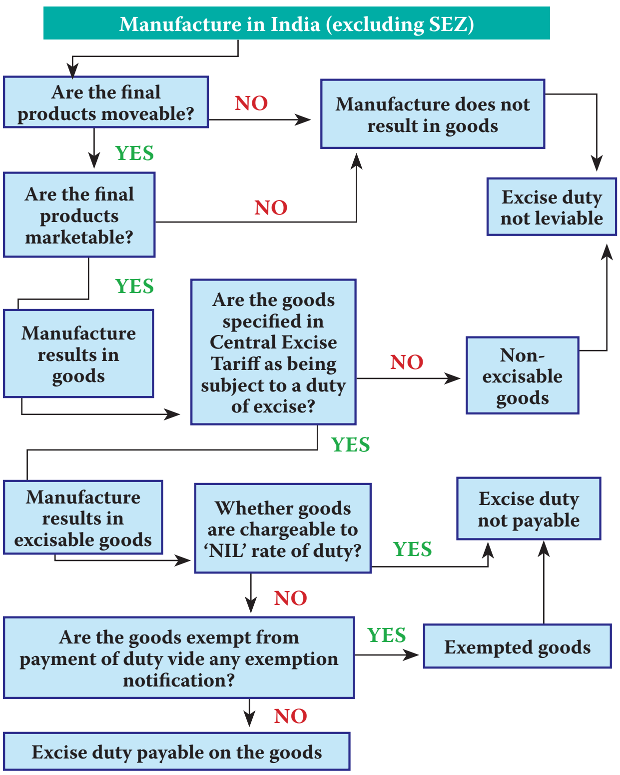
Indirect Tax Laws: A Capsule for Quick Revision

It has always been the endeavour of Board of Studies to provide quality academic inputs to the students of Chartered Accountancy Course. Keeping in mind this objective, BoS has decided to come out with a crisp and concise capsule of each subject to facilitate students in quick revision before examination. The first of such series of capsules is on Paper 8: Indirect Tax Laws of the Final Course.

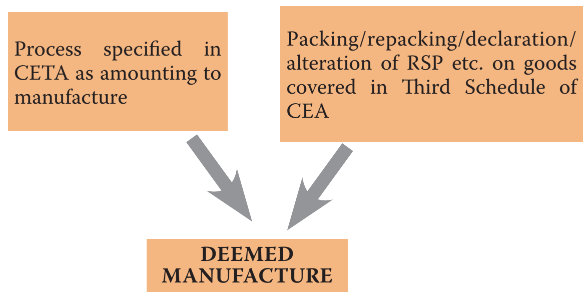
The capsule on Paper 8: Indirect Tax Laws is based on the position of law as amended by the Finance Act, 2016 & significant notifications and circulars issued till 31.10.2016 and is thus, relevant for students appearing in May, 2017 examination. Students may note that this capsule is a tool for quick revision of some significant aspects of indirect tax laws and thus, should not be taken as a substitute for the detailed study of the subject. Students are advised to refer to the relevant Study Material, Practice Manual, Supplementary Study Paper – 2016, Select Cases in Direct and Indirect Tax Laws – 2016 and Revision Test Paper for May, 2017 examination for comprehensive study and revision.

Central Excise

1. Levy of excise duty



Manufacture is a process that leads to emergence of a new commercial product, different from the one with which the process started, having a different name, character or use. Manufacture includes deemed manufacture.



Assembly would amount to manufacture if it results in new commercial commodity with a distinct name, character and use.

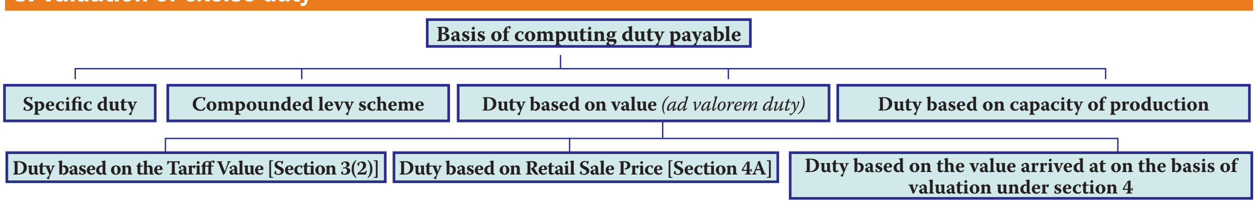
Goods manufactured at site will be liable to duty if they have a new identity, character and use, distinct from the inputs/ components that have gone into its production; and are excisable goods.

Waste/scrap that are excisable goods and generated in the course of manufacture are chargeable to duty.

2. Collection of duty

Particulars	Person liable to pay duty	Event for duty payment	Relevant date
1. Excisable goods (other than khandsari molasses) produced and stored in factory of manufacturer	Manufacturer	Removal of goods from factory	Date of removal of such goods from factory
2. Khandsari molasses produced and stored in factory of manufacturer	Procurer of the khandsari molasses	Receipt of such molasses by procurer	Date of receipt of such molasses in factory of procurer of such molasses
3. Excisable goods produced and cleared for captive consumption in factory of production	Manufacturer	Issuance of goods for further production	Date on which the goods are issued for such use
4. Excisable goods produced in the factory and stored in a warehouse without payment of duty	Person who stores such goods in the warehouse	Removal of goods from the warehouse	Date of removal of goods from the warehouse

3. Valuation of excise duty



RSP based valuation

Excisable goods need to be valued in terms of section 4A if the following two conditions are satisfied cumulatively:

Said goods are covered under the Legal Metrology Act, 2009/ any other law and such law requires declaration of the RSP on the package of such goods

+

Said goods have been notified by Government as goods on which duty will be paid on the basis of the RSP less abatement (given as a % of the RSP)

RSP is the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer. It includes all taxes, freight, commission payable to dealers, all charges towards advertisement, delivery, packing etc. However, RSP may exclude taxes if the provisions of the CEA or Legal Metrology Act, 2009 require so.

All goods bearing RSP not covered under section 4A - Only when the declaration of RSP on the goods is mandatory under the Legal Metrology Act, 2009 or under any other law and such goods have been notified by the Central Government for the purpose of section 4A, will the goods be valued under section 4A.

Value = RSP printed on the package – Abatement, if any, notified by the Government

- Maximum RSP deemed to be the RSP, if more than one RSP declared
- Each RSP deemed to be the RSP, if different RSPs on different packages meant for different areas
- Increased RSP deemed to be the RSP, if RSP increased after removal from factory
- RSP declaration not mandatory on wholesale packages

Valuation under section 4 (Transaction Value)

Duty chargeable with reference to value under section 4

↓

Whether goods have been delivered at the time of removal? — NO → **Goods to be valued as per Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000**

YES ↓

Whether goods have been delivered at the place of removal? — NO → Goods to be valued as per Central Excise Valuation Rules, 2000

YES ↓

Whether buyer and the assessee are related persons? — YES → Goods to be valued as per Central Excise Valuation Rules, 2000

NO ↓

Whether price is the sole consideration? — NO → Goods to be valued as per Central Excise Valuation Rules, 2000

YES ↓

Assessable Value = Transaction Value

Related Persons

- Inter-connected undertakings [ICU]
- Relative as per Companies Act
- Distributor who is a relative or a sub-distributor of such distributor
- Direct or indirect interest in the business of each other

Transaction Value (TV)

TV means the price actually paid or payable for the goods when sold → and includes ↓

in addition to the price any amount that the buyer is liable to pay to or on behalf of the assessee **by reason of or in connection with the sale** whether payable at the time of sale or any time thereafter

Illustrative list of items included in TV

- Marketing and selling
- Storage
- Outward Handling
- Servicing
- Warranty
- Commission
- Any other matter
- Advertising or publicity

Items excluded from TV if actually paid or actually payable

- Excise duty
- Sales tax
- Other taxes

Inclusions in /Exclusions from TV

Inclusions in TV	Exclusions from TV
➢ Outward handling upto place of removal	➢ Durable/reusable packing as it is amortized and included in the cost of product itself
➢ All forms of packing (special, general, protective, etc.)	➢ Optional bought out items and accessories
➢ Dharmada or charity	➢ Independent testing done by the buyer himself or through a third party
➢ Design, development and engineering charges specific to goods produced	➢ All forms of discount if actually passed on to the buyers.
➢ Bought out essential items if the same are fitted to the main article at the time of removal.	➢ Notional interest on deposits, advances unless it can be proved that price has been lowered on account of receipt of such advance from the buyer
➢ Consultancy charges relating to design, layout, etc. of final product done upto place of removal	➢ Interest on delayed payment of receivables
➢ Testing & inspection charges	➢ Bank charges for collection of sale proceeds
➢ Pre-delivery inspection charges and after sales service charges **collected by the manufacturer**	➢ Delayed payment charges
➢ Freight from factory to depot if sale is from depot	➢ Outward freight from factory/ depot to place of customer. ➢ Transit insurance

Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

Situation covered	Value
Rule 4 - Goods not sold at time of removal	Value of such goods sold at the time nearest to the time of removal of goods under assessment with reasonable adjustments
Rule 5 – Sale for delivery at a place other than the place of removal	TV excluding cost of transportation from place of removal up to the place of delivery
Rule 6 – (i) Sale when price is not the sole consideration **(ii) Goods sold when price is not the sole consideration at a price less than manufacturing cost and profit, and no additional consideration is involved**	**(i)** TV plus money value of additional consideration received **(ii)** TV
Rule 7 – Depot sale	Normal transaction value (NTV) of goods sold from depot at the time/nearest time of removal of goods under assessment from factory
Rule 8 – Captive consumption (partly or wholly)	110% of cost of production
Rule 9 – (i) Sale to a related person (partly or wholly) **(ii) Sale to a related person when such related person captively consumes such goods** **[Excluding ICU]**	(i) NTV at the time of removal at which the related buyer sells to unrelated buyer (ii) 110% of cost of production
Rule 10 – Sale to ICU [partly or wholly] which is a holding/subsidiary or it is related person under section 4(3)(b)	NTV of buyer to unrelated persons
Rule 10A – Goods manufactured by job worker on behalf of principal manufacturer	TV at which the raw material supplier (principal manufacturer) sells the final product in the market.
Rule 11 – When value cannot be determined by any of the above rules	Value determined by best judgement assessment i.e., by using reasonable means consistent with the principles and general provisions of these rules and section 4(1).

4. CENVAT Credit [CENVAT Credit Rules, 2004]

CENVAT credit scheme grants credit of excise duty paid on inputs and serivce tax paid on input services to be set off against the excise duty payable on final products/service tax payable on output services.

In effect, a manufacturer or a service provider actually pays amount equal to duty/service tax as shown in invoice less the CENVAT credit available to him.

Provisions relating to availment and utilisation of credit of service tax do not apply to State of J&K.

Inputs eligible for credit [Rule 2(k)]	Inputs ineligible for credit [Rule 2(k)]
• All goods used in factory • Accessories cleared along with final product whose value is included in the value of final product, and warranty spares etc. • Goods used for providing output service • Goods used for generation of electricity or steam or pumping of water for captive use • Capital goods which are used as parts or components in the manufacture • Capital goods upto ₹ 10,000 per piece	• LDO, HDO (petrol) • Goods used for construction of building or laying of foundation/making support structures of capital goods [Such goods will be eligible when used for providing service portion in execution of works contract/ construction service.] • Motor vehicles • Goods used for personal benefit/consumption of employees • Goods having no relationship with manufacture
Input services eligible for credit [Rule 2(l)]	**Input services ineligible for credit [Rule 2(l)]**
• Services used for providing output service • Services used directly/indirectly in manufacture **and includes** services used in relation to renovation/repairs of factory/premises of output service provider, advertisement/sales promotion, accounting, auditing, coaching and training, inward transportation of inputs/capital goods, outward transportation upto place of removal etc.	• Construction or execution of works contract of a building or laying of foundation/making support structures of capital goods except when such services are used for provision of one or more such services • Motor vehicle related services like renting, repairs, insurance (except where motor vehicle is eligible as capital goods) • Services used for personal benefit/consumption of employees

Capital goods eligible for credit [Rule 2(a)]

- Machinery, plant, spare parts of machinery, tools, dies, etc. specific motor vehicles (e.g. tractors, special purpose motor vehicles, dumpers and tippers etc.) as defined in rule 2(a), used in the factory of manufacturer of final product and/or used for providing output service [Credit on eligible equipment and appliance used in an office located in a factory now available.]
- Capital goods used outside the factory for generation of electricity or for pumping of water for captive use within the factory (Service provider can use capital goods anywhere)
- Motor vehicles designed for transportation of goods, when used for renting, transportation of goods for providing output service and courier service; if registered in the name of service provider
- Motor vehicles designed to carry passengers, when used for renting, transportation of passengers or imparting motor driving skills; if registered in the name of service provider
- Components, spares and accessories of motor vehicles which are capital goods

Availment and utilization of CENVAT credit [Rule 3]

Excise duty, Service tax, CVD, Special CVD, NCCD, KKC are eligible for CENVAT credit. Credit of special CVD is not allowed to a service provider.

Credit of SBC is not available and SBC can also not be paid by utilizing credit. Credit of KKC can only be used to pay KKC.

Credit cannot be used to pay service tax payable under reverse charge.

All taxes and duties specified in rule 3(1) form a pool of credit which can be utilised by manufacturer/ output service provider for payment of any tax or duty as specified in rule 3(4). CENVAT Credit Rules do not require input-output correlation to be established.

Credit available on the last day of the month/quarter can only be utilised to pay monthly /quarterly tax/duty liability.

Reversal of credit on inputs and capital goods under rule 3

Inputs/capital goods removed as such	→ Amount equal to the credit taken on inputs or capital goods to be reversed
Capital goods removed after use as scrap	→ Amount equal to duty leviable on TV of scrap
Capital goods removed after use (not as scrap)	→ Amount payable = Credit availed - 2.5% per quarter (Higher reduction in case of computers) or duty calculated on TV of old capital goods, whichever is higher

Conditions for availing CENVAT credit [Rule 4]

- Credit on inputs and capital goods can be taken as soon as they reach the factory or premises of service provider. Service provider is allowed to avail credit on inputs and capital goods delivered outside his premises also.
- Credit on input services can be taken on receipt of invoice from service provider. However, if payment is not made to service provider within three months, the CENVAT credit is required to be reversed. In case of reverse charge, credit can be availed on payment of service tax.
- Credit on inputs and input services should be availed within one year of the date of invoice. No time limit for input services in case of assignment of right to use any natural resources by Government.
- In case of capital goods, upto 50% credit is available in current year and balance in subsequent financial year. SSI unit can avail entire 100% CENVAT credit in first year itself. 100% credit of special CVD paid on capital goods can be availed in the first year.
- Assessee should not claim depreciation on duty portion on which he has availed CENVAT credit.
- Capital goods acquired by lease, hire purchase or loan are eligible for credit.
- Inputs and capital goods can be sent to job worker for processing. After job work, inputs should be returned within 180 days and capital goods should be returned within 2 years. If not, credit on such inputs and capital goods should be reversed. Final product can be cleared directly from premises of job worker on obtaining permission of AC/DC. Credit is allowed on moulds, dies etc. sent to job worker/another manufacturer for production of goods.

Refund of CENVAT credit [Rule 5]

- CENVAT credit will be refunded as per the following formula when final products or output service is exported without payment of duty/tax:

$$\left[\frac{\text{Export turnover of goods + Export turnover of services}}{\text{Total Turnover}} \text{ x Net CENVAT credit}\right]$$

- Such refund will not be allowed if drawback is availed or rebate of excise duty or service tax is claimed.

Obligation of manufacturer/service provider [Rule 6]

Sub-rule (1) of rule 6

CENVAT Credit

Not Allowed

Inputs

Input Service

Used in/in relation to

Manufacture of exempted goods

Provision of exempted service

Manufacture of exempted goods and their clearance up to the place of removal

Provision of exempted service

Credit not allowed to be paid in terms of sub-rules (2) or (3) of rule 6

Credit on inputs allowed to jewellery job worker clearing goods without payment of duty

Explanations to sub-rule (1) of rule 6

Exempted goods/ Final products

include

Non-excisable goods

Value of such goods = invoice value

If invoice value not available - Value to be determined by using reasonable means consistent with excise valuation principles

Exempted Service

includes

Activity which is not a service under section 65B(44) of the Finance Act, 1994

Value of such activity = invoice/ agreement / contract value

If such value is not available - Value to be determined using reasonable means consistent with principles of valuation under service tax law

Credit reversal provisions under 6

Credit on input/input services used in manufacture of non-excisable goods or for provision of an activity which is not a service liable to be reversed

Exempted service means fully exempted services, services on which no service tax is leviable u/s 66B, abated services, but does not include export services and outbound transportation of goods in a vessel from India.

Sub-rule (3) of rule 6

Non-exempted goods removed

Exempted goods removed

Non-exempted Services

Exempted Services

Manufacturer

Output service provider

Pay 6% of value of the exempted goods less duty payable, if any, on exempted goods

Pay amount determined under sub-rule (3A) proportionate credit

Pay 2% in case of rail transport of goods and passengers

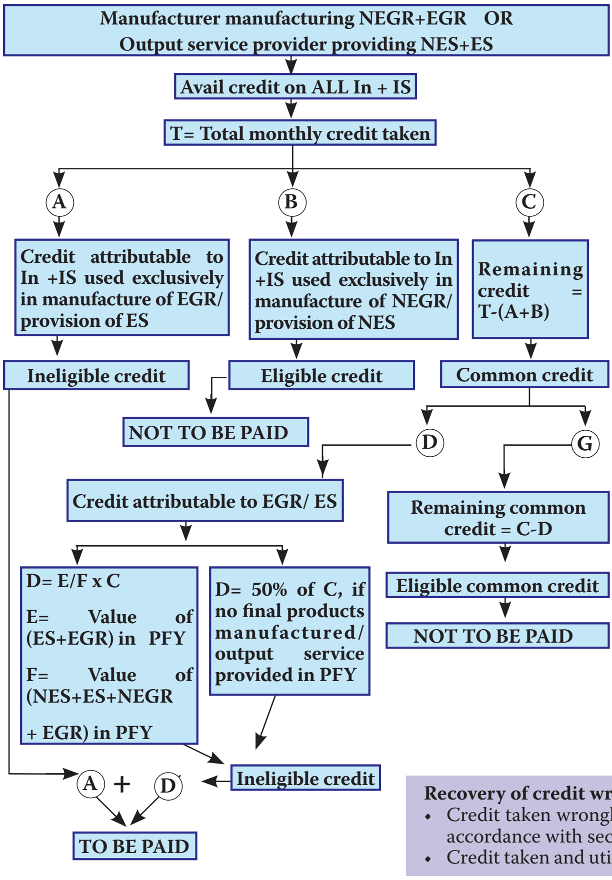
Pay 7% of the value of exempted service

Subject to maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and credit of input and input services taken during that period

Abatement on condition of non availment of CENVAT credit on inputs and input services – 7% of value of exempted service (total value – abated value)

Option once exercised will apply for all exempted goods or exempted services and cannot be withdrawn during remaining part of the financial year

Sub-rule (3A) of rule 6



At the end of the year actual amounts of A+D will be computed for the whole year in the similar manner as described above by taking annual figures of T, B & C and H [value of ES + EGR during the FY] & I [Value of NES+ ES + NEGR + EGR during the FY] in place of E & F.

Shortfall, if any, will be paid by 30th June of the SFY failing which interest @ 15% will be payable from 30th June of SFY till the date of payment of such amount.

Excess amount paid, if any, can be taken as credit. If the amount to be paid provisionally is not paid by the due date of payment, interest @ 15% will be payable from the due date of payment till the date of payment of such amount.

NEGR : Non-exempted goods removed
EGR : Exempted goods removed
NES : Non-exempted services
ES : Exempted service
In : Inputs
IS : Input Services
PFY : Preceding Financial Year
FY : Financial Year
SFY : Succeeding Financial Year

Input Service Distributor (ISD) [Rule 7]

- ISD is an office of the manufacturer/service provider, which receives invoices towards purchases of input services and issues invoices for distributing credit of service tax paid on said services to such manufacturer/service provider or an outsourced manufacturing unit.
- ISD distributes the credit *pro rata* on the basis of the turnover of units during the relevant period to the total turnover of all the units, which are operational in the current year, during the said relevant period.

- Warehouse of a manufacturer can distribute credit on inputs received by it to different factories of that manufacturer [Rule 7B].

Credit on basis of specified documents [Rule 9]

- Credit can be availed only on the basis of specified documents as proof of payment of duty on inputs or service tax on input services e.g., invoice of service provider/ manufacturer/ registered dealer, Bill of Entry, supplementary invoice etc.

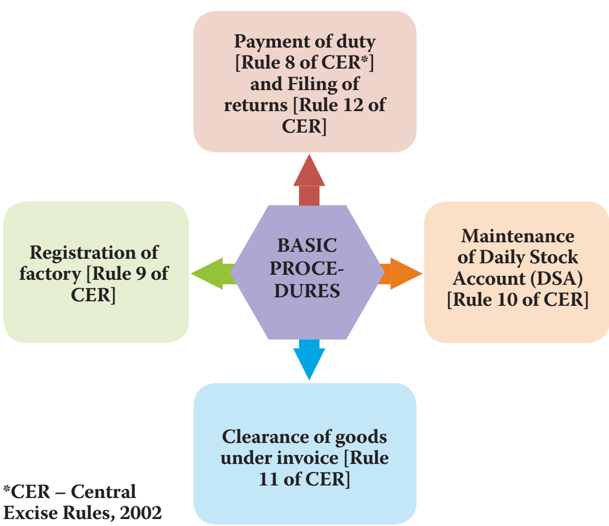
Recovery of credit wrongly taken and utilised [Rule 14]

- Credit taken wrongly but not utilised can be recovered from manufacturer/service provider in accordance with section 11A of CEA/section 73 of FA, 1994.
- Credit taken and utilised wrongly or erroneously refunded will be recovered along with interest.

Penalties [Rules 15 & 15A]

Credit taken or utilised wrongly-non-fraud reasons	Credit taken or utilised wrongly by manufacturer- fraudulent reasons	Credit taken or utilised wrongly by service provider - fraudulent reasons	Contravention of the rules for which no penalty has been prescribed
Confiscation of goods and penalty in terms of clause (a) or clause (b) of section 11AC(1) of CEA or section 76(1) of FA, 1994	Manufacturer also liable to pay penalty in terms of clause (c), clause (d) or clause (e) of section 11AC(1) of CEA.	Service provider also liable to pay penalty in terms of section 78(1) of the FA 1994.	Penalty up to ₹ 5,000

5. Basic Procedures



*CER – Central Excise Rules, 2002

Persons requiring registration

- Manufacturer
- First stage and second stage dealer
- Person holding private warehouses
- Importer issuing CENVATable invoices

Persons exempt from registration

- Persons manufacturing nil rated/exempt goods
- SSI units
- Persons manufacturing excisable goods under customs warehosuing procedures, if all their products are exported
- 100% EOU not having any dealing with DTA and SEZ unit

- Assessee conducting business both as an importer and a first stage dealer can take one common registration.
- Registration is to be applied online. Pending post facto verification of premises, registration will be granted within 2 days of the receipt of completed online application.
- Two or more premises of same factory located within a close area can have single registration on fulfillment of specified conditions.

Payment of duty [Rule 8]

* Duty is payable electronically by 6th of following month.
* SSI units availing SSI exemption have to pay duty on quarterly basis by 6th of month following the quarter.
* For non-electronic payment, due date is 5th of following month/ quarter
* For the month of March, duty is payable by 31st March, both by large units as well as SSI.
* While paying duty, CENVAT credit available as on last day of the month can only be availed (even if duty is payable by 6th).

* If there is delay in payment, interest is payable @ 15%.
* If duty, as declared in return, is not paid within one month from due date, the assessee will be liable to pay penalty @ 1% for each month or part thereof, calculated from the due date. 'Month' means the period between consecutive due dates for payment of duty.

* Self assessed duty mentioned in return, interest and penalty under rule 8(3A) will be recovered under section 11.
* Duty includes amount payable in terms of CCR.

Returns

Form of Return	Category of assessee	Periodicity	Due date
ER-1	All assessees except SSI	Monthly	By 10th day of the following month
ER-2	EOUs	Monthly	By 10th day of the following month
ER-3	Assessees **eligible** for SSI concession (even if it does not avail the concession)	Quarterly	By 10th day of the month following the respective quarter
Annual Return	Assessees paying duty of ₹1 crore or more per annum either through PLA or CENVAT or both together	Annually	By 30th November of the succeeding year
ER-8	Assessees paying 1%/2% excise duty, assessee manufacturing specified exempted goods under *Notification No. 12/2012 CE dated 17.03.2012* and not manufacturing any other goods	Quarterly	By 10th day of the month following the respective quarter
Return of CENVATABLE invoices issued under rule 9(8) of CCR	Registered dealers and importers	Quarterly	By 15th day of the month following the respective quarter

- All the returns are to be filed electronically.
- EOU is also required to file the Annual Return.
- ER-1, ER-2 & ER-3 filed by the due date may be revised by the end of calendar month in which the original return is filed.
- Annual return filed by the due date may be revised within 1 month from the date of submission.
- On belated filing of returns, an amount of ₹ 100 per day will be payable subject to maximum of ₹ 20,000.

6. SSI - *Notification No. 8/2003 CE dated 01.03.2003*

Units having turnover upto ₹ 4 crores in the previous financial year → **and manufacturing goods specified in the SSI exemption notification** → **are eligible for exemption from duty up to turnover of ₹ 1.5 crore in the current financial year**

SSI unit can avail CENVAT credit on inputs and input services only after it starts paying duty. However, CENVAT credit of capital goods can be availed even if these were received during period of exemption. → **Simultaneous availment of CENVAT and SSI exemption permissible if SSI manufactures with other's brand name - NOT IN OTHER CASES**

Goods manufactured by an SSI unit with brand name of others are not eligible for SSI concession.

EXCEPTIONS

Goods manufactured in rural area

Goods bearing brand name of KVIC/NSIC/ SSIDC

Account books, registers, writing pads and file folders

Packing material even if it bears brand name of another person.

Clearances to be excluded for computing limit of ₹ 150/400 lakh

- **Export turnover**
- **Clearances without payment of duty to 100% EOU/EHTP/STP/SEZ / UN/International organisation**
- **Clearances bearing brand name of another perosn**
- **Clearances exempt under job work Notification No. 214/86-CE, 83/94-CE and 84/94-CE**
- **Processing not amounting to manufacture and traded goods**
- **Intermediate goods/captive consumption when final product eligible for SSI exemption**

Points to note:

(i) Exports to Bhutan to be INCLUDED for ₹ 150/400 lakh limit

(ii) Turnover of goods cleared with brand name of another person to be INCLUDED for ₹ 150/400 lakh if such goods are eligible for SSI exemption e.g. goods manufactured in rural area etc. (exceptions given earlier)

Clearances treated differently for computing limit of ₹ 150 /400 lakh

Turnover of goods exempted under notification other than SSI notification to be excluded ONLY for ₹ 150 lakh and NOT FOR ₹ 400 lakh. Thus, such turnover will be included for Rs. 400 lakh limit.

Clearances to be clubbed for calculating SSI exemption limit:

- **Clearances of different manufacturers using different parts of one factory**
- **Clearances of all factories belonging to one manufacturer**
- **Clearances of different manufacturers using same factory at different parts of the year**
- **Clearances of bogus or sham units**

Service Tax

1. Basic Concepts of Service Tax

Meaning of Service [Section 65B(44) of Finance Act, 1994]

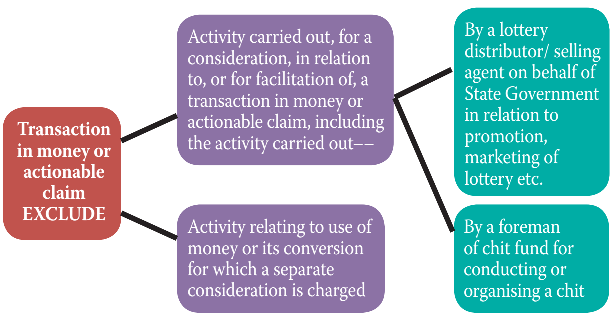
Service means

- any activity for consideration
- carried out by a person for another
- includes a declared service

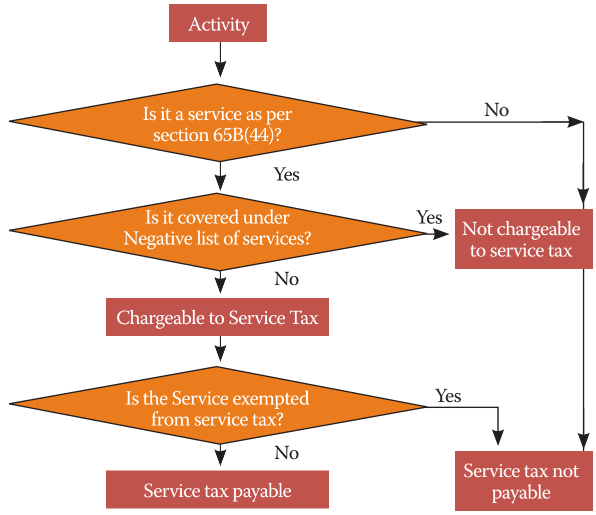
Exclusions from the definition of service	
M	transaction in **MONEY** or actionable claim
E	service by an **EMPLOYEE** to employer in course of employment
T	**TRANSFER** of title in goods/immovable property by way of sale, gift etc.
C	fees taken in any **COURT**/tribunal
D	**DEEMED** sale of goods [Article 366(29A) of Constitution]

Explanations to the definition of service

Explanation 2-Transaction in money or actionable claim



Charge of Service Tax [Section 66B of Finance Act, 1994]



CHARGING SECTION [Section 66B of FA, 1994]

- Service tax @ 14%
- On value of all services
- Other than those specified in negative list
- Provided by one person to another in taxable territory

Effective rate of service tax
15% [14% + 0.5% SBC + 0.5% KKC]

Explanation 1	Explanation 3	Explanation 4
'service' does not cover functions or duties performed by (a) Members of Parliament/ State Legislatures/ Panchayat/ Municipalities/ any other local authority, or (b) any person who holds any post in pursuance of the provisions of the Constitution or (c) any person as Chairperson/Member/Director in a body established by Central/ State Governments/local authority and not deemed as employee.	(a) unincorporated association/body of persons and a member thereof - treated as distinct persons; (b) establishment of a person in taxable territory and any of his other establishment in non-taxable territory - treated as establishments of distinct persons.	a branch /agency of a person through which person carries out business is also an establishment of such person.

Declared Services [Section 66E of Finance Act, 1994]

Description	
A	**Assignment** by Govt. of right to use radio-frequency specturm & subsequent transfer thereof
G	**Goods**-transfer of goods by way of hiring, leasing etc. without transfer of right to use such goods, activities in relation to delivery of goods on hire purchase or by way of instalments
F	**Food**-(service portion in supply of food, article of human consumption, drink etc.)
S	**Software**-development, designing, programming, upgradation, customisation, implementation etc. of IT software
A	**Agree**-to refrain from an act or to tolerate an act or to do an act
W	**Works**-contract (service portion)
P	**IPR**-temporary transfer/permitting use/enjoyment of Intellectual Property Right
C	**Construction**-of complex, building etc.
R	**Renting**-of immovable property

Construction in Declared Services	• construction of a complex, building, civil structure or a part thereof, • **including** a complex or building intended for sale to a buyer, wholly or partly, • **except** where entire consideration is received after issuance of completion certificate by competent authority.
Explanation	"construction" includes additions, alterations, replacements or remodelling of any existing civil structure

Negative List of Services (Section 66D of Finance Act, 1994)

	Description
G	Government services. Exception-(a) Services by Department of Posts provided to other than Govt. (Speed post, express parcel post, life insurance & agency services) (b) services in relation to aircraft or vessel in a port/airport (c) transport of goods [(by road except GTA, courier), inland waterways]/transport of passengers (railways in 2nd class, metro, inland waterways, metered cabs/auto rickshaw, vessel not for tourism) (d) any service to business entity
R	RBI (services provided by RBI)
E	Embassy (Foreign Diplomatic Mission) services located in India
A	Agriculture related services [agricultural operations, supply of farm labour, processes which do not alter essential characteristic of agricultural produce but make it only marketable for primary market, renting or leasing, loading, unloading, packing, storage or warehousing of agricultural produce, agricultural extension services, services by commission agent
T	Trading of goods
D	Deposits (Financial services in so far as consideration represented by way of interest or discount; *inter se* sale/purchase of foreign currency)
E	Electricity transmission/distribution
B	Betting, gambling or lottery [excluding activity specified in Explanation 2 to sec. 65B(44)]
T	Toll charges (Access to a road or bridge)
F	Funeral services including transportation of deceased
A	Advertisement in print media (newspaper and books excluding business directories etc.)
R	Renting of residential dwelling for use as residence
M	Manufacture of goods excluding alcoholic liquor for home consumption
P	Passengers transportation (by railway other than 1st class or AC, metro, monorail or tramway, inland waterways, public transport other than for tourism in a vessel within India, metered cabs or auto rickshaws)
G	Goods transportation (by road except GTA or courier, inland waterways)

Principles of interpretation of Bundled Services

Reference to MAIN service → NOT INCLUDE → Reference to service used for providing main service

SPECIFIC description → is PREFERRED → over GENERAL description

Taxability of Bundled Services

Services - NATURALLY BUNDLED in ordinary course of business → treated as → single service which gives such bundle its ESSENTIAL CHARACTER

Services - NOT NATURALLY BUNDLED in ordinary course of business → treated as → service which attracts the HIGHEST AMOUNT OF SERVICE TAX

2. Point of Taxation (POT) Rules, 2011

Rule 3-General Rule		
In case invoice issued within 30 days* from date of completion of service	*POT would be date of invoice or date of payment*	*whichever is earlier*
invoice not issued within 30 days* from the date of completion of service	*POT would be date of completion of service or date of payment*	*whichever is earlier*
****45 days in case of banking and other financial institutions including NBFCs.***		
In case of advance received by service provider	*POT would be date of receipt of each advance*	
Date of completion of service in case of continuous supply of service shall be the date of completion of each event.		
Rule 4-Change in Effective rate of tax		
Invoice issued	*Payment received*	*POT shall be*
A. In case taxable service is provided BEFORE the change in effective rate of tax		
AFTER	*AFTER*	*date of invoice or date of receipt of payment, whichever is earlier*
BEFORE	*AFTER*	*date of invoice*
AFTER	*BEFORE*	*date of receipt of payment*
B. In case taxable service is provided AFTER the change in effective rate of tax		
BEFORE	*BEFORE*	*date of invoice or date of receipt of payment, whichever is earlier*
AFTER	*BEFORE*	*date of invoice*
BEFORE	*AFTER*	*date of receipt of payment*
Rule 5-New Services/ New levy on services		
No tax is payable in following 2 cases:-		
1) to the extent invoice issued and payment received before service became taxable		
2) payment received before service became taxable and invoice issued within 14 days of date when service is taxed for the I time.		

Rule 7-Reverse Charge or Associated Enterprises	
For reverse charge, POT is date of making payment to service provider, or first day occurring immediately after a period of 3 months from date of invoice	*whichever is earlier*
In case of "associated enterprises", where the person providing the service is located outside India, POT is :-	
date of debit in the books of service receiver or date of making payment	*whichever is earlier*
In case of change in service tax liability or extent of liability of service recipient, date of issuance of invoice to be POT if service provided and the invoice issued before date of such change, but payment not made as on such date	
In case of services provided by the Government or local authority to any business entity, the POT will be -	
any payment, part or full, in respect of such service becomes due or payment made.	*whichever is earlier.*
Rule 8-Copyrights etc.	
Applicability of rule-whole consideration is not ascertainable at the time of performance of service, and subsequent use of these services gives rise to any payment of consideration.	
POT is date of receipt of consideration or date of invoice, whichever is earlier.	
Rule 8A-Residual Rule [Best Judgement]	
Where POT cannot be determined as per these rules, CEO, may require production of necessary documents etc. and considering such material, effective rate(s), may determine POT.	

3. Place of Provision of Service Rules, 2012

Rule	Applicability	Place of Provision of service shall be
3	*General rule*	*location of service receiver (if not available, then location of service provider)*
4	*Performance based service (Goods/ individual)*	*location where the services are actually performed*
5	*Immovable Property related services*	*Location (intended location) of immovable property*
6	*Event related services*	*place where the event is actually held.*
7	*Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in taxable territory*	*location in taxable territory where the greatest proportion of the service is provided*
8	*Location of service provider and service receiver is in taxable territory*	*location of service receiver*
9	*Specified services-Banking, OIDAR, Intermediary, Hiring*	*location of service provider*
10	*Transportation of goods, other than by way of mail or courier*	*place of destination of the goods*
	GTA	*location of person liable to pay tax*
11	*Transportation of passengers*	*place of embarkation of passenger on conveyance for continuous journey*
12	*Services on Board of conveyance*	*First scheduled departure point of conveyance*
13	*Powers to notify description of services or circumstances-Central Government*	*Place of effective use and enjoyment of a service*
14	*Order of application of rules-Later rule will prevail*	

4. Valuation of Taxable Service

Value of taxable service- [Section 67]	
where consideration is in terms of money	Gross amount charged by service provider is taken as value of taxable service.
where consideration not wholly or partly in terms of money	value shall be such amount in money which with the addition of service tax charged is the consideration.
in case gross amount charged is inclusive of service tax	value shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

Gross amount charged includes any amount received towards the taxable service before, during or after provision of such service. It includes payment by cheque/credit card, credit notes/debit notes and book adjustment etc.

Consideration includes

- amount payable for the taxable services provided or to be provided
- reimbursable expenditure/cost incurred by service provider and charged in the course of providing taxable service, except in certain specified circumstances
- amount retained by the lottery distributor/selling agent from gross sale amount of lottery ticket [in addition to the fee or commission] Or discount received [Face value of lottery ticket - Price at which the distributor/selling agent gets such ticket].

Service Tax (Determination of Value) Rules, 2006

Valuation of money changing service [Rule 2B]	
Situation	**Value of Taxable Service**
When a currency is exchanged from, or to, Indian Rupees (INR)	(Buying Rate/Selling Rate - RBI reference rate at that time) x Total units of currency
Where RBI reference rate for a currency is not available	1% of the gross amount of Indian Rupees provided or received by the money changer.
Where neither of the currencies exchanged is Indian Rupee	1% of the lesser of the two amounts the money changer would have received by converting any of two currencies into Indian rupees on that day (at the RBI reference rate)

Valuation of services involved in the execution of a works contract [Rule 2A]	
A. On the basis of value of property in goods transferred, adopted for State VAT purposes	
Particulars	**₹**
Gross amount charged for the works contract	xxxx
Less: Value of transfer of property in goods transferred, computed for State VAT purpose	xxxx
Less: VAT/Sales tax, paid or payable, if any, on transfer of property in goods involved in the execution of the said works contract.	xxxx
Value of the works contract service	xxxx

B. Simplified scheme	
Works contract	**Value of service portion**
(A) Original works (i.e. new construction, erection, commissioning, installation of plant, machinery etc.)	40% of the total amount
(B) All works contract other than (A) above including works contract of	
(i) maintenance or repair or reconditioning or restoration or servicing of any goods; or	70% of the total amount
(ii) maintenance or repair or completion and finishing services such as glazing or plastering or floor and wall tiling or installation of electrical fittings of immovable property	
No credit on inputs to be taken by service provider.	
Valuation of services involved in supply of food/drink in a restaurant/outdoor catering [Rule 2C]	
Description	**Value of taxable service**
when food/drink etc. is supplied at a restaurant	40% of the total amount
when food/drink etc. is supplied as outdoor catering	60% of the total amount
No credit on goods falling under Chapter 1 to 22 of Central Excise Tariff to be taken by Service Provider	

Meaning of total amount [for rule 2A & 2C]

Particulars			Amount
Gross amount charged			xxxx
Add: Value of all goods and services supplied in or in relation to the works contract/supply of food etc. (whether or not supplied under the same contract or any other contract)	FMV of all goods & services supplied Less: (i) the amount charged for such goods or services, if any and (ii) VAT/sales tax, if any, levied thereon	xxxx xxxx xxxx	 xxxx
Total amount			**xxxx**

- **Manner of determination of value when the value is not ascertainable** [Rule 3]- Value of similar services in the ordinary course of trade; or equivalent money value of such consideration which should not be less than cost of provision of such service.
- **Rejection of value by Central Excise Officer (CEO) and its determination thereon** [Rule 4]- Issue of show cause notice if CEO is not satisfied with the value declared by assessee. Opportunity of being heard will be provided.

Inclusion in or exclusion from value of certain expenditure or costs [Rule 5]

- **Inclusions:** Expenditure or costs incurred by the service provider in the course of providing taxable service whether they are separately indicated in the invoice issued by the service provider or not.
- **Exclusions:** Amount paid as pure agent if all 8 specified conditions are fulfilled
- **Pure Agent:** person who enters into contractual agreement, does not hold any title to the goods/services, does not use such goods/services and receives only the actual amount incurred to procure goods/services.

Cases in which the commission, costs, etc., will be included or excluded [Rule 6]

- **Inclusions:** Commission/ brokerage charged by a broker, air travel agent, premium charged by insurer, demurrage charges, adjustments made by telegraph authority from initial deposits etc.
- **Exclusions:** Airfare, rail fare, accidental damages due to unforeseen actions not relatable to service, subsidies by Govt. not directly affecting value of service, interest on delayed payment of consideration (not applicable in case service provided by Govt. to business entity) etc.

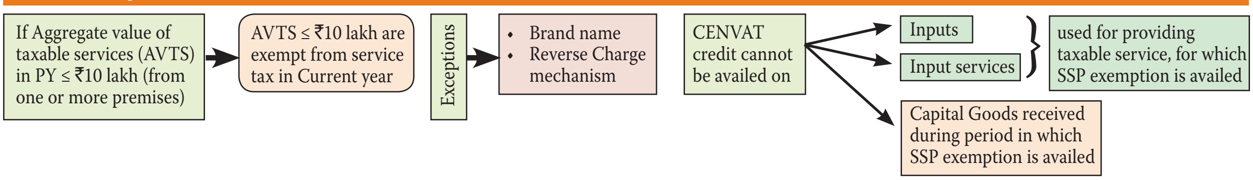
5. Exemptions

Services (Keywords)	Services exempt under Mega Exemption Notification
UN/IO	TO **United Nations or specified international organisation** like WHO, ILO, FAO, IMF, UNESCO.
Health related	**Health care services** BY a clinical establishment/ authorized medical practitioner/ para-medics
	Ambulance services BY any other person
	Stem cells preservation BY Cord Blood Banks
	Service in relation to **Health care of animals/birds** BY a veterinary clinic
	Bio-medical waste treatment service BY common bio-medical waste treatment facility operators TO a clinical establishment.
Charitable	**Charitable activities** BY an **entity registered under section 12AA** of the Income-tax Act, 1961
Religion related activities	**Renting of precincts of a religious place** meant for general public owned/ managed by **specified institutions/entities.**
	Conduct of any religious ceremony
	Services BY KMVN/Haj Committee **in respect of a Religious Pilgrimage** [Haj and Kailash Mansarovar Yatra]
Legal	Services **BY an Arbitral Tribunal** to Non-Business Entity (NBE)/ Business Entity (BE) with preceding FY's turnover ≤ ₹ 10 lakh
	Legal services **BY an Individual Advocate (IA) other than Senior Advocate (SA)/Partnership Firm of Advocates (PFA)** to an IA/ PFA or NBE or BE with preceding FY's turnover ≤ ₹ 10 lakh
	Legal services **by an SA to a NBE** or BE with preceding FY's turnover ≤ ₹ 10 lakh
Coaching	Training or coaching in recreational activities **relating to arts, culture or sports.**
Education	Services **BY an educational institution** to students, faculty and staff
	Transportation of students, faculty and staff, catering, security or cleaning or house-keeping services in educational institution, services relating to admission or examination conduct **TO an educational institution**
	Specified educational programmes provided by IIMs to their students (Executive Programme excluded)
Skill Development	Following services provided BY (a) NSDC, (b) SSC approved by NSDC, (c) assessment agency/training partner approved by SSC/ NSDC:
	Services in relation to (i) **NSDP/other NSDC implemented scheme** or (ii) **vocational skill development course**
	Services BY **assessing bodies** empanelled centrally by DGT, MSDE **under SDI** scheme
	NCVT certified **skill or vocational training courses** BY training providers **under DDU-GKY**
Sports related	Services for **participation in sporting event organized by Recognized Sports Body (RSB)** provided BY an individual [player, referee, umpire, coach or team manager] to RSB
	Services BY **RSB TO another RSB**
	Sponsorship of sports events organised BY specified persons
Construction	Construction related services provided **TO Govt./Local Authority/Govt. Authority** (G/LA/GA)

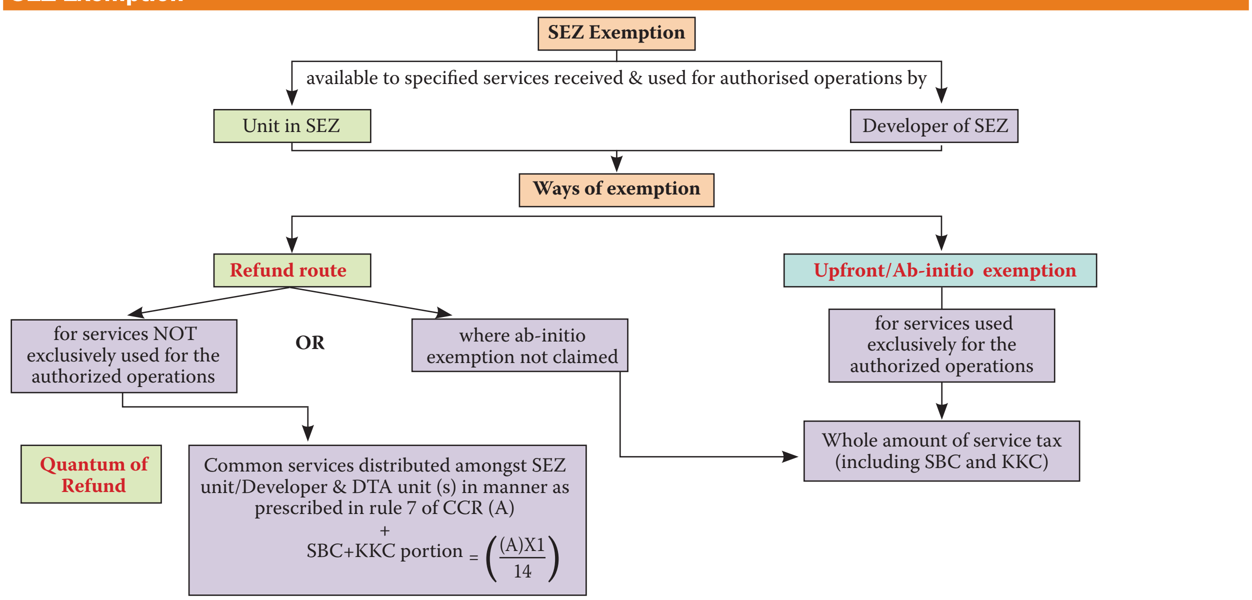
	(i) **Historical monument**, (ii) canal, dam or other **irrigation works**, or (iii) **pipeline, conduit or plant** for water supply/ treatment, or sewerage treatment/disposal.		
	Construction etc. of (i) a **road, bridge, tunnel, or terminal for road transportation** for use by general public, (ii) **building** owned by **section 12AA registered entity**, (iii) **pollution control/ effluent treatment plant**, structure for funeral/burial (iv) **civil structure/other original works** under specified schemes.		
	Construction, etc. of original works pertaining to (i) **railways excluding monorail/metro** (ii) **single residential unit**, (iii) **low cost houses upto 60 m^2 carpet area** under specified schemes, (iv) **post-harvest storage infrastructure** for agriculture produce, (v) **mechanized food grain handling system** for units processing agriculture produce.		
Copyright	**Temporary transfer/permitting use of copyright** (i) relating to original literary, dramatic, musical or artistic works, (ii) of cinematograph films for exhibition in a cinema hall/theatre		
Artist performance	**Folk/classical art forms of (i) music, or (ii) dance, or (iii) theatre** performance by an artist upto the consideration of **₹1,50,000.**		
	Exclusion-Brand ambassador's services		
News	Collecting/providing news by an independent journalist, PTI or United News of India		
Accommodation	**Residential/lodging services** by a hotel, inn, guest house, club or campsite, etc.. **Condition - Declared Tariff** per unit of accommodation per day is below **₹ 1,000** or equivalent.		
Serving of food	Services in relation to **serving of food/beverages BY a restaurant/eating joint/mess.**		
	Exclusion- Air Conditioned/Centrally Air-Heated Restaurants		
	Services in relation to **serving of food/beverages BY Air Conditioned/Centrally Air-Heated Canteen**. Canteen to be maintained in a factory covered under the Factories Act, 1948		
Transportation	**A. Goods Transportation services**		
	Railway equipments/ materials exempt when transported by **rail/vessel**	Transportation of goods exempt when transported by **goods carriage**	
		Where gross amount for transportation of a consignment in a single goods carriage does not exceed ₹ 1500	Where gross amount for transportation of all goods for single consignee does not exceed ₹ 750
	Exempt transportation of goods by **rail/ vessel/ goods carriage**	• Agricultural produce • Milk, salt & food grain including flours, pulses & rice • Chemical fertilizer, oilcakes & organic manure	• Relief materials meant for victims of natural/man-made disasters/mishap • Defence/military equipments • Cotton, ginned or bailed • Newspaper/magazines
	Transportation of **goods BY an aircraft from a place outside India** up to the customs station of clearance in India exempt		
	B. Passenger transportation services		
	BY air, embarking from/terminating in an airport located in North Eastern States of India or Bagdogra in West Bengal	**BY non air-conditioned contract carriage** other than radio taxi. **Exclusion:** Tourism, conducted tour, charter or hire	**BY a non air conditioned stage carriage**
	C. Giving on hire the means of passenger and goods transportation		
	Giving on hire	**TO**	
	Motor Vehicle [> 12 passengers capacity]	State Transport Undertaking	
	Means of transportation of goods	GTA	
Insurance	**A. General Insurance:** Specified general insurance schemes like Niramaya Health Insurance Scheme		
	B. Life Insurance: Specified life insurance schemes like Pradhan Mantri Jan Dhan Yojna		
Pension	• Collection of contribution under **Atal Pension Yojna**		
	• Annuity under **NPS**		
Incubatee	Services provided by an **incubatee** up to a Total Turnover (TT) of ₹ 50 lakh in a FY are exempt. **Conditions**: TT ≤ ₹ 50 lakh during preceding FY, and 3 years have not lapsed since Incubatee agreement		
Unincorporated entity	Services by **unincorporated body/ non- profit entity to its own members** as reimbursement/share of contribution:		
	(i) As a **trade union**	(ii) for providing **exempt activity**	
	(iii) **up to an amount of ₹ 5,000 per month per member for sourcing of goods/services** from a third person for common use of its members in a housing society/residential complex		
Services TO Govt.	Following services provided to **TO Govt./Local Authority/Govt. Authority** (G/LA/GA)		
	(i) water supply, public health, sanitation conservancy, solid waste management/slum improvement and upgradation, or (ii) repair or maintenance of a vessel		
Govt./ Local Authority/Govt. Authority	Services by G/LA to a **BE with a turnover up to ₹ 10 lakh** in the preceding FY		**Exclusion:** Specified services provided by Department of Posts, services in relation to an aircraft/ vessel & transport of passengers/ goods & renting of immovable property services.
	Services in relation to any **function entrusted to a municipality /Panchayat** under Constitution, BY G/LA/GA		
	By **one G/LA to another G/LA**		
	Gross amount charged for services BY G/LA **≤ ₹ 5,000** [In continuous supply, Gross amount ≤ ₹ 5,000 in a FY]		
	Assignment of **right to use any natural resource** BY G/LA **before 01.04.2016**		
	Assignment of **right to use natural resources to an individual farmer** for the purposes of agriculture		
	Issuance of passport, visa, driving licence, birth certificate or death certificate BY G/LA		
	Tolerating non-performance of a contract, BY G/LA. Fines/ liquidated damages received for tolerance of such non-performance		
	Registration, testing, calibration, safety check/certification relating to protection/safety of workers, consumers or public at large, required under any law, BY G/LA		
	Allowing a BE to operate as telecom service provider/ use of radio spectrum before 01.04.2016		
	Inspection, container stuffing etc. in relation to import export cargo **after office hours/on holidays**		
Specified persons' services	**Services BY**		**TO**
	Sub-Broker/Authorized Person		Stock Broker
	Authorized Person		Member of Commodity Exchange
	Selling Agent/Distributor of SIM cards/recharge coupon		Any person

	Business facilitator/business correspondent, with respect to **saving deposit covered by PMJDY** in the banking company's rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding	Banking Company
	Any intermediary providing services to such Business facilitator/ correspondent with respect to aforesaid services	
	Business facilitator/business correspondent	Insurance company in rural area
	Sub-contractor providing works contract services	Another contractor providing exempt works contract services
Job work	**Intermediate production process as job work** in relation to specified processes or goods.	
Business Exhibition	Services **by an organizer** to any person in respect of a **business exhibition held outside India**	
Services from non-taxable territory	Services from service provider located in non- taxable territory **BY:**	
	--G/LA/GA or an individual in relation to any purpose other than commerce/industry/business/profession	
	---an **entity registered under section 12AA** of the Income-tax Act, 1961 for **Charitable activities**	
	--a person located in a non-taxable territory	
Services BY specified Bodies	**by EPFO**	to Persons governed under EPFMP Act
	by IRDA	to Insurers under IRDAI
	by SEBI	of protecting investors' interests & regulating securities market
	by NCCCD	by way of cold chain knowledge dissemination
	by ESIC	to persons governed under the Employees' Insurance Act
Admission to certain events/ places	Admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve	
	Admission to- (i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet; (ii) recognized sporting event; (iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event [**Condition**: Consideration for admission ≤ ₹ 500 per person	
Movie Exhibition	Exhibition of movie **BY an exhibitor** **TO** (i) the distributor or (ii) an AOP consisting of the exhibitor as one of its members	
Other services	• **Slaughtering** of animals • **Lending of books**, publications or any other knowledge- enhancing content/material **BY public libraries** • **Transfer of going concern** • Provision of facilities of bathroom, washrooms, lavatories, urinal or toilets in **public conveniences** • Loading, unloading, packing, storage or warehousing of **rice, cotton ginned or baled** • Services **received by RBI**, from outside India in relation to management of foreign exchange reserves • **Treatment of effluent by operator** of Common Effluent Treatment Plant • **Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling** of fruits and vegetables. [Condition: essential characteristics of the said fruits or vegetables do not change]. • Services in relation to a **tour wholly conducted outside India BY a tour operator TO a foreign tourist**	

SSP Exemption



SEZ Exemption



6. Abatements

Description of taxable service	%	Condition that CENVAT credit has not been taken on
Services relating to financial leasing	90	Nil.
Transport of goods by rail*(other than service specified below)	70	Input (I) + Capital Goods (CG)
Transport of goods in containers by rail by any person other than Indian Railways	60	
Transport of passengers, by rail	70	I +CG
Transport of goods in a vessel	70	I +CG
Transport of goods [other than used household goods] by GTA	70	I +CG +Input Services (IS) not taken by SP
Transport of goods [used household goods] by GTA	60	I +CG + IS not taken by SP
Transport of passengers by air in	60	I+CG
(i) economy class		
(ii) other than economy class	40	
Transport of passengers by air embarking from or terminating in RCS Airport [abatement valid for 1 year from date of commencement of operations of RCS Airport as notified by Ministry of Civil Aviation]	90	I +CG + IS
Services provided by a foreman of chit fund in relation to chit	30	I +CG + IS
Transport of passengers by a contract carriage other than motor cab, radio taxi, or stage carriage	60	I +CG + IS
Renting of motorcab	60	I +CG +IS (other than mentioned below) Credit on IS of renting of motorcab allowed as follows: (a) Full credit: if such IS received from person paying ST on abated value (b) 40% credit: if such IS received from person paying ST on full value
Bundled service by way of supply of food etc. in a premises together with renting of such premises	30	Goods classifiable under Chapters 1 to 22 of the CETA
Renting of hotels etc. meant for residential/lodging purposes.	40	I+CG
Services by a tour operator in relation to,-	90	
(i) a tour, only for the purpose of arranging/booking accommodation for any person		I+CG+IS (other than the IS of a tour operator)
(ii) a tour other than (i) above	70	I+CG+IS (other than the IS of a tour operator)
Construction of a complex etc. intended for a sale to a buyer, except where entire consideration is received after issuance of completion certificate	70	Inputs

7. Service Tax (ST) Procedures

Registration: Every person liable to pay ST has to get registered by making an application to Superintendent of Central Excise. An input service distributor and taxable service provider whose aggregate value of taxable service in a FY exceeds ₹ 9 lakhs are notified to obtain registration.

- Application for registration is to be made online in form ST-1 to the concerned Superintendent of CE within 30 days from date on which ST is levied or within 30 days from the date of commencement of business, whichever is later. The certificate of registration is granted in Form ST-2 within 7 days from the date of receipt of application. Registration will be deemed to have been granted if not received within 7 days.

Centralised Registration: Person providing services from more than one premises or offices can apply for centralised registration, if he has centralised billing system or centralised accounting system.

Issue of Invoice, Bill or Challan: Invoice containing prescribed details to be issued **within 30 days** from date of completion of taxable service or receipt of payment towards the value of taxable service, whichever is earlier **(within 45 days in case of Banking Co. & NBFC).** Banking Co./NBFC enjoys relaxation that invoice may not be serially numbered & may not contain address of service receiver. GTA has to issue consignment note.

Payment of service tax-Rule 6

Due date: In case assessee is an individual or proprietary firm, LLP, partnership firm, HUF, OPC with turnover upto ₹ 50 lakh in PY--- 5th day of the following quarter (by 6th in case of e-payment)

- In case of company ----by 5th of the following month (by 6th in case of e-payment).
- E-payment is compulsory for all assessees.
- For month of March or quarter ending March ---- by 31st March in case of all the assessees.
- In case of advance-----service tax becomes payable when advance is received.
- Individuals/partnership firms & OPC with aggregate value of taxable services of ₹ 50 lakh or less in previous year allowed to pay service tax on receipt basis in current year upto a total of ₹ 50 lakh.

Other provisions relating to payment

- Sub-contractors liable to ST
- Service tax not payable on free services
- In case of payment of ST by cheque, date of presentation of cheque deemed to be date of payment of tax subject to realization of that cheque.
- ST is liable to be paid even if not collected from the clients (by making back calculations).
- Advance payment of ST allowed.
- Self adjustment of ST allowed if assesse has refunded payment/issued credit note, where services are partly or wholly not rendered/amount of invoice renegotiated
- ST collected from the recipient of service must be paid to the Central Government
- Adjustment of excess amount paid towards ST liability allowed subject to condition that excess amount is not due to interpretation of law, taxability, valuation or applicability of any exemption notification.
- Property taxes paid are allowed as deduction in case of renting of immovable property service. Adjustment of excess amount paid as ST on account of non-availment of deduction of property tax is allowed within 1 year from date of payment of property tax.
- Provisional payment of ST allowed.

Alternative Rates For Payment of Service Tax

A. Air travel agent: 0.7% of basic fare in case of domestic bookings and 1.4% of basic fare in case of international bookings.

B. Insurer carrying on life insurance business: Insurer has the option to pay tax on gross premium charged reduced by amount allocated for investment, if intimated to policy holder and if not intimated, at 3.5% of the premium charged in the 1st year and at 1.75% in subsequent years; and 1.4% of the single premium charged in case of single premium annuity policy.

C. Sale/purchase of foreign currency including money changing

For an amount	Service tax shall be calculated at the rate of
upto ₹ 100,000	**0.14%** of the gross amount of currency exchanged or ₹**35**, whichever is higher
exceeding ₹1,00,000 and upto ₹ 10,00,000	₹**140** + **0.07%** of the (gross amount of currency exchanged - ₹ 1,00,000)
Exceeding ₹10,00,000	₹ **770** + **0.014%** of the (gross amount of currency exchanged - ₹ 10,00,000) or ₹ **7,000**, whichever is lower

D. Service of promotion, marketing or organising/assisting in organising lottery

Where the guaranteed lottery prize payout is > 80%	₹ **8200/-** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	₹ **12,800/-** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

SBC & KKC payable on all above services, each will be computed by multiplying the service tax so calculated by (0.5/14)

Interest on delayed payment of service tax is 15%. However, if assessee has collected service tax but has not deposited it with Government on/before due date, interest rate will be 24%.

In case of service providers, whose value of taxable service does not exceed ₹ 60 lakhs during the last financial year, the rate of interest shall be reduced by 3% per annum.

Returns - Half yearly return in form ST-3 within 25 days of the end of the half-year. Annual Return-30th Nov. of succeeding F/Y. E-filing of return is compulsory for all assessees.

- Single return for multiple service providers. Revised return - half yearly within 90 days, annual within 1 month from date of submission of original return.
- Late fee payable for (i) half yearly return is as follows: (a) Delay upto 15 days – ₹ 500 (b) Beyond 15 days and upto 30 days – ₹ 1,000 (c) Delay beyond 30 days – ₹ 1,000 plus ₹ 100 per day of delay beyond 30 days, from 31st day onwards. (ii) For annual return- ₹ 100/ day for period of delay . Maximum late fees-₹ 20,000.
- Nil return to be filed even if no service provided during a half year and no service tax is payable.

Records-no prescribed nature & form of records, preservation of records at least for 5 years, E-preservation allowed & record to be authenticated by digital signature.

Reverse Charge Provisions

(1)FULL reverse charge

(a) Service Receiver (SR) liable to pay ST-

1	Insurance agent's services	2	Recovery agent's services
3	Sponsorship services to body corporate/ partnership firm located in **taxable territory(TT)**	4	Security services
5	Director's services to Banking Co./ NBFC	6	Lottery selling or marketing agent's services.
7	Services provided by a person located in non-taxable territory & recd in TT		
8	Supply of manpower services to business (bs.) entity registered as body corporate		
9	All services by Government to business entities excluding		
	(a) renting of immovable property		
	(b) services specified in section 66D(a)(i)/ii)/(iii) [Department of Posts, Aircraft or vessel, transport of goods or passengers]		
10	Renting of a motor vehicle to carry passengers on abated value to any person not engaged in similar line of business		
11	Goods transport agency's services, where person liable to pay freight is any factory/ society/co-operative society/ body corporate/ partnership firm/ dealer of excisable goods		
12	Legal services provided by-		
	(a) senior advocate to business entity		
	(b)any advocate other than senior advocate to business entity having turnover exceeding ₹ 10 lakh in P/Y.		

(b) Case where person other than Service Provider(SP) liable to pay ST-Services involving an AGGREGATOR

Situation	Person liable to pay ST
If aggregator located in India	aggregator
If aggregator does not have physical presence in TT	person representing the aggregator in TT
If aggregator has neither the physical presence nor any representative in TT	person appointed by the aggregator in TT for the purpose of paying ST

(2) PARTIAL Reverse Charge-

S.No.	Service provided by individual/ HUF/ partnership firm located in TT to a bs. entity registered as body corporate, located in TT	% of ST payable by the SP	% of ST payable by SR
1	renting of a motor vehicle designed to carry passengers on **non abated** value to any person who is not engaged in the similar line of business	50%	50%
2.	service portion in execution of works contract	50%	50%

8. Prosecution & Penalty Under Service Tax

Prosecution

Offences punishable under section 89(1) of FA, 1994	
Category A offence	**Category B offence**
Evasion of payment of service tax	Non-payment of amount collected as service tax beyond a period of 6 months from the due date of payment
Availment and utilization of CENVAT credit without actual receipt of taxable service/excisable goods	
Maintenance of false books of accounts/ failure to supply any information/ supplying false information	

O C*	If any person is convicted u/s 89 for an offence for		
A	1st time	**Where the amount is**	**Term of imprisonment**
		(i) upto ₹ 2 crore	Upto 1 year
		(ii) more than ₹ 2 crore	6 months** - 3 years
	2nd & every subsequent offence		May extend to 3 years
B	First time	**Where the amount is**	**Term of imprisonment**
		(i) upto ₹ 2 crore	Upto 1 year
		(ii) more than ₹ 2 crore	6 months** - 7 years
	2nd & every subsequent offence	(i) upto ₹ 2 crore	Upto 3 years
		(ii) more than ₹ 2 crore	Upto 7 years

*OC - Offence category

**Such imprisonment shall be for a term of less than six months if there are special and adequate reasons to be recorded in the judgment of the Court.

Cognizable offence [Sec 90 of FA, 1994]

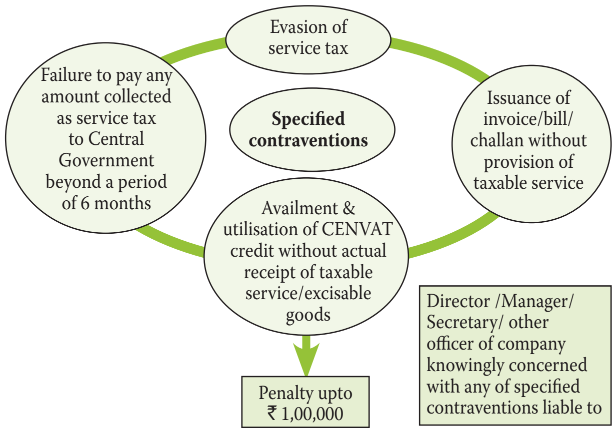
- Arrest can be made only for an offence specified under sec 89(1)(ii) i.e., when a person collects any amount as service tax but fails to pays the same to the Government beyond a period of six months and the amount exceeds ₹ 2 crore [Sec 91].
- A CEO can amend the order passed by him to rectify mistakes apparent from records by passing written order within 2 years from the date of original order. He can rectify the mistake *suo moto* or on being brought to his notice by assessee/Pr. Comm/Comm/Comm (Appeals) [Sec 74].
- A CEO can make best judgement assessment when return has not been filed or if filed, tax has not been assessed properly [Sec 72].
- The Comm. can authorise any CEO to enter into any registered premises for scrutiny, verification checks etc. [Rule 5A(1) of STR].
- A CEO authorised by JC/Addnl Comm/notified CEO or such officers themselves may search and seize documents or books or things secreted in any place [Sec 82].
- Assessee shall have to produce records, audit reports (cost & income-tax) for scrutiny to the CEO/ audit party of the Comm/CAG/ nominated Chartered Accountant/Cost Accountant within time limits specified by such persons [Rule 5A(2) of STR].
- Pr. Comm/Comm may nominate a Chartered/Cost Accountant to audit the accounts of assessee if such officer has reasons to believe that there is wrong valuation of services, wrongful availment and utilisation of credit and that true and correct picture of the accounts cannot be obtained from the registered premises owing to operations spread out in multiple locations [Sec. 72A].

General penalty for contravention of provisions of FA, 1994 or rules thereunder [Section 77]

S.No.	Nature of offence	Maximum penalty leviable
1.	Failure to take registration as per provisions of section 69	upto ₹ 10,000.
2.	Failure to:- (a) furnish information called by officer (b) produce documents called for by CEO (c) appear before the CEO, when issued with a summon for appearance to give evidence or to produce a document in an inquiry	₹ 200 for every day during which such failure continues, starting with the first day after the due date, till the date of actual compliance or ₹ 10,000 whichever is higher
3.	Failure to make e-payment of service tax	₹ 10,000
4.	Issue of invoice with incorrect or incomplete details or fails to account for an invoice in his books of account	
5.	Any contravention of any provisions/ rules for which no penalty is separately provided in this Chapter	
6.	Failure to keep, maintain or retain books of account and other documents as required as per the provisions	

Personal Penalty on director, manager, secretary, or other officer found to be knowingly concerned with specified contraventions [Section 78A]

Penalty upto ₹ 1 lakh in case of certain specified contraventions committed by the company



Customs & FTP

1. Levy of customs duty

Charging section 12 of CA, 1962 → Customs Duties are levied on goods imported into and exported from India → At rates specified in CTA, 1975 → Provisions to apply to Govt. goods also

Taxable event
- Imports — goods cleared for home consumption — when goods reach customs barriers + B/E for home consumption filed
- Imports — goods warehoused — when goods sought to be taken out of customs & brought to mass of goods in country
- Exports — when the goods cross the territorial waters of India

- ♦ Indian Customs waters – means waters extending into the sea up to the limit of CZI & includes any bay, gulf, harbour, creek or tidal river. Powers of customs officers extend upto Indian Customs Waters.
- ♦ Territorial Waters of India (TWI)- extends upto 12 nautical miles (nm) from baseline on coast of India.
- ♦ Contiguous Zone of India (CZI): area 12 nm beyond TWI; it is at a distance of 24 nm from the nearest point of the baseline.
- ♦ India - includes TWI

The Customs Tariff Act, 1975
- First Schedule — enlists the goods liable to import duty
- Second Schedule — enlists the goods liable to export duty

2. Types of customs duty

1. Basic customs duty (BCD) Section 12 of the Customs Act, 1962

Leviable on: imported/ export goods;	**Rate:** Specified in Ist & IInd Schedules of CTA, 1975

AV (on ad valorem basis): Transaction value u/s 14(1) /tariff value u/s 14(2)

2. Countervailing duty [CVD] Section 3(1) of CTA, 1975

Leviable on: any imported article **equal to excise duty** leviable on a like article if manufactured in India.

Rate: Excise duty rate on like article if manufactured in India (**Exception:** Alcoholic liquor for human consumption).

3. Countervailing duty [CVD] Section 3(3) of CTA, 1975

Leviable on: any imported article; additional duty [as determined by CG] to counter balance portion of excise duty leviable on Raw Materials, components & ingredients

AV for computing CVD under sections 3(1) & 3(3) of CTA, 1975

In case duty is charged on the like article	Determination of assessable value	
(i) on tariff value fixed under 3(2) of CEA.	Such tariff value	
(ii) on the basis of MRP u/s 4A of CEA.	RSP declared on the imported article	xxx
	Less: Abatement notified for like article	xxx
	Assessable value of the imported article	xxx
	Note: Where on any imported article more than one RSP is declared, the maximum of such RSP shall be deemed to be the RSP for the purposes of this section.	
(iii) Any other case	Transaction Value u/s 14(1) /tariff value u/s 14(2)	xxx
	Add: Basic custom duty	xxx
	Assessable value	xxx
	Note: While computing CVD under sections 3(1) & 3(3), duties leviable under section 8B/9/9A shall not be included.	

4. Special CVD - Section 3(5) of CTA, 1975

Leviable on: any imported article; **to counter-balance the sales tax**/ VAT, etc. leviable on like article on its sale in India

Rate: as notified by the Central Government, ≤ 4% **[Presently, it is 4%]**

AV for computing special CVD		
	Value u/s 14(1) /tariff value u/s 14(2)	xxx
	Add: Basic custom duty	xxx
	Add: CVD u/s 3(1)/ 3(3)	xxx
	Add: EC [customs]	xxx
	Add: SHEC [customs]	xxx
	Assessable value	xxx
	Note: While computing special CVD under section 3(5), duties leviable under section 8B/9/9A shall not be included.	

5. EC & SHEC

Levied on: imported goods **@ 2%/1% respectively** on aggregate of customs duties levied

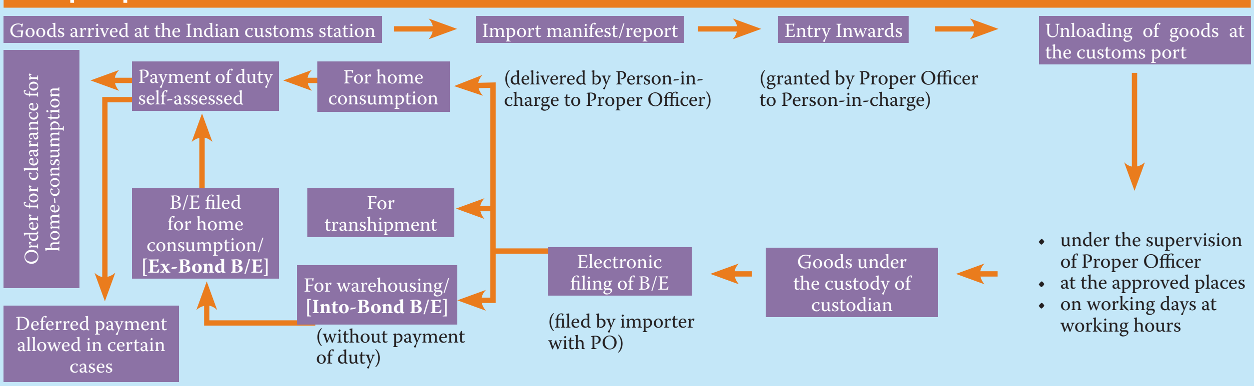
Special CVD u/s 3(5), duties leviable u/s 8B/9/9A & SHEC & EC itself be excluded for computing EC/SHEC

6. Other customs duties

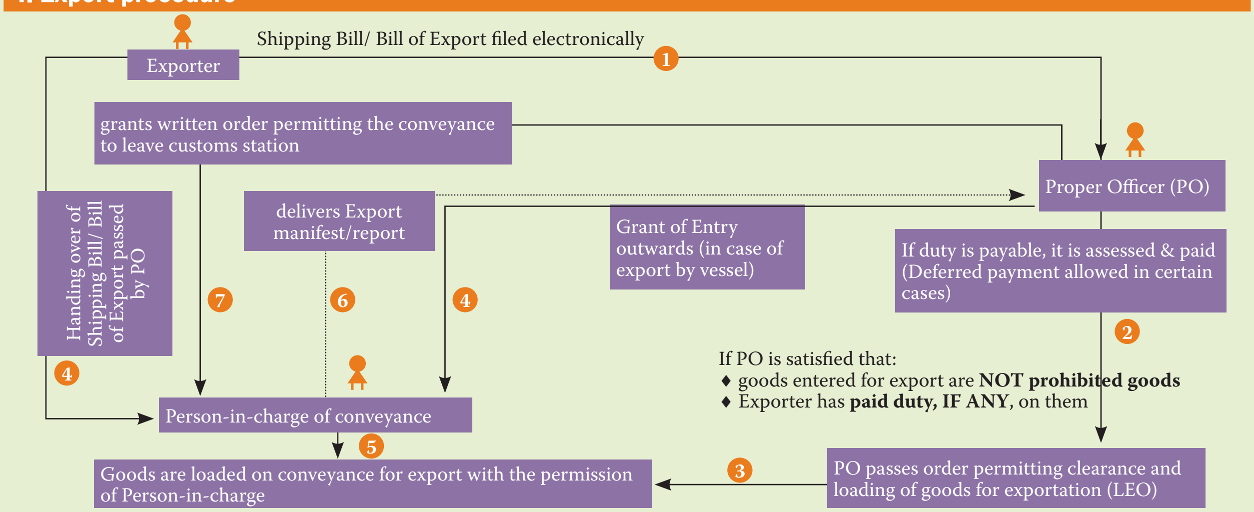
On certain goods, additional duties like anti-dumping duty, safeguard duty, protective duty etc. can also be imposed. Cess is payable on some goods imported/exported.

Safeguard duty	An additional product specific safeguard duty can be levied on an article if it is imported in increased quantities in India & is causing serious injury to domestic industry. EC/SHEC not payable on it.
Anti-dumping duty	Dumping occurs when **Normal value of article in the domestic mkt of exporter > Export Price of article in India** In such a case, anti-dumping duty can be imposed if such dumping causes or threatens to cause material injury to the domestic industry of India **Anti-dumping duty** is (i) Margin of dumping or (ii) Injury margin, whichever is lower. **(1) Margin of Dumping = Normal Value - Export Price of goods imported into India** Comparable price at which the goods under complaint are sold in the domestic market of the exporting country or territory in the ordinary course of trade. → However, if the normal value cannot be determined as per sales in domestic market of exporting country, normal value shall be → • Comparable representative export price to an appropriate third country, or • Cost of production in the country of origin + Administrative, selling & general costs, profits. Export Price → Price of an article exported from the exporting country or territory **(2) Injury Margin = Difference between Fair Selling Price [Non-Injurious Price (NIP)] due to the Domestic Industry and the Landed Value of the dumped imports** Landed Value → AV under Customs Act & applicable BCD EC and SHEC not payable on anti-dumping duty

3. Import procedure



4. Export procedure



5. Valuation of customs duty

Section 14(1) - Transaction Value	Section 14(2)
TV of imported/export goods	**Tariff Value**
- Price actually paid/payable for goods when sold for export to/from India - for delivery at time & place of importation/ exportation - buyer & seller not related - price sole consideration for sale - subject to conditions prescribed by rules.	CBEC may notify Tariff values for any class of imported/ export goods

Rate of exchange:
- Imported goods — Date of filing bill of entry [B/E]
- Export goods — Date of filing shipping bill /bill of export

Imported goods	Date for determination of rate of duty/ tariff value
entered for home consumption	Later of (i) date of filing B/E for home consumption or (ii) date of entry inwards to vessel/arrival of vehicle/aircraft
cleared from W/H	date on which B/E for home consumption is presented
Any other goods	date of payment of duty
Export goods	**Date for determination of rate of duty/tariff value**
entered for export	date of the 'let export' order (LEO)
Any other goods	date of payment of duty

Value of imported goods to be applied sequentially:
- TV of imported goods [Rule 3]
- TV of identical goods [Rule 4]
- TV of similar goods [Rule 5]
- Deductive Value based on identical/similar imported goods [Rule 7]
- Computed Value [Rule 8]
- Residual method [Rule 9]

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Rule 3

Value = TV after rule 10 adjustments provided that
- No restriction on buyer for disposal of goods
- Sale not subject to conditions for which value cannot be determined
- No further consideration to accrue to seller unless adjustable as per rule 10
- Buyer & seller are unrelated; if related TV is accepted when examination of circumstances of sale indicate that relationship didn't influence price & importer proves that price is close to TV of identical/ similar goods, in sales to unrelated buyers; deductive/ computed value of identical/similar goods

Rule 10(1) adjustments

Costs to be added if not included:
- i) commissions etc. except buying commissions, cost of containers/ packing
- ii) engineering, design work etc. undertaken elsewhere than in India, materials, tools, dies, consumables etc. used in production of imported goods, supplied free of charge/ at reduced cost
- iii) royalties & license fees as condition of sale
- iv) Proceeds of any subsequent sale to accrue to seller
- v) all other payments as condition of sale

Rule 10(2) adjustments

TV shall include:

i) Transport Cost (TC) upto place of importation
- where TC not ascertainable, it is 20% of FOB;
- where in case of import by air TC is ascertainable, TC should not exceed 20% of FOB
- TC includes ship demurrage charges on chartered vessels, lighterage/barge charges]
- TC does not include freight from port to ICD/CFS]

ii) Landing charges @ 1% of CIF

iii) Insurance cost [where not ascertainable, it is 1.125% of FOB]

Rule 4

Value = TV of identical goods
- imported at/ about same time
- at same commercial level & in substantially same qty (or value is accordingly adjusted)
- as goods being valued

Rule 5

Value = TV of similar goods
- imported at/ about same time
- at same commercial level & in substantially same qty (or value accordingly adjusted)
- as goods being valued

Rule 7

Value = Deductive value
- If goods being valued/ identical/ similar goods are sold in India, in the same condition as imported, at/ about same time:
- AV = S.P.– [Commission, sales expenses, profit, transport & insurance, customs duties & other taxes payable, IN INDIA.
- S.P. is unit price at which imported/ identical/ similar imported goods sold in greatest aggregate qty to unrelated persons in India

Rule 8

Value = Computed value

Computed Value = Sum of Cost of material, processing employed in producing imported goods, profit & general exp reflected in sale of same class goods made in country of exportation for export to India & expenses/ cost under rule 10(2).

Valuation Rules be applied sequentially. However, the importer may request Proper Officer to apply computed value method before deductive value.

Rule 9

Value determined using reasonable means consistent with principles & general provisions of these rules and on the basis of data available in India

Value so determined ≤Normal imported price of such goods

6. Duty Drawback

Section 74

Imported material → as such/after use within 2 years → Re-exported → within 3 months → Claim of drawback

Date of payment of import duty

Let Export Order

- Re-exported artcile should be easily identifiable as been imported
- No requirement of realising sale proceeds

Drawback (dbk) is not allowed on these goods if exported after use:

- Wearing apparel
- Tea-chests
- Exposed cinematograph films
- Unexposed photographic films, X-Ray films

Period of use of goods after import	Dbk = % of import duty paid
If goods exported as such	98%
Period ≤ 3 months	95%
6 months ≥ Period >3 months	85%
9 months ≥ Period >6 months	75%
12 months ≥ Period >9 months	70%
15 months ≥ Period >12 months	65%
18 months ≥ Period >15 months	60%
Period >18 months	Nil

Section 75

Excise & customs duty on inputs

Service tax on input services

Dbk of excise, customs, ST allowed → used in manufacture → Export goods

Drawback not allowed if:

(i) Exp. Proceeds not realised within time allowed, or

(ii) Exp. Value < Value/ specified % of imported material

All Industry Dbk Rates (AIDR)

- Fixed by Directorate of Drawback under rule 3 of Dbk Rules
- Rates are specified as % of FOB/rate p.u. qty of export goods
- Dbk rates are prescribed in Dbk Schedule - when CENVAT is availed & when not availed.

Brand Rates (BR)

- Where no AIDR is prescribed, exporter may apply for BR under rule 6 of Dbk Rules
- within 3 months of LEO to jurisdictional Principal CCE/CCE or Principal Commr. of Excise & Cus./ Commr. of Excise & Cus.

Special Brand Rate (SBR)

- When AIDR < 4/5th of duties/taxes paid on inputs/ input services, exporter may apply for SBR within 3 months of LEO.

Exports - Physical exports, Goods supplied to SEZ, store/ equipment to aircraft/vessel going abroad. In case of dbk u/s 74, exports does not include goods supplied to SEZ.

Drawback cannot exceed 1/3rd of MP of Export product

No drawback if (i) MP in India < Dbk or (ii) Dbk < ₹ 50, or (iii) if goods are likely to be smuggled back into India, CG may notify that dbk shall not be allowed on such goods subject to specified conditions.

Interest is payable u/s 75A where dbk not paid within 1 month from date of filing dbk claim @ 6% from date of expiry of said period of 1 month till date of payment of such dbk

7. Warehousing

Warehouse (W/H)

Private W/H - Section 57
- **licensed by Principal CCus./CCus.**
- **wherein dutiable goods may be deposited**

Public W/H - Section 58
- **licensed by Principal CCus./CCus.**
- **wherein dutiable goods imported by licensee are deposited**

Special W/H - Section 59
- **licensed by Principal CCus./CCus.**
- **wherein dutiable goods notified by CBEC may be deposited**

Private & Public W/H are under record based controls & not under customs lock

It remains under physical control of PO [under customs lock]

W/H Bond + Prescribed security - Section 59 → **Importer has to furnish W/H bond + security for warehousing goods / or for tfrring goods from one W/H to another W/H, without paying customs duties**

Consignment Bond (Thrice the amt of duty assessed) OR **General Bond (AC/DC may permit importer to execute General Bond in respect of goods warehoused within a specified period)**

After bond is furnished, PO will make order for removal of goods from customs station (CS) for deposit in a W/H. Transit of goods from CS to W/H will be in a prescribed manner - Section 60

Warehousing period - Section 61 → Extendible upto 1 year by P CCus. /CCus. →

- 100% EOU
  - Capital Goods: till clearance from W/H
  - Other Goods: till consumption/ clearance
- Other goods: 1 year from order u/s 60

Interest @ 15% p.a. payable from date of expiry of 90 days of order u/s 60 till date of payment of duty on W/H goods

During warehousing, owner of W/H goods, may inspect/ sort the goods, deal with their containers to prevent loss/ deterioration & show goods for sale - **Section 64**

Owner may carry manufacturing processes in W/H with sanction of P CCus. /CCus. - **Section 65**

Removal of goods from W/H

- Importer can tfr goods **from one W/H to another**
- subject to prescribed conditions

Section 67

- Importer can remove goods for home consumption (HC)
- B/E for HC **[Ex-Bond B/E]** is to be filed
- Import duty+penalty, if any is paid
- PO has made order for clearance for HC

Section 68

- Importer can remove goods for export without payment of duty
- Shipping Bill/Bill of Export is presented
- Export duties, penalties, if any is paid
- PO has made Let Export Order (LEO)

Section 69

Goods can be removed from W/H ONLY for clearance to another W/H/ for HC/ export/ as provided under Act - **Section 71**

Goods improperly removed from W/H - Section 72 – (i) If not removed in accordance with section 71 **or** (ii) where W/H goods have not been removed from W/H after expiration of W/H period – termed as improperly removed

Volatile goods - If volatile goods warehoused, at the time of delivery from W/H, found deficient in qty on a/c of natural loss, duty on deficiency would be remitted - **Section 70**

Cancellation of W/H Bond – PO can cancel the W/H Bond as discharged in full when whole of goods have been cleared for HC/export/Tfr/duly accounted for and all amt thereof has been paid - **Section 73**

8. Baggage Provisions

Baggage means luggage of a passenger accompanied/unaccompanied, & comprises of trunks/bags & personal belongings of passenger. Owner of the baggage is required to make a declaration **[Baggage Declaration Form]** of its contents to PO of customs, for clearing it. Duty is payable on such baggage at the rate in force on the date of such declaration. **Rate of duty on baggage is 35% ad valorem.**

Baggage Rules, 2016

General duty free baggage allowance (GFA)

Rule No.	Class of passenger	Origin country from which passenger is coming	Articles allowed free of duty	
3	Indian resident (IR)/ Foreigner residing in India (FR)/ Tourist of Indian origin, excluding an infant	Any country other than Nepal, Bhutan or Myanmar (NBM)	(i) Used personal effects (UPE) & travel souvenirs (TS) ; and (ii) Articles (excluding Annexure I articles), if carried on in person/ in accompanied baggage, up to value of	₹ 50,000
	Tourist of foreign origin excluding infant	Any country other than NBM		₹ 15,000
4	IR/ FR/ Tourist, excluding an infant	NBM		₹ 15,000, Arriving by land: only UPE

Note: Infant passenger: only UPE allowed duty free. GFA of a passenger cannot be pooled with GFA of any other passenger.

Jewellery Allowance

Rule No.	Class of passenger	Origin country	Passenger	Jewellery
5	Passenger residing abroad for more than 1 year	Any country	Gentlemen	upto 20 gms with a value cap of ₹ 50,000
			Lady Passenger	upto 40 gms with value cap of ₹ 1,00,000

Transfer of residence

Rule No.	Duration of stay abroad	Articles allowed free of duty		Conditions	Relaxation
6	3-6 months	Personal and household articles, other than those mentioned in Annexure I/Annexure II, including Annexure III articles upto an aggregate value of	₹ 60,000	Indian passenger	-
	6 months-1 year		₹ 1,00,000	Indian passenger	-
	Minimum stay of 1 year during 2 PYs		₹ 2,00,000	Indian passenger should not have availed this concession in 3 PYs	-
	Minimum stay of 2 yrs or more		₹ 5,00,000	(i) Minimum stay of 2 years abroad, immediately preceding date of his arrival on transfer of residence	The shortfall of upto 2 months in stay abroad can be condoned by AC/DC if early return is on account of - (i) terminal leave/vacation availed by passenger; or (ii) any other special circumstances.
				(ii) Total stay in India on short visit during 2 PYs should not exceed 6 months; &	The Principal Comm/ Comm may condone short visits in excess of 6 months in special circumstances for reasons to be recorded in writing.
				(iii) Passenger has not availed this concession in 3 PYs	No relaxation
9	**Crew Members:** Baggage rules also apply to crew members engaged in foreign going conveyance for importation of their baggage, when they are finally paid off on termination of their engagement. However, other crew members of a vessel and aircraft are allowed to bring items like chocolates, cheese, cosmetics & other petty gift items for their personal/family use for a value ≤ ₹ 1500.				

Annexure I (See rule 3, 4 and 6)	Annexure II (See rule 6)	Annexure III (See rule 6)
• Fire arms [& their cartridges>50] • Cigarettes > 100 sticks, cigars>25, tobacco > 125 gms. • Alcoholic liquor/wines> 2 ltrs. • Gold/silver [other than ornaments] • Flat Panel (LCD/LED) television.	• Colour Television/Video Home Theatre System. • Dish Washer. • Domestic Refrigerators ≥ 300 ltrs • Deep Freezer. • Video camera/ combination thereof • Cinematographic films ≥ 35 mm • Gold/silver [other than ornaments]	• VCR/VCP/VTR/VCDP • Digital Video Disc player/ Music System. • Air-Conditioner & Microwave Oven. • Word Processing Machine. • Fax/Portable Photocopying Machine. • Washing Machine/Electrical/LPG Cooking Range • Personal Computer/ Laptop Computer • Domestic Refrigerators ≤ 300 ltrs

- **Unaccompanied baggage (UB):** Above provisions are also applicable to UB, unless specifically excluded, if UB had been in possession, abroad, of passenger & is dispatched within 1 month [or extended period] of his arrival in India.
- UB can also land in India upto 2 months before arrival of the passenger. However, if passenger is not able to arrive in India within 2 months due to circumstances beyond his control, AC/DC may extend said period of 2 months upto 1 year.

9. Redemption fine -option to pay fine in lieu of confiscation [Section 125]

On confiscation, property in goods vest in CG. CG can sell/auction these goods. However, owner of goods /person from whom goods are seized may be given an option to get goods back by paying a fine known as **Redemption fine [RF]**. However, on payment of RF, liability to any duty & charges payable in respect of such goods does not get extinguished.

In case of confiscation of **prohibited goods**	PO **may** give the option to pay RF
In case of confiscation of **any other goods**	PO **is bound** to give the option to pay RF

Maximum redemption fine = **Market price of goods confiscated** − **Duty chargeable**

9. Foreign Trade Policy

Foreign Trade Policy

- FTP 2015-2020
- Handbook of Procedures 2015-2020
- Appendices and Aayat Niryat Forms (AANF)
- Standard Input-Output Norms [SION]
- ITC(HS) Classification of Exports and Import Items

Export Promotion Schemes

Duty Exemption Schemes

Advance Authorization Scheme (AA)

- Duty free import of inputs used in export product
- In return, exporter needs to fulfill EO

Duty Free Import Authorization Scheme (DFIA)

Similar to AA [Duty free import of inputs in return of EO]; however, trfrble & no actual user condition

Duty Remission Schemes

Duty Drawback Scheme

Duty Remission Schemes under Central Excise Law

Reward Schemes - Exporters granted Duty Credit Scrips as reward

Merchandise Exports From India Scheme (MEIS)

Reward to exporters of notified goods to notified markets

Service Exports From India Scheme (SEIS)

Reward on NFE to Service Provider located in India, providing notified services in specified manner

Status Holders

On achieving specified export performance during current & 3 PYs, exporter recognized as One/Two/Three/ Four/Five Star Export House - Enjoy special privileges

Export Promotion Capital Goods Scheme (EPCG)

- Exporter can import capital goods/ procure them locally, without payment of duty
- in return, exporter has to fulfill EO

EOU, EHTP, STP & BTP Schemes

- Exporter can import/ procure locally - capital goods & inputs, without payment of duty
- in return, must export their entire production of goods & services [sales to DTA permitted in specified qty]
- Trading units not covered

Deemed Exports

- Goods manufactured in India supplied to specified projects/ consumers
- Goods do not leave country
- Payment received either in Indian rupees/ free FOREX.

Special Economic Zone (SEZ)

- It is like a separate island within the territory of India
- considered to be a place outside India for all tax purposes
- Goods from DTA to SEZ are treated as exports & from SEZ to DTA treated as imports into India

Common Provisions for Central Excise, Customs and Service Tax

A. Demand – [Sec 11A of CEA/Sec 28 of Customs Act/Sec 73 of FA, 1994]

Time limit for issue of SCN

Non-fraud cases

For central excise and customs - 2 years from relevant date

For service tax - 30 months from relevant date

Fraud cases

For central excise, customs and service tax - 5 years from relevant date

Time-limit for adjudication

Particulars	Time Limit (from date of notice)
Cases involving willful suppression etc.	One year
Cases other than the above	Six months

- If duty/tax and applicable interest is paid voluntarily before issue of SCN in non-fraud cases → No SCN and penalty.
- CEO/Proper Officer will determine duty/tax & interest after giving an opportunity of being heard to the concerned person and will pass orders with reasons
- Mere non-disclosure is not suppression of facts. If there was bona fide belief, there can be no suppression of facts.
- Interest is payable for late payment of duty/tax [Sec 11AA of CEA/Sec 28AB of Customs Act/Sec 75 of FA, 1994].
- Interest is automatic and mandatory and cannot be waived.

Event	Relevant date
Non/short payment or non/short levy of duty or non-charging of interest (customs duty)	Date of order of clearance of goods
Non/short levy or non/short payment of excise duty/service tax- when return has not been filed when return has been filed	Last date on which such return is required to be filed Date on which such return has been filed.
Provisional assessment of duty/tax	Date of adjustment of the duty/tax after final assessment
Erroneous refund of duty/tax	Date of such refund
Interest to be recovered (in case of excise duty)	Date of payment of duty to which such interest relates
Any other case	Date on which duty/tax is required to be paid

Penalty for failure to pay service tax – Sec 76 of FA, 1994

- Maximum 10% of service tax amount
- Nil, if service tax + interest paid within 30 days of service of SCN
- 25% of penalty, if service tax, interest and such reduced penalty paid within 30 days of receipt of order

[Similar penalty payable under central excise. However, maximum penalty payable under central excise is ₹ 5,000 or 10% of duty, whichever is higher.]

Penalty for failure to pay service tax for reasons of fraud etc. – Sec 78 of FA, 1994

- Maximum 100% of service tax amount
- 15% of service tax amount, if service tax + interest + such reduced penalty paid within 30 days of service of SCN
- 25% of service tax amount, if service tax + interest + such reduced penalty paid within 30 days of receipt of order.

[Similar penalty payable under central excise]

- Property of person to whom SCN has been issued can be attached provisionally during adjudication, to protect interest of revenue [Sec 11DDA of CEA/Sec 28BA of Customs Act/Sec 73C of FA,1994].
- After demand is confirmed, excise and customs authorities can recover the amount by various means, if assessee does not pay. If service tax/excise duty is shown in the returns filed but not paid, recovery proceedings can be initiated without issue of SCN.
- Recovery can be made by adjusting against money payable to the person, by attachment and sale of goods(in case of excise & customs) or as arrears of land revenue. [Sec 11 of CEA/Sec 142 of Customs Act/Sec 87 of FA,1994]
- Recovery can be made by distrain and sale of property as per provisions of Sec 87 of FA,1994 & Sec 142 of Customs Act, which has been made applicable to excise also. Recovery can be made from successor of business to the extent of assets transferred.

B. Refund [Section 11B of CEA/Sections 26, 26A and 27 of Customs Act]

R	Assessee can file a claim refund of duty/tax and interest within 1 year from relevant date. If refund is delayed beyond three months, interest is payable to the assessee @ 6% p.a. Appeal should be filed and not a refund claim when adjudication order has been issued.
E	Refund is subject to doctrine of unjust enrichment i.e., it will be available only if the burden of duty/tax was not passed on to customer or amount was not recovered from buyer. Otherwise, the amount will be credited to Consumer Welfare Fund. Every person paying duty/tax will be deemed to have passed on the burden to buyer of goods.
	Duty/tax collected from buyer must be paid to Government, even if it was not payable as per law. Duty/tax is required to be shown separately in invoice.
F	Doctrine of unjust enrichment applies to captive consumption of inputs and capital goods, provisional assessment and also when duty was paid under protest, but limitation period of 1 year is not applicable if duty/tax was paid under protest.
	Mere fact that there was no change in price during relevant period is not a conclusive evidence that burden of duty has not been passed on.
U	Doctrine of unjust enrichment does not apply to refund of duty paid on inputs as per any rule/notification, duty paid on imports made by an individual for his personal use, export duty, redemption fine, penalty, rebate of duty on exports, money deposited in PLA, encashment of bank guarantee and duty drawback.
N	Export duty is refundable under section 26 of the Customs Act if goods returned are not re-sale; goods are re-imported within 1 year from date of exportation; and refund claim is filed within 6 months from the date of order of clearance for re-importation.
D	If imported goods are found defective or not as per specifications, import duty paid can be refunded under section 26A of Customs Act if goods are re-exported/ abandoned/ destroyed within 30 days from the date of import – extendable to 3 months. Goods should not have been used/repaired after imports. Application for refund should be made within 6 months from the relevant date.

C. Appeals

Order passed by	Appellate Authority to which the appeal lies to
All officers upto & including Addnl Comm.	Commissioner (Appeals)
Pr. Comm./ Comm./ Comm. (Appeals)	CESTAT, except in case where the order of Comm (Appeals) relates to loss of goods in transit, processing loss, rebate of excise duty on exports, exports without payment of excise duty, baggage, short/non landing of goods in India, drawback, rebate of service tax on input services etc. [revision application in such cases]
Comm. (Appeals)	Revision application to Central Government in matters listed in the row above (rebate, baggage etc.). No further appeal.
CESTAT	Supreme Court in matters relating to valuation and rate of duty
CESTAT	High Court in matters other than valuation and rate of duty
High Court	Supreme Court

Departmental appeal/review

Reviewing Authority	Pr. Comm/Comm	Committee of Pr. Comms/ Comms	Committee of Pr. Chief Comms/ Chief Comms
Authority whose order will be reviewed	Adjudicating authority subordinate to Pr. Comm/Comm	Comm (Appeals)	Pr. Comm/Comm
Authority to whom appeal/ application will lie to	Comm (Appeals)	CESTAT	CESTAT
Time period for passing the order to file appeal/application	3 months [Extendable to 30 more days in E&C]	Appeal to be filed within 3 months of communication of order of Comm (Appeals) to Pr. Comm/ Comm	3 months [Extendable to 30 more days in E&C]
Time period for filing appeal/ application	Within 1 month from communication of order of Pr. Comm/Comm		Within 1 month from communication of order of Committee of Pr. Chief Comms/Chief Comms.
		ST- Appeal to be filed within 4 months from the date on which the order sought to be appealed against is received by the Committee of Chief Comms or Committee of Comms	

Authority to which the appeal has been made	Time for filing appeal/review application/revision application	Section	Forms*	
	By Assessee (Appeal)			
Comm. (Appeals)	Within 60 days (2 months in ST) of communication (receipt in ST) of order of officers upto & including Addnl Comm.– extendable to another 30 days (1 month in ST)	Sec 35 of CEA/ Sec 128 of CA/Sec 85 of FA	EA-1/CA-1/ST-4	
	By Department (Application treated as appeal)			
Comm. (Appeals)	Within 1 month from communication of order of Pr. Comm/ Comm	Sec 35E(2) of CEA/Sec 129D(2) of CA/Sec 84 of FA	EA-2/CA-2	
	By Assessee (Appeal)			
CESTAT	Within 3 months of communication of order of Comm (Appeals)/Pr. Comm/Comm	Sec 35B of CEA /Sec 129A of CA/Sec 86 of FA	EA-3/CA-3/ ST-5	EA 4/CA-4/ ST-6 (Cross objections by opposing party)
	By Department			
CESTAT	E&C (i) Within 1 month from communication of order of Committee of Pr. Chief Comms/Chief Comms. [Application treated as appeal] (ii) Within 3 months of communication of order of Comm (Appeals) to Pr. Comm/Comm [Appeal] ST- Appeal Within 4 months from the date on which the order sought to be appealed against is received by the Committee of Chief Comms or Committee of Comms	Secs 35E(1), 35B(2) of CEA/ Secs 129D(1), 129A(2) of CA/Sec 86(2), 86(2A) of FA	EA5/CA-5/ ST-7	
High Court	Within 180 days of receipt of order of CESTAT not involving valuation and rate of duty (rate of duty includes taxability or excisability of goods)	Sec 35G of CEA/ Sec 130 of CA	EA6/CA6 (Appellant) EA7/CA7 (Cross objections by opposing party)	
Supreme Court	As per Code of Civil Procedure, 1908, from the order passed by High Court (if permitted by High Court) or order passed by CESTAT on valuation & rate of duty	Sec 35L of CEA/ Sec 130E of CA		
Govt. of India (Revisionary Authority)	Within 3 months of communication of order of Comm. (Appeals) on specified matters listed in table given above – extendable to another 3 months. [No provision for further appeal]	Sec 35EE of CEA/ Sec 129DD of CA	EA8/CA8	

** EA series in excise, CA series in customs and ST series in service tax. ST=Service tax, E&C= Excise and Customs, CA= Customs Act, 1962, FA= Finance Act, 1994*

Pre-deposit for filing appeal [Section 35F of CEA/ Section 129E of Customs Act]

Pre-deposit of specified percentage of duty/tax (as given below) is essential for filing an appeal.

Stage of appeal	Appellate Authority	Quantum of pre-deposit
First Appeal	Comm (Appeals) or CESTAT	7.5% of the duty/tax where only duty/tax or both duty/tax and penalty are in dispute OR 7.5% of the penalty where only penalty is in dispute
Second Appeal	CESTAT	10% of the duty/tax where only duty/tax or both duty/tax and penalty are in dispute OR 10% of the penalty where only penalty is in dispute

Amount of pre-deposit cannot exceed ₹ 10 crore. 6% interest is payable on refund of pre-deposit from the date of its payment to the date of refund.

+ An authorised representative can appear on behalf of assessee. Court fee stamps are required to be affixed to appeal.
++ Comm (Appeals) cannot remand matter to lower authorities but Tribunal can remand the matter with suitable directions.

+ Tribunal is a quasi-judicial authority and final fact finding authority.
++ Tribunal sits in benches, consisting of judicial members and technical members.

+ Tribunal can grant maximum 3 adjournments during hearing of an appeal.
++ Small matters where duty/tax or penalty involved is less than ₹ 50 lakh can be decided by a single member bench, if issue does not relate to rate of duty or valuation.

+ Tribunal and High Courts have power to condone delay in filing appeal.
++ Tribunal can rectify its mistakes which are apparent from records. For this purpose, application is required to be filed within 6 months.

Monetary limits for filing of appeals by Department

Sl.No.	Appellate Forum	Monetary limit
1.	CESTAT	₹ 10,00,000/-
2.	High Courts	₹ 15,00,000/-
3.	Supreme Court	₹ 25,00,000/-

D. Advance Ruling [Sections 23A-23H of CEA/28E-28M of CA/96A-96-I of FA]

Under advance ruling, an applicant submits an application raising a question of law/fact regarding liability to pay duty/tax in relation to an activity* proposed to be undertaken by it, to Advance Ruling Authority (AAR) which determines question of law/fact raised by applicant.

*activity of manufacture/production/import/export/service

Who can apply for an advance ruling (AR)?

• NR setting up JV in India with R/NR • R setting up JV in India with NR • WS of which HC is a foreign co. which proposes to undertake business activity in India	JV in India	**Class/ category specified by CG** →	• Resident Public Ltd. Co. • Resident Private Ltd. Co. • Public Sector Co.	• Resident importing goods under notified project import scheme [under customs] • Resident Firm [including LLP, sole proprietorship, one person co.]

Key: NR is non-resident, JV is Joint Venture, R is Resident, WS is Wholly Owned Subsidiary Indian Co., HC is Holding Co.

Questions in respect of which AR can be sought?

• Classification of goods/classification of service as taxable service • Applicability of exemption notification • Principle to determine value of goods/taxable services	• Notifications issued in respect of duty under CEA/CETA, CA/CTA or any duty chargeable under any other law in the same manner as leviable under CEA/CA.	• Determination of origin of goods in terms of rules under Customs Act (CA) • Determination of liability to pay excise duty/ service tax on any goods/taxable services • Admissibility of CENVAT credit

Application for AR in quadruplicate with ₹ 2,500 fee → AAR will forward application to Principal Comm/Comm & may, if necessary, call relevant records from them. After examining application & records (if called), AAR may allow or reject application after giving applicant an opportunity of being heard. Copy of such order will be sent to applicant & Pr. Comm/Comm.

application shall not be allowed if

- Question raised is pending before any officer of customs/excise/Tribunal/Court
- Matter has already been decided by Tribunal/Court

On application being admitted, AAR will pronounce its ruling on question raised, within 90 days of receipt of application. Copy of ruling will be sent to applicant & Pr. Comm/Commissioner.

AR is binding on

- Applicant
- Pr. Comm/Commissioner in respect of applicant

unless there is change in law/facts on the basis of which AR has been pronounced

AAR ruling is not appealable but writ petition is maintainable.
Application for AR can be withdrawn within 30 days of application.

If AR is obtained by applicant by fraud/misrepresentation of facts, AAR, may by order, declare such ruling to be void *ab-initio*

E. Settlement Commission [Sections 31, 32, 32A-32P of CEA/127A-127N of CA/made applicable by S. 83 of FA]

Customs, Central Excise & Service Tax Settlement Commission provides an opportunity to assessees who may have evaded the duty/tax, to apply for settlement of their cases, on the basis of true & complete disclosure of their duty/tax liability by them. Settlement Commission (referred as SC in this topic) provisions have been made applicable to service tax by virtue of section 83 of FA.

Who can apply for settlement of cases? Any manufacturer, producer, registered person of a private warehouse/person liable to pay service tax/ any exporter, importer, or any other person, may make an application in respect of a case relating to him pending before adjudicating authority. True & full disclosure by applicant is a pre-requisite.

Conditions for filing application

• B/E, Shipping bill, baggage declaration etc. has been filed by importer/exporter [in case of customs] & return has been filed [in case of excise/service tax, however, this condition can be waived by SC] • SCN received by applicant	• Case not pending before Tribunal/ Court • Dispute not related to interpretation of classification of goods/taxable service • Additional amt of duty/tax accepted by applicant> ₹ 3,00,000	• Applicant has paid additional amt of excise/ customs duty/tax along with interest • Application once made cannot be withdrawn

Application for SC with specified fee+ duty+ interest → SC will issue SCN to applicant within 7 days of application & within 14 days of issue of SCN, allow or reject the application. Call for a report & relevant records from Pr Comm/Comm, to be furnished within 30 days. May also order further enquiry [report to be furnished within 90 days] by Comm (Investigation) within 15 days of receipt of report of PC/C.

After examining reports & records & further evidence placed before it, SC will pass the order after giving the applicant & PC/C, an opportunity of being heard. SC has to pass the order within 9 months (extendable by 3 months) from last day of the month in which application was made.

SC order shall provide for terms of settlement including demand for duty/tax/penalty/interest, to be paid by the applicant within 30 days of receipt of order. In case of failure to so pay, amt not paid shall be recovered as per procedure u/s 11 of CEA/142 of CA. **The order of SC can be declared void if obtained by fraud/misrepresentation of facts**

Powers of SC

- Provisional attachment of property of applicant during pendency of proceedings before it, to protect revenue
- If applicant cooperates with SC & makes true & full disclosure, SC may grant whole immunity from prosecution & whole/partial immunity from penalty & fine, subject to conditions specified by SC. However, if payment not made as per SC order/ any condition specified therein not fulfilled, immunity will be withdrawn.
- If applicant does not cooperate with SC, SC can send its case back to central excise officer/proper officer who shall dispose of the case as if no application for settlement has been made.

Bar on subsequent application for settlement in certain cases

- If SC order imposes penalty for concealment of particulars of his duty liability
- If after SC order, applicant is convicted of an offence relating to that case
- If SC sends back the case to CEO/PO.