods, and have also been written off fully in the books of accounts.

(i) In case, finished goods are written off in the books of accounts and:-

S.No.	Excise duty on the finished goods under rule 21 of the Central Excise Rules, 2002 has	Treatment
1.	Not been remitted	the manufacturer would be liable to pay excise duty. Thus, he need not reverse the CENVAT credit taken on inputs.
2.	been remitted	the manufacturer would be required to either:- • reverse the credit on the inputs used, or • pay the excise duty.

(ii) In case, work in progress (WIP) is written off in the books of accounts and:-

S.No.	Stage of completion of the WIP goods	Treatment

1.	It can be considered as manufactured goods	same treatment as applicable to finished goods in point (i) mentioned above
2.	It cannot be considered as manufactured goods	the said goods should be considered as inputs and the treatment for reversal of credit applicable to inputs would be applicable.

2. Irregular availment of CENVAT credit on certain activities not amounting to manufacture

S.No.	In case where	
1.	the assessee has already paid duty, but subsequently the process of making the said product, is held by the Court as not amounting to manufacture	assessee is at liberty to approach the Central Govt. for issue of appropriate notification for regularization of the CENVAT credit availed.
2.	the assessee has not paid duty and the process undertaken by him indisputably does not amount to manufacture	Department should inform the assessee about the correct legal position and advise him not to pay duty and not to avail credit on inputs.

[Circular No. 911/1/2010-CX dated 14.01.2010]

3. Clarification regarding availment of credit of service tax paid on input services in certain cases

S.No.	Issue	Clarification
1.	Whether CENVAT credit of the service tax paid can be claimed under rule 4(7) of the CENVAT Credit Rules, 2004 when payments are made through debit/credit notes, debit/credit entries in books of account or by any other mode as mentioned in Explanation (c) to section 67 of the Finance Act, 1994 for transactions between associate enterprises?	It is clarified that CENVAT credit is admissible in the said case. Rule 4(7) does not indicate the form of payment and does not place any restriction on payment through debit in the books of accounts. If the service charges as well as the service tax have been paid in any prescribed manner which is entitled to be called 'gross amount charged', credit will be allowed under said rule.
2.	Whether CENVAT credit of the service tax paid can be claimed where a service receiver does not	It is clarified that CENVAT credit of service tax can be availed where a service receiver does not pay the full invoice value and the service

	pay the full invoice value and the service tax indicated thereon due to some reasons?	tax indicated thereon due to reasons like discount, unsatisfactory service etc. provided he has paid the amount of service tax (whether proportionately reduced or the original amount) to the service provider. The credit taken would be equivalent to the amount that is paid as service tax. However, in case of subsequent refund or extra payment of service tax, the credit would have to be altered accordingly.

[Circular No. 122/03/2010 – ST dated 30.04.2010]

4. Items used in ceramic tiles industry - whether capital goods or inputs

S.No.	Issue	Clarification
1.	Whether items, namely, alumina balls/ ceramic pebbles which are grinding media used in ball mills in the ceramic tile industry should be treated as capital goods or inputs for CENVAT credit purposes?	It is clarified that alumina balls/ ceramic pebbles should be considered as component/ part of the machines and should be classified as capital goods for CENVAT credit purposes.
2.	Whether items, namely, bolting cloth/ screens/ silicon cylinders which carry designs and which are fitted on the machines used for printing of design over the surface of the tiles, should be considered as capital goods or inputs for CENVAT credit purposes?	It is clarified that these items are essential for operating of the machines. Therefore, being part/ component of the machines, they would be considered as capital goods for the CENVAT credit purposes.

[Circular No. 920/10/2010 – CX dated 01.04.2010]

C. PRODUCTS NOTIFIED UNDER SECTION 3A-EXCISE DUTY CHARGED ON THE BASIS OF CAPACITY OF PRODUCTION

Chewing tobacco, jarda scented tobacco and branded unmanufactured tobacco notified under section 3A.

Following mentioned goods manufactured with the aid of packing machine and packed in pouches have been notified for the purpose of section 3A:-

- Unmanufactured tobacco bearing a brand name (tariff item heading 2401 of the First Schedule to Central Excise Tariff Act, 1985)
- Chewing tobacco (tariff item 2403 99 10 of the said Act)

- Jarda scented tobacco (tariff item 2403 99 30 of the said Act)

[Notification No. 10/2010 CE (NT) dated 27.02.2010 and Notification No. 17/2010 CE (NT) dated 13.04.2010]

D. CLARIFICATIONS ON SECTION 11AC OF THE CENTRAL EXCISE ACT, 1944

1. No discretion to reduce the mandatory penalty under section 11AC even though the duty paid before the issuance of show cause notice

It is clarified that when the conditions spelled out under section 11AC are fulfilled, there is no discretion to reduce the mandatory penalty which is equal to duty even though the duty is paid before the issuance of show cause notice.

[Circular No. 889/09/2009 CX dated 21.05.2009]

2. Benefit of reduced penalty under provisos to section 11AC not available at the appeal stage

It is clarified that a combined reading of all the four provisos to section 11AC makes it clear that the benefit of reduced penalty of 25% is available only if the assessee has paid duty, interest and the reduced penalty within 30 days of communication of the order passed by the adjudicating authority.

However, aforesaid benefit is not available at appeal stage, i.e. if assessee pays duty, interest and the reduced penalty, benefit of reduced penalty is not available within 30 days of the communication of the order of appellate authority.

[Circular No. 898/18/09 CX dated 15.09.2009]

E. CLARIFICATION ON CLASSIFICATION OF GOODS UNDER CENTRAL EXCISE

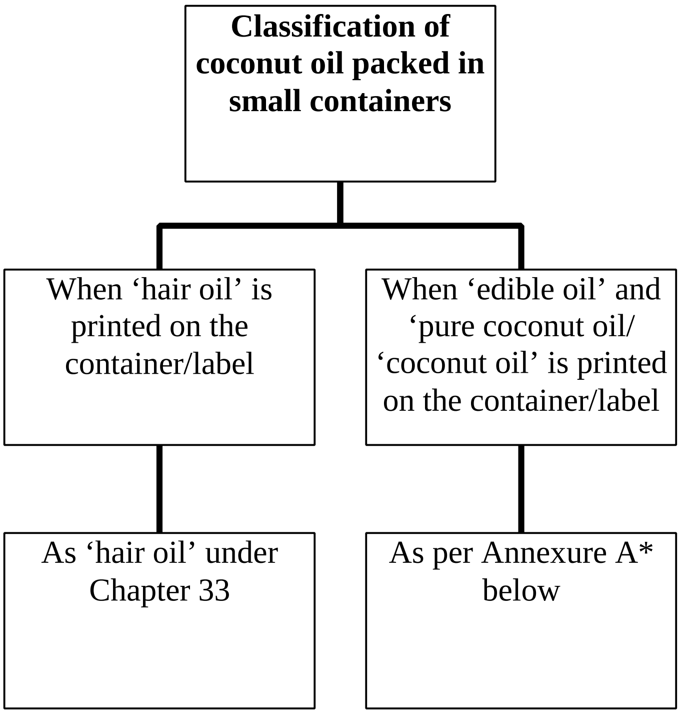
1. Classification of coconut oil packed in small containers

Issue

Under which of the following two chapters, the coconut oil sold in small packs (upto 200 ml), should be classified:

- Chapter 15 covering various types of vegetable oil including coconut oil.
- Chapter 33 covering cosmetics including hair oil?

Clarification



Annexure A

In this case, the classification of coconut oil would depend upon the fact as to how the majority of the customers use it. Therefore, it would be classified as follows:-

S.No.	Use by the consumer	It would be classified as
1.	Coconut oil packed in packages which are generally meant for sale in retail as hair oil (packed in containers upto 200 ml)	Hair oil under heading 3305 (refer Note below) (even though few consumers may use it as edible oil)
2.	Coconut oil packed in say 1 liter or 2 liter packages, which are generally used by consumers for edible purposes	Vegetable oil under Chapter 15 (even though some customers may use it as hair oil)

Note: Reasons for the classification under heading 3305:-

1. Chapter Note 2 of Chapter 33 prescribes a condition that heading No. 3305 (which covers hair oil also) applies to products put up in packing of a kind sold by retail for such use.
2. Section Note 2 to Section VI also provides that goods classifiable in heading 3305 by reason of being put up for retail sales are to be classified in the said heading and

in no other heading of the schedule. This Section Note further supports the aforesaid interpretation.

[Circular No. 890/10/2009 CX dated 03.06.2009]

2. Classification of textile quilted products like quilts, quilted bed spreads, etc.

Issue	Clarification
Under which of the following two headings the textile quilted products like quilts, quilted bed spreads, etc. would be classified:- (i) Heading 9404 (ii) Heading 5811	It is clarified that these products will be classified under heading 9404.

Reason for such classification:-

1. Heading 5811 covers quilted textile products which are further used in the manufacture of quilts, quilted bedspreads, etc. The term 'used in the manufacture' in heading 5811 implies that heading 5811 covers only materials which are further used in making of quilted final products like bedding or bedspreads.

   While it is heading 9404 which covers the final finished products like quilts and other articles of bedding and furnishing.

2. Explanatory Notes to Harmonized System of Nomenclature to Chapter Heading 5811 also states that the heading does not cover made up goods of this Section (Section Note 7) and articles of bedding or similar furnishing of Chapter 94 which are padded or internally fitted. Thus, the articles of bedding and furnishing fall in Chapter 94.

   Note:

   1. The Explanatory Notes to Harmonized System of Nomenclature to Chapter Heading 5811 reads as follows:

   'These materials are commonly used in the manufacture of quilted garments, bedding or bedspreads, mattress pads , clothing, curtains, place-mats, underpads (silencers) for table linen etc.

   The heading does not cover:

   a. Plastic sheets quilted, whether by stitching or heat sealing to a padded core (generally Chapter 39);

b. Stitches or quilted textile products in which the stitches constitute designs giving them the character of embroidering;

c. Made up goods of this Section;

d. Articles of bedding or similar furnishing of Chapter 94 padded or internally fitted.'(emphasis supplied).

The made up goods are defined by Section Note 7 of Section XI.

2. The Explanatory Notes to Harmonized System of Nomenclature to Chapter 9404 clarify that the heading covers:

'A. Mattresses supports,...

B. Articles of bedding and similar furnishing which are sprung or stuffed or internally fitted with any material (cotton, wool, horsehair, down, synthetic fibers etc or are of cellular rubber or plastics (whether or not covered with woven fabrics, plastics. etc). For example:

1. Mattresses, including mattresses with a metal frame:

2. Quilts and bedspread (including counterpanes and also quilts for baby - carriages) eiderdowns and duvets (whether of down or any other filling/mattress protectors, bolsters, Pillows/cushions, pouffes, etc.'

Quilts, quilted bedspread etc. are articles of bedding and are covered under the Explanation (B)(2) as mentioned above.

[Circular No. 903/23/2009-CX dated 20.10.2009]

F. CLARIFICATIONS ON CENTRAL EXCISE VALUATION (DETERMINATION OF PRICE OF EXCISABLE GOODS) RULES, 2000.

1. Assessable value in respect of goods manufactured on job-work basis to be determined as per rule 10A

Issue	Clarification
Some manufacturers of Motor Vehicles were getting complete Motor Vehicles manufactured by sending the Chassis of the Motor Vehicles to independent body builders for building the body as per the design/specification of the manufacturer. Following practice was being followed:- Chassis was transferred to the body builder on	It is clarified that:- 1. Wherever goods are manufactured on job work basis, their value would be determined in terms of the provisions of rule 10A subject to fulfillment of the requirements of the said rule. 2. Rule 10A(ii) stipulates that the assessable value, in the cases where

payment of appropriate excise duty on stock transfer basis and was not sold to them. The body builder availed the CENVAT credit of the duty paid on the chassis and cleared the same on payment of duty to the Depot/Sales Office/Distributor of the Motor Vehicle (MV) manufacturer. The duty was discharged by the body builder on the assessable value comprising the value of Chassis and the job charges i.e. cost construction method. The Depot/Sales office of the MV manufacturer sold the vehicles at a higher price than the price on which duty had been paid.	the job-worker transfers the excisable goods to the Depot/Sale office/Distributor and/or any other sale point of the principal manufacturer, shall be the transaction value on which goods are sold by the principal manufacturer from such a place. 3. Accordingly, after the insertion of rule 10A, the practice of discharging the duty on cost construction method by the body builder is not legally correct.

[Circular No. 902/22/2009-CX dated 20.10.2009]

2. Valuation of free samples of the product assessed on the basis of MRP

Circular No. 813/10/2005-CX dated 25.4.2005 clarifies that in the case of free samples, the value should be determined under rule 4.

The CBEC has now clarified in respect of the free samples of the products covered under MRP based assessment that the valuation of these samples shall also be done under rule 4 of the valuation rules by taking into consideration the deemed value under section 4A(1) notwithstanding the non availability of normal price under section 4(1)(a) of the Act. Accordingly, the value for excise duty would be determined under section 4A for the similar goods (subject to adjustment for size, pack etc.).

[Circular No. 915/05/2010-CX dated 19.02.2010]

G. CLARIFICATIONS ON EXCISABILITY OF GOODS

1. Bagasse, aluminium/zinc dross and other waste products arising during the course of manufacture and capable of being sold would be excisable goods

It has been clarified that, in view of the amendment made by the Finance Act, 2008 in the definition of excisable goods (see Note), bagasse, aluminium/zinc dross and other such products termed as waste, residue or refuse which arise during the course of manufacture and are capable of being sold for consideration would be excisable goods and chargeable to payment of excise duty. However, it may be noted that the said circular would be applicable for the period after the budget of 2008.

Applicability of rule 6 of the CENVAT Credit Rules, 2004 in case aforesaid products are nil rated/exempted:-

In case the rate of duty in respect of such products is Nil in the tariff or they are exempt from duty in terms of any exemption notification, and if CENVAT Credit has been taken on the inputs which are used for manufacture of dutiable and exempted goods, then in terms of rule 6 of the CENVAT Credit Rules, 2004, the assessee is required to reverse the proportionate credit or pay 5% amount.

Note: In the budget of 2008, the definition of "excisable goods" in section 2(d) of the Central Excise Act, 1944 was amended by adding an explanation that for the purposes of this clause, "goods" include any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.

[Circular No. 904/24/09 CX dated 28.10.2009]

2. Activity of transferring the goods from tankers into smaller drums not amounts to manufacture

As per note 10 to Chapter 29, the activity of repacking products mentioned in the said Chapter from bulk packs to retail packs shall amount to manufacture under section 2(f)(iii) of the Central Excise Act, 1944.

In this regard, it has clarified that the activity of transferring the goods from tankers into smaller drums cannot be said to be covered by the said chapter note 10 because the tankers cannot be termed as bulk packs.

[Circular No. 910/30/2009-CX dated 16-12-2009]

H. OTHERS:

1. Permission to bring the duty-paid packing materials into export warehouse under rule 20 of Central Excise Rules, 2002

Circular No. 581/18/2001-CX dated 29.06.01 provides that duty paid goods are not permitted to be brought into the warehouse. In this regard, it has been clarified that duty paid packing material can be brought into the export warehouse subject to the fulfillment of following three conditions:-

1. Exporter submits a written request to the jurisdictional AC/DC of the Division, who may grant the permission for a period of one year at a time.
2. Exporter maintains proper account of such goods.
3. Exporter does not claim any export benefit like rebate of duty paid on the said material.

Reason for grant of such permission

The reason for granting such permission is that a number of times packing material in small quantity is required at a short notice and the supplier may not be interested to follow the detailed procedure of removal of goods without payment of duty.

[Circular No. 900/20/2009-CX dated 06.10.2009]

2. Responsibility, of ensuring that goods received at concessional rate of duty being used by the manufacturer for the intended purpose, cast on the jurisdictional Assistant/Deputy Commissioner

Rule 6 of the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 provides that if the material received at concessional rate of duty is not used for intended purpose, manufacture is liable to pay differential duty along with interest. Now the responsibility to ensure this is cast on the jurisdictional Assistant or Deputy Commissioner of Central Excise.

This has been done by substituting the words "The said Assistant Commissioner or Deputy Commissioner shall ensure that the goods received are used by the manufacturer for the intended purpose and where the subject goods are not used" for the words "Where the subject goods are not used".

[Notification No. 14/2009 CE (NT) dated 10.06.2009]

3. Records of principal inputs to be maintained for deterring the evasion of duty - Notification No. 32/2006 CE (NT) dated 30.12.2006 amended

Notification No. 32/2006 CE (NT) dated 30.12.2006 provides that if a manufacturer, first stage or second stage dealer, or an exporter is found to be knowingly involved in any of the specified contraventions, certain facilities would be withdrawn or certain restrictions would be imposed on them.

The above notification has been amended in the following manner:

(i) Following contravention also added to the list of specified contraventions:

If a manufacturer, first stage or second stage dealer, or an exporter is found to be knowingly involved in the removal of inputs as such on which CENVAT credit has been taken, without paying an amount equal to credit availed on such inputs in terms of rule 3(5) of the CENVAT Credit Rules, 2004, withdrawal of facilities or impose certain restrictions may be ordered.

(ii) Two more restrictions imposed

Following restrictions may also be imposed if a manufacturer is prima facie found to be knowingly involved in committing the specified offences:-

(a) the assessee may be required to maintain records of receipt, disposal, consumption and inventory of the principal inputs on which CENVAT credit has not been taken.

(b) the assessee may be required to intimate the Superintendent of Central Excise regarding the receipt of principal inputs in the factory on which CENVAT credit has or has not been taken, within a period specified in the order and the said inputs shall be made available for verification upto the period specified in the order.

Meaning of principal inputs

Principal inputs means any input which is used in the manufacture of final products where the cost of such input constitutes not less than 10% of the total cost of raw materials for the manufacture of unit quantity of a given final product.

[Notification No. 15/2009 CE (NT) dated 10.06.2009]

4. Public sector company specified as class of persons eligible for advance ruling

Section 23A(c)(iii) of the Central Excise Act, 1944 provides that applicant means a resident falling in such class /category, as may be specified by the Central Government by issuing a notification and which or who, as the case may be, makes application for advance ruling.

Central Government has specified a public sector company for the purpose of aforesaid clause.

Meaning of public sector company

A public sector company shall have the same meaning as is assigned to it in section 2(36A) of the Income Tax Act, 1961.

[Notification No. 21/2009 CE (NT) dated 20.08.2009]

CUSTOMS

1. Public sector company and resident importing goods under project import scheme specified as class of persons eligible for advance ruling

Section 28E(c)(iii) of the Customs Act, 1962 provides that applicant means a resident falling in such class /category, as may be specified by the Central Government by issuing a notification and which or who, as the case may be, makes application for advance ruling.

For the said purpose, Central Government has specified the following:-

(a) a public sector company

(b) a resident who proposes to import goods claiming for assessment under heading 9801 (items eligible for project import) of the First Schedule to the Customs Tariff Act, 1975

Meaning of public sector company

A public sector company shall have the same meaning as is assigned to it in section 2(36A) of the Income Tax Act, 1961.

Meaning of resident

Resident shall have the same meaning as is assigned to it in section 2(42) of the Income Tax Act, 1961.

[Notification No. 124/2009 Cus. (NT) dated 20.08.2009]

2. Clarification on whether rebate under rule 18 of the Central Excise Rules, 2002 is admissible for clearance to SEZ

Issue	Clarification
Whether the rebate under rule 18 of the Central Excise Rules, 2002 read with Notification 19/2004- CE (NT) dated 06.09.2004 is admissible when the goods are supplied from units in Domestic Tariff Area (DTA) to Special Economic Zone (SEZ)?	The circular affirmed that rebate under rule 18 of the Central Excise Rules, 2002 is admissible for supplies made from DTA to SEZ even though rule 18 does not refer to such supplies in clear terms. Further, section 26 of the Special Economic Zone Act, 2005 allows the clearance of duty free goods for authorized operations in the SEZ and the procedure laid down under rule 18 of the Central Excise Rules, 2002 gives effect to the said provision of the SEZ Act.

[Circular No. 06/2010-Cus dated 19.03.2010]

SERVICE TAX

A. EXEMPTIONS:

1. Exemption to management, maintenance or repair of roads service

The taxable service provided to any person by any other person in relation to management, maintenance or repair of roads has been exempted from the whole of the service tax leviable thereon.

[Notification No. 24/2009 ST dated 27.07.2009]

2. Exemption to certain specified goods transported through national waterway, inland water and coastal shipping

The taxable service provided to any person in relation to the transport of following goods through national waterway, inland water and coastal shipping has been exempted from whole of the service tax leviable thereon:

(i) Foodstuffs including edible oil seeds and edible oils; food grains (cereals and pulses) and flours; fruits, vegetables and flowers; agricultural, fishery, marine produce; meat and poultry; water; tea and coffee; salt, sugar, sugarcane; grocery; milk and milk products; livestock and cattle fodder, dhoties, sarees and voils, long cloth, sheeting

(ii) Petroleum and petroleum products

(iii) Fertilizer whether inorganic, organic or mixed

(iv) Hank yarn made wholly from cotton

(v) Raw jute and jute textile

(vi) Seeds of food crops and seeds of fruits and vegetables; seeds of cattle fodder and jute seeds

(vii) Medicine/pharmaceutical products

(viii) Relief materials meant for victims of natural or manmade disasters, calamities, accidents and mishap

(ix) Defence/ military equipments

(x) Luggage of passengers, whether carried as personal luggage in the ship or booked separately as consignment/ postal mail / mail bags/household effects

(xi) Newspaper/magazines registered with Registrar of Newspapers

The above amendment became effective from 1st September, 2009.

[Notification No. 30/2009 ST dated 31.08.2009]

3. Exemption to the business auxiliary service provided by the sub-broker to a stock-broker

The business auxiliary service provided by a sub-broker, to a stock-broker in relation to sale or purchase of securities listed on a registered stock exchange has been exempted from the whole of the service tax leviable thereon.

[Notification No. 31/2009 ST dated 01.09.2009]

Note: Finance (No. 2) Act, 2009 amended the definition of stock-broker under section 65(101) to exclude sub-broker from the ambit of stock-broker service. Consequently, the services provided by a sub-broker under 'stock broker services' are outside the purview of service tax. The above circular has now exempted the services provided by the stock broker under business auxiliary service also.

4. Exemption to taxable service provided in relation to manufacture of specified goods charged to excise duty under Medicinal and Toilet Preparations (Excise Duties) Act, 1955

The business auxiliary service provided by any person, to a client in relation to the manufacture of pharmaceutical products, medicines, perfumery, cosmetics or toilet preparations containing alcohol, which are charged to excise duty under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 has been exempted from the whole of the service tax leviable thereon.

[Notification No. 32/2009 ST dated 01.09.2009]

5. Exemption under 'club or association service' extended to five more associations/export councils till 31.03.2010

Notification No.16/2009 ST dated 07.07.2009 has exempted services provided by twenty two export promotion councils, which were earlier taxable under the category of club or association services.

Notification No. 35/2009 ST dated 03.09.2009 has amended the said notification so as to extend the exemption to the following organizations:

1. Electronics and Computer Software Export Promotion Council, PHD House, 3 rd Floor, Ramakrishna Dalmia Wing, New Delhi-110 016.
2. Indian Oilseeds & Produce Export Association Export Promotion Council, 62, Mittal Chambers, Nariman Point, Mumbai-400 021.
3. Jute Manufacturers Development Council, 3A, Park Plaza,71, Park Street, Kolkata-700016.
4. Services Export Promotion Council, #1206, Chiranjiv Tower, 43, Nehru Place, New Delhi- 110 019.
5. Wool Industry Export Promotion Council, Churchgate Chamber, 7th Floor, 5, New Marine Lines, Mumbai - 400 020.

Thus, now total of twenty seven export promotion councils have been granted exemption under Notification No. 16/2009. However, this exemption is till 31.03.2010 only.

6. Exemption to value of inputs used for providing business auxiliary service during manufacture/processing of alcoholic beverages

The value of inputs, used in providing the business auxiliary service provided by a person (service provider) to any other person (service receiver) during the course of manufacture or processing of alcoholic beverages by the service provider, for or on behalf of the service receiver, is exempt from the service tax subject to the following conditions, namely:-

(a) that no CENVAT credit has been taken under the provisions of the CENVAT Credit Rules, 2004;

(b) that there is documentary proof specifically indicating the value of such inputs; and

(c) where the service provider also manufactures or processes alcoholic beverages, on his or her own account or in a manner or under an arrangement other than as mentioned aforesaid, he or she shall maintain separate accounts of receipt, production, inventory, despatches of goods as well as financial transactions relating thereto.

Meaning of 'input' and 'capital goods'

Here, 'input' and 'capital goods' shall have the meaning as is assigned to them under rule 2 of the CENVAT Credit Rules, 2004.

[Notification No. 39/2009 ST dated 23.09.2009]

7. Exemption to specified taxable services used for export of goods — Notification No. 17/2009-S.T. amended

Notification No. 40/2009 ST dated 30.09.2009 has amended Notification No.17/2009 ST dated 07.07.2009 which exempts certain specified taxable services received by an exporter and used for export of goods. The following service (inserted at point no. 17 in the original notification) received by an exporter and used for export of goods has also been exempted vide this notification:

17.	(zzzzl)	Service provided for transport of export goods through national waterway, inland water and coastal shipping.	i. The exporter shall- 1. produce the Bill of Lading or a Consignment Note or a similar document by whatever name called, issued in his name; 2. produce evidence to the effect that the said transport is provided for export of relevant goods.

8. Exemption to service in relation to execution of a works contract in respect of canals, other than those primarily used for the purposes of commerce or industry

The works contract service provided in respect of canals, other than those primarily used for the purposes of commerce or industry, has been exempted from the whole of service tax leviable thereon.

[Notification No. 41/2009 ST dated 23.10.2009]

9. Exemption to the manufacture of parts of cycles or sewing machines in relation to specified processes subject to specified conditions.

Business auxiliary service provided by a person to any other person in relation to one or more of the specified process* during the course of manufacture of parts of cycles or sewing machines, if all the following conditions are satisfied:-

(a) The aggregate value of aforesaid service does not exceed Rs. 150 lakh during the preceding financial year.

(b) The exemption shall be restricted to the first clearances, wherein the aggregate value of aforesaid taxable service does not exceed Rs. 150 lakh, made on or after the 1st April in any financial year

(c) Where the service provider also undertakes one or more of the specified process in relation to manufacture of parts or whole of goods leviable to central excise duty, he shall maintain separate accounts of receipt, production and clearance of exempted and dutiable goods and services.

*Meaning of specified process:-

Here, specified process means:-

- electroplating
- zinc plating
- anodizing
- heat treatment
- powder coating
- painting including spray painting or auto black.

[Notification No. 42/2009-ST dated 12.11.2009]

10. Exemption to Central and State Seed Testing Laboratories, and Central and State Seed Certification Agencies

Exemption from service tax has been granted to any service provided to any person in relation to the 'technical testing and analysis service' and 'technical inspection and certification service' provided by Central or State Seed Testing Laboratories, and Central or State Seed Certification Agencies notified under the Seeds Act, 1966.

[Notification No. 10/2010 ST dated 27.02.2010]

11. Exemption to transmission of electricity

Exemption from service tax has been provided to the taxable service provided to any person, by any other person for transmission of electricity.

[Notification No. 11/2010 ST dated 27.02.2010]

12. Certain services provided in relation to erection, commissioning or installation exempted

Exemption from service tax has been provided to services relating to 'erection, commissioning or installation' of:-

- Mechanized Food Grain Handling Systems etc.;
- Equipment for setting up or substantial expansion of cold storage; and
- Machinery/equipment for initial setting up or substantial expansion of units for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic, marine or meat products.

[Notification No. 12/2010 ST dated 27.02.2010]

13. Exemption provided to Indian News Agencies subject to specified conditions

Exemption from service tax has been provided to Indian news agencies under 'online information and database retrieval service' and 'business auxiliary service' only if such news agency:-

(i) is notified as a news agency set up in India solely for collection and distribution of news,

(ii) is specified under section 10(22B) of the Income Tax Act, 1961, and

(iii) applies its income or accumulates it for collection and distribution of news and does not distribute its income in any manner to its members.

[Notification No. 13/2010 ST dated 27.02.2010]

14. Exemption to right to use the packaged/canned software subject to certain specified conditions

The taxable service of providing the right to use the packaged/canned software, pre-packed in retail packages intended for single use has been exempted from the service tax under 'information technology software services' subject to the following conditions:-

1. the document providing the right to use such software is packed along with the software.
2. (a) In case of import: The importer has paid the custom duty on the entire amount received from the buyer.

   (b) In case of domestic production: The manufacturer/duplicator/the person holding the copyright to software has paid the excise duty on the entire amount received from the buyer.
3. the benefit under the following notifications has not been availed:-

- Notification No. 17/2010 CE dated 27.02.2010
- Notification No. 31/2010 Cus dated 27.02.2010

[Notification No. 02/2010 ST dated 27.02.2010 and Notification No. 17/2010 ST dated 27.02.2010]

B. WITHDRAWAL OF/AMENDMENT TO EXISTING EXEMPTIONS:

1. Definition of vocational training institute substituted

Prior to amendment

Under 'commercial training and coaching services', the taxable services provided in relation to commercial training or coaching, by a vocational training institute is exempt. Earlier, the vocational training institute was defined as follows:-

"vocational training institute" means a commercial training or coaching centre which provides vocational training or coaching that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching.

Amendment made by the Notification No. 3/2010-ST dated 27.02.2010

The aforesaid definition of vocational training institute has been substituted by the following definition:-

"Vocational training institute" means an Industrial Training Institute (ITI) / Industrial Training Centre (ITC) affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961.

Note:

1. The ITI and ITC have equivalent recognition and the certificates/diploma's granted by them have the same recognition. The only difference between ITC and ITI is that ITI are the institutes owned by the Government while the ITC are the institutes owned by the private parties.
2. List figuring under Schedule I of the Apprentices Act, 1961 covers engineering as well as non-engineering trades. Few of the designated trades covered are:-
   - cutting and tailoring trades
   - beautician trades
   - agricultural trades
   - electrical trades
   - glass and ceramic trades
   - heat engine trades
   - hi-tech trades

Implication of the amendment

The exemption from service tax in relation to vocational training courses would be available only if the following conditions are satisfied:-

- Vocational training institute is an ITI/ITC which is affiliated to the National Council for Vocational Training.
- It offers course in any of the designated trades.

Exemption extended to "Modular Employable Skill courses" provided by a vocational training provider

The above exemption from the service tax has been extended to the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under 'Skill Development Initiative Scheme' with the Directorate General of Employment and Training, Ministry of Labour and Employment.

[Notification No. 23/2010-ST dated 29.04.2010]

2. Food grains and pulses included in the list of items eligible for exemption when transported by road

Prior to amendment

At present, transport of fruits, vegetable, eggs or milk by road by a goods transport agency is exempt from service tax.

Amendment made by the Notification No. 4/2010-ST dated 27.02.2010

The scope of exemption has been enhanced by including food grains and pulses in the aforesaid list of exempted goods.

3. Withdrawal of exemption available to the Government of Rajasthan under Group Personal Accident Scheme

Prior to amendment

Earlier, Group Personal Accident Scheme provided by Govt. of Rajasthan to its employees under 'general insurance service' was exempt from the service tax.

Amendment made by the Notification No. 5/2010-ST dated 27.02.2010

The aforesaid exemption has now been withdrawn.

4. Transport of goods by rail service

(a) Exemption from service tax on transport of goods by Government railway excluding transport of containerized goods by others withdrawn

Exemption from service tax on service provided in relation to 'Transport of Goods by Rail' by Notification No. 33/2009 ST dated 01.09.2009 has been withdrawn.

Implication of the Amendment

Now services provided in relation to goods transported by railways including Government railways, whether in containers or otherwise are liable to service tax.

The said amendment is effective from 1st July, 2010.

[Notification No. 7/2010-ST dated 27.02.2010 and Notification No. 20/2010 ST dated 30.03.2010]

(b) Abatement of 70% of the gross value of the freight charged in relation to 'transport of goods by rail' service

Notification No. 1/2006 dated 01.03.2006 has been amended to provide an abatement of 70% of the gross value of the freight charged on goods (other than exempted goods), in case of 'transportation of goods by rail whether in container or otherwise'. Consequently, the service provider has to pay the service tax on only 30% of the value of the service subject to the fulfillment of the following conditions:-

(i) the CENVAT credit of duty on inputs or capital goods or the CENVAT credit of service tax on input services, used for providing such taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004 and

(ii) the service provider has not availed the benefit under Notification No. 12/2003-ST dated 20.06.2003.

The said amendment is effective from 1st July, 2010.

[Notification No. 9/2010-ST dated 27.02.2010 and Notification No. 22/2010 ST dated 30.03.2010]

(c) Exemption for transport of specified goods by rail

Service provided to any person in relation to transport of certain specified goods by rail has been exempted from the service tax. Few such specified goods are as follows:-

- Defence/ military equipments
- Railway equipments/ materials
- Postal mail bags
- Relief material for victims of natural calamities
- Kerosene oil meant for supply through public distribution system

The said amendment is effective from 1st July, 2010.

[Notification No. 8/2010-ST dated 27.02.2010 & Notification No. 21/2010 ST dated 30.03.2010]

The sequence of the amendments made in relation to the 'transport of goods by rail service' has been detailed in the tables below depicting a comparative analysis of the situation:-

S.No.	Prior to 01.09.2009	01.09.2009 to 30.06.2010	With effect from 01.07.2010
1.	Transport of goods by rail in containers was liable to service tax. Following services were not taxable:- (i) Transport of goods by Government railway. (ii) Transport of goods by rail otherwise than in containers.	(a) Finance (No.2) Act, 2009 imposed service tax on goods transported by railways including Government railways, whether in containers or otherwise. (b) Thereafter, Notification No. 33/2009-ST dated 01.09.2009 provided that following services were exempt:- (i) Transport of goods by Government railway. (ii) Transport of goods by rail otherwise than in containers. Hence, only transport of goods by rail in containers remained liable to service tax. Conclusion: Position prior to 01.09.2009 was restored.	Transport of goods by railways including Government railways, whether in containers or otherwise has been made liable to service tax.
2.	Notification No. 1/2006 dated 01.03.2006 provided an abatement of 70% of the gross value of the freight charged to	(a) Notification No. 1/2006 dated 01.03.2006 was amended to provide the said abatement to 'service of transport of	An abatement of 70% of the gross value of the freight charged has been provided to 'transport of goods by rail whether in

	the 'transport of goods in containers by rail service'.	goods by rail, whether in container or otherwise' w.e.f. 01.09.2009. (b) Notification No. 34/2009-S.T dated 01-9-2009 again amended Notification No. 1/2006 dated 01.03.2006 to provide the said abatement to 'transport of goods in containers by rail'. Conclusion: Position prior to 01.09.2009 was restored.	containers or otherwise'.

Prior to 01.09.2009	01.09.2009 to 08.09.2009	09.09.2009 to 30.06.2010	With effect from 01.07.2010
There were no specified goods which were exempt in relation to transport of goods by rail in containers.	Notification No. 28/2009-S.T. dated 31-8-2009 exempted transport of certain specified goods by rail. However, the said notification was subsequently rescinded by Notification No. 36/2009-S.T. dated 9-9-2009. Hence, the specified goods were exempt for the said period of 8 days.	With the rescission of Notification No. 28/2009-S.T, position prior to 01.09.2009 was restored.	Exemption provided to transport of the specified goods by rail has now been restored.

C. AMENDMENT/CLARIFICATION IN THE SERVICE TAX (DETERMINATION OF VALUE) RULES, 2006:

1. Statutory taxes levied by any Government on air passenger to be excluded from the value of service [Clause (v) inserted after clause (iv) of rule 6(2)]

   Rule 6(2) enumerates the exclusions from the value of taxable services. The said Notification provides that the statutory taxes charged by any Government (including foreign Governments, where a passenger disembarks) on air passenger would be excluded from taxable value for the purpose of levy of service tax under the 'air passenger transport service'. Such charges would be eligible for exemption only if they are shown separately on the ticket/the invoice for such ticket.

   [Notification No. 15/2010-S.T. dated 27-2-2010]

2. Exclusion of the service charges recovered by the custom house agent to be excluded from the value of the 'custom house agent service'

   Issue

   The principal job of a custom house agent (CHA) is to get the import/export consignments cleared through customs. However, at times they also provide services for packing, unpacking, loading, unloading, bringing or removing the goods to or from the customs area, vessels or aircrafts for their customers (i.e. importers or exporters). CHAs initially pay the service charges to these agencies and later recover these charges from the customer along with their own charges CHAs. Similar arrangement can occur for payment of statutory levies like custom duties, port charges, cesses etc. leviable on the said goods.

   Whether the charges which are said to be paid by the CHAs and later recovered from the customers (i.e. reimbursable charges) should be added to the value for charging service tax from CHAs?

   Clarification

   It is clarified that the aforesaid reimbursable charges would be excluded from the value of taxable service if all the following conditions are satisfied, -

   (a) The activity/service for which a charge is made should be in addition to provision of CHA service.

   (b) There should be arrangement between the customer & the CHA which authorizes or allows the CHA to:-

      (i) arrange for such activities/services for the customer; and

      (ii) make payments to other service providers on his behalf;

   (c) The CHA does not use the activities/services for his own benefit or for the benefit of his other customers;

(d) The CHA recovers the reimbursements on 'actual' basis i.e. without any mark-up or margin.

(e) CHA should provide evidence to prove nexus between such other (than CHA) services provided and the reimbursable amounts. Similar would be the case for statutory levies, charges by carriers and custodians, insurance agencies and the like.

(f) Each charge for separate activities/services is to be covered either by a separate invoice or by a separate entry in a common invoice.

Any other miscellaneous/out of pocket expenses charged by the CHA would not be excluded.

[Circular No. 119/13/2009-S.T. dated 21-12-2009]

D. AMENDMENTS/CLARIFICATIONS IN THE SERVICE TAX RULES, 1994:

1. Quantum of service tax reduced for e-payment from Rs. 50 lakh to Rs. 10 lakh

Proviso to rule 6(2) has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of Rs. 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year.

The said amendment is effective from 1st April, 2010.

Further, the procedure for electronic payment of service tax has been detailed in Circular No. 919 / 09 / 2010 – CX dated 23.03.2010.

[Notification No. 01/2010-ST dated 19.02.2010]

2. E-filing of returns made mandatory for assessees paying service tax of Rs. 10 lakh or more in the previous year

The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7(2) has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of Rs. 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year.

The said amendment is effective from 1st April, 2010.

Further, the procedure for electronic filing of service tax return has been detailed in Circular No. 919/09/2010 – CX dated 23.03.2010.

[Notification No. 01/2010-ST dated 19.02.2010]

E. AMENDMENTS MADE IN THE EXPORT OF SERVICES RULES, 2005 & TAXATION OF SERVICES (PROVIDED FROM OUTSIDE INDIA AND RECEIVED IN INDIA) RULES, 2006

(a) Definition of "India" substituted

The definition of "India" has been substituted with a new definition in both the aforesaid rules. New definition reads as follows:-

"India" includes the installations structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.

[Notification No. 6/2010-S.T. dated 27.02.2010 & Notification No. 16/2010-S.T. dated 27.02.2010]

(b) Categorisation of the services introduced by the Finance (No.2) Act, 2009 under the clauses of rule 3(1)

S. No.	Taxable service	Sub-clause of section 65(105)	Export of Services Rules, 2005	Taxation of Services (Provided from Outside India and Received in India) Rules, 2006
1.	Cosmetic and plastic surgery service	(zzzzk)	(II)	(II)
2.	Service provided in relation to transport of coastal goods and goods transported through inland water including National Waterways	(zzzzl)	(II)	(II)
3.	Legal consultancy service	(zzzzm)	(I) and (III)	(I) and (III)

[Notification No. 37/2009 ST dated 23.09.2009 and Notification No. 38/2009 ST dated 23.09.2009]

(c) Re-categorisation of certain services under the clauses of rule 3(1)

In both the above mentioned rules, following four services have been re-classified as follows:-

S. No.	Taxable service	Sub-clause of section 65(105)	Export of Services Rules, 2005		Taxation of Services (Provided from Outside India and Received in India) Rules, 2006	
			Prior to amendment	After the amendment	Prior to amendment	After the amendment
1.	Mandap keeper services	(m)	(II)	(I)	(II)	(I)
2.	Chartered Accountant services	(s)	(II)	(III)	(II)	(III)

3.	Cost Accountant services	(t)	(II)	(III)	(II)	(III)
4.	Company Secretary's services	(u)	(II)	(III)	(II)	(III)

[Notification No. 6/2010-S.T. dated 27-2-2010 & Notification No. 16/2010-S.T. dated 27-2-2010]

Note: In the tables above, please note that (I), (II) and (III) are as follows:-

(I) Immovable property related services [Rule 3(1)(i)]

For services under this category, criterion of services being in relation to an immovable property situated outside India is prescribed.

(II) Performance related services [Rule 3(1)(ii)]

For services under this category, criterion of performing the services, at least in part, outside India is prescribed.

(III) Location of recipient related services [Rule 3(1)(iii)]

For services under this category, criterion of location of recipient of service outside India is prescribed.

(d) Condition, of service to be provided from India and used outside India to qualify as export of service, relaxed

Prior to amendment

Earlier, conditions to be satisfied for the provision of any taxable service to be treated as 'export of service' ware as follows:-

(1) Such service is provided from India and used outside India.

(2) Payment for such service is received by the service provider in convertible foreign exchange.

After the amendment made by the Notification No. 6/2010-S.T. dated 27-2-2010

Now, the condition (1) i.e. service to be provided from India and used outside India has been omitted.

Note: It may be noted that earlier the onsite services provided to the foreign clients by the Information Technology companies were not eligible as export of service. With the aforesaid amendment, such services have now become eligible as export of service.

F. CLARIFICATIONS REAGRDING SERVICE TAX LIABILITY IN CASE OF PROVISION OF CERTAIN SERVICES

1. Commission/remuneration paid to directors (whole-time or independent) and Managing Director not liable to service tax

S.No.	Issue	Clarification
1.	Whether service tax is payable on commission paid to Managing Director/Directors (whole time, or Independent) by the company under business auxiliary service?	Some Companies make payments to Managing Director/Directors (Whole-time or Independent), terming the same as 'commissions'. The said amount paid by a company to their Managing Director/Directors (Whole-time or Independent) even if termed as commission, is not the 'commission' that is within the scope of business auxiliary service and hence service tax would not be leviable on such amount.
2.	Whether service tax is payable by Independent Directors who are part of the Board of Directors under management consultant's service?	The Managing Director/Directors (Whole-time or Independent) being part of Board of Directors perform management function and they do not perform consultancy or advisory function. The definition of management consultant service makes it clear that what is envisaged from a consultant is advisory service and not the actual performance of the management function. The payments made by Companies, to Directors cannot be termed as payments for providing management consultancy service. Therefore, it is clarified that the amount paid to Directors (Whole-time or Independent) is not chargeable to service tax under the category 'Management Consultancy service'. However, in case such directors provide any advice or consultancy to the company, for which they are being compensated separately, such service would become chargeable to service tax.

[Circular No. 115/09/2009 ST dated 31.07.2009]

2. Canals constructed by Govt. or under Govt. projects not liable to service tax under commercial or industrial construction service

Issue	Clarification
Whether service tax is leviable on the construction of canals for Government projects?	As per section 65 (25b) of the Finance Act, 1994 "commercial or industrial construction service" is chargeable to service tax if it is used, occupied or engaged either wholly or primarily for the furtherance of commerce or industry. As the canal system built by the Government or under Government projects, is not falling under commercial activity, the canal system built by the

	Government will not be chargeable to service tax. However, if the canal system is built by private agencies and is developed as a revenue generating measure, then such construction should be charged to service tax.

[Circular No. 116/09/2009 ST dated 15.09.2009]

3. Dams, irrigation projects, buildings or infrastructure construction under turnkey/EPC contract by Government not covered under the works contract service

Issue	Clarification
Whether service tax is leviable on construction activity of dams, buildings or infrastructure construction etc. through EPC (Engineering Procurement & Construction) mode taken up by the Government?	The said service is covered under section 65 (105)(zzzza) of Finance Act, 1994. The said section itself excludes works contract in respect of dams, road, airports, railways, transport terminals, bridges & tunnels executed through EPC mode. Hence, works contract in respect of above works even if done through EPC mode are exempt from payment of service tax.

[Circular No. 116/09/2009 ST dated 15.09.2009]

4. Service tax not leviable on tour operator service in connection with Haj & Umrah pilgrimage

Service tax will not be leviable on services provided by a tour operator in connection with Haj & Umrah pilgrimage. The amount charged to the pilgrims in India undertaking Haj and Umrah pilgrimage, is for services provided by the Government of Saudi Arabia and the tour takes place outside India. As per Rule 3(1)(ii) of the Export of Services Rules, 2005, (Circular No. 111/05/2009 ST dated 24.02.2009), the service in respect of tour operator is export if such service is performed outside India. It is also provided therein that where such taxable service is partly performed outside India, it shall be treated as performed outside India.

Therefore, it is clarified that service tax is not chargeable on the services provided in respect of tour undertaken for carrying out Haj and Umrah Pilgrimage in Saudi Arabia by Indian pilgrims considering these as export of service, provided they fulfill the other conditions of export as provided in the Export of Service Rules, 2005.

[Circular No. 117/11/2009 ST dated 31.10.2009]

5. Re-insurance commission not liable to service tax

Meaning of re-insurance commission

When an insurance company re-insures the insurance business with another insurance company, it deducts a part of the premium paid to the reinsurance company for meeting the administrative expenses, i.e. they jointly bear the expenses for running the insurance/reinsurance business. This shared expense is commonly known as 'commission' though strictly it is not in the nature of a commission.

Service tax liability on re-insurance commission

The demand was being raised on this amount deducted alleging it to be the consideration paid to the insurance companies for promoting the business of re-insurers, thereby providing them the 'business auxiliary service'. It has been clarified that the arrangement between the insurance company and the reinsurer is only sharing of expenses. The insurance company is not promoting the business of re-insurer because the the policy holder may not even be aware of the operations of the re-insurer. Resultantly, no service tax liability arises in the given case.

[Circular No. 120(a)/2/2010-ST dated 16.04.2010]

6. Container detention charges not liable to service tax

Meaning of container detention charges

Container detention charges are imposed by shipping companies for marine containers kept beyond the pre-determined period and not returned to the designated location within that period.

Service tax liability on container detention charges

Container detention charges are actually the 'penal rent' for retaining the containers beyond the pre-determined period.

The retention of the container beyond the pre-determined period is not a 'business auxiliary service' because:-

- it is not a service provided on behalf of the client
- it is not an infrastructural support in the business of either the shipping lines or the customer

Therefore, the amount collected as 'detention charges' is not chargeable to service tax.

G. OTHERS

1. Conditions for exemption to services provided to a developer or units of special economic zone amended

Notification No.9/2009 ST dated 03.03.2009 was issued to provide refund of service tax paid on taxable services specified in section 65(105) of the Finance Act, 1994 which are provided in relation to the authorised operations (as defined under SEZ Act, 2005) in a Special Economic Zone (SEZ), and received by a developer or units of a SEZ, whether or not the said taxable services are provided inside the SEZ.

Notification No. 15/2009 ST dated 20.05.2009 has amended the aforesaid notification in the following manner:-

(A) Where the aforesaid services are consumed wholly within SEZ

Unconditional exemption is provided to the services consumed within the SEZ without following the refund route thus dispensing with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. Therefore, the conditions to be satisfied in order to claim the exemption would be:-

(a) Approval of list of services

The developer or units of Special Economic Zone shall get the services required in relation to the authorised operations in the Special Economic Zone approved from the Approval Committee (hereinafter referred to as the specified services);

(b) Actual use of specified services

The developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;

(c) Exemption from payment of service tax

In case of the services consumed wholly within the special economic zone, the exemption can be claimed by the developer or units of special economic zone without following the refund route.

(d) No CENVAT credit of service tax paid on specified services

No CENVAT credit of service tax paid on the specified services used in relation to the authorized operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004.

(e) Exemption under no other notification claimed

Exemption on the specified services used in relation to the authorized operations in the Special Economic Zone shall not be claimed except under this notification.

(f) Proper records of receipts and utilization of services

The developer or unit of a special economic zone shall maintain proper account of receipt and utilisation of the taxable services for which exemption is claimed.

(B) Where the aforesaid services are consumed partially or wholly outside SEZ

Exemption is provided to the services consumed within the SEZ following the refund route with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. Therefore, the conditions to be satisfied in order to claim the exemption would be:-

(a) Approval of list of services

The developer or units of Special Economic Zone shall get the services required in relation to the authorized operations in the Special Economic Zone approved from the Approval Committee (hereinafter referred to as the specified services);

(b) Actual use of specified services

The developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;

(c) Actual payment of service tax

The developer or units of Special Economic Zone claiming the exemption has actually, in the first instance, paid the service tax on the specified services.

(d) Refund of service tax paid

The exemption claimed by the developer or units of Special Economic Zone shall be provided by way of refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;

(e) No CENVAT credit of service tax paid on specified services

No CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004;

(f) Exemption under no other notification claimed

Exemption or refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall not be claimed except under this notification.

Further, in case where the services are consumed partially/wholly outside SEZ, following points would require consideration:-

(a) the person liable to pay service tax under sub-section (1) or sub-section (2) of section 68 of the said Finance Act shall pay service tax as applicable on the specified services provided to the developer or units of Special Economic Zone and used in relation to the authorised operations in the Special Economic Zone, and such person shall not be eligible to claim exemption for the specified services:

Provided that where the developer or units of Special Economic Zone and the person liable to pay service tax under sub-section (2) of section 68 for the said services are the same person, then in such cases exemption for the specified services shall be claimed by that person;

(b) the developer or units of Special Economic Zone shall claim the exemption by filing a claim for refund of service tax paid on specified services;

(c) the developer or units of Special Economic Zone shall file the claim for refund to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;

(d) the developer or units of Special Economic Zone who is not registered as an assessee under the Central Excise Act, 1944 or the rules made thereunder, or the said Finance Act or the rules made thereunder, shall, prior to filing a claim for refund of service tax under this notification, file a declaration in the Form with the respective jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;

(e) the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code (STC) number to the developer or units of Special Economic Zone within seven days from the date of receipt of the said Form;

(f) the claim for refund shall be filed, within six months or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit, from the date of actual payment of service tax by such developer or unit to service provider;

(g) the refund claim shall be accompanied by the following documents, namely:-

  (i) a copy of the list of specified services required in relation to the authorised operations in the Special Economic Zone, as approved by the Approval Committee;

  (ii) documents for having paid service tax;

  (iii) a declaration by the Special Economic Zone developer or unit, claiming such exemption, to the effect that such service is received by him in relation to authorised operation in Special Economic Zone.

(h) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after satisfying himself that the said services have been actually used in relation to the authorised operations in the Special Economic Zone, refund the service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone.

(i) where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the said Finance Act and the rules made thereunder, as if it is a recovery of service tax erroneously refunded.

2. Public sector company specified as class of persons eligible for advance ruling

Section 96A(b)(iii) of the Finance Act, 1994 provides that applicant means a resident falling in such class /category, as may be specified by the Central Government by issuing a notification and which or who, as the case may be, makes application for advance ruling.

Central Government has specified a public sector company for the purpose of the aforesaid clause.

Meaning of public sector company

A public sector company shall have the same meaning as is assigned to it in section 2(36A) of the Income Tax Act, 1961.

[Notification No. 27/2009 ST dated 20.08.2009]

3. Provisions of service tax extended to the specified areas in the continental shelf and exclusive economic zone of India for the specified purposes

The provisions of Chapter V have been extended to the specified areas in the continental shelf and exclusive economic zone of India for the specified purposes in the manner depicted in the table below:-

S.No.	The areas in the Continental Shelf and the Exclusive Economic Zone of India	Purpose
1.	Whole of continental shelf and exclusive economic zone of India	Any service provided for all activities pertaining to construction of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.
2.	The installations, structures and vessels within the continental shelf and the exclusive economic zone of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas	Any service provided or to be provided by or to such installations, structures and vessels and for supply of any goods connected with the said activity.

[Notification No. 14/2010-S.T. dated 27-2-2010]