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Analysis of

# **SERVICE TAX**

Provisions Introduced  
by Finance Act, 2015

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by  
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## Preface

It has always been our endeavor to provide all the members of the society an updated knowledge of service tax. This helps not only in self compliance but it assists all the stakeholders of the professionals may it be peers, industry, clients.

Our earlier editions of book titled 'Introduction of Service Tax', 'Convergence to Accrual System of Taxation in Service Tax', 'Analysis of Service Tax Provisions Introduced by Finance Bill 2014', 'Refunds under Service Tax' and Do You Know Series have always tried to provide quality advice and regular updation on service tax matters.

Now it gives us immense pleasure to bring out seventh edition of Budget Booklet titled "Analysis of Service Tax Provisions Introduced by Finance Act, 2015" which will share the extracts of the Budget 2015 along with a detailed analysis of the newly introduced provisions and its impact on the present provisions.

The underlying premise of this book is to evaluate the provisions of the Budget 2015 in detail so as to find out the impact along with the pros and cons of the newly proposed provisions regarding service tax. This part will add to the comprehensiveness and value of the work, and will, we doubt not, meet with favour equal to that of the parts previously published.

Hope this will assist and support the readers in their professional endeavors.

The suggestions for advancement in this book are always welcome and will be highly apprehended.

Always Yours,

**Atul Kumar Gupta**  
with Team "Do You Know Series"  
*New Delhi*

*1<sup>st</sup> July, 2015*

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## **Analysis of Service Tax Provisions Introduced by Finance Bill, 2015**

### **A. Changes applicable w.e.f. 1<sup>st</sup> April, 2015**

#### **A.1 Rationalization of Exemptions**

- 1) Exemption presently available on specified services of construction, repair, maintenance, renovation or alteration service provided to the Government, a local authority, or a governmental authority (vide S. No. 12 of the Notification No. 25/12-ST ) shall be limited only to-

- (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
- (b) canal, dam or other irrigation work; and
- (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Impact of the same would be that following construction services provided to government, a local authority or a governmental authority would also be taxable

- a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
- c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation 1* to clause 44 of section 65 B of the said Act;

- 2) Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn (S. No 14 of the Notification No. 25/12-ST). The other exemptions

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covered under S. No. 14 of Notification No. 25/12-ST shall continue unchanged

- 3) Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is up to Rs 1,00,000 for a performance (*S. No. 16 of Notification No. 25/12-ST*). *Earlier exemption was available for whole amount.*
- 4) Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue (*S. Nos. 20 and 21 of Notification No. 25/12-ST*)
- 5) Exemptions are being withdrawn on the following services:
  - a) services provided by a mutual fund agent to a mutual fund or assets management company,
  - b) distributor to a mutual fund or AMC,
  - c) selling or marketing agent of lottery ticket to a distributor. Service Tax on these services shall be levied on reverse charge basis. (*S. No 29 of Notification No. 25/12-ST*)
- 6) Exemption is being withdrawn on the following services:
  - (a) Departmentally run public telephone;
  - (b) Guaranteed public telephone operating only local calls;
  - (c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

*(S. No. 32 of Notification No. 25/12-ST)*

**A.2 New Exemptions**

- 1) Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from Service Tax. The scope of this exemption is being widened to include all ambulance services.

*(Amended in the entry at S. No. 2 of Notification No. 25/12-ST refers).*

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- 2) Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.

*(Amendment in entry at S. No. 26A of Notification No. 25/12-ST)*

- 3) Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.

*(New entry at S. No. 43 of Notification No. 25/12-ST).*

- 4) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.

*(New entry at S. No. 44 of Notification No. 25/12-ST).*

- 5) Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve is being exempted. These services when provided by the Government or local authority are already covered by the Negative List.

*(New entry at S. No. 45 of Notification No. 25/12-ST).*

- 6) Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of its members is being exempted.

*(New entry at S. No. 46 of Notification No. 25/12-ST).*

- 7) Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from Service Tax vide Notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

*(Amendment in Notification No. 31/12-ST refers).*

**A.3 Changes in provisions related to Abatement**

- 1) At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road by a goods transport agency and 40% for goods

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transport by vessels. The conditions prescribed also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel and Service Tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of CENVAT Credit on inputs, capital goods and input services.

- 2) At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and Service Tax would be payable on 60% of the value of such higher classes.
- 3) Abatement is being withdrawn from services provided in relation to chit. Consequently, Service Tax shall be paid by the chit fund foremen on the full consideration received by way of fee, commission or any such amount. They would be entitled to take CENVAT Credit.

**A.4 Amendment in Reverse Charge Mechanism**

**1) Full reverse charge on manpower supply and security service provided by individual, HUF, partnership firm to a body corporate**

Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.

(Effect: The credit shall be allowed immediately after the payment of service tax.)

**2) Reverse charge on service provided by a mutual fund agent, mutual fund distributor and agents of lottery distributor**

Services provided by,-

- (i) mutual fund agents, mutual fund distributors; and
- (ii) agents of lottery distributor

are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or, as the case may be, by the mutual fund receiving such services. In respect of agents of lottery, Service Tax shall be paid by the distributor of lottery.

3) **In rule 4(7) of the CENVAT Credit Rules to allow credit of service tax paid by recipient of service in partial reverse charge immediately on payment of tax**

Rule 4(7) is being amended to allow CENVAT Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider. This change will come into effect from 1.4.2015.

## **B. Changes applicable with effect from 1st March 2015**

### **B.1 Shifting the liability of payment of service tax on aggregator of a service where service is provided under the brand name of the aggregator:**

By virtue of this amendment, now aggregator of service is liable to make payment of service tax in a manner stated under Rule 2(1)(d) of the Service Tax Rule, 1994 as if:

<b>S.No.</b>	<b>Circumstance</b>	<b>Peron Liable</b>
1.	Aggregator of Service exist in the taxable territory	by an aggregator of service
2.	Aggregator of Service does not have physical presence in taxable territory but having representative	Representative of the Aggregator of Service
3.	Aggregator of Service does not have physical presence as well as Representative	Person appointed by the Aggregator of Service

The term aggregator has been defined under Rule 2(1) (aa) of the service tax rules, 1994.

*“Aggregator” means a person, who owns and manages a web based software application, ad by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the **brand name or trade name** of the aggregator;*

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Moreover, the Notification No. 30/2012-ST has been amended accordingly vide Notification no. 07/2015 dated 01.03.2015 providing the extent of liability to pay service tax by the person stated in the above table.

**B.2 Amendments in Rule 4,4A and 5 of the Service Tax Rules, 1994**

By virtue of this amendment, the time period to grant Service Tax Registration certificate has been reduced to 2 days vides order 01/2015-ST w.e.f 01.03.2015. Earlier this time period was 7 days.

Rule 4C has been introduced to authenticate the challans, invoice issued under Rule 4A and 4B by mode of Digital Signature Certificate.

By virtue of Rule 5, preservation of the records related to service tax is allowed to be maintained in the digital form duly authenticated by the digital signature.

For the purpose of this amendment, authentication and digital signature shall have the same meaning as assigned to the Information Technology Act, 2000.

**B.3 Amendment in the CEVNAT Credit Rules, 2004**

<b>Rule of CCR</b>	<b>Existing Provision</b>	<b>Revised Provisions w.e.f 1st March,2015</b>
<b>4(7)(proviso 6)</b>	The manufacturer or provider of output service shall not take CENVAT Credit after Six months of the date of Issue of Invoice	The manufacturer or provider of output service shall not take CENVAT Credit after one year of the date of Issue of Invoice

**B.4 Rescinding of Notification No.42/2012-ST:**

The service provided by the commission agents to the exporter of goods executed the sale of the goods exported by it. This Notification has got no relevant in the existing regime of service tax.

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Hence, by virtue of Notification No. 01/2015-ST, the aforesaid Notification has been rescinded to nullify its effect.

**B.4 Extending the scope of advance ruling to resident firms:**

In order to quickly resolve the discrepancies, Advance Ruling facility has been extended time to time by the Government. In this bill, such facility has been extended to include the **“Resident Firm”**. Now **“Resident Firm”** also becomes eligible applicant who can take ruling from the authority. Earlier they were not permitted to take so. For this purpose meaning of **“Resident Firm”** has been defined vide Notification No 09/2015-ST Dated 1<sup>st</sup> March 2015 which read as under:

Explanation. - For the purposes of this Notification,-

(a) **“firm”** shall have the meaning assigned to it in section 4 of the Indian Partnership Act,1932 (9 of 1932) , and includes-

- (i) the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or
- (ii) limited liability partnership which has no company as its partner; or
- (iii) the sole proprietorship; or
- (iv) One Person Company.

(b) (i) **“sole proprietorship”** means an individual who engages himself in an activity as defined in sub-clause (a) of section 96A of the Finance Act, 1994.

(ii) **“One Person Company”** means as defined in clause (62) of section 2 of the Companies Act, 2013 (18 of 2013).

(c) **“resident”** shall have the meaning assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far as it applies to a resident firm.

## **C. Changes applicable from the date of enactment of Finance Bill 2015 i.e. 14<sup>th</sup> May, 2015**

### **C.1 'Government' defined in Service tax law**

Owing to piling litigation, the word 'Government' has been defined in newly inserted Section 65B (26A) of the Act. The word 'Government' has been defined as follows:

*"Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder"*

### **C.2 Certain activities has been specifically excluded from the term 'transaction in money' in definition of 'Service'**

By way of amendment in Section 65B (44) of the Act, following activities have been included from definition of 'Service' by way of explanation:

- Services by chit fund foreman by way of conducting a chit; and
- Services in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing a lottery of any kind

High courts have previously taken a view that the activities by chit fund foreman to chit fund and lottery relates activities are essentially 'transaction in money' owing to specific exclusion to money changer services. Accordingly, these two activities were held not to be 'Service'.

The proposed amendment overrules the impact of decisions and accordingly shall be liable to Service tax levy.

### **C.3 Clarification on classification of input services used for providing output services**

Section 66F(1) provided that an input service shall be classified independent to the nature of main services, for the provision of which it is utilized. Finance Bill 2015 proposes to clarify this through an illustration.

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As illustrated, reference to service provided by the Reserve Bank of India (RBI), in section 66D (b) does not include any agency service provided by other banks to RBI, as such agency services are input services used by RBI for provision of its main service. Accordingly, banks providing agency service to or in relation to services of RBI, are liable to pay Service tax on the agency services so provided by virtue of the existing section 66F (1).

**C.4 Definition of ‘consideration’ has been amended to include reimbursement of expenses in value of taxable service**

High court of Delhi in the decision of Intercontinental Technocrats 2013 (29) STR 9 held that inclusion of the value of reimbursements in the value of taxable services by way of Rule 5(1) of the Service tax Rules 1994, is beyond the provisions of Section 67.

In another step to clarify the position of statute, Finance Bill proposes to amend the definition of ‘consideration’ under Section 67 of the Act to empower the inclusion of the value of reimbursements in the value of taxable services in the principle statute.

Similarly, amount retained by lottery distributor or selling agent over and above commission or fee shall be part of consideration for service. The amended provisions read as follows:

*“(a) ‘consideration’ includes–*

- (i) any amount that is payable for the taxable services provided or to be provided;*
- (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;*
- (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.”*

**C.5 Recovery and penalty provisions are proposed to be revised**

***Recovery or issuance of show cause notice***

- Section 73 (1B) has been inserted to apply in cases where Service tax has been declared in Service tax returns but has not been paid. In such cases, recovery can be made under Section 87 of the Act without issuance of any show cause notice. Corresponding changes has been made in Service tax Rules 1994 by omission of Rule 6(6A).
- Section 73 (4A) which provided for reduced penalty to the extent of twenty five per cent in cases of fraud etc before issuance of show cause notice has been omitted.

***Revision of rates of penalty***

***Penalty under Section 76 for failure to pay Service tax***

<b>Situation</b>	<b>Period</b>	<b>Amount of penalty</b>
Service tax and interest paid	Within 30 days of issuance of SCN	Nil
Service tax, interest and reduced penalty paid	Within 30 days of the communication of the order against SCN	25 per cent of the penalty*
Service tax, interest and reduced penalty paid after appellate proceedings	Within 30 days of the communication of the order of appellate authority	25 of the penalty*

**\*It is pertinent to note that maximum penalty to be invoked initially under Section 76 cannot exceed ten percent of Service tax**

***Penalty under Section 78 for failure to pay Service tax***

<b>Situation</b>	<b>Period</b>	<b>Amount of penalty</b>
Service tax and interest paid	Within 30 days of issuance of SCN	15 per cent of the Service tax
Service tax, interest and reduced penalty paid	Within 30 days of the communication of the order against SCN	25 per cent of the Service tax
Service tax, interest	Within 30 days of the	25 of the Service tax

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and reduced penalty paid after appellate proceedings	communication of the order of appellate authority	
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**It is pertinent to note that maximum penalty to be invoked initially under Section 78 cannot exceed hundred percent of Service tax**

Section 80 relating to exemption from levy of penalty in certain cases has been omitted. Accordingly, penalty provisions has been made mandatory

**C.6 Transition provisions for penalty**

A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-

- (a) amended provisions of sections 76 and 78 shall apply to cases where either no notice is served, or notice is served under subsection (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
- (b) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the Service tax amount.

**C.7 Delegation of appellate powers**

- Appellate powers under Section 86 of the Act, against the order of Commissioner (Appeals) in respect of rebate matters, have been entrusted to Central Government in terms of Section 35 EE of the Central Excise Act 1944.
- Pending appeal before Tribunal in rebate matters, filed between 28<sup>th</sup> May 2012 and date of assent of President on Finance Bill 2015 shall be transferred to Central Government for disposal.

**C.8 Amendments in Settlement Commission provisions**

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Certain provisions in Section 32 to 32P of the Central Excise Act have become redundant due to expiry of time limits specified therein. Accordingly, the same have been omitted.

**D. Changes applicable with effect from a date to be notified after the Enactment of the Finance Bill, 2015 in respect of each provision**

**D.1 Change in Rate of Tax**

The current Finance Bill has been introduced to make the current taxing provisions in line with the forthcoming Goods and Services Tax. The biggest accoutrement towards the alignment is the change in rate of Service Tax.

The Finance Minister has proposed to revise the rate of Service Tax from 12.36% (inclusive of Education Cesses) to 14% (subsuming Education Cesses).

Further, the Education Cess and Secondary and Higher Education Cess has been proposed to be subsumed in the modish rate of 14%. The effect shall be that Clauses 179 and 187, levying the Ed. Cess and SHEC shall cease to have effect from a date which shall be notified later.

Consequently, the composition rate of Service Tax as provided in Rule 6(7), 6(7A), 6(7B) and 6(7C) for Air Travel Agent, Insurance Service, Money Changing and Lottery Distributor and Selling Agent shall also be mutated.

Central Government has notified 1<sup>st</sup> June, 2015 as effective date for change in rate of tax.

Further, with an intent to make a move towards environment protection, a specified levy i.e. Cess named 'Swachh Bharat Cess' (vide clause 117 of Chapter VI of the Finance Bill, 2015) has been proposed to be levied @ 2% on the value of services in addition to any cesses or Service Tax. Prime facie, it seems from the date of levy of 'Swachh Bharat Cess' effective rate of Service Tax would be 16%. Effective date for levy of 'Swachh Bharat Cess' is yet to be notified.

**D.2 Service Tax on Amusement Facility and Entertainment Events (w.e.f. 1<sup>st</sup> June, 2015)**

The Negative List entry under clause (j) of Section 66D of Finance Act, 1994 that covers “admission to entertainment events or access to amusement facilities” is proposed to be omitted. The implication of these changes would be as follows,-

- a) Service tax shall be levied on the services provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.
- b) Service tax is also to be levied on services by way of admission to entertainment event of concerts, pageants and musical performances concerts, award functions and sporting events other than recognized sporting event.

Further, exemption has been proposed for services by way of right to admission to,-

- a) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
- b) recognized sporting event;
- c) award function, concert, pageant, musical performance or any sporting event other than a recognized sporting event, where the consideration for admission is not more than Rs. 500 per person.”.

Further, “Recognized sporting event” means any sporting event,-

- i) organized by a recognized sports body where the participating team or individual represent any district, state, zone or country;
- ii) covered under entry 11 of mega Notification;

**D.3 Service Tax on Liquor (w.e.f. 1<sup>st</sup> June, 2015)**

By virtue of clause (f) of Negative List; any process amounting to manufacture or production of goods is excluded from the levy of Service Tax. Clause (f) is proposed to be amended so as to provide specific exclusion for alcoholic liquor for human consumption. Currently,

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definition of 'process amounting to manufacture or production of goods' given under clause (40) of Section 65B of the Finance Act, 1994 specifically include any process amounting to manufacture of alcoholic liquor for human consumptions. This definition is also proposed to be amended so as to exclude any process amounting to manufacture of alcoholic liquor for human consumptions. Consequently, Service tax shall be levied on contract manufacturing/job work for production of liquor.

Consequential amendment has been proposed in S. No. 30 of Notification No. 25/2012-ST to exclude intermediate production of alcoholic liquor for human consumption.

Further, alcoholic liquor for human consumption are subject to State Excise. Therefore, amount of Service Tax levied will enhance the cost of manufacture of liquor.

**D.4 Service Tax on Services provided by Government (date yet to be notified)**

In the extant taxing provisions, the services provided by Government or Local Authority subject to the exclusions contained in Section 66D were not liable to Service Tax. That is to say, the support services provided by the Government or Local Authority to a business entity were liable to Service Tax.

In the Finance Bill, 2015, the Finance Minister has proposed to omit the definition of Support Services from the ambit of Section 65B (49) from a posterior date to be notified later. The effect to this would be that as and when the proposed amendment shall be effected, all the services provided by Government or Local Authority will be liable to Service tax except those specifically excluded.

Annexure I  
**Chapter V of Finance Bill, 2015**

Chapter V  
**Service Tax**

**105. Amendment of section 65B.**—In the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the 1994 Act), save as otherwise provided, in section 65B,—

- (a) clause (9) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;
- (b) after clause (23), the following clause shall be inserted, namely:—

‘(23A) “foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982);’;
- (c) clause (24) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;
- (d) after clause (26), the following clause shall be inserted, namely:—

‘(26A) “Government” means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder;’;
- (e) after clause (31), the following clause shall be inserted, namely:—

‘(31A) “lottery distributor or selling agent” means a person appointed or authorised by a State for the purposes of promoting, marketing, selling or facilitating in organising lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998);’;
- (f) in clause (40), the words “alcoholic liquors for human consumption,” shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;
- (g) in clause (44), for Explanation 2, the following Explanation shall be substituted, namely:—

‘*Explanation 2.*—For the purposes of this clause, the expression “transaction in money or actionable claim” shall not include—

- (i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—
  - (a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;
  - (b) by a foreman of chit fund for conducting or organising a chit in any manner.’;
- (h) clause (49) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

**106. Amendment of section 66B.**—In section 66B of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the words “twelve per cent.”, the words “fourteen per cent.” shall be substituted.

**107. Amendment of section 66D.**—In section 66D of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in clause (a), in sub-clause (iv), for the words “support services”, the words “any service” shall be substituted;

(2) for clause (f), the following clause shall be substituted, namely:—

“(f) services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption;”;

(3) in clause (i), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation 2* to clause (44) of section 65B;’;

(4) clause (j) shall be omitted.

**108. Amendment of section 66F.**—In section 66F of the 1994 Act, in subsection (1), the following *Illustration* shall be inserted, namely:—

*Illustration*

The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way

of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.’.

**109. Amendment of section 67.**—In section 67 of the 1994 Act, in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

‘(a) “consideration” includes—

- (i) any amount that is payable for the taxable services provided or to be provided;
- (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;
- (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.’.

**110. Amendment of section 73.**—In section 73 of the 1994 Act,—

(i) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be recovered along with interest thereon in any of the modes specified in section 87, without service of notice under sub-section (1).”;

(ii) sub-section (4A) shall be omitted.

**111. Substitution of new section for section 76.**—For section 76 of the 1994 Act, the following section shall be substituted, namely:—

**“76. Penalty for failure to pay service tax.**—(1) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax:

Provided that where such service tax and interest is paid within a period of thirty days of—

- (i) the date of service of notice under sub-section (1) of section 73, no penalty shall be payable;
- (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the penalty imposed in that order, only if such reduced penalty is also paid within such period.

(2) Where the Commissioner (Appeals), the Appellate Tribunal or, the court, as the case may be, modifies the service tax determined under sub-section (2) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the proviso to sub-section (1) shall be available if such service tax, interest and reduced penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.”.

**112. Substitution of new section for section 78.**—For section 78 of the 1994 Act, the following section shall be substituted, namely:—

**“78. Penalty for failure to pay service tax for reason of fraud, etc.—(1)** Where any service tax has not been levied or paid, or has been short-levied or short- paid, or erroneously refunded, by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax:

Provided that where such service tax and interest is paid within a period of thirty days of—

- (i) the date of service of notice under the proviso to sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax;
- (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of such reduced penalty is also paid within such period.

(2) Where the Commissioner ( Appeals), the Appellate Tribunal or the court, as the case may be, modifies the service tax determined under sub-section (2) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the first proviso to sub-section (1) shall be available if such service tax, interest and reduced 5 penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.”.

**113. Insertion of new section 78B.**—After section 78A of the 1994 Act, the following section shall be inserted, namely:—

**“78B. Transitory provisions.**—(1) Where, in any case,—

- (a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously 10 refunded and no notice has been served under sub-section (1) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or
- (b) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President,

then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable.

(2) Notwithstanding anything contained in sub-section (1), in respect of cases falling under the provisions of sub-section (4A) of section 73 as was in force prior to the date of coming into force of 20 the Finance Act, 2015, where no notice under the proviso to sub-section (1) of section 73 has been served on any person or, where so served, no order has been passed under sub-section (2) of section 73, before such date, the penalty leviable shall not exceed fifty per cent. of the service tax.”.

**114. Omission of section 80.**—Section 80 of the 1994 Act shall be omitted.

**115. Amendment of section 86.**—In section 86 of the 1994 Act, in sub-section (1),—

- (a) for the words “Any assessee”, the words “Save as otherwise provided herein, an assessee” shall be substituted;
- (b) the following provisos shall be inserted, namely:—
  - “Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of 30 duty paid on

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inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944:

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012, and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944.”.

**116. Amendment of section 94.**—In section 94 of the 1994 Act, in subsection (2), for clause (aa), the following clause shall be substituted, namely:—

‘(aa) determination of the amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67;’.

Annexure II  
**Chapter VI of Finance Bill, 2015**

Chapter VI

**Swachh Bharat Cess**

**117. Swachh Bharat Cess.**—(1) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

(3) The Swachh Bharat Cess leviable under sub-section (2) shall be in addition to any cess or service tax leviable on such taxable services under Chapter V of the Finance Act, 1994 (32 of 1944), or under any other law for the time being in force.

(4) The proceeds of the Swachh Bharat Cess levied under sub-section (2) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the Swachh Bharat Cess for such purposes specified in sub-section (2), as it may consider necessary.

(5) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Swachh Bharat Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 (32 of 1944) or the rules made thereunder, as the case may be.

## Annexure III

### Memorandum to Finance Bill, 2015 – Service Tax

#### 1. Change in Service Tax rate:

- The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax.

#### 2. Swachh Bharat Cess:

- An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.

#### 3. Broadening of tax base:

##### ***(A) Review of the Negative List [Amendment in the Finance Act, 1994]***

- Service Tax to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places. The Negative List entry that covers access to amusement facility is being omitted [section 66D (j)]. Consequently, the definition of "amusement facility" [section 65B(9)] is also being omitted.

These proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than ` 500 for right to admission to such an event. For this

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purpose, the Negative List Entry that covers admission to entertainment events is being omitted [section 66D (j)]. Consequently, the definition of “entertainment event” [section 66B (24)] is being omitted.

However, the existing exemption to service by way of admission to entertainment events, namely, “exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued, irrespective of the amount charged for such service, through the route of exemption. For this purpose a new entry is being inserted in Notification No. 25/2012-ST, dated 20.6.2012.

The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing /job work for production of potable liquor for a consideration. In this context, the definition of the term “ process amounting to manufacture or production of goods” [ section 65B (40) is being amended] with a consequential amendment in S. No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.

The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- Presently, services provided by the Government or a local authority, excluding certain services specified under clause (a) of section 66D, are in the Negative List. Service tax applies on the “support service” provided by the Government or local authority to a business entity. An enabling provision is being made, by amending [section 66D (a)(iv)], to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of “support service” [section 65B(49)] is being omitted.

These amendments shall come into effect from a date to be notified by the Central Government in this regard after the enactment of the Finance Bill, 2015.

Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service Tax .

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**(B) Review of general exemptions extended under Notification No. 25/2012-ST, dated 20.6.2012:**

- Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority ( vide S. No. 12 of the said notification ) shall be limited only to,—
  - (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
  - (b) canal, dam or other irrigation work; and
  - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn. The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance.
- Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.
- Exemptions are being withdrawn on the following services:
  - (a) services provided by a mutual fund agent to a mutual fund or assets management company,
  - (b) distributor to a mutual fund or AMC,
  - (c) selling or marketing agent of lottery ticket to a distributor.

Service tax on these services shall be levied on reverse charge basis.

- Exemption is being withdrawn on the following service,—
  - (a) Departmentally run public telephone;
  - (b) Guaranteed public telephone operating only local calls; and
  - (c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued. All the above changes in notification No. 25/12-ST, dated 20.6.2012 shall come into effect from the 1st day of April, 2015.

**4. New Exemptions:**

- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
- Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
- Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of it's members is being exempted.
- Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve is being exempted.
- Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

[All the **above New Exemptions** shall come into effect from the 1st day of April, 2015]

**5. New entries being incorporated in notification No. 25/12-ST, to continue exemption to some of the services that are presently covered by the Negative List entries which are being omitted:**

- Service by way of right to admission to,—
  - (i) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - (ii) recognized sporting events.
  - (iii) concerts, pageants, award functions, musical or sporting event not covered by the above exemption, where the consideration for such admission is upto ` 500 per person.

These changes shall be brought into effect from the date the amendments being made in the Negative List, concerning the service by way of admission to entertainment events, come into effect.

**6. Other changes being incorporated in the Finance Act, 1994**

- Services, excluding few specified services, provided by the government have been included in the Negative List. Further, specified services received by the government are also exempt. Hitherto, the term “government” has not been defined in the Act or the notification. This has given rise to interpretational issues. To address such issues, a definition of the term “government” is being incorporated in the Act.
- The intention in law has been to levy Service Tax on the services provided by:
  - (i) chit fund foremen by way of conducting a chit.
  - (ii) distributors or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.

However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.

An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy service tax on activities undertaken by chit fund foremen in relation to chit, and distributors or selling agents of lottery in relation to lotteries.

- Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such service. An illustration is being incorporated in this section to exemplify the scope of this provision.
- Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include:
  - (a) all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision.
  - (b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets;
- Section 73 is being amended in the following manner:
  - (i) a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but

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not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73,; and

- (ii) sub-section (4A), that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.
- Section 76 is being amended to rationalize penalty, in cases **not involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,—
  - (i) penalty not to exceed ten per cent of service tax amount involved in such cases;
  - (ii) no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1);
  - (iii) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty ( 25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.
- Section 78 is being amended to rationalize penalty, **in cases involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,—
  - (i) penalty shall be hundred per cent of service tax amount involved in such cases;
  - (ii) penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
  - (iii) a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

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- A new section 78 B is being inserted to prescribe, by way of a transition provision, that,—
  - (i) amended provisions of section 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
  - (ii) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the service tax amount.
- Section 80, that provided for waiver of penalty in specified situations, is being omitted.
- Section 86 is being amended to prescribe that matters involving rebate of service tax shall be dealt with in terms of Section 35EE of the Central Excise Act.

**7. Rationalization of Abatements:**

- At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
- At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.
- Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015.

**8. Service Tax Rules:**

- In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being

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made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.

This change comes into effect immediately i.e. w.e.f. 1.3.2015.

- Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.
- Provision for issuing digitally signed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.
- Rule 6(6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to amendment in section 73 for enabling such recovery.
- In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules. These amendments shall come into effect as and when the new service tax rate comes into effect.

**9. Reverse charge mechanism:**

- Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.

This change will come into effect from 1.4.2015.

- Services provided by mutual fund agents, mutual fund distributors and agents of lottery distributor are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be, by the mutual fund receiving such services. In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.

This change will come into effect from 1.4.2015.

**10. Cenvat Credit Rules, 2004:**

- Rule 4(7) is being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

This change will come into effect from 1.4.2015

- Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

**11. Miscellaneous:**

- Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

Annexure IV  
**Clarification on Finance Bill, 2015 through  
F. No. 334/5/2015-TRU**

*D.O.F. No. 334/5/2015-TRU, dated 28-2-2015*

**Union Budget 2015 — Changes in Service Tax - reg**

The Finance Minister has, while presenting the Union Budget 2015-16, introduced the Finance Bill in the Lok Sabha on the 28th of February, 2015. Clauses 105 to 116 of the Bill cover the amendments made to Chapter V of the Finance Act, 1994. Chapter VI of the Bill (clause 117) contains the enabling provisions relating to levy Swachh Bharat Cess, which empowers the government to impose Cess on all or any of the taxable services at the rate of 2% of the value of taxable services. Changes are also proposed in,-

- the Service Tax Rules, 1994 (STR);
- the CENVAT Credit Rules, 2004 (Cenvat Rules);

Other changes are being given effect to by inserting new entries, and amending/ omitting existing entries in notification Nos. 25/2012-ST, 26/2012-ST, 30/2012-ST and 31/2012-ST. Further, notification No. 42/2012-ST is being rescinded.

2. It may be noted that changes being made in the Budget are coming into effect on various dates, as indicated in the following paragraphs. These changes are categorized below based on the above criterion:

- (i) Changes coming into effect immediately w.e.f. the 1st day of March, 2015;
- (ii) Changes coming into effect from the 1st day of April, 2015;
- (iii) The amendments which will get incorporated in the Finance Act, 1994 immediately on enactment of the Finance Bill, 2015;
- (iv) The amendments made in the Finance Act, 1994, including the change in service tax rate that will come into effect from a date to be notified by the Government in this regard after the enactment of the Finance Bill, 2015 ;
- (v) Certain fresh entries and amendments to existing entries in notification No. 25/12-ST, and certain amendments in the Service Tax Rules that will come into effect as and when the amendments in the Negative List and revised rate of Service Tax come into effect; and

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- (vi) Chapter VI of the Finance Bill, 2015, regarding levy of Swachh Bharat Cess on all or any of taxable services that will come into effect from a date to be notified.

For ease of reference, the Table at para 14 summarises the changes being made and indicates the dates on which these changes would come into effect.

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

**3. Service Tax Rate:**

3.1 The rate of Service Tax is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, the effective increase in Service Tax rate will be from the existing rate of 12.36% (inclusive of cesses) to 14%, subsuming the cesses.

3.2 In this context, an amendment is being made in section 66B of the Finance Act, 1994. Further, it has been provided vide clauses 179 and 187 respectively of the Finance Bill, 2015 that sections 95 of the Finance Act, 2004 and 140 of the Finance Act, 2007, levying Education Cess and Secondary and Higher Education Cess on taxable services shall cease to have effect from a date to be notified by the Government.

3.3 The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

3.4 Till the time the revised rate comes into effect, the 'Education Cess' and 'Secondary and Higher Education Cess' will continue to be levied in Service Tax.

*(Clause 106 of the Bill refers)*

**4. Enabling provision for levy of "Swachh Bharat Cess"**

4.1 An enabling provision is being incorporated in the Finance Bill, 2014 (Chapter VI/clause 117) to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% on the value of such taxable services. This cess shall be levied from such date as may be notified by the Central Government after the enactment of the Finance Bill, 2015. The details of coverage of this Cess would be notified in due course.

*(Chapter VI/Clause 117 of the Bill refers)*

**5 Other Legislative changes:**

**5.1 Negative List**

The changes proposed in the Negative List in Section 66 D are as follows:

- (i) The Negative List entry that covers "admission to entertainment event or access to amusement facility" is being omitted [section 66D (j)]. Consequently, the definitions of "amusement facility" [section 65 B (9)] and "entertainment event" [section 65B(24)] are also being omitted.

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The implication of these changes are as follows,-

- (a) Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.
- (b) Service tax to be levied on service by way of admission to entertainment event of concerts, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 for right to admission to such an event. However, the existing exemption, by way of the Negative List entry, to service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet shall be continued, through the route of exemption. For this purpose a new entry is being inserted in notification No. 25/12-ST. The term recognized sporting event has been defined in the proposed amendment in the said notification.
- (ii) The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration. In this context, the definition of the term “ process amounting to manufacture or production of goods” [section 65 B (40)] is also being amended, along with the Negative List entry [section 66D (f)], with a consequential amendment in S. No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.
- (iii) Presently, services provided by Government or a local authority, excluding certain services specified under clause (a) of section 66D, are covered by the Negative List. Service Tax applies on the “support service” provided by the Government or local authority to a business entity. An enabling provision is being made, by amending section 66D (a)(iv), to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of “support service” [section 65 B (49)] is being omitted. Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity,

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except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax .

*(Clauses 105 and 107 of the Bill refers)*

The above changes in the Negative List shall come into effect from a date to be notified later, after the enactment of the Finance Bill, 2015.

**5.2 Further amendments in Chapter V of the Finance Act, 1994:**

- (i) Services, excluding a few specified services, provided by the government are included in the Negative List. Further, specified services received by the government are also exempt. Hitherto, the term “government” has not been defined in the Act or the notification. This has given rise to interpretational issues. To address such issues, a definition of the term “government” is being incorporated in the Act [section 65 B (26A)].

*(Clause 105 of the Bill refers)*

- (ii) The intention in law has been to levy Service Tax on the services provided by:

- (a) chit fund foremen by way of conducting a chit.  
(b) distributor or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.

However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.

An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy Service Tax on activities undertaken by chit fund foremen in relation to chit, and lottery distributors and selling agents, in relation to lotteries [section 65 B (44)]. Further, an explanation is being added in entry (i) of section 66D to specifically state that these activities are not covered by the Negative List.

*(Clauses 105 and 107 of the Bill refers)*

- (iii) Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such services. An illustration is being incorporated in this section to exemplify the scope of this provision. As illustrated, reference to service provided by the Reserve Bank of India (RBI), in section 66D (b) does not include any agency service provided by other banks to RBI, as such agency services are input services used by RBI for provision of its main service. Accordingly, banks providing agency service to or in

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relation to services of RBI, are liable to pay Service Tax on the agency services so provided by virtue of the existing section 66F (1).

*(Clause 108 of the Bill refers)*

(iv) Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for a taxable service shall include:

- (a) all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically in section 67.
- (b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets.

*(Clause 109 of the Bill refers)*

(v) Section 73 is being amended in the following manner:

- (a) a new sub-section (1B) is being inserted to provide that recovery of the Service Tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73; and
- (b) sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.

*(Clause 110 of the Bill refers)*

(vi) Section 76 is being amended to rationalize the provisions relating to penalties, in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

- (a) penalty not to exceed ten per cent. of Service Tax amount involved in such cases;
- (b) no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73 (1);
- (c) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

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- (d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty ( 25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

*(Clause 111 of the Bill refers)*

- (vii) Section 78 is being amended to rationalize penalty, incases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,—

- (a) penalty shall be hundred per cent of Service Tax amount involved in such cases;
- (b) a reduced penalty equal to 15% of the Service Tax amount is to be paid if Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
- (c) a reduced penalty equal to 25% of the Service Tax amount, determined by the Central Excise officer by an order, is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and
- (d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.

*(Clause 112 of the Bill refers)*

- (viii) A new section 78 B is being inserted to prescribe, by way of a transition provision, that,—

- (a) amended provisions of sections 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
- (b) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the Service Tax amount.

*(Clause 113 of the Bill refers)*

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- (ix) Section 80, that provided for waiver of penalty in certain circumstances, is being omitted.

*(Clause 114 of the Bill refers)*

- (x) Section 86 is being amended to prescribe that remedy against the order passed by Commissioner (Appeal), in a matter involving rebate of Service Tax, shall lie in terms of section 35EE of the Central Excise Act. It is also being provided that all appeals filed in Tribunal after the date the Finance Act, 2012 came into effect and pending on the date when the Finance Bill, 2015 receives assent of the President shall be transferred and dealt in accordance with section 35EE of the Central Excise Act.

*(Clause 115 of the Bill refers)*

- (xi) Certain changes have been made in the provisions relating to Settlement Commission. These provisions, contained in the Central Excise Act, 1944, are made applicable to Service Tax, through section 83 of the Finance Act, 1994. For details, the D.O. letter of J.S. (TRU-I) may please be referred to.

The above stated changes in the Finance Act, 1994, shall get incorporated in the said Act on the day the Finance Bill, 2015 is enacted.

**6 Review of Exemptions:**

6.1 Exemption presently available on specified services of construction, repair, maintenance, renovation or alteration service provided to the Government, a local authority, or a governmental authority (*vide* S. No. 12 of the notification No. 25/12-ST) shall be limited only to,—

- (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
- (b) canal, dam or other irrigation work; and
- (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

6.2 Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn (S. No 14 of the notification No. 25/12-ST). The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.

6.3 Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance (S. No 16 of notification No. 25/12-ST).

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6.4 Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue (S. Nos. 20 and 21 of notification No. 25/12-ST).

6.5 Exemptions are being withdrawn on the following services:

- (a) services provided by a mutual fund agent to a mutual fund or assets management company,
- (b) distributor to a mutual fund or AMC,
- (c) selling or marketing agent of lottery ticket to a distributor. Service Tax on these services shall be levied on reverse charge basis.

*(S. No 29 of notification No. 25/12-ST).*

6.6 Consequent to imposition of Service Tax levy on service by way of manufacture of alcoholic liquor for human consumption, an amendment is being made in the entry at S. No. 30 of notification No. 25/12-ST to exclude carrying out of intermediate production process of alcoholic liquor for human consumption on job work from this entry.

*(S. No 30 of notification No. 25/12-ST).*

6.7 Exemption is being withdrawn on the following service,—

- (a) Departmentally run public telephone;
- (b) Guaranteed public telephone operating only local calls;
- (c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

*(S. No. 32 of notification No. 25/12-ST).*

6.8 Existing exemption, vide notification No. 42/12-ST, dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

The above changes in notification No. 25/12-ST, except the change mentioned in para 6.6, shall come into effect from the 1st day of April 2015. The change mentioned at para 6.6 shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015. The change mentioned at S. No. 6.8 comes into effect immediately.

**7 New Exemptions:**

7.1 Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from Service Tax. The scope of this exemption is being widened to include all ambulance services.

*(Amended in the entry at S. No. 2 of notification No. 25/12-ST refers).*

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7.2 Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.

*(Amendment in entry at S. No. 26A of notification No. 25/12-ST refers)*

7.3 Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.

*(New entry at S. No. 43 of notification No. 25/12-ST).*

7.4 Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.

*(New entry at S. No. 44 of notification No. 25/12-ST).*

7.5 Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve is being exempted. These services when provided by the Government or local authority are already covered by the Negative List.

*(New entry at S. No. 45 of notification No. 25/12-ST).*

7.6 Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of its members is being exempted.

*(New entry at S. No. 46 of notification No. 25/12-ST).*

7.7 Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from Service Tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

*(Amendment in notification No. 31/12-ST refers).*

All the above New Exemptions shall come into effect from the 1st day of April, 2015.

**8. New entries being incorporated in notification No. 25/12-ST, to continue exemption to certain activities that are presently covered by the Negative List entries which are being omitted:**

8.1 Service by way of right to admission to,—

(i) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.

(ii) recognized sporting events.

(iii) concerts, pageants, award functions, musical performances or sporting events not covered by S. No. ii, where the consideration for such admission is upto Rs. 500 per person.

(New entry 46 of notification No. 25/2012-ST and clause (zab) of definitions in the said notification)

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These changes shall be made effective from the date the amendments being made in the Negative List concerning the service by way of admission to entertainment events come into effect.

**9. Abatements:**

9.1 At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road by a goods transport agency and 40% for goods transport by vessels. The conditions prescribed also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel and Service Tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.

9.2 At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and Service Tax would be payable on 60% of the value of such higher classes.

9.3 Abatement is being withdrawn from services provided in relation to chit.

Consequently, Service Tax shall be paid by the chit fund foremen on the full consideration received by way of fee, commission or any such amount.

They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015.

**10. Reverse Charge Mechanism**

10.1 Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.

10.2 Services provided by,—

- (i) mutual fund agents, mutual fund distributors; and
- (ii) agents of lottery distributor

are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or, as the case may be, by the mutual fund receiving such services. In respect of agents of lottery, Service Tax shall be paid by the distributor of lottery.

This above changes in reverse charge mechanism will come into effect from the 1st day of April, 2015.

**11. Service Tax Rules**

11.1 In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made

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liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST, dated 20.6.2012

This change comes into effect immediately i.e., w.e.f. 1st March, 2015.

11.2 Rule 4 is being amended to provide that the CBEC shall, by way of an order, specify the conditions, safeguards and procedure for registration in service tax. In this regard Order No. 1/15-ST, dated 28.2.2015, effective from 1.3.2015 has been issued, prescribing documentation, time limits and procedure for registration. It has also been prescribed that henceforth registration for single premises shall be granted within two days of filing the application.

11.3 A provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures. The conditions and procedure in this regard shall be specified by the CBEC (rule 4, 4A and 5).

11.4 Rule 6 (6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to the amendment in section 73 for enabling such recovery. This change will come into effect from the date of enactment of the Finance Bill, 2015.

11.5 In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent, the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules.

The amendments specified in para 11.5 shall come into effect as and when the revised Service Tax rate comes into effect.

#### **12. Cenvat Credit Rules, 2004**

12.1 Rule 4(7) is being amended to allow Cenvat Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider. This change will come into effect from 1.4.2015.

12.2 The period for taking Cenvat Credit is being extended from six months from the date of invoice to one year from the date of invoice.

12.3 Certain other changes are being made in the provisions of the Cenvat Credit Rules, 2004, which, *inter-alia*, include allowing Cenvat Credit on input and

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capital goods received directly by job workers, defining “export goods” for the purposes of rule 5, defining “exempt goods” for the purposes of rule 6, making applicable the provision of rule 9(4) to importer dealers, authorizing imposition of restrictions on registered dealers under rule 12AAA, and provisions relating to recovery of credit wrongly taken and imposition of penalty. For details, the D.O. letter of J.S (TRU-I) may please be referred to.

**13. Advance Rulings:**

The facility of Advance Ruling is being extended to all resident firms by specifying such firms under section 96A (b)(iii) of the Finance Act, 1994.

*(Notification No. 9/2015-ST, dated 1.3.2015 refers)*

**14. Summary of changes being made and the dates on which they would come into effect:**

Subject	Refer Para
<b>With immediate effect (from 1.3.2015)</b>	
(i) Shifting the liability of payment of service tax on aggregator of a service where service is provided under the brand name of the aggregator	11.1
(ii) Amendments in rules 4, 4A and 5 of the Service Tax Rules, 1994	11.2 and
(iii) Certain amendments in the Cenvat Credit Rules	11.3
(iv) Rescinding of notification No. 42/2012-ST	12.2 and
(v) Extending the scope of advance rulings to resident firms	12.3
	6.8
	13
<b>With effect from the 1st day of April, 2015</b>	
(i) Rationalization of exemptions at S. Nos. 12, 14, 16, 20, 21 and 29 of notification No. 25/2012-ST	6.1 to 6.5
(ii) Omitting the entry at S. No. 32 in notification No. 25/2012-ST	6.7
(iii) New exemptions for,—	7.1 to 7.7
<ul style="list-style-type: none"> <li>• Precondition, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables</li> <li>• Service by a Common Effluent Treatment Plant operator</li> <li>• Varistha Bima Yojana</li> <li>• Ambulance services</li> <li>• Admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve</li> <li>• Service provided by exhibitor of movie to a distributor or an AOP consisting of exhibitor as one of its member</li> <li>• Transport of export goods by road from the place of removal to a land customs station</li> </ul>	
(iv) Change in abatement rates and conditions thereof for transport of passengers and goods by train; transport of goods by road by a GTA; transport of goods by vessels; executive/business class travel	9.1 to 9.3

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<b>Subject</b>	<b>Refer Para</b>
by air; and withdrawal of abatement on services provided in relation to chit	
(v) Amendment in reverse charge mechanism,— <ul style="list-style-type: none"> <li>• To prescribe full reverse charge on manpower supply and security service provided by individual, HUF, partnership firm to a body corporate</li> <li>• Prescribing reverse charge on service provided by a mutual fund agent, mutual fund distributor and agents of lottery distributor</li> </ul>	10.1 and 10.2
(vi) Amendment in rule 4(7) of the Cenvat Credit Rules to allow credit of service tax paid by recipient of service in partial reverse charge immediately on payment of tax	12.1
<b>Changes in the Finance Act, 1994 that would get incorporated on enactment of the Finance Bill 2015</b>	
(i) Insertion of new definition to specify the term “government” [section 65 B (26A)]	5.2(i)
(ii) Insertion of a new Explanation in the definition of service [section 65 B(44)]	5.2 (ii)
(iii) Insertion of an illustration in sub-section (1) of section 66F(1) to explain the scope of this sub- section	5.2(iii)
(iv) Amendment in the definition of the terms “consideration” in section 67	5.2 (iv) 5.2(v) to (vii)
(v) Amendments in sections 73, 76 and 78.	5.2 (viii)
(vi) Insertion of transition provision by way of section 78B	5.2 (ix)
(vii) Omitting section 80	5.2(x)
(viii) Amendments in section 86	5.2 (xi)
(ix) Amendments in the provisions relating to Settlement Commission	11.4
(x) Omitting of rule 6 (6A) of the Service Tax Rules	
<b>With effect from a date to be notified after the enactment of the Finance Bill, 2015 in respect of each provision</b>	
New Service Tax rate	3
Swachh Bharat Cess	4
Amendments in the Negative List (section 66D) and definitions (section 65B), namely,—	
(i) Omitting the definitions of the terms “amusement facility”[section 65 B (9)], “entertainment event” [section 65 B(24)], and entry (j) in section 66D	5.1 (i)
(ii) Amendments in the definition of terms “process amounting to manufacture or production of goods” [section 65 B (40)] and entry (f) in section 66D	5.1 (ii)
(iii) Omitting the definition of the terms “support service”[section 65 B (49)], and amendment in section 66D(a) (iv)	5.1 (iii)

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<b>Subject</b>	<b>Refer Para</b>
Amendment in S. No. 30 of notification No. 25/12-ST to exclude job work in relation to alcoholic liquor for human consumption from the scope of this exemption	6.6
Insertion of a new entry at S. No. 47 of notification No. 25/12-ST to exempt services by way of (i) right to admission to exhibition of film, circus, dance or theatrical performances including drama, or ballet; (ii) recognized sporting event; and (iii) admission to other events where the consideration for admission is upto Rs. 500;	8.1
Amendments in alternative rates of service tax provided for air travel agent, insurance service, money changing service and service provided by a lottery distributor and selling agent in rule 6(7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules.	11.5

**15. General**

15.1 Changes explained above are not intended to be exhaustive and are meant only to draw attention to major changes. The text of the statutory provisions and the wordings of the notifications should be read carefully for interpreting the law.

15.2 Field formations are requested to go through the changes made in the Budget carefully. Any issues or doubts which may arise or any omission/error observed may kindly be brought to the notice of the undersigned, or Dr. Abhishek Chandra Gupta, Technical Officer at [abhishek.gupta81@nic.in](mailto:abhishek.gupta81@nic.in) as soon as possible.

I would like to express my appreciation of the pre-budget suggestions and inputs received from field formations. I would also thank the officers in TRU who had worked as a cohesive team during the Budget exercise. A special word of thanks to Shri G. D. Lohani who, though promoted as Commissioner mid-way through the exercise, continued to work as a part of the team with unabated enthusiasm.

## Annexure V

### **Notifications to rescind Notification No. 42/2012-ST (Notification No. 3/2015-ST dated 1st March, 2015)**

*Notification No. 3/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 42/2012-Service Tax, dated 29th June 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R. 520 (E), dated 29th June 2012, except as respects things done or omitted to be done before such rescission.

Annexure VI

**Notification to exempt transportation of export goods from  
place of removal to land custom station  
(Notification No. 4/2015-ST dated 1st March, 2015)**

*Notification No. 4/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.31/2012- Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* G.S.R 473 (E), dated the 20th June, 2012, namely:—

1. In the said notification, in the Table, against Sl.No. 1, in column (2), for the words “port or airport”, at both the places where they occur, the words “port, airport or land customs station” shall be substituted.

2. This notification shall come into force on the 1st day of April, 2015.

## Annexure VII

### **Notification to amend Service Tax Rules, 1994 (Notification No. 5/2015-ST dated 1st March, 2015)**

*Notification No. 5/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:—

1. (1) These rules may be called the Service Tax (Amendment) Rules, 2015.

(2) Save as otherwise provided in these rules, they shall come into force on the 1st day of March, 2015.

2. In the Service Tax Rules, 1994,—

(a) in rule 2, in sub-rule (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “aggregator” means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator;’;

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

‘(bca) “brand name or trade name” means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person;’;

(iii) in clause (d), in sub-clause (i),—

(I) after item (AA), the following item shall be inserted, namely:—

‘(AAA) in relation to service provided or agreed to be provided by a person involving an aggregator in any manner, the aggregator of the service: Provided that if the aggregator does not have a physical presence in the taxable territory, any person representing the aggregator for any purpose in the taxable territory shall be liable for paying service tax;

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*Notification No. 5/2015-ST, dated 1-3-2015*

Provided further that if the aggregator does not have a physical presence or does not have a representative for any purpose in the taxable territory, the aggregator shall appoint a person in the taxable territory for the purpose of paying service tax and such person shall be liable for paying service tax.’;

- (II) in item (E), from such date as the Central Government may, by a notification in the Official Gazette, appoint, the word “support” shall be omitted;
  - (III) after item (EE), the following items shall be inserted with effect from the 1st day of April 2015, namely:—
    - “(EEA) in relation to service provided or agreed to be provided by a mutual fund agent or distributor to a mutual fund or asset management company, the recipient of the service;
    - (EEB) in relation to service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent, the recipient of the service;”;
- (b) in rule 4,—
- (i) sub-rule (1A) shall be omitted.
  - (ii) after sub-rule (8), the following sub-rule shall be inserted, namely:—
    - “(9) The registration granted under this rule shall be subject to such conditions, safeguards and procedure as may be specified by an order issued by the Board.”;
- (c) after rule 4B, the following rule shall be inserted, namely:—
- “4C. Authentication by digital signature.—**(1) Any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature.
- (2) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by any person issuing digitally signed invoices.”;
- (d) in rule 5, after sub-rule (3), the following sub-rules shall be inserted, namely,—
- “(4) Records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature.
  - (5) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.
- Explanation.—*For the purposes of rule 4C and sub-rule (4) and (5) of this rule,—

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- (i) The expression “authenticate” shall have the same meaning as assigned in the Information Technology Act, 2000 (21 of 2000).
  - (ii) The expression “digital signature” shall have the meaning as defined in the Information Technology Act, 2000 (21 of 2000) and the expression “digitally signed” shall be construed accordingly.”
- (e) in rule 6,
- (i) sub-rule (6A) shall be omitted, with effect from the date on which the Finance Bill, 2015, receives the assent of the President;
  - (ii) from such dates as the Central Government may, by a notification in the Official Gazette, appoint,—
    - (a) in sub-rule (7), for the figures “0.6%” and “1.2 %”, the figures and words “0.7 per cent.” and “1.4 per cent.” shall respectively be substituted;
    - (b) in sub-rule (7A), in clause (ii), for the figures and words “3 per cent.” and “1.5 per cent.”, the figures and words “3.5 per cent.” and “1.75 per cent.” shall respectively be substituted;”;
    - (c) in sub-rule (7B),—
      - (i) in item (a), for the figures and words “0.12 per cent” and “rupees 30”, the figures and words “0.14 per cent” and “rupees 35” shall respectively be substituted;
      - (ii) in item (b), for the figures and words “120 and 0.06 per cent”, the figures and words “140 and 0.07 per cent.” shall be substituted;
      - (iii) in item (c), for the figures and words “660 and 0.012 per cent” and “rupees 6,000”, the figures and words “770 and 0.014 per cent” and “rupees 7,000” shall respectively be substituted;
- (d) in sub-rule (7C),-
- (A) in the Table, in column (2),—
    - (i) against Sl. No. 1, for the figures “7000”, the figures “8200” shall be substituted;
    - (ii) against Sl. No. 2, for the figures “11000”, the figures “12800” shall be substituted;
  - (B) in the Explanation, item (i) shall be omitted, with effect from the date on which the Finance Bill, 2015, receives the assent of the President.

## Annexure VIII

### **Notification to amend Mega Exemption (Notification No. 6/2015-ST dated 1st March, 2015)**

*Notification No. 6/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012- Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 467(E), dated the 20th June, 2012, namely:—

1. In the said notification,—
  - (i) for entry 2, the following entry shall be substituted, namely,—
    - “2. (i) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
    - (ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above;”;
  - (ii) in entry 12, items (a), (c) and (f) shall be omitted;
  - (iii) in entry 14, in item (a), the words “an airport, port or” shall be omitted;
  - (iv) for entry 16, the following entry shall be substituted, namely:-
    - “16. Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, if the consideration charged for such performance is not more than one lakh rupees:
    - Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.”;
  - (v) in entry 20, for item (i), the following item shall be substituted, namely:—
    - “(i) milk, salt and food grain including flours, pulses and rice;”;
  - (vi) in entry 21, for item (d), the following item shall be substituted, namely:—
    - “(d) milk, salt and food grain including flours, pulses and rice;”;
  - (vii) in entry 26A, after item (c), the following item shall be inserted, namely—
    - “(d) Varishtha Pension Bima Yojana;”;
  - (viii) in entry 29, items (c), (d) and (e) shall be omitted;

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- (ix) in entry 30, in item (c), for the words “any goods”, the words “any goods excluding alcoholic liquors for human consumption,” shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;
  - (x) entry 32 shall be omitted;
  - (xi) after entry 42, the following entries shall be inserted, namely,—
    - “43. Services by operator of Common Effluent Treatment Plant by way of treatment of effluent;
    - 44. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables;
    - 45. Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo;
    - 46. Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members;”;
  - (xii) after entry 46 so inserted, the following entry shall be inserted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—
    - “47. Services by way of right to admission to,—
      - (i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
      - (ii) recognised sporting event;
      - (iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs 500 per person.”.
2. In the said notification, in paragraph 2 relating to Definitions,—
- (a) after clause (xa), the following clause shall be inserted, namely:-
    - ‘(xaa) “national park’ has the meaning assigned to it in the clause (21) of the section 2 of The Wild Life (Protection) Act, 1972 (53 of 1972);’;
  - (b) after clause (zaa), the following clause shall be inserted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—
    - ‘(zab) “recognised sporting event” means any sporting event,—
      - (i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;
      - (ii) covered under entry 11.’;

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(c) for the clause (zi), the following clauses shall be substituted, namely:—

(zi) “tiger reserve” has the meaning assigned to it in clause (e) of section 38K of the Wild Life (Protection) Act, 1972 (53 of 1972);

(zj) “trade union” has the meaning assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926);

(zk) “wildlife sanctuary” means sanctuary as defined in the clause (26) of the section 2 of The Wild Life (Protection) Act, 1972 (53 of 1972);

(zl) “zoo” has the meaning assigned to it in the clause (39) of the section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972).’.

3. Save as otherwise provided in this notification, this notification shall come into force on the 1st of April, 2015.

## Annexure IX

### **Notification to amend Reverse Charge Mechanism (Notification No. 7/2015-ST dated 1st March, 2015)**

*Notification No. 7/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), the Central Government, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 30/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 472 (E), dated the 20th June, 2012, namely:—

1. In the said notification,—

(i) in paragraph I, in clause (A),—

(a) after sub-clause (ia), the following sub-clauses shall be inserted, namely:—

"(ib) provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company";

"(ic) provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent;";

(b) in sub-clause (iv), in item (C), with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the words "by way of support services" shall be omitted;

(c) after the sub-clause (v), with effect from the 1st day of March, 2015, the following sub-clause shall be inserted, namely:—

"(vi) provided or agreed to be provided by a person involving an aggregator in any manner;";

(ii) in paragraph (II),—

(A) for the portion beginning with brackets, letters and words "(II) The extent of service tax payable" and ending with words "namely:-", the following shall be substituted with effect from 1st March, 2015, namely:—

"II. The extent of service tax payable thereon by the person who provides the service and any other person liable for paying service tax for the taxable services specified in paragraph I shall be as specified in the following Table, namely:-";

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(B) in the Table,—

(i) in column (4), for the column heading, the following column heading shall be substituted with effect from 1st March, 2015, namely:—

“Percentage of service tax payable by any person liable for paying service tax other than the service provider”;

(ii) after Sl. No. 1A and the entries relating thereto, the following Sl Nos. and entries shall be inserted, namely:—

"1B.	in respect of services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company	Nil	100%
1C.	in respect of service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent	Nil	100%”;

(iii) against Sl. No. 8, in column (3) and column (4), for the existing entries, the entries “Nil” and “100%” shall respectively be substituted;

(iv) after Sl. No. 10 and the entries relating thereto, with effect from 1st March, 2015, the following Sl. No. and entries shall be inserted, namely:—

“ 11.	in respect of any service provided or agreed to be provided by a person involving an aggregator in any manner	Nil	100%”.
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2. Save as otherwise provided, this notification shall come into force on the 1st day of April, 2015.

## Annexure X

### Notification to amend provisions related to Abatement (Notification No. 8/2015-ST dated 1st March, 2015)

*Notification No. 8/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.26/2012- Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 468 (E), dated the 20th June, 2012, namely:—

1. In the said notification, in the Table,—

(i) against Sl. No. 2, in column (4), for the entry, the following entry shall be substituted, namely:—

"CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.";

(ii) against Sl. No. 3, in column (4), for the entry " Nil", the entry "Same as above" shall be substituted;

(iii) for Sl. No. 5 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)
"5	Transport of passengers by air, with or without accompanied belongings in		CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.";
(i)	economy class	40	
(ii)	other than economy class	60	

(iv) against Sl. No. 7, in column (3), for the entry "25", the entry "30" shall be substituted;

(v) Sl. No. 8 and entries relating thereto shall be omitted;

(vi) against Sl. No. 10, in column (3), for the entry "40", the entry "30" shall be substituted.

2. This notification shall come into force on the 1st day of April, 2015.

## Annexure XI

### **Notification for Changes in Advance Ruling (Notification No. 9/2015-ST dated 1st March, 2015)**

*Notification No. 9/2015-ST, dated 1-3-2015*

In exercise of the powers conferred by sub-clause (iii) of clause (b) of section 96A of the Finance Act, 1994 (32 of 1994), the Central Government hereby specifies "resident firm" as class of persons for the purposes of the said sub-clause.

*Explanation.*—For the purposes of this notification,—

- (a) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932) , and includes—
  - (i) the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or
  - (ii) limited liability partnership which has no company as its partner; or
  - (iii) the sole proprietorship; or
  - (iv) One Person Company.
- (b) (i) "sole proprietorship" means an individual who engages himself in an activity as defined in sub-clause (a) of section 96A of the Finance Act, 1994.
- (ii) "One Person Company" means as defined in clause (62) of section 2 of the Companies Act, 2013 (18 of 2013).
- (c) "resident" shall have the meaning assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far as it applies to a resident firm.

## Annexure XII

### **Notification for Changes in CENVAT Credit Rules, 2004 (Notification No. 6/2015-CE(NT) dated 1st March, 2015)**

*Notification No. 6/2015-CE (N.T.), dated 1-3-2015*

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:—

1. (1) These rules may be called the CENVAT Credit (Amendment) Rules, 2015.

(2) Save as otherwise provided in these rules, they shall come into force on the 1st day of March, 2015.

2. In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 4,—

(a) in sub-rule (1),—

(i) after the words “the provider of output service” , occurring at the end and before the first proviso, the words “or in the premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be,” shall be inserted;

(ii) in the third proviso, for the words “six months”, the words “one year” shall be substituted;

(b) in sub-rule (2), in clause (a), after the words “for captive use within the factory,” the words “or in the premises of the job worker, in case capital goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be,” shall be inserted;

(c) in sub-rule (5), for clause (a), the following clause shall be substituted, namely:—

“(a) (i) The CENVAT credit on inputs shall be allowed even if any inputs as such or after being partially processed are sent to a job worker and from there subsequently sent to another job worker and likewise, for further processing, testing, repairing, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer

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or the provider of output service taking the CENVAT credit that the inputs or the products produced therefrom are received back by the manufacturer or the provider of output service, as the case may be, within one hundred and eighty days of their being sent from the factory or premises of the provider of output service, as the case may be:

Provided that credit shall also be allowed even if any inputs are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker;

- (ii) the CENVAT credit on capital goods shall be allowed even if any capital goods as such are sent to a job worker for further processing, testing, repair, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or the provider of output service taking the CENVAT credit that the capital goods are received back by the manufacturer or the provider of output service, as the case may be, within two years of their being so sent:

Provided that credit shall be allowed even if any capital goods are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output service, as the case may be, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker;

- (iii) if the inputs or capital goods, as the case may be, are not received back within the time specified under sub-clause (i) or (ii), as the case may be, by the manufacturer or the provider of output service, the manufacturer or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods, as the case may be, by debiting the CENVAT credit or otherwise, but the manufacturer or the provider of output service may take the CENVAT credit again when the inputs or capital goods, as the case may be, are received back in the factory or in the premises of the provider of output service.”;

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(d) in sub-rule (7),—

(i) for the first, second and third provisos, the following provisos shall be substituted, with effect from the 1st day of April 2015, namely:—

“Provided that in respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid:”

“Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan referred to in rule 9 is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service, except an amount equal to the CENVAT credit of the tax that is paid by the manufacturer or the service provider as recipient of service, and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules:”;

(ii) in the sixth proviso, for the words “six months”, the words “one year” shall be substituted;

(iii) in the Explanations I and II, for the words “sub-rule”, the word “rule” shall be substituted.

3. In the said rules, in rule 5, in Explanation 1, after clause (1), the following clause shall be inserted, namely:—

“(1A) “export goods” means any goods which are to be taken out of India to a place outside India.”.

4. In the said rules, in rule 6, in sub-rule (1), after the proviso, the following *Explanations* shall be inserted, namely:—

*Explanation 1.*—For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.

*Explanation 2.*—Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.”.

5. In the said rules, in rule 9, in sub-rule (4), the following proviso shall be inserted at the end, namely:—

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“Provided that provisions of this sub-rule shall apply *mutatis mutandis* to an importer who issues an invoice on which CENVAT credit can be taken.”.

6. In the said rules, in rule 12AAA,—

- (a) after the words “restrictions on a manufacturer” , the words “registered importer,” shall be inserted.
- (b) after the words “suspension of registration in case of” , the words “an importer or” shall be inserted.

7. In the said rules, for rule 14, the following rule shall be substituted, namely:—

*“14. Recovery of CENVAT credit wrongly taken or erroneously refunded.—(1) (i) Where the CENVAT credit has been taken wrongly but not utilised, the same shall be recovered from the manufacturer or the provider of output service, as the case may be, and the provisions of section 11A of the Excise Act or section 73 of the Finance Act, 1994 (32 of 1994), as the case may be, shall apply mutatis mutandis for effecting such recoveries;*

*(ii) Where the CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same shall be recovered along with interest from the manufacturer or the provider of output service, as the case may be, and the provisions of sections 11A and 11AA of the Excise Act or sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such recoveries.*

(2) For the purposes of sub-rule (1), all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely:—

- (i) the opening balance of the month has been utilised first;
- (ii) credit admissible in terms of these rules taken during the month has been utilised next;
- (iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter.”.

8. In the said rules, in rule 15, with effect from the date on which the Finance Bill, 2015 receives the assent of the President,—

- (a) in sub-rule (1), for the words “not exceeding the duty or service tax on such goods or services, as the case may be, or two thousand rupees, whichever is greater.”, the words, brackets, figures and letters “in terms of clause (a) or clause (b) of sub- section (1) of section 11AC of the Excise Act or sub-section (1) of section 76 of the Finance Act (32 of 1994), as the case may be” shall be substituted;

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- (b) in sub-rule (2), for the words, figures and letters “section 11AC of the Excise Act.” , the words, brackets, figures and letters “clause (c), clause (d) or clause (e) of sub-section (1) of section 11AC of the Excise Act.” shall be substituted;
- (c) in sub-rule (3), for the words and figures “penalty in terms of the provisions of section 78”, the words brackets and figures “penalty in terms of the provisions of sub-section (1) of section 78” shall be substituted.

## Annexure XIII

### **Order No. 1/15-ST dated 28th February, 2015 for Simplification of Registration Procedures in Service Tax**

*Order No. 1/2015-ST, dated 28-2-2015*

The legal provisions for registration in service tax are contained in section 69 of the Finance Act, 1994, rule 4 of the Service Tax Rules, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005. Paragraph 2 of Circular 97/8/2007-ST, dated 23-8-2007 and Order No. 2/2011-ST, dated 13-12-2011 also explain some of the procedural aspects of registration in service tax.

In supercession of Order No. 2/2011-ST, dated 13-12-2011, the Central Board of Excise and Customs specifies the following documentation, time limits and procedure with respect to filing of registration applications for single premises, which shall come into effect from 1-3-2015.

#### **2. General procedure**

- (i) Applicants seeking registration for a single premises in service tax shall file the application online in the Automation of Central Excise and Service Tax (ACES) website [www.aces.gov.in](http://www.aces.gov.in) in Form ST-1.
- (ii) Registration shall mandatorily require that the Permanent Account Number (PAN) of the proprietor or the legal entity being registered be quoted in the application with the exception of Government Departments for whom this requirement shall be non-mandatory. Applicants, who are not Government Departments shall not be granted registration in the absence of PAN. Existing registrants, except Government departments not having PAN shall obtain PAN and apply online for conversion of temporary registration to PAN based registration within three months of this order coming into effect, failing which the temporary registration shall be cancelled after giving the assessee an opportunity to represent against the proposed cancellation and taking into consideration the reply received, if any.
- (iii) **E-mail and mobile number mandatory:** The applicant shall quote the email address and mobile number in the requisite column of the application form for communication with the department. Existing registrants who have not submitted this information are required to file an amendment application by 30-4-2015.
- (iv) Once the completed application form is filed in ACES, registration would be granted online within 2 days, thus initiating trust-based registration. On grant of registration, the applicant would also be enabled to electronically pay service tax.

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- (v) Further, the applicant would not need a signed copy of the Registration Certificate as proof of registration. Registration Certificate downloaded from the ACES web site would be accepted as proof of registration dispensing with the need for a signed copy.

**3. Documentation required**

The applicant is required to submit a **self attested copy** of the following documents by **registered post/Speed Post** to the concerned Division, **within 7 days** of filing the Form ST-1 online, for the purposes of verification:-

- (i) **Copy of the PAN Card of the proprietor or the legal entity registered.**
- (ii) **Photograph and proof of identity of the person filing the application** namely PAN card, Passport, Voter Identity card, Aadhar Card, Driving license, or any other Photo-identity card issued by the Central Government, State Government or Public Sector Undertaking.
- (iii) **Document to establish possession of the premises to be registered** such as proof of ownership, lease or rent agreement, allotment letter from Government, No Objection Certificate from the legal owner.
- (iv) **Details of the main Bank Account.**
- (v) **Memorandum/Articles of Association/List of Directors.**
- (vi) **Authorisation by the Board of Directors/Partners/Proprietor** for the person filing the application.
- (vii) **Business transaction numbers obtained from other Government departments or agencies** such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number, Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application.

4. Where the need for the verification of premises arises, the same will have to be authorised by an officer not below the rank of Additional /Joint Commissioner.

5. The registration certificate may be revoked by the Deputy/Assistant Commissioner in any of the following situations, after giving the assessee an opportunity to represent against the proposed revocation and taking into consideration the reply received, if any:

- (i) the premises are found to be non existent or not in possession of the assessee.
- (ii) no documents are received within 15 days of the date of filing the registration application.
- (iii) the documents are found to be incomplete or incorrect in any respect.

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6. The provisions of sub-rules (5A) and (6) of rule 4 of the Service Tax Rules, 1994 may be referred to regarding change in any information or details furnished by an assessee and transfer of business to another person, respectively. Similarly, sub rule (7) of the Service Tax Rules, 1994 may be referred to in case a registered person ceases to provide the service for which he has been granted registration.

7. Paragraph 2.0 of Circular 97/8/2007-Service Tax dated 23-8-2007 consisting of sub- paragraphs 2.1 to 2.7 may be treated as withdrawn since there have been changes in the relevant legal provisions since the issuance of that Circular. The current legal provisions in the Service Tax Rules, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005 may also be referred

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