21
21/05/12

Service Tax

Approach

Selective
↓
Selected Services
are taxable

Comprehensive
↓
All service are taxable
except: Services given in
negative list

Objective & Constitutional Validity
List I - Residual Entry - 97

Finance Act, 1994
Rules
Notification
Circulars : CBEC

CG
↓
Ministy of finance
↓
Dept of revenue

CBEC
|
Director of ST
|
Chief Comm.
Comm
AC/JC/DC
Inspector/Superintend.

CBDT

Finance Act, 1994

Chp. V

Taxable event → Service provided or to be provided.

Sec 66: Charging Section

ST @ 12.36% will be lieved on value

Sec 67 → of Services (taxable) provided or to be provided in India w.e.f. 1/4/12.

↑ Sec 64

Sec 64 ST is applicable in whole of India Except [J&K]

12 NM. Only

- India Includes Territorial water of India
- Includes Continental Shelf & SEZ
  → Only in relation to prospecting for a extraction of mineral oil & natural gas

Q.2
Page 29

~~Ans~~ Service Tax should be charged @ 110 (inclusive of 10% in the presence case)

— Hotel Mela plaza (SC)

As per Sec 66 Value of taxable Service

Q.3
Pg. 29

(2) Real estate agent incurred advertising expenditure on behalf of client.

Ans → • {Condition of pure Agent}

(i) Expenditure should shown separately
(ii) Expenditure should be responsibility of service receiver & not of its agent.
(iii) All benefits of expenditure should be avail by service receiver.
(iv) Same amount / exact amount should be re-embersed.

Rule 5 of Valuation Rules provides that all reembursement are included in the value of taxable services except when expenditure is incurred by the service provider acting as a pure agent of his client

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In the present case, Real Estate Agent has incurred advertising expenditure on his own behalf & has derived all benefits from such advertising. Therefore real estate agent cannot be called as a pure agent & hence advertisement Expenditure is included in the taxable services.

(4) Not an pure agent

(5) Circular 119/13/2009 :- (custom duties, Port ch. etc paid by)

It ~~is~~ clarify that custom house Agent are in nature pure agent provided that other conditions of pure agent are fulfilled.

Only. Statutory charges - Not taxable.
Other charges - Taxable.
(Eg. ~~B~~ Mobile ch., etc)

Reference : Rule 5 of Valuation Rules.

(3) Except taxes all Expenses of Auditor are included.

(1) ~~BAA~~ ⇒ Case I   Case II

Bill		Bill	100000
Freight	50000		
Octroi	37000		→ Not a Pure Agent
total	87000		

→ Pure Agent ←

Rule 5 of Valuation Rules.

In the present case, C&F Agent has paid octroi charges on behalf of his client as payment of octroi is the responsibility of client concern. Assuming that all other conditions are satisfy, C&F agent will be consider as a pure agent of his client As no benefit has been derived by the C&F agent by paying such octroi charges. Therefore not to be included in the value of taxable services.

CENVAT Credit

Q. Bhide classes

Collection	100 × 40,000 =	4000000
	Students Fees	↓ ST payable ↓
	@12.36%	494400
– Professor Service.	ST	(20,000)
– Landline telephone	ST	(2000)
– Projector Installation from foreign (Import of Service) u/s 66A. ST payable		(100000 × 12.36%) 12360
– Bags, Note books.		40,000
	ED. @10%	4000
	VAT @10%	400
		48400
Scales - Imported		20000
	CD	2000
		22000

Ans. ST payable.

	Output ST.	494400
(–)	CENVAT Credit	
	On Input Service	
	Professor Ser.	(20000)
	Telephone Ser	(2000)
	Project Service	(12,360)

On Input Service.

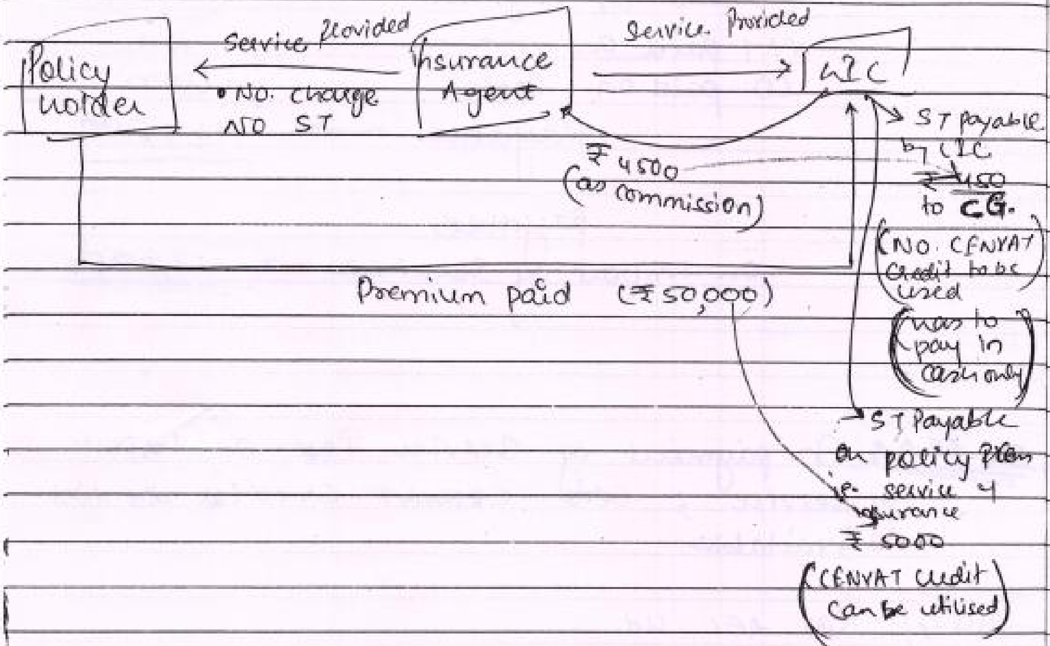
ED paid on Bags etc.	(4000)
VAT paid on — a —	NIL
CD paid on Scale	(2000)
payable →	454,040

payable
On Import of Service → 12,360

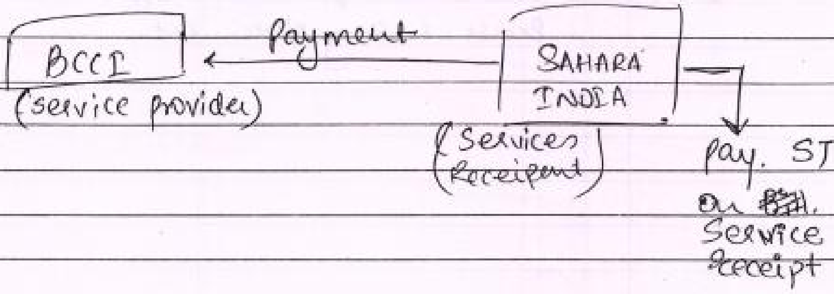
2) **Sec 66A** :- On payment of Service Tax on Import of service, ~~Cen~~ CENVAT Credit is Not Available

Ans 4 / Pg. 29
(a) ABC Ltd
(b) XYZ ~~Ltd~~ firm
(c) ABC firm
(d) GTA. Assume both firm not registered under Excise & any other act

Insurance Agent / Mutual fund Agents.



Sponsership Services



Rule 6 of ST Rules, 1994 - Mannar of payments.

Date

5th Other

6th E-payment *

31st March - for month of March.

E-Payment → Mandatory u/Rule 6(2) proviso.
↓
if in previous year. ST paid is more than 10. lakhs.
↓ excluding Cenvat credit

eg. service 120,00,000

ST. payable	1200,000	Electronically mandatory
cenvat credit	(600,000)	
Paid	600000	

Payment of due date.

Ind/firm - (LLP also)
↓
5th of the ~~month~~ mont following quarter

Other (Co, HUF, Society)
↓
5th of ~~month~~ following the month

in which service is deemed to be provided

Point of taxation. 1/4/11 (Amendment)

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Point of Taxation Rules, 2011.

29/Feb/2009 → 12% to 10%

w.e.f. 1/4/12 → 10% to 12%

Rule 5 B ⇒ Date of determination of Rate of taxes is when ~~deemed~~ service are deemed to have been provided.

~~w.e.f / 1/4/11~~
~~POTR = Accrual System~~

Rule 6 : Proviso

Individuals/Firms
↓
ST Payable ≤ 50 lakhs
↓
Pay ST when payment received

w.e.f 1/4/11
POTR = Accrual basis

Rule 7(c) → CA/CS/CWA/Lawyer/ Engineer / Consultants
↓
POT. = Date of Payment received.
↓
Only for Ind/Firm

w.e.f 1/4/2012
→ Deleted
↓
Proviso Inserted in rule 6. of STR
↓
Applicable to all Ind/Firm. Service Provider.

Eg. Firm : Service provided in 2011-12 = 5500000

₹ 700000 Exempted

4800000 Taxable

2011-12 total payment received = 5400000
(fully received from taxable service)

For 2012-13

→ see taxable services i.e. 48 lakh. which is less than 50 lakh. and hence proviso u/r. 6 of STR is applicable

Option available under IV proviso of Rule 6
Service provided = 54 lakhs

300000 exempt
↓
No. payment received

51 lakhs. taxable.
↓
Rs 4600000 received

50 lakhs option & less 46 lakh is taxable on payment received

1 lakhs taxable on accrual basis

↓

~~47 lakhs Taxable.~~

Eg. Date of Completion 1/7/2012 → Due date
Date of Invoice 1/8/2012
Date of payment Not received 31/12/2012

Amount of service ₹ 209000

Ans. Rule 6 Applies
Due Date of payment of ST = 5/8/12
↓
if payment is not received till 31/12/2012

pay tax – with interest from 5/8/12
↓
payment received on 31/3/2013 then
ST refund, but no refund of interest.

*

Rule 4A of STR → Issue Bill/Invoice within
30 days from date of Completion of Services.
or
from date of advance.

whichever is earlier

for Banking & financial Service ← 45 days

Eg. Service Completed 22/6/12
₹ 10 lakh
Payment received ₹ 2 lakh 1/5/12
8 lakh. 7/8/12

✓Rule 4A

Date of Invoice – 31 may — ₹ 2 lakh
22/7 — 8 lakhs

*

Rule 3 of POTR, 11

POT earlier of

(a) Invoice
or } → Only if Invoice is issued
Dt of payment } within 30 days

Or

whichever is earlier → Date of completion } if invoice is not issued
OR
Date of payment } within time limit in Rule 4A

Eg

Case	Date of Payment	Date of Completion	Date of Invoice	POT
1)	1st Jul, 2012	2 Sept. 12	31/July 12	1/July/1
(2)	28 Sept. 12	15 Sept 12	1 Oct 12	28 Sept 1
(3)	28 Sept 12	15 Sept 12	16 Oct 12	15 Sept 12
(4)	—	30 Dec 12	28 Jan 13	28 Jan 13
(5)	17 Oct 12 ₹ 2 lakh 27 Oct 12 ₹ 3 lakh	16 Oct 12 ₹5 lakh.	1st Nov 12 5 lakh ₹5	for ₹ 2 lakh 17/Oct 12 for 3 lakh 1/Nov, 12.

Q.17 → (V) 12/Aug/2012

(iii)

Amt	Date of payment	Date of completion	Date of invoice	POT
2 lakh	2/4/12	5/6/12	2/5/12	2/4/12
8 lakh	20/6/12	5/6/12	5/7/12	20/6/12

Q.8 Rs 25000/5 ~~[illegible]~~

Q XYZ & co. appointed internal Auditor for Year 12-13 for ₹ 600000 payable on quarterly basis.

Details:-

Invoice Issued	Amt	Payment Rece.	Amt
1/8/12	150000	14/8/12	150000
31/Dec/12	300000	2/Jan 13	300000
2 May 13	150000	30 april 13	150000.

Ans. As per Contract Completion event is in each Contract

Dt of Completion	Dt of Invoice Issued	Dt of Payment rec	Amt	POT	Due of S
(1) 30/June 12	1/Aug 12	14 Aug 12	150000	30/June 12	5
(2) 30 Sept 12	31 Dec 12	2 Jan 13	150000	30 Sept 12	5
(3) 31 Dec 12	31 Dec 12	2 Jan 13	150000	31 Dec. 12	5
(4) 31 Mar 12	2 May 13	30 Apr. 13	150000	~~30 April 13~~ 31st March 13	31

Rule 2A of POTR, 2011

date of payment — earlier of date on which
entry made in Books of A/c
Cr to the Bank A/c

Provided that date of payment = Cr to Bk A/c if
(a) change in effective rate (Rule 4) or when a service is taxed for first time (Rule 5) during the period between such entry in BOA & its cr to bank A/c.

(b) Cr in Bk A/c is after 4 working day (excluding Sunday) from changes in rates or service newly charged

(c) Instruments should be there.

	Due date
7	of ST Payable
une 12	5 July
pt 12	5 Oct
c. 12	5 Jan
~~[illegible]~~ rch 13	31 Mar

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Q. A New Service become Taxable w.e.f. 1/7/12

Cases →	IV	I	II	III
Date of completion	27/7/12	27/7/12	27/7/12	27/6/12
Date of payment	5/7/12	27/6/12	27/6/12	$\boxed{29/6/12}$ POT
Date of invoice	2/7/12	30/6/12	7/7/12	6/7/12
	↓	↓	↓	↓
	Rule 5 - NA	Rule 5 (a)	Rule 5 (b)	Rule 5 $\boxed{NA}$
	↓	No Tax	NO Tax	↓
	Rule 3.			Apply Rule 3
	POT = 2/7/12			↓
	↓			POT 29/6/12
	Tax rate 12.36%			↓
				Rate = "0"
				↓
				$\boxed{\text{Rule 5B of STR, 94}}$

Q. Health checkup services ~~be~~ are Taxable serv.
→ w.e.f. 1/7/10 ~~becomes~~ wholly ~~Taxable~~ ~~Taxable~~ exempted by Notification
w.e.f. 1/5/12. exemption notification has been withdrawn

Date of completion 22/4/12
Date of Invoice 28/4/12

Date of payment
as per BOA = 30/4/12
" in bank A/c = 7/5/12

Ans. As per Rule 2A. Date of payment = 7/5/12

Rule 3 — Date of Invoice = 28/4/12 ← POT
No Tax

Ans 17)

(vi) xyz Ltd as person liable to pay tax as importer of service under rule 2(1)(d) of Service Tax rule. In such cases Rule 7 of POTR provides that POT will be the date of payment made by the importer. However when payment is not made within 6 month from the date of invoice, normal provision of Rule 3 of POTR will be applicable for determination of point of Taxation. In the present case, POT for 50% consideration will be 26th Oct, 2012 as payment has been made before expiry of 6month from expiry of invoice period of 6months will expire on 1st May, 2013 and remaining consideration was not been paid till 3st May, 2013. Therefore POT for remaining consideration will be

(1) Date of payment if payment will be made before 1st May, 13 or

(2) 1st NOV, 2012 as per rule 3 of POTR, 2011

vii) Rule 7.........

Therefore, Date of payment will be point of Taxation.

(iv) A CA being an individual Service provider will going to pay ST on or before 5th of the month following the ~~quarterly~~ quarter in which Payment is Received as given in the

Proviso to Rules 6 of STR. Assuming the ~~preceding~~ total taxable services provided during the ~~passing~~ ~~presiding~~ ~~does not exist~~ preceeding fy is less then 50 lakh in such case POT is not required to determine & ST will be paid based on date of payment ~~Be~~ received i.e. 31/12/12 - for 31/12/12 for 2 lakh & 31/2/13 for 2 lakh.

(i) ABC India Ltd has exported a services on 31st July, 12 & received the payment on on 10th Aug, 2012. Proviso to Rule 6 of STR provides that POT is not required to be determined if payment is received with the time period given by RBI.

As payment is received in RBI time limit, Export of Service will be exempt. Assuming that all other conditions are satisfied.

(ii) Rule 7 of POTR provides that in case of a transaction between Associated Enterprises where service provider is situated outside india, The POT will be earliest of date of payment or date of accounting entry in the books of service ~~setn~~ receipent.
POT will be 4/8/12.

Payment of Service Tax

Sec 68(1)
Service
~~Recei~~ Provider

Sec 68(2)
Service
Receipent
↓
Rule 2(1)(d)
↓
Rule-6 of STR
&
POTR-2011
(for Ref. → ~~R~~5B & 4A)

Sec 93 CG is empowered to exempt any Service wholly or partly (in public interest) by issuing a notification in Gazette.

Notification No. 6/2005-ST
Small Service Provider

Case I
Last yr - Mr A.
S.Provided. 1080000 ✓
Payment rec. 980000
Invoice Issued 1060000
↓
Not-SSP

Case II.
Last yr - Service provided
10,80,000
Taxable 900000 ✓
Exempt 1,80,000
↓
SST

case III → provided Service for 1st tym — Always SSP.

case IV → Service is taxable for 1st time → SSP

case V

last year:

CA has provided Three Services

CA services	6 lakh
coaching Service	3 ″
other Service	2 ″
	11 ″

→ Ans → Not Ssp-

Case VI

Mumbai office – 8 lakh } last yr
Delhi office – 3 lakh

- Different registration has been taken

= Ans — Not - SSP (Clubbing provision applies)

* if SSP then, Exemption ✓

SSP
↓
Exemption under NN 6/2005-ST
↓
Aggregate value of ₹ 10 lakh

upto 31.3.12 (old)	w.e.f 1.4.12
1st consecutive payment of Rs 10 lakh received	↓ ~~Based~~ 1st consecutive invoices issued of Rs 10 lakhs.

Q-7 / pg-29 Calculation of ST payable & eligiblity in next year

year	Service provided last year	SSP or NOT SSP	Tax payable (upto 2010-11 payment ba
2008-09	950,000	SSP	NIL
2009-10	1100,000	NOT SSP	11,00,000 × 10.3 % = 1,13300
2010-11	800,000	SSP	(12,50,000 - 10,00,000) × 10.3% = 25,750
2011-12	1250000	NOT SSP	10,20,000 × 10.3 % = 105060
2012-13	990000	SSP	(11,00,000 - 10,00,000) × 12.36% = 12,360

Q-8 / pg-30 Calculation of ST payable by B Ltd

	₹	₹
Invoice issued	950,000	
(Less) Exemption under ~~[illegible]~~ NN 6/2005 - ST	(950000)	NIL
GTA Service - Freight	200000	
(Less) Abatement @ 75%	(150000)	50,000
Import of Service		100,000
		150,000
ST @ 12.36% payable		₹ 18,540

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Note: B Ltd is liable to pay service tax on GTA & import service under rule 2(1)(d). Benefit of NN 6/2005 - ST is not available when SSP is liable to pay tax as receipent of services. Therefore tax has to be pay in full by B Ltd.

Q.18 Calculation of tax & Eligibility of next year.

Date	Particular	Invoice issued	Taxable service Provided
27/4/	Pay. rec. in adv.	–	–
29-April	Invoice issued	2,59000	–
27 may	Payment rec. for last year	–	–
3 June	Taxable SP, Pay rec., ~~invoice~~ Invoice issued	300000	300000
18 July	Import of Service [Covered under Rule 2(1)(d) Tax is payable - NN 6/2005 - ✗ (NA)]		
20 Aug	Service provided & billed to Associated Enterprises	225000	225000
1 Sept	Free Services	–	–
30 Sept	Export of Service [Exempt]	–	–
30 Sept	Service provided for adv rec on 27 April	–	2,50,000

28 Nov	Service provided under Brand Name of ABG Ltd [Benefit of SSP exemption is not allowed when services are provided using brand name of some other person - always taxable]	—	1,00000
1 Jan	Service provided		150000
28 Feb	Payment rec for above	150000	
1 Mar	Adv. received and invoice is required to issued with 30 days. i.e. 31st March	200000	
	Total	11,25,000	10,25,000

conclusion.

Next year SSP exemption is not available as value of taxable service provided in current year exceeds ₹ 10 lakhs.

Tax Payable in current year.

- Invoice issued for Taxable Service [11,25,000 - 10,00,000] × 12.36%. 15,450
- Import of Service [200000 × 12.36%] 24,720
- Service Provided using Brand Name [100000 × 12.36%] 12,360

52530

NN 12/2003 - ST

Goods & materials sold will be excluded from the value of taxable services.

Eg. Bill includes

Glass - 10,000 — Exclude. (i.e. No Service Tax (No. CENVAT Credit)

other Spare part - 1000 - Consumable hence not to exclude (CENVAT ✓)

Labour - 3000

14000

ST only on $\boxed{4000}$

Eg. cost of service 5000

profit required on service 1500

Cost of cosmetic consumed 6000] only information.

cost of cosmetic sold 6000

MRP 7100 → consumed

MRP of cosmetic sold 7100 →

20,700 Total Bill

Service tax on $[\,5000 + 1500 + \underbrace{7100}_{\text{consumed}}\,]$ = 13,600

Q. Service provided charged ₹100000 inclusive of ST. It includes value of goods sold - Rs 25,000 compare 12/2003 & 1/2006. Abatement 50%.

Ans (1) NN 12/2003 - ST is claimed

NN 1/2006 - ST

15 - 20 services eligible for partial exemption known as abatement.

Q. 13
pg - 30

ST payable if NN 12/2003 is claimed

Service charges including value of good sold	100000
less: Good sold	(25000)
Value of Taxable service	75000
ST @ 12.36%	9270
less. CENVAT Credit	
ED paid on Input	NIL
ST paid on input Service received	(1200)
Net ST payable	8070

ST payable if NN 1/2006 is claimed

Service charged including value of good sold	100000
Add: good supplied by customer	20000
	120000
less: Abatement @ 60%	(72000)
Bal. (40%)	48000
ST payable @ 12.36%	5933
less CENVAT Credit	NIL
Net ST payable	5,933

Q. Service provided charged ₹100000 inclusive of ST. It includes value of goods sold - Rs 25000 Compare 12/2003 & 1/2006. Abatement 50%

Ans (1) NN 12/2003 - ST is claimed

Total charges	100000
Less: Value of good sold	(25000)
Value of Taxable services inclusive of ST	75000

∴ Service Tax

$$\left[\frac{75000}{112.36\%} \times 12.36\%\right] \qquad ₹ 8,250$$

(ii) NN/2006 is claimed

Total charges	100000
Rate of Abatement	50%
Taxable portion (100 - 50%)	50%
Rate of S.T.	12.36%
Effective rate of ST on entire Contract (50% x 12.36%)	$\boxed{6.18\%}$

$$\therefore ST = \left[\frac{100000}{106.18\%} \times 6.18\%\right] \qquad 5,820$$

Q. ABC Ltd
Exported goods of Rs 50 lakh and paid Rs 50,000 as Sales commission to foreign commission agent located in U.K.

Ans → S.T. on Import of Service. -
Taxable under Rule 3 of Import rule. but Exempt under Notification 18/2009.

Q. 20 Determination of POT - Contineous Supply of Services.

Stage	Date of Completion	Date of Invoice	Date of Payment	Point of Taxation
(1) Advance 30 lakh	–	1/July/12	1/July/12	1/July/12
(2) Stage I : (50%) 120 lakh	15/Aug/12	22/Aug/12	29/Aug/12	22/Aug/12
(3) Stage II (75%) 70 lakh	20/Sept/12	10/Oct/12	25/Oct/12	20/Sept/12 (14 days)
(4) Stage III (100%) 80 lakh	30/Nov/12	11/12/12	7/12/12	11/Dec/12

NN 17/2011 - Exemption for SEZ.

- Authorised operation = Purpose of establishment of SEZ i.e. exportation

- Unit Approval Committee (UAC) = Regulatory or Approving authority of each SEZ.

Category

(I) Service provided to SEZ unit/ developer wholly consumed in SEZ for authorised exemptions ⟶ up-front Exemption (Not Required to charge ST)

↓ for this Rule 3 of Import rule applies

Eg. SEZ unit Exported goods by Rs 50 lakh & paid Commission to agent Rs 50,000 situated in Delhi (DTA)

Ans ⟶ See Rule 3 of Import rules. for place of consumption of any services Category III - consumed in SEZ only hence NO S.T. to be charged.

(II) Service provided to SEZ unit /developer for their authorised operation but not consumed wholly within the SEZ ⟹ Exemption by way of refund.

(III) Service are shared by SEZ Unit (authorised operations) ⇒ and DTA unit.

Eg. ABC ltd having 2 factories (1) DTA factory (2) SEZ factory and had availed cost audit ~~factory~~ facility for both factory of Rs 100,000 + ST 10300 = 1,10,300

→ first pay ST = 10300

- claim refund (restricted to SEZ unit only)

Maximum refund = Total Service Tax × Export turnover of SEZ ~~Service to SEZ~~ / ~~Total Service Tax~~ Total turnover

Q.6 pg-29 Calculation of exemption available. under NN 17/2011

Service received	Exemption
(1) Service received & consumed wholly within SEZ unit ₹ 1.5 lakh	up-front Exemption SEZ not liable to pay S.T.
(2) Service received but not consumed wholly within SEZ - ₹ 2 lakh	Exemption is available by way of refund

Export turnover

(9) Shared Services

Refund shall be restricted to.

$$\left(\begin{array}{c}Rs.\ 2.5\ lakh \\ \times 12.36\%\end{array}\right) \times \frac{(26+5)\ lakh}{(26+578+7.5+5)\ lakh.}$$

= ₹ 18,600

Total turnover

NN 96/7/2007

Statutory service by ₹ Govt — NotTaxable

eg. Postal Department

Post inland letter (Statutory duty) ↓ Not Taxable

Speed Post (Not a statutory duty ↓ ST → apply..

eg. CG

↓ Bio gas plant installation in remote villages

↓

in 40 villages in Maharashtra

↓

CG requested SG to assist them

↓

SG deputed few of their employee

↓

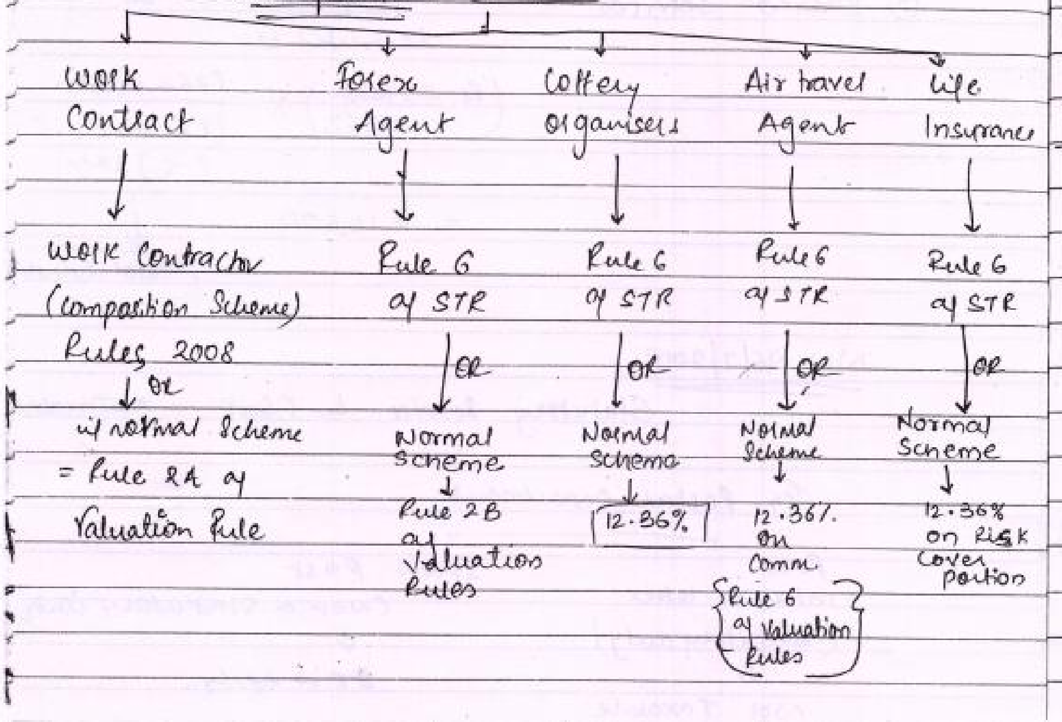
SG has taken re-imbursment by expenses incurred.

↓

ST dept → issued notice

clarification by dept: it is not a statutory fuction but a sovereig.

Composition Scheme



work Contract

Normal Scheme

Under Rule 2A of Valuation Rule

Value of taxable Service
= Total Contract price Excl. ST/VAT xx
(-) Value of goods & Material involved in Contract (Excluding VAT) (xx)
xx

Composite Scheme

under Composition Scheme Rule

Pay. tax @ 4.8% on total contract price Excluding VAT/ST.

Work Contract

Q. 11 **Pg-30** Calculation of VAT & CST payable under Normal Scheme

Particular	Goods VAT	Service ST.
(1) Labour charges	–	10,000
(2) Payment to Sub-Contractor for labour [ST paid ₹7000 = CENVAT credit ✓]	–	70,000
(3) Payment to Sub contractor for Other Services [ST paid ₹1000 = CENVAT credit]	–	10,000
(4) Charges for planning & Designing	–	20,000
(5) Consumables	–	12000
(6) Value of goods & Property	70,000	–
ED = No credit hence included	7,000	–
VAT = Credit available	–	–
(7) Spares & Tools	10,000	–
ED = No credit	1,000	–
VAT = credit available	–	–
(8) Profit on supply of labour	–	10,000
(9) Profit on Supply of Material	10,000	–
Total Amount charged	98,000	1,32,000
Taxes →	↓ VAT @10% ↓	↓ ST @12.36 ↓
VAT Tax payable	9800	~~16,315.2~~
Service Tax payable		16 315.2
Less: Credit utilised : Input Tax credit	(5,900) (5000 + 900)	~~(8000)~~
CENVAT credit		(8000) (7000 + 1000)
Net VAT payable	3900	
Net S.T. payable		8315

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Note :- Rule 2A provides that E.D paid on input - Not available as credit

Q.12

Pg - 30(I) Calculation of Service Tax

Gross Amount of contract (Including VAT)	1,10,000
less: ~~VAT~~ Value of goods & property (including VAT)	(70,000)
Value of Services	40,000
~~Less~~	
Service tax payable (40,000 × 12.36% ~~12.36%~~ ~~12.36%~~)	4,944~~00~~
less: CENVAT credit :-	
Service tax paid on Input service	(500)
ED paid on Capital goods (50%)	(375~~0~~)
	~~3,750~~
ST Payable	4069

Note :- (1) under rule 2A; Value of taxable Services for a works contractor = contract price excluding VAT less value of goods excluding VAT. Both the figures are given inclusive of VAT & Therefore after deduction of value of goods, value of taxable service can be obtained excluding VAT

As both figure are inclusive no adjustment have been done.

Note 2:- It has been assumed that ~~VAT~~ ST is charged (~~excluding~~) Separately. i.e. ST is not included in gross amount.

(II) Calculation of ST payable under Composition Sche

Total Contract price (incl. VAT)	110000
Less: VAT Included in Contract price [Assumed at ₹10,000]	(10,000)
Value of taxable Services (Net of VAT)	100000
Composition ST @ 4.944% [Collected from the Customer]	4944
Less: CENVAT credit	
of ED paid on Input	NIL
of ST paid on Input Service	(500)
of ED paid on cap. goods (50%)	(375)
Net S.T. payable	4069

Rule 3 (2A) of composition Scheme

(I) Erection, comm & Installation

(II) Residential complex

(III) Industrial Compurition

⟹ Work Contract Service

↓

Composite Scheme available

only 40% of ST paid to Sub-contractor is available if NN. not availed by Sub contractor

↓

abatement 67% available

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Case

I

Goods Purchased for construction → used for work contract → CENVAT Credit not available
ED - ₹1000

II

Goods Purchased for Construction → used for work contract → Service provided to final customer
ED. - 10,000
↓
Erection, comm & installation.
₹9,00,000
(Goods portion - 6 lakh)
(Service portion - 3 lakh)

① Abatement claimed

Sub-contract will avail NN 1/2006-ST

Value of Contract	900000
(Less) Abatement @67%	(603000)
	297000
ST @ 12.36%	36,709

No. CENVAT credit of ED ~~payable~~ paid to SubContract

(2) Sub-contract will avail NN 12/2003-ST

Total Contract	900000
(-) Value of goods	(600000)
	3,00,000
ST @ 12.36%	37,080

NO CENVAT Credit.

(3) will not avail any NN. 1/2006 & NN 12/2003

Value of Contract	900000
ST @ 12.36%	111,240
(-) CENVAT Credit	
ED paid on input	(10,000)
	101,240

Q.27

Pg-5 (i) Mr. Jain & Associates.

- Taxable Service provided = 4500000 less then 5000000 hence POT is NOT applicable
  → Date of receipt of payment is POT.

- Tax paid = 500000 (including CENVAT) which is less then Rs 10 lakh hence e-payment is not mandatory.

(ii) If Taxable Service : 55 lakh - POT ✓

Date of Completion	Date of Invoice	Date of payment	Amount	POT
30/Jun-12	7-July-12	7-Aug-12	250,000	7-July-1
30 June-12	7-July-12	18-Oct-12	50000	7-July-12
30 sept 12	18-Oct-12	18-Oct-12	150000	18-oct-12
30 Sept-12	18 Oct-12	30-Jan-13	150000	18-Oct-12
31 Dec. 12	2-Feb-12	30 Jan-13	300000	31-Dec-12

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Q.27 Moo

Money Changing Services

Normal Scheme : Rule 2B of Valuation Rule
Composite Scheme : Rule 6 of STR.

Q.21 Pg-4 (A) Sold US$ 100,000

Rate charged by Agent	₹46/$
RBI Ref Rate	₹45.52/$
Difference	₹ 0.48/US$
Currency	100000 US$
Value of Service Provided ~~Transaction Value~~	₹ 48,000
∴ ST payable @ 12.36%	₹ 5933

(B)

Rate charged by Agent	₹ 45/US$
RBI Ref Rate	₹ ~~45~~ 45.52/US$
Difference	0.52/US$
Currency	150000 $
Value of Service provided	₹ 78,000
∴ ST payable	9,641

(C)

	Sold	Buy
Rate charged by Agent	₹ 76/€	75/€
RBI Ref Rate	₹ 75.55/€	₹ 75.55/€
Difference	₹ 0.45/€	₹ 0.55/€
Currency	€ 20000	€ 20000
Value of Service Provided	₹ 9000	11000
∴ ST payable @ 12.36%	₹ 1,112.4	₹1,359.6

Rajesh Dedhi

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(D)

	Sold	Purchase
Rate charged by Agent	₹ 0.22/¥	₹ 0.20/¥
currency.	2500,000	1000,000
~~Va~~ Transaction Value	550,000	200,000
Value of Service provided @ 1%	5500 ~~2200~~	2000
ST @ 12.36%	~~₹ 271.9~~ 679.8	~~₹ 618~~ 247.2

(E) Conversion of US $ 150000 against Euro 90000

Equivalent INR of US$150,000 at RBI Ref Rate (US$150000 × 45.52] ₹ 68,28,000

Equivalent INR of Euro 90,000 at RBI Ref. Rate (€ 90000 × 75.55). ₹ 67,99,500

Transaction Value is lower of following 67,99,500

Value of Taxable provided @ 1% 67,995

@ ST Payable @ 12.36% ₹ 8,404

Q.22
Pg-4

Composition tax payable

(A) US $ purchased during the period	US $ 100000
Rate per US/$ charged by agent	₹ 45 / US$
Total transaction value in INR	₹ 4500000
Transaction value per transaction	₹ 250000
∴ No. of transaction. (4500000/250000)	18
Composition tax per transaction (120 + (250000 − 100000) X 0.06%)	₹ 210
Total for 18 transaction. (210 X 18)	3780
Add: 3% E cess	113
	3,893
(B) US $ Sold during the period	US $ 100,000
Rate per US $ charged by agent	₹ 46/US$
Total transaction Value in INR	₹ 46,00,000
Less: Transaction Value of 1st 13 transaction (₹ 300000 X 13 trn.)	(₹ 39,00,000)
Total Amount for remaining trans	₹ 7,00,000
Value of each transaction	₹ 20,000
No. of remaining transaction	35
Composite Tax	
On 1st 13 transaction ₹ 120 + (3 lakh − 1 lakh) X 0.06) X 13 trns	3120
On remaining 35 trans. (₹ 20,000 X 0.12%. Subject to min. of Rs 30 per transaction) X 35	1050
	4170

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Add: 3% CESS	125
S.T. Payable	4295
(C) Euro purchased	€ 100,000
Rate paid per Euro	₹75/€
Transaction Value	₹ 7500,000
Composite Tax	
660+ (75 lakh-10 lakh)x0.012%	1440
Ed. CESS	43.2
	1483.2
(D) US$ Exchanged against Euro	US$ 100,000
Equivalent INR transaction Value using agent rate	
• Rate US$	₹46/$
Transaction Value	₹ 4600,000
Composition Tax	
660+ (46 - 40 lakh)x0.012%	1092
Ed. Cess	32.76
	₹ 1124.76

Q

Life Insurance Service
Rule 6(7A) of STR

Q.24 Calculation of ST Payable u/r 6(7A)

(1) Premium Collection on old policies	110 lakh	
Tax payable u/rule 6(7A)	1.5%	1.65 lak
(2) Premium collected for only risk cover	30 lakh	
Tax payable u/r 6(7A) proviso - Benefit of reduced rate N.A.	12%	3.6 lak
(3) ⓐ Premium collected only for risk cover	5 lakh	
Tax payable	12%	0.6 lak
ⓑ Premium collected for 1st prem.	40 lakh	
Tax payable	3.0%	1.2 lakh
(4) Premium Collected but disclosed in policy of allocation	90 lakhs	
(-) 80% amount Invested	(72 lakh)	
Towards risk cover	18 lakh	
Tax payable	12%	2.16 lak
ST payable		9.21 lak
Add: Ed. Cess @ 3%		0.2763 lk
ST payable		₹ 9,48,630
		i.e. 9.4863 lakh

Note: All figure are excluding S. Tax

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Air Travel Agent & Air travel Service

Rule 6 of Valuation Rules

- for Air Travel Agent
  ↓ ST payable
  ↓
  Only on commission received from Air. Travel.

- for Air Travel service
  ↓
  ST Payable
  ↓
  Amount of Tickets
  (-) All Taxes paid.

■ Air travel Agent have option of composite Scheme

- ~~for Basic~~ service provided = Basic fare
  (-) All Taxes paid

◆ for Domestic ticket	0.6%
◆ for foreign/International ticket	1.2%

Composite Scheme for Promotion or Marketing of Lottery Services

Q.26 Calculation of ST payable U/Rule 6(7C)

	laxmi	money.
Mode/Type of lottery scheme	Other then Online	Online
Aggregate face value of tickets printed (for online scheme it shall mean value of ticket sold)	38 cr	39.45 cr
No. of block of Rs 10 lakh or part of Rs 10 lakh	380	395
Prize pay out	75%	55%
Composition Tax	11000 Per block	7000 Per block
Total composition Tax	41,80,000	27,65,000
Add 3% cess	125400	82950
	4305400	28,47,950

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Q.25 Calculate ST payable under normal Scheme

(A) US $ 100000 Sold

diff in RBI Rate & agent Rate per US$ (55 - 54.48)	₹ 0.52/$
Value of Taxable Service for $ 100000	₹ 52,000

(B) GBP 50,000 Purchased

diff in RBI Ref Rate & agent rate per GBP (75 - 75.60)	₹ 0.60/£
Taxable Value of transaction	₹ 30,000

(C) Exchange US $ 25000 for GBP

Equivalent GBP in transaction $\left(25000\ \$ \times \frac{55/\$}{75/£}\right)$	£ 18,333

INR Equivalent (using RBI Ref Rate)

of US $ 25000 @ 54.48	1362000
of GBP 18333 @ 75.60	1385975
Value of ~~transaction~~ taxable Service @ 1% of lower of Two above	1362
Total Value of Taxable Service	95620
ST @ 12.36%	11818.6

45 ✓

Calculation of ST Payable under Composition scheme

(A) US $100000 Sold for Rs 300000 per transaction

Total Transaction Value
(100000 $ X 55) ₹ 5500000

÷ 18 transaction of 300000 300000

No. of transaction of for Rs 300000 18

No of transaction of Rs 100000 1

Composite Tax

$$\left[\{120 + (3\text{ lakh} - 1\text{ lakh}) \times 0.06\%\right] \times 18\} + (100000 \times 0.12\%)$$ 4440.

(B) GBP Sold in 5 transaction

Transaction value per transaction
GBP 10,000 x 75 750000

Tax

$$[120 + (750000 - 100000) \times 0.06\%] \times 5$$ 2550 ~~4500~~

(C) US$25000 exchanged for GBP.
Equivalent INR transaction using agent rate
(25000 x 55) 1375000

Tax Composite
(660 + (13,75,000 - 10,00000) x 0.012%) 705

~~x +~~ Total Compo. Tax 7695

Add 3% cess 231

792

Adjustment of ST paid in Excess [Rule 6(3) of STR]

Situation I

Service provider has received in advance 112360/-

Service Tax has been paid on advance ₹12360/-

Contract gets cancelled & Service will not be provided

↓

Solution

1st refund the advance amount including ST to the customer

↓

Now SP can take credit of ST paid by him. & adjust it with next month/quarters liability.

	I	II
Eg. Advance	100000	100000
ST	12360	12360
Invoice Amt	112360	112360

↓ ↓

Contract Cancelled & Refund given to Customer 112360 — 80% 80,000 / 9888 / 89888

↓ Refund in full Amt ie. 12360

↓ Refund also in Proportinate Amt

STR]

Situation II

SP has provided Services & issue invoice. of Rs 100000 + 12360 = 112360

112360/-

↓

SP has paid ST of Rs 12,360

↓

Subsequently, amount of invoice is renegotiate due to poor quality of service or any other reason i.e. ₹ 80,000 + ₹ 9,888 = ₹ 89,888

↓

1st issue an appropriate credit note to the custome of ₹ 20,000 + 2472 = ₹ 22,472

↓

Now service provider will take credit of ₹ 2472 & adjust it with next month/quarters liability

Situation III

In case of Bad debts, no adjustment has to done Only refund has to claim.

Rule 6 (4A) of STR - ST paid in excess

Service provider can adjust the ~~st.~~ Service Tax paid in excess with his next month/quarterly's liability

Excess payment of ST must not be due to reasons involving interpretation of law.

Sec 69 Registration

$\boxed{69(1)}$:- Every person liable to pay ST shall obtain registration in manner prescribed

$\boxed{\text{Rule 4 of STR}}$

69 (2) : Any other category of person as notified by CG shall also obtain registration in manner prescribed

↓

$\boxed{\text{Rule 4 of STR}}$

↓

Service Tax
(Registration of special category of person) Rules, 2005

Rule 4 of STR

Apply in form ST1 to Superintendent of Central Excise within 30 days.

(i) Existing Service provider, Service Tax is introduced for 1st time.

↓

Apply for registration within 30 days from the date when Service became taxable (provided SSP Exemption not claimed)

(ii) Service is taxable, new service provider has commenced business for 1st time

↓

Apply within 30 days from date of commencement

Service Provided from Multiple Locations

Separate registration is required for each location

However, Service provider may obtain Centralised registration if there is a System of centralised accounting /billing form one location.

↓

Application for Central ~~regisi~~ registration must be filed to Comm. of CE*

Multiple Service Provided from One location

Only one Registration is Sufficient for all categories of taxable Services.

Rule 4 (5) * Superitendent of Central Excise Shall give registration certificate in form ST 2 within 7 days from the date of application

↓

if not issued within 7 days then SP is deemed to be registered.

Karanchand Thapar & Bros Ltd (KOL)

Rule 4(5) for registration certificate will not apply to centralised registration as * comm of CE is not bound to issue RC within 7. & ~~[illegible]~~ SP Cannot be deemed registered.

Changes in detail of certificate

furnished details of such changes within 30 days to AC/DC

and obtain a revised registration certi.

→ In case of transfer of business
→ transferee has to obtain fresh certificate.

→ If business closed then surrender the RC

Special Category Registration Rules [Sec 69(2)]

(1) SSP

Apply for registration u/r 4 of STR within 30 days from the date when invoices issued for taxable service exceeds ₹ 9 lacs

(2) **Input** Service distributor

ISD → Head office - Mumbai. [taken service & paid tax of 800,000

Delhi Br.
(Service provider)

Bangalore Br
(SP)

Harish

ISD

is HO of Service provider or Manufacture
↓
ISD transfer ST on input Services to its branches.
↓
Apply for registration within 30 days from commencement of business.

Sec 70 Service Tax Returns.

Every assessee shall himself assess the ST due & furnish the details in ST returns in manner prescribed.
Rule 7 & 7B of STR

along with late fee which cannot exceed ₹ 20,000. Calculated in manner prescribed.
Rule 7C of STR

Rule 7 of STR

file return in form ST-3 - Self Assessment
or
form ST-3A - Provisional assessment

half yearly to Superintendent of C.E.
On or before 25th day of month following the half year

I half year April to Sept - 25th Oct
II half year Oct to Mar - 25th Apr.

All assessee are required to file return Electronically.

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Rule 7B Revision of Return

due to omission or mistake

↓

within 90days from the date of filing of original return

Kumar Jagdish Chandra Sinha (SC)
judgement u/s 139(1) of Income tax Act

Revision of return is not possible if original return is filed after due date

Rule 7C calculation of late fee

Delay up to 15 days - 500
Delay ~~15days~~ up to 30 days - 1000
~~30days upto 45 days~~ --
Delay more then 30 days = 1000 +
100 per day after 30 days
↓
Max 20,000

Central Excise officer cannot have the power to wave off the penalty
but In case of NIL Return & the sufficient cause provided by the assessee the penalty can be wave off

31/5

Q. Return of half year ending on 31st May 12 has been filed on 7/6/12. Calculate late fee payable u/s. 7C.

due date - 25/April, 2012
date of return filing 7 June 12

delay in days : 44

upto 30 days = 1000
+13 ~~15~~ days ×100 = 1300
2300

for provisional Assessment interest is payable @18% & refund is ~~to~~ @ 6%

for calculation of interest payable period is the 1st day of month succeeding the month ~~of~~ for which provisional assessment have been done till the ~~p~~ date of payment.

30days Q. Provisional Assessment for Jan.
Provisional Tax paid ₹ 6000 → 5 Feb
25 April - Returned filed
15 May - final assessment
Taxable Service

(1) Tax paid on 22 May. ② Tax paid on 28 April

Ans (1) ₹6360 × 18% × 111/365 = 348 (1/2 to 22/5)
② 6360 × 18% × 87/365 = 273 (1/2 to 28/4)

		Int	Red. Int
upto	1/4/11	13%	
After	1/4/11	18%	15%

Q. if Tax is Payable on ~~5/0~~ 5/1/11 then Calculate the Int Tax 50,000 ~~paid~~ paid on 5/8/2014

upto 1/4/11 50000 × 13% × =

After 1/4/11 50,000 × 18% × =

*

Sec 76] Delay in payment
Sec 77] penalties
Sec 78] Penalty for evasion of ST (Read with Sec 73)

~~Subject to Sec 80.~~

if Sec 78 Applicable the Sec 76 – Not App

No penalty u/s 76, 77 & 78
Subject to Sufficient cause of failure.

Q. Tax Payable 200000
Due date of Penalty 5/oct/2012
Actual date of payment 29/oct/2012

Ans Penalty u/s 76
higher of

(1) Rs 100 Per day for 24 days ✓ 2400
(2) 1% p.m. of 200,000 × 24/30 days ~~1600~~ 1548

Taxable Service

26/06/12

-: ~~Taxable Service~~ Sec 65 (105) :-

(1) Practicing chartered Accountant.
↳ = Member of ICAI + COP.

Services provided by a practicing CA in ~~the~~ his professional capicity is taxable

- Representation Services are also taxable w.e.f 1/5/11
- Consultancy Services, Certification Services are also taxable.

Point of Taxation

last year taxable Service provided is | POT
> 50 lakhs | Cash receipt basis
< 50 lakhs | Rule 3,4 of POTR.

(2) Legal Consultancy Services

- Service provided to *any person* by a *business entity* in relation to advice, Consultancy or assistance in any branch of law.

AOP/BOI/firm/Co. but does not include individuals

- Service provided to *Business entity* by any *person* in relation to representation before any ~~Board~~ / Court / Tribunal etc.

- To any business entity by an arbitral tribunal under arbitration & Conciliation Act, 1996.
taxable w.e.f. 1/5/11
★ Exempted by NN 45/2011 ★

- following Services are also taxable

Services of verifying documents or authenticating proofs etc. Submitted by employees.

Goods Transport Agency by Road. (GTA)

(1) Abatement of 75%.
(2) Consignment note is Mandatory.
(3) S.T. will be charged on freight amount

Exemption :-

(1) When total freight of a goods carriage is less then 1500 - No S.T.

(2) When individual consignments freight does not exceed ₹750 - NO ST.

Eg. In a Vehicle.

(1)

Consinor	Consignee	Freight	
A	D	700	- exemption as >750
B	E	600	——— 11 ———
C	F	800	→ Taxable
		2100	→ more then 1500 NO Exemption

(2)

A	D	700	No exemption as sent to one person & more then 750.
B	D	600	
C	D	800	
		2100	- No exemption

(3)	A	B	400	- exempt > 750
	A	C	800	- exempt due to
	A	D	200	- exempt > 750.
			1400	- Exempt as >1500

Other Exemptions

- Transportation of fruits, vegetables, eggs, milk, foodgrains, pulses, are exempts.

- GTA Service taken for transportation of goods (where place of origin & place of destination is Outside India) by a recipient located in India is exempted (Not to considered as import)

- following Services are not taxable if provided to GTA for transportation of goods.

  (i) Manpower recruitment & Supply Services.
  (ii) Cargo handling Services.
  (iii) Business Auxilliary Services
  (iv) Packing Services
  (v) Storage Warehouse Services
  (vi) C & f agents Services
  (vii) Supply of tangable goods for use Services.

- they have to provide Consignment note no on their invoice.

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Transport of goods by Air :

ST will be charged on freight.

Transportation within India
- Taxable in all classes

from/to Outside India
- Export of goods by Air → is exempt
- Import of goods by Air → Air freight is taxable but air freight included in value of goods for charging custom duty is not taxable under ST.

Transportation Completly outside India
- N/N. 8/2011 Exempted if place of origin & dispatch is outside India

eg) 100. Goods Imported (FOB Value)

25 freight charged by Air India

20 → Added to FOB for charging custom duty

5 → Taxable under transport of goods by Air @ Services