

Budget Highlights 2014-2015 On Service Tax

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After the introduction of the Negative List based tax regime in the services sector in July, 2012, the emphasis has been to ensure stability and continuity. The main focus in service tax at the present juncture is to widen the tax base and enhance compliance; hence very few changes are made in service tax.

Amendments in the finance Act, 1994 which will be effective from the date of enactment of the Finance Bill 2014.

Changes in Section 65B - Definitions:

(32) "metered cab" means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder but does not include radio taxi"

ii) after clause (39), the following clause shall be inserted, namely:

(39a) "print media" means,—

(i) "book" as defined in sub-section (1) of section 1 of the Press and

Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

(ii) "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867

Amendments in the Rules and Notifications will come into effect based on four categories

i. Immediate Impact

ii. Proposed to have effect from 01st October, 2014.

iii. To have effect from a date to be notified after the Bill receives the assent of the President.

iv. To have effect from date the Bill receives the assent of the President.

Now lets us look at the changes that are made with Immediate Impact (with effect from 11th July, 2014):

1. Exemptions withdrawn

• **Review of General Exemption Withdrawn Under Notification No.25/2012-ST:**

A. Service of passenger transportation by air conditioned contract carriage is Taxable with Immediate Effect:

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Entry No. 23 b has been ammended to exclude air-conditioned contract carriages

Presently service of passenger transportation by a contract carriage other than for the purposes of tourism, conducted tour, charter or hire, is exempt from service tax. The scope of exemption is being reduced by withdrawing the exemption in respect of air-conditioned contract carriages. As a result, any service provided for transport of passenger by air-conditioned contract carriage including which are used for point to point travel, will attract service tax, with immediate effect. Service tax will be charged at an abated value of 40% of the amount charged from service receiver; therefore, effective tax will be 4.944%. Services by non-air conditioned contract carriages for purposes other than tourism, conducted tour, charter or hire continue to be exempted. The services provided by daily service operators in an airconditioned contract carriage is liable to service tax.

Impact of this would be that travel from one place to another will be expensive.

B. Services of Clinical research on human Participants are Taxable with Immediate Effect:-

Entry No. 7 of the Notification is deleted and hence:-

Any services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies on human participants by a clinical research organization approved to conduct clinical trials by the Drug Controller General of India would be taxable with immediate effect.

Impact of this will that the cost of drug trials for pharmaceuticals companies will go up.

2. Rationalization of Exemptions with Immediate Impact:

A. Services provided by Educational Institutions:

Entry No. 9 has been completely substitutes to provide clarity in auxilary education services

Services provided by educational institutions to their students, faculty and staff are exempted. However, in respect of services received by such educational institutions exemption is being operated through the concept of Auxiliary educational services. To bring clarity, it is proposed to omit the concept of "Auxiliary Educational Services". Accordingly, the following services received by eligible educational institutions are exempted from service tax:

- a. Transportation of students, faculty and staff of the eligible educational institution,
- b. Catering service including any mid-day meals scheme sponsored by the Government,
- c. Security or cleaning or house-keeping services in such educational institution,
- d. Services relating to admission to such institution or conduct of examination.

Further as a rationalization measure, the exemption hitherto available to services provided by way of renting of immovable property to educational institutions stands withdrawn, with immediate effect.

B. Services ordinarily provided by a Municipality:-

Entry No. 25 has been ammended:

To give more clarity, Services provided to Government or local authority or governmental authority by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement

and up-gradation will continue to remain exempted but the exemption would not be extendable to other services such as consultancy, designing, etc., not directly connected with these specified services.

C. Services by way of Accommodations provided by hotels, dharamshalas or ashrams:

Entry no 18 has substituted:

To bring more clarity, Exemption is available to accommodation services provided by hotels, dharamshalas or ashram for residential or lodging purposes where they provide rooms for less than Rs.1000. Any Tariff Value declared above Rs.1000 is taxable service and liable to service tax. To remove any ambiguity, the word "commercial" is being omitted. Renting of vacant land or buildings for hotels would continue to be taxable irrespective of the hotel's declared tariff.

3. New Exemptions with Immediate Effect i.e. 11-07-2014:

- All life micro-insurance schemes approved by the Insurance Regulatory Development Authority (IRDA), where sum assured does not exceed Fifty Thousand Rupees are being exempted from service tax [Amended by Notification No. 06/2014-ST, New serial No. 26A inserted].
- Transport of organic manure by vessel, rail or road (by GTA) is being exempted therefore organic manure will be on par with fertilizer which is already exempted. [Amended by Notification No. 06/2014-ST, Serial No. 20 (j) & 21 (e) substituted].
- Services by way of loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (GTA), of cotton, ginned or baled, is being exempted. [Amended by Notification No.06/2014-ST, Serial No. 20 (k) & 21 (i) new introduced & serial No. 40 substituted]

- Services provided by Common Bio-medical Waste Treatment Facility operators by way of treatment, disposal of bio medical waste or processes incidental to such treatment or disposal are being exempted. [Newly inserted by Notification No. 06/2014-ST Entry 2B]
- Specialized financial services received by RBI from outside India, in the course of management of foreign exchangereserves, e.g. external asset management, custodial services, securities lending services, are being exempted. [Newly inserted by Notification No. 06/2014-ST Entry 41]
- Services provided by the Indian tour operators to foreign tourists in relation to tours wholly conducted outside India are being exempted. This exemption is available to Indian tour operators in cases where they organize tours for a foreign tourist wholly outside India. E.g., service provided to an American for a tour conducted in Europe. It may be noted that service provided by a tour operator in relation to an inbound or an outbound tours continue to be leviable to service tax. [Newly inserted by Notification No. 06/2014-ST Entry 42]

4. New Services brought under Reverse Charge Mechanism

- Service provided by a Director to a body corporate is being brought under the reverse charge mechanism; service receiver, who is a body corporate will be the person liable to pay service tax. This is in view of requests by body corporate such as the Reserve Bank of India.
- Services provided by Recovery Agents to Banks, Financial Institutions and NBFC is being brought under the reverse charge mechanism; service receiver will be the person liable to pay service tax. [Notification Nos. 9/2014-ST and 10/2014-ST]

5. Changes in CENVAT Credit Rules: [Notification No.21/2014-CE (N.T.)]

(i) A manufacturer or a service provider shall take credit on inputs and input services within a period of six months from the date of issue of invoice, bill or challan w.e.f. 1st September, 2014 [newly inserted proviso to rule 4 (1) and fifth proviso to rule 4(7) refer].

(ii) In case of service tax paid under full reverse charge, the condition of payment of invoice value to the service provider for availing credit of input services is being withdrawn. However, there is no change in respect of partial reverse charge. [Refer amended proviso to rule 4(7)].

(iii) Re-credit of CENVAT credit reversed on account of non-receipt of export proceeds within the specified period or extended period, to be allowed, if export proceeds are received within one year from the period so specified or extended period. This can be done on the basis of documents evidencing receipt of export proceeds [Refer the newly inserted proviso to rule 6(8)].

6. The condition for availing abatement in case of GTA service is being amended with immediate effect to clarify that the condition for non-availment of credit is required to be satisfied by the service providers only. Service recipient will not be required to establish satisfaction of this condition by the service provider.

7. Advance Ruling:

The resident private limited company is being included as a class of persons eligible to make an application for Advance Ruling in service tax [Notification No. 15/2014-ST]. For the purposes of this notification,-

(a) "private limited company" shall have the same meaning as is assigned to "private company" in clause (68) of section 2 of the Companies Act, 2013 (18 of 2013);

(b) "resident" shall have the same meaning as is assigned to it in clause

(42) of section 2 read with sub-section (3) of section 6 of the Income-tax Act, 1961 (43 of 1961).

8. Changes in the SEZ – procedural simplification:

Certain changes are being made in Notification No. 12/2013-ST dated 1st July 2013 [*vide* amending Notification No. 07/2014-ST] as follows:

(i) It is being provided that the Central Excise Officer would issue authorization in Form A-2, within fifteen working days from the date of receipt of Form A-1 by the Central Excise Officer.

(ii) Authorization will have validity from the date on which Form A-1 is verified by the Specified Officer of SEZ. However, if Form A-1 is furnished after a period of 15 days from the date of its verification by the Specified Officer, the authorization shall have validity from the date of furnishing of Form A-1 to the Central Excise Officer.

(iii) SEZ Units or the Developer will, pending issuance of Form A-2, be entitled to avail upfront exemption on the basis of Form A-1. However, in such a case, the SEZ Unit/Developer would be required to furnish a copy of authorization issued by the Central Excise Officer within 3 months from the date of receipt of specified services. If a copy of authorization is not provided within the said period of three months, the service provider shall pay service tax on the service so provided availing the exemption.

(iv) As regards services covered under full reverse charge, it is being mentioned specifically in Form that there would be no requirement of furnishing service tax registration number of service provider.

(v) It is being provided that a service shall be treated as exclusively used

for SEZ operations if the recipient of service is SEZ unit or developer, invoice is in the name of such unit/ developer and the service is used exclusively for furtherance of authorized operations in SEZ

(vi) Certain doubts have been raised by field formations as regards the jurisdiction for the purposes of granting refunds under Notification No. 12/2013-ST to the SEZ Units and SEZ Developers. It is clarified that the jurisdictional Deputy Commissioner/ Assistant Commissioner of Central Excise for all purposes under the said notification would be the authority with whom SEZ Units or the Developers are registered for taking upfront exemption or for the purposes of Chapter V of the Finance Act, 1994. In this context, attention is also invited to Circular No. 105/08/2008-ST, dated 16.9.2008. If SEZ units have obtained a centralized registration under the Service Tax Rules, it will have option to file a common service tax refund in respect of all units covered under the Centralized Registration or file a unit-wise refund at its option, to the authority having jurisdiction over centralized registration.

9. Input Service Distributor:

Rule 7 of the CENVAT Credit Rules, 2004, provides for the manner of distribution of common input service credit by the Input Service Distributor. This was amended *vide* Notification No. 05/2014-CE (N.T.) amending, *inter-alia*, rule 7(d), to provide for distribution of common input service credit among all units in their turnover ratio of the relevant period. Some interpretational issues were raised regarding the amendment such as: (i) due to the use of the term „such unit in rule 7(d), the distribution of the credit would be restricted to only those units where the services are used, and (ii) the credit available for distribution would also get

reduced by the proportion of the turnover of those units where the services are not used.

These issues are being clarified *vide* Circular No. 178/04/2014-ST, dated 10.7.2014 illustrating the effect of the amendment carried out *vide* notification No. 05/2014-CE (N.T.). It clarifies that the amended rule 7 allows distribution of input service credit to all units (which are operational in the current year) in the ratio of their turnover of the previous year/ previous quarter as the case may be.

Relevant Extract from the circular is as follows:

Doubts have been raised regarding the manner and extent of the distribution of common input service credit in terms of amended rule 7 [especially rule 7(d)] of the CENVAT Credit Rules, 2004 (CCR). Rule 7 provides for the mechanism of distribution of common input service credit by the Input Service Distributor to its manufacturing units or to units providing output services. An amendment was carried out *vide* Notification No. 05/2014-CE (N.T.) dated 24th February, 2014, amending *inter-alia* rule 7(d) providing for distribution of common input service credit among all units in their turnover ratio of the relevant period. Rule 7(d), after the amendment, reads as under:

‘credit of service tax attributable to service used by more than one unit shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period’

These doubts have arisen with respect to the meaning of the words ‘such unit’ used in rule 7(d). It has been stated in the representations that due to the use of the term ‘such unit’, the distribution of the credit would be restricted to only those units where the services are used. It has been interpreted by the trade that in view of the

amended rule 7(d) of the CCR, the credit available for distribution would get reduced by the proportion of the turnover of those units where the services are not used.

Rule 7 was amended to simplify the method of distribution. Prior to this amendment there were a few issues raised by the trade regarding distribution of credit under rule 7 such as determining the turnover of each unit for each month and distributing by following the nexus of the input services with the units to which such services relate. The amendment in the said rule was carried out to address these issues. The amended rule 7(d) seeks to allow distribution of input service credit to all units in the ratio of their turnover of the previous year. To make the intent of the amended rule clear, illustration of the method of distribution to be followed is given below:

An Input Service Distributor (ISD) has a total of 4 units namely 'A', 'B', 'C' and 'D', which are operational in the current year. The credit of input service pertaining to more than one unit shall be distributed as follows

$$\text{Distribution to 'A'} = \frac{X}{Y} \times Z$$

X = Turnover of unit 'A' during the relevant period

Y = Total turnover of all its unit i.e. 'A'+ 'B'+ 'C'+ 'D' during the relevant period

Z = Total credit of service tax attributable to services used by more than one unit Similarly the credit shall be distributed to the other units 'B', 'C' and 'D'.

Illustration:

An ISD has a common input service credit of Rs. 12000 pertaining to more than one unit. The ISD has 4 units namely 'A', 'B', 'C' and 'D' which are operational in the current year.

Unit	Turnover in the previous year (in Rs.)
A (Manufacturing excisable goods)	25,00,000
B (Manufacturing excisable and exempted goods)	30,00,000
C (providing exclusively exempted service)	15,00,000
D (providing taxable and exempted service)	30,00,000
Total	1,00,00,000

The common input service relates to units 'A', 'B' and 'C', the distribution will be as under:

- (i) Distribution to 'A' = $12000 \times \frac{2500000}{10000000}$
= 3000
- (ii) Distribution to 'B' = $12000 \times \frac{3000000}{10000000}$
= 3600
- (iii) Distribution to 'C' = $12000 \times \frac{1500000}{10000000}$
= 1800
- (iv) Distribution to 'D' = $12000 \times \frac{3000000}{10000000}$
= 3600

The distribution for the purpose of rule 7(d), will be done in this ratio in all cases, irrespective of whether such common input services were used in all the units or in some of the units.

Now lets us look at the changes that are made with effect from 01/10/2014:

Amendments in respect of Certain Specific Services with Effect from 1st October 2014:

i. Service Tax on service portion in Works Contracts: In Rule 2A of the Service Tax (Determination of Value) Rules, 2006, category "B" and "C" of works contracts are proposed to be merged into one single category, with percentage of service portion as 70%; this change will come into effect from 1st October, 2014. (Amendment in new Notification No. 11/2014-ST)

Prior to this amendment there were 3 categories as follows:

(A) in case of works contracts entered into for execution of original works, service tax shall be payable on forty per cent. of the total amount charged for the works contract;

(B) in case of works contract entered into for maintenance or repair or reconditioning or restoration or servicing of any goods, service tax shall be payable on seventy percent. of the total amount charged for the works contract;

(C) in case of other works contracts, not covered under sub-clauses (A) and (B), including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property , service tax shall be payable on sixty per cent. of the total amount charged for the works contract. Now the rate of 60% has been increased to 70% by merging category B & C.

ii. Service Tax in respect of Transportation Services by Vessels: In respect of transport of goods by vessel the taxable Portion is to be reduced from 50% to 40%. Effective service tax will decrease from the present 6.18% to 4.944%.

iii. Variable rates of Interest: Previously the interest on delay payment of service tax under section 75 was the notified rate of interest is 18% p.a. w.e.f. 01/04/2011

Provided that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be, such rate of interest, shall be reduced by three per cent. Per annum thus the beneficial rate of interest is 15% p.a.

To encourage prompt payment of service tax, it is being proposed to introduce interest rates which would vary on the extent of delay [Notification No. 12/2014-ST]. Simple interest rates per annum payable on delayed payments under Section 75, are prescribed as follows:

Extent of delay	Simple interest rate per annum
Up to six months	18%
More than six months & Up to one year	18% for first six months, and 24% for the period of delay beyond six months
More than one year	18% for first six months, 24% for second six months, and 30% for the period of delay beyond one year

This new interest rate regime will become operationaml only on 1st October 2014. In other words, up to 1st October, 2014, the rate of interest of 18%, presently applicable, will continue to apply. The variable interest rates will apply only on or after 1st October, 2014.

As an illustration, assume a case where service tax became due, say, on the 6th of July, 2012 and the assessee pays the dues on 6th of December, 2014. In such a case, the interest to be charged would be as below:

(i) 18% simple interest up to September, 30th, 2014.

(ii) For the period from 1st October, 2014 to 6th December, 2014, the rate of interest will be 30% since the period of delay is beyond one year.

As specified in the proviso to Section 75, three per cent concession on the applicable rate of interest will continue to be available to the small service providers.

iv. E-payment:

Previously the E-Payment was compulsory to provided also that an assessee, who has

With effect from 1st October, 2014, an intermediary of goods, such as a commission agent or consignment agent shall be covered under rule 9(c) of the Place of Supply of Services Rules

paid total duty of rupees one lakh or more including the amount of duty paid by utilization of CENVAT credit in the preceding financial year shall thereafter, deposit the duty electronically through internet banking. [Amended third proviso to Rule 8(1)]

In Union Budget 2014, Government has proposed E-payment of service tax is being made mandatory without any limit for all assesses with effect from the 1st October, 2014. Relaxation from e-payment may be allowed by the Deputy Commissioner/Asst. Commissioner on case to case basis [Notification No. 09/2014-ST].

v. Place of Provision of Services Rules:

(i) Provision for prescribing conditions for determination of place of provision of repair service carried out on temporarily imported goods is being omitted. The second proviso to rule 4(a) is being amended to prescribe that it would suffice for the purpose of exclusion of repair service from applicability of rule 4(a) that the goods imported for repair are exported after repair without being put to any use other than that which is required for such repair. It may please be noted that this exclusion does not apply to goods that arrive in the taxable territory in the usual course of business and are subject to repair while such goods remain in the taxable territory, e.g., any repair provided in the taxable territory to containers arriving in India in the course of international trade in goods will be governed by rule 4.

(ii) The definition of intermediary is being amended to include the intermediary of goods in its scope. Accordingly, with effect from

1st October, 2014, an intermediary of goods, such as a commission agent or consignment agent shall be covered under rule 9(c) of the Place of Supply of Services Rules.

(iii) Service consisting of hiring of Vessels (excluding yachts) and Aircraft is being excluded from rule 9(d). Accordingly, hiring of vessels, or aircraft, irrespective of whether short term or long term, will be covered by the general rule, that is, the place of location of the service receiver. Hiring of yachts would however continue to be covered by rule 9 (d). [Notification 14/2014-ST]

vi. Point of Taxation Rules:

The first Proviso to rule 7 of the Point of Taxation Rules (POTR) is being amended to provide that point of taxation in respect of reverse charge will be the payment date or the first day that occurs immediately after a period of three months from the date of invoice, whichever is earlier. This amendment will apply only to invoices issued after 1st October, 2014. A transition rule is being prescribed (new rule 10 of POTR) which is as under:

Notwithstanding anything contained in the first proviso to rule 7, if the invoice in respect of a service, for which point of taxation is determinable under rule 7 has been issued before the 1st day of October, 2014 but payment has not been made as on the said day, the point of taxation shall,—

(a) if payment is made within a period of six months of the date of invoice, be the date on which payment is made;

(b) if payment is not made within a period of six months of the date of invoice, be determined as if rule 7 and this rule do not exist.

[Notification No. 13/2014-ST].

vii. Cenvat credit of service tax paid by one Rent A Cab Scheme operator to another or one Tour Operator to another

The condition against entry No. 9 is amended with effect from 1st October 2014,

to allow the credit of input service of renting of a motor cab if such services are received from a person engaged in the similar line of business i.e. a sub-contractor providing services of renting of motor cab to the main contractor. The whole of the CENVAT credit has been allowed with respect to input service of renting of any motor cab, received from a person who is paying service tax on 40% of the value of services. The CENVAT credit eligibility will be restricted to 40% of the credit of the input service of renting of any motor cab if service tax is paid or payable on full value of the services i.e. no abatement is availed.

Tour operator service providers are also being allowed to avail CENVAT credit on the input service of another tour operator, which are used for providing the taxable service. This is being provided to avoid cascading of taxes. (Sl. No. 11 refers).

Simplification of Partial Reverse Charge mechanism: [Notification No. 10/2014-ST]

In renting of motor vehicle, where the service provider does not take abatement the portion of service tax payable by the service provider and service receiver will be modified as 50% each.

Now lets us look at the changes that are made with effect from a date to be notified after the president assent is received by the Bill:

1. Broadening the Tax Base:

(i) Print Media Services: Service tax is leviable currently on sale of space or time for advertisements in broadcast media, namely radio or television is proposed to be extended to cover such sales on other segments like online and mobile advertising. The new levy would further extend to advertisements in internet websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, Automated Teller Machines, tickets, commercial publications, aerial advertising, etc. Sale of space for advertisements in print media, however,

would continue to be in the negative list hence from above Amendment it is clear only Sale of space for advertisements in print media is out of the ambit of Service Tax others services are taxable.

(ii) Radio Taxi/Radio Cabs: Service tax is proposed to be levied on services provided by radio taxis or radio cabs, whether or not air-conditioned. The abatement presently available to rent-a-cab service would also be made available to radio taxi service, to bring them on par. A definition of radio taxi is as under

(za) "radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS); being included in the exemption Notification No. 25/2012-ST.

2. Other Proposed Amendments in Chapter V of the Finance Act, 1994:

The Explanation to Section 67A is being amended to enable the Government to prescribe rules for determination of rate of exchange for calculation of taxable value in respect of certain services. Rules will be prescribed in due course, after the Bill receives the approval. This amendment has been proposed in view of requests from the trade and industry to delink the conversion from the notified Customs rates of exchange as at present.

Now lets us look at the changes that are made with effect from date the president assent is received by the Bill:-

Section 73:

in section 73, after sub-section (4A), the following sub-section shall be inserted, namely:—

"(4B) The Central Excise Officer shall determine the amount of service tax due under subsection(2)—

(a) within six months from the date of notice where it is

possible to do so, in respect of cases whose limitation is specified as eighteen months in sub-section (1);

(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A).”;

Section 73 is being amended to prescribe time limits for completion of adjudication as already exists in Central Excise. This time limit would need to be followed, as far as possible

Section 80:

in section 80, in sub-section (1), for the words, figures and brackets “section 77 or first proviso to sub-section (1) of section 78”, the words and figures “or section 77” shall be substituted;

Section 80 is being amended to exclude the reference of first proviso to section 78. This amendment, in effect, removes the power to waive the 50% penalty imposable in cases where service tax has not been levied, not paid or short levied or short paid on account of suppression of facts or willful misstatement but details of transactions are available in the specified record.

Section 82:

in section 82, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise officer as may be notified by the Board has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Chapter, are secreted in any place, he may authorise in writing any Central Excise officer to search for and

seize or may himself search and seize such documents or books or things.

Section 82(1) is being amended, along the lines of section 12F (1) of the Central Excise Act, so that Joint Commissioner or Additional Commissioner or any other officer notified by the Board can authorize any Central Excise Officer to search and seize.

Section 83:

in section 83,—

(i) for the words, brackets, figures and letter “sub-section (2) of section 9A”, the words, brackets, figures and letters “sub-section (2A) of section 5A, sub-section (2) of section 9A” shall be substituted

(ii) for section “15”, the sections “15, 15A, 15B” shall be substituted

Some of Central Excise provisions are made applicable to service tax. Section 83 is being amended to prescribe that the provisions of following sections of the Central Excise Act shall apply to service tax:-

(i) **Section 5A(2):** This section prescribes that any explanation inserted in a notification or special order at any time within one year of issue of notification or order, for clarifying the scope or applicability thereof, shall have effect from the date of issue of such notification or order.

(ii) **Section 15 A:** This new section is being inserted in the Central Excise Act to stipulate that third party sources shall furnish periodic information, as specified, in the manner as may be prescribed.

Any person, being—

- (a) an assessee; or
- (b) a local authority or other public body or association; or
- (c) any authority of the State Government responsible for the collection of value added tax or sales tax; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or

(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

(f) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or

(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

(h) a Registrar within the meaning of the Companies Act, 2013; or

(i) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or

(j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

(k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or

(l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or

(m) an officer of the Reserve Bank of India, constituted under Section 3 of the Reserve Bank of India Act, 1934, who is responsible for maintaining record of registration or statement of accounts or any

periodic return or document containing details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, form (including electronic form) and manner, to such authority or agency as may be prescribed.

(2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

(iii) **Section 15B:-** This new section is being inserted in the Central Excise Act to prescribe that failure to provide information under section 15A of the Act would attract penalty as specified. If a person who is required to furnish an information return under section 15A fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues."

(iv) **Section 35F:** Section 35F of the Central Excise Act has already been made applicable to Service Tax. This section is being substituted with a new section to prescribe a mandatory fixed pre-deposit of 7.5% of the duty demanded or penalty imposed or both for filing of appeal before the Commissioner(Appeal) or the Tribunal at the first stage, and 10% of the duty demanded or penalty imposed or both for filing second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of Rs 10 Crore. All pending appeals/stay application would be governed by the statutory provisions prevailing at the time of filing such stay applications/appeals. This new provisions would, *mutatis mutandis*, apply to Service Tax. The new provisions will certainly put rest to the divergent judgments on the issue of validity of stay orders beyond 180/365 days and the power of Tribunal to extend the same beyond the statutory time limit. This will also ease the workload in Tribunal as substantial time is spent on hearing and disposal of stay applications and the final disposal of the appeals is taking a long time. With more time at its disposal, the Tribunal will now

be able to hear and dispose the appeals quickly.

But, the provisions likely to cause some confusion as the phrase "duty demanded or penalty imposed or both" can be interpreted in different ways. This new provisions would, *mutatis mutandis*, apply to Service Tax.

Section 86: Sub-section (6A) of section 86 is being amended to omit the words "for grant of stay or".

Section 87: Section 87 is being amended to incorporate power to recover dues of a predecessor from the assets of a successor purchased from the predecessor as it is presently provided for in section 11 of the Central Excise Act, 1944. "Provided that where the person (hereinafter referred to as predecessor) from whom the service tax or any other sums of any kind, as specified in this section, is recoverable or due, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, in the custody or possession of the person so succeeding may also be attached and sold by such officer empowered by the Central Board of Excise and Customs, after obtaining the written approval of the Commissioner of Central Excise, for the purposes of recovering such service tax or other sums recoverable or due from such predecessor at the time of such transfer or otherwise disposal or change."

Section 94:

(J) in section 94, in sub-section (2), for clause (k), the following clauses shall be substituted, namely:

"(k) imposition, on persons liable to pay service tax, for the proper levy and collection of the tax, of duty of furnishing information, keeping records and the manner in which such records shall be verified.

(l) make provisions for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on provider of taxable service or exporter, for dealing with evasion of tax or misuse of CENVAT credit

(m) authorisation of the Central Board of Excise and Customs or Chief Commissioners of Central Excise to issue instructions, for any incidental or supplemental matters for the implementation of the provisions of this Act

(n) any other matter which by this Chapter is to be or may be prescribed

(K) in Section 95, after sub-section (1J), the following sub-section shall be inserted, namely:

“(1K) If any difficulty arises in giving effect to section 106 of the Finance (No. 2) Act, 2014, in so far as it relates

to amendments made by the said Act, in this Chapter, the Central Government may, by an order, published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty: Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.”;

Services Exempted from Retrospective:

Service provided by Employee’s State Insurance Corporation (ESIC) during the period prior to 1st July, 2012 is proposed to be exempted from service tax. This exemption for services by ESIC would come into effect from the date the Finance (No.2) Bill, receives the assent of the President. It may be noted that any service provided by ESIC to persons governed under the Employee’s Insurance Act, 1948 is already exempt for the period commencing from 1st July, 2012.