

PROFESSIONAL PROGRAMME

SUPPLEMENT

FOR

ADVANCED TAX LAWS

AND PRACTICE

(Relevant for students appearing in December, 2015 Examination)

MODULE 3 - PAPER 7

Disclaimer-

This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

ADVANCED TAX LAWS AND PRACTICE

Students appearing in December 2015 Examination shall note the following

- 1. For Direct taxes, Finance (No.2) Act, 2014 is applicable.*
- 2. Applicable Assessment year is 2015-16 (Previous Year 2014-15).*
- 3. Since, Wealth Tax Act, 1957 has been abolished w.e.f. 1st April, 2016. The questions from the same will not be asked in examination from December 2015 session onwards.*
- 4. For Indirect Taxes, all changes made by the Finance Act, 2015 are also applicable*
- 5. Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBEC & Central Government, on or before six months prior to the date of the examination*

In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu

Students are advised to read the study material along with this supplement as it will form part of the Study Material. The supplement covers the major amendments in Service Tax, Customs and Excise made by Finance Act, 2015 and major Notifications and Circulars issued by CBEC from 1st August, 2014 to 30th June, 2015.

TABLE OF CONTENTS

SUPPLEMENT FOR ADVANCED TAX LAWS AND PRACTICE
SERVICE TAX
Amendments <i>vide</i> Finance Act, 2015
Amendments <i>vide</i> Notifications
Orders and Circulars
GOODS AND SERVICE TAX
General
Highlights of GST Bill, 2014
CUSTOMS LAW
Amendments <i>vide</i> Finance Act, 2015
Amendments <i>vide</i> Notifications
Orders and Circulars
CENTRAL EXCISE LAW
Amendments <i>vide</i> Finance Act, 2015
Amendments <i>vide</i> Notifications

INDIRECT TAXATION – LAW AND PRACTICE
SERVICE TAX

AMENDMENTS VIDE FINANCE ACT, 2015

Definitions and Explanations

Section 65 and 65B of the Finance Act, 1994 contains various definitions and explanations with regard to service tax. Section 65B of the Finance Act, 1994 has been amended *vide* section 107 of the Finance Act, 2015. It provides that:

(a) Following has been omitted with effect from 1st June, 2015:

- Clause (9) relating to "amusement facility"
- Clause (24) relating to "entertainment event"
- Clause (49) relating to "support services"

(b) Following have been amended:

- Clause (40) has been amended to "process amounting to manufacture or production of goods" means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 or any process amounting to manufacture of opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force; i.e. the words "alcoholic liquors for human consumption," has been omitted. This change came into effect from 1st June, 2015.
- In clause (44) relating to "service", for Explanation 2, the following Explanation has been 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.;

(c) Following have been inserted:

- Clause (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).;

- Clause (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;';
- Clause (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);';

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. Following illustration has been incorporated in this section *vide* section 110 of Finance Act, 2015 to exemplify the scope of this provision:

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.

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

- (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.

Rate of Tax

Section 66B of the Finance Act, 1994 prescribes the service tax rate. It has been amended by Section 108 of the Finance Act, 2015. Further, section 95 of the Finance (No.2) Act, 2004 and section 140 of the Finance Act, 2007 relating to levy of Education cess and Secondary and higher Education cess on service Tax has been omitted *vide* Sections 153 and 159 of the Finance Act, 2015.

Thus, the rate of Service tax has been increased from 12.36% (including Education Cess and Secondary and Higher Education Cess) to flat 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' have been subsumed in the new Service tax rate. The revised rate came into effect from 1st June, 2015 as notified *vide* Notification No.14/2015-Service Tax, dated 19th May, 2015.

Section 117 (Chapter VI) has been inserted *vide* Finance Act, 2015. It provides an enabling provision that empowers the Central Government to impose a Swachh Bharat Cess on all or certain taxable services at a rate of 2% on the value of such taxable services. The proceeds from this Cess would be utilized for Swachh Bharat initiatives. This cess shall be levied on such services at such rate from such date as may be notified by the Central Government. The date from which this amendment would come into effect will be notified in due course.

Review of the Negative List of services

Section 66D of the Finance Act, 1994 covers the negative list of services, following amendments have been made to it *vide* Finance Act, 2015:

In clause (a) relating to services by Government or a local authority excluding the following services to the extent they are not covered elsewhere, sub-clause (iv) has been amended and would be read as "any service, other than services covered under clauses (i) to (iii) above, provided to business entities" i.e for the words "support services", the words "any service" has been substituted;

Clause (f) has been amended to exclude "process amounting to manufacture or production of alcoholic liquor for human consumption"; Thus, it shall now be read as: "services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption;"

In clause (i) relating to 'betting, gambling or lottery', the following Explanation has been 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'

clause (j) relating to 'admission to entertainment events or access to amusement facilities' has been omitted. The implication of this change is that 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.

Recovery and Penal Provisions

***Vide* section 112 of the Finance act, 2015, in section 73 of the 1994 Act, related to "Recovery of Service tax not levied or paid or short levied or short paid or erroneously refunded"—**

- after sub-section (1A), the following sub-section has been 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).";

- sub-section (4A) has been omitted.

For section 76 of the 1994 Act, related to “Penalty for failure to pay service tax”, the following section has been substituted, *vide* section 113 of the Finance Act, 2015:

(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 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 and proceedings in respect of such service tax and interest shall be deemed to be concluded;
- (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 amount of penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over the above the amount as determined under sub-section (2) of section 73, the time within which the reduced penalty is payable under clause (ii) of the proviso to sub-section (1) in relation to such increased amount of penalty shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be."

For the existing section 78 namely “Penalty for suppressing value of taxable service”, a new section namely “Penalty for failure to pay service tax for reason of fraud, etc” has been substituted *vide* section 114 of the Finance Act, 2015. The provisions of section 78 are:

(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 in respect of the cases where the details relating to such transactions are recorded in the specified records for the period beginning with the 8th April, 2011 upto the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent of the service tax so determined:

Provided further that where 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 and proceedings in respect of such service tax, interest and penalty shall be deemed to be concluded;

(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 also that the benefit of reduced penalty under the second proviso shall be available only if the amount of such reduced penalty is also paid within such period:

Explanation.—For the purposes of this sub-section, "specified records" means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.

(2) Where the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, modifies the amount of service tax determined under sub-section (2) of section 73, then the amount of penalty payable under sub-section (1) and the interest payable thereon under section 75 shall stand modified accordingly, and after taking into account the amount of service tax so modified, the person who is liable to pay such amount of service tax, shall also be liable to pay the amount of penalty and interest so modified.

(3) Where the amount of service tax or penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over and above the amount as determined under sub-section (2) of section 73, the time within which the interest and the reduced penalty is payable under clause (ii) of the second proviso to sub-section (1) in relation to such increased amount of service tax shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.

Vide Section 115 of the Finance act, 2015, following transitory provisions has been inserted after section 78A of the Finance Act, 1994

78B. Transitory provision –

(1) Where, in any case,-

(a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously 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) In cases where show cause notice has been issued 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, the period of thirty days for the purpose of closure of proceedings on the payment of service tax and interest under clause (i) of the proviso to sub-section (1) of section 76 or on the payment of service tax, interest and penalty under clause (i) of the second proviso to sub-section (1) of section 78, shall be counted from the date on which the Finance Bill, 2015 receives the assent of the President.

Section 80 of the Finance Act, 2015 related to "Penalty not to be imposed in certain cases" has been omitted *vide* Section 117 of the Finance Act, 2015

Appeals and Appellate Tribunal

Vide Section 117 of the Finance Act, 2015, in section 86 of the 1994 (1 of 1994) Act, in sub-section (1),—

(a) for the words "Any assessee", the words "Save as otherwise provided herein, an assessee" has been substituted;

(b) the following provisos has been 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 duty paid on 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 (1 of 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 (23 of 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 (1 of 1944)."

Powers to Make Rules

Clause (aa) of sub-section (2) of Section 94 has been substituted with the following clause:

"(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"

AMENDMENTS VIDE NOTIFICATIONS

Notification No.17/2014 - Service Tax dated 20th August, 2014

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 (i.e. Mega Exemption Notification)–

(i) in the opening paragraph, after entry 5, the following entry has been inserted, namely:-

“5A. Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement;”;

(ii) in paragraph 2 relating to definitions, after clause (zf), the following clause has been inserted, namely:-

‘(zfa) “specified organisation” shall mean,-

(a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or

(b) ‘Committee’ or ‘State Committee’ as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002);’

Notification No. 19 /2014-Service Tax dated 25th August, 2014

The Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:—

After rule 10, the following rules has been inserted, namely:-

“11. Determination of rate of exchange.— The rate of exchange for determination of value of taxable service shall be the applicable rate of exchange as per the generally accepted accounting principles on the date when point of taxation arises in terms of the Point of Taxation Rules, 2011.

12. Power to issue supplementary instructions.— The Board or the Chief Commissioners of Central Excise may issue instructions for any incidental or supplemental matters for the implementation of the provisions of the Act.”.

Notification No. 21/2014-Service Tax dated 16th September, 2014

With effect from 15th October, 2014 The Central Government delegated the powers of the Central Board of Excise and Customs under rule 3 of the Service Tax Rules, 1994, to the Principal Chief Commissioner of Central Excise or the Chief Commissioner of Central Excise or the Chief Commissioner of Service Tax, as the case may be, to specify within his jurisdiction, the jurisdiction of a Commissioner of Service Tax (Appeals) or a Commissioner of Central Excise (Appeals) or a Commissioner of Service Tax (Audit) or a Commissioner of Central Excise (Audit) and the jurisdiction of such Commissioner of Service Tax (Appeals) or Commissioner of Central Excise (Appeals) or Commissioner of Service Tax (Audit) or Commissioner of Central Excise (Audit) shall be limited to the jurisdiction so specified.

Notification No. 23/2014-Service Tax dated 5th December, 2014

The Central Government made the following rules further to amend the Service Tax Rules, 1994, namely:-

In the Service Tax Rules, 1994, in rule 5A, for sub-rule (2), the following sub-rule has been substituted, namely:-

“(2) Every assessee, shall, on demand make available to the officer empowered under sub-rule (1) or the audit party deputed by the Commissioner or the Comptroller and Auditor General of India, or a cost accountant or chartered accountant nominated under section 72A of the Finance Act, 1994,-

- (i) the records maintained or prepared by him in terms of sub-rule (2) of rule 5;
- (ii) the cost audit reports, if any, under section 148 of the Companies Act, 2013 (18 of 2013); and
- (iii) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961),

for the scrutiny of the officer or the audit party, or the cost accountant or chartered accountant, within the time limit specified by the said officer or the audit party or the cost accountant or chartered accountant, as the case may be.”

Notification No.02/2015-Service Tax dated 10th February, 2015

The Central Board of Excise and Customs specified that the Principal Director General of Central Excise Intelligence shall have jurisdiction over the Principal Commissioners of Service Tax or the Principal Commissioners of Central Excise or the Commissioners of Service Tax or the Commissioners of Central Excise, as the case may be, for the purpose of assigning show cause notices issued by the Directorate General of Central Excise Intelligence, for adjudication, by such Principal Commissioners of Service Tax or the Principal Commissioners of Central Excise or the Commissioners of Service Tax or the Commissioners of Central Excise, as the case may be.

Notification No. 3/2015-Service Tax, dated 1st March, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do rescinded the notification No. 42/2012-Service Tax, dated 29th June 2012, except as respects things done or omitted to be done before such recession.

Notification No. 4/2015-Service Tax, dated 1st March, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendment in the Notification No.31/2012- Service Tax, dated the 20th June, 2012 with effect from 1st April, 2015:-

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” has been substituted.

Notification No.5/2015-Service Tax, dated 1st March, 2015

The Central Government made the following rules further to amend the Service Tax Rules, 1994, namely Service Tax (Amendment) Rules, 2015, with effect from 1st March, 2015 save as otherwise

- **In Rule 2, In Sub-Rule (1)-**

(i) Clause (aa), has been 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) Clause (bca), has been 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),-

- after item (AA),the item (AAA) has been 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; 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.’;

- in item(E), from such date as the Central Government may, by a notification in the Official Gazette, appoint, the word “support” has been omitted;

- after item (EE), the following items has been 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;”;

- **In Rule 4-**

- sub-rule (1A) has been omitted.

- after sub-rule (8), the following sub-rule has been 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.”;

• **After Rule 4B-**

Rule 4C has been Inserted:-

“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.”;

• **In Rule 5-**

after Sub-Rule (3), following Sub-Rules has been inserted:-

“(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,-

(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.”

• **In Rule 6-**

- sub-rule (6A) has been omitted, with effect from the date on which the Finance Bill, 2015, receives the assent of the President;
- 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%”and “1.4 %” shall respectively be substituted;
 - (b) in sub-rule (7A),in clause(ii), for the figures and words“3 %” and “1.5 %”, the figures and words“3.5 %” and “1.75%” shall respectively be substituted;”;

(c) in sub-rule (7B),- (i) in item (a), for the figures and words“0.12 %”and “rupees 30”,the figures and words“0.14 %” and “rupees 35” shall respectively be substituted;

(ii) in item (b), for the figures and words“120 and 0.06 %”,the figures and words “140 and 0.07 %” has been 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” has been substituted; (ii) against Sl. No. 2, for the figures “11000”, the figures “12800” has been substituted;

- In the Explanation, item (i) has been omitted, with effect from the date on which the Finance Bill, 2015, receives the assent of the President.

Notification No.6/2015-Service Tax, dated 1st March, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendments in the Notification No.25/2012- Service Tax, dated the 20th June, 2012, with effect from 1st of April, 2015, save as otherwise provided in this notification namely:-

1. In the said Notification-

- for entry 2, the following entry has been substituted, namely,- “2. (i) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
- Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above;”;
- in entry 12, items (a), (c) and (f) has been omitted;
- in entry 14, in item (a), the words “an airport, port or” has been omitted;
- for entry 16, the following entry has been 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.”;

- in entry 20, for item (i), the following item has been substituted, namely:-“(i) milk, salt and food grain including flours, pulses and rice;”;
- in entry 21, for item (d), the following item has been substituted, namely:- “(d) milk, salt and food grain including flours, pulses and rice;”;

- in entry 26A, after item (c), the following item has been inserted, namely- “(d) Varishtha Pension Bima Yojana;”;
- in entry 29, items (c), (d) and (e) has been omitted;
- in entry 30, in item (c), for the words “any goods”, the words “any goods excluding alcoholic liquors for human consumption,” has been substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;
- entry 32 has been omitted;
- after entry 42, the following entries has been 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, labeling 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;”;
- after entry 46 so inserted, the following entry has been 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

- The following clause has been 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);’;
 - (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.’;

- for the clause (zi), the following clauses has been 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).’.

Notification No.7/2015-Service Tax, dated 1st March, 2015

The Central Government, made the following further amendments in the notification 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, 201 with effect from 1st day of April, 2015 Save as otherwise provided:-

- **In Paragraph I, In Clause (A),-**
 - after sub-clause (ia), the following sub-clauses has been 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;";
 - 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” has been omitted;
 - after the sub-clause (v), with effect from the 1st day of March, 2015, the following subclause has been inserted, namely:- “(vi) provided or agreed to be provided by a person involving an aggregator in any manner;”;
- **In paragraph (II)-**
 - for the portion beginning with brackets, letters and words “(II) The extent of service tax payable” and ending with words “namely:-”, the following has been 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 has been as specified in the following Table, namely:-
 - in the Table,-

(i) in column (4), for the column heading, the following column heading has been 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 has been 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 has been 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% ”.
----------	---	-----	------------

Notification No. 8/2015-Service Tax, dated 1st March, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendments in the Notification No.26/2012- Service Tax, dated the 20th June, 2012, with effect from 1st day of April, 2015.namely:-

In the said notification, in the Table,-

- against Sl. No. 2, in column (4), for the entry, the following entry has been 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.";
- against Sl. No. 3, in column (4), for the entry “ Nil”, the entry “Same as above” has been substituted;
- for Sl. No. 5 and the entries relating thereto, the following serial number and entries has been substituted, namely:-

(1)	(2)	(3)	(4)
“5	Transport of passengers by air, with or without accompanied belongings in (i) economy class (ii) other than economy class	40 60	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.”;

- against Sl. No. 7, in column (3), for the entry “25”, the entry “30” has been substituted;
- Sl. No. 8 and entries relating thereto has been omitted;
- against Sl. No. 10, in column (3), for the entry “40”, the entry “30” has been substituted.

Notification No. 9/2015 - Service Tax, dated 1st March, 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 specified “resident firm” as class of persons for the purposes of the said sub-clause.

Explanation - For the purposes of this notification,-

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

Notification No. 10/ 2015 – Service dated the 8th April, 2015

The Central Government, on being satisfied that it is necessary in the public interest to do so, exempted the taxable services provided or agreed to be provided against scrip by a person located in the taxable territory from the whole of the service tax leviable thereon under section 66B of the said Act.

Applicability: This notification shall be applicable to the Merchandise Exports from India Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.04 read with paragraph 3.05 of the Foreign Trade Policy.

The exemption shall be subject to the following conditions, namely:-

(1) that the conditions (1) to (3) specified in paragraph 2 of the Notification No. 24/2015-Customs, dated the 8th April, 2015 are complied and the said scrip has been registered with the Customs Authority at the port of registration specified on the said scrip (hereinafter referred as the said Customs Authority);

(2) that the holder of the scrip, to whom taxable services are provided or agreed to be provided shall be located in the taxable territory;

(3) that the holder of the scrip who may either be the person to whom the scrip was originally issued or a transferee-holder, presents the scrip to the said Customs Authority along with a letter and an invoice or challan or bill, as the case may be, issued under rule 4A of the Service Tax Rules, 1994 by the service provider indicating details of his jurisdictional Central Excise Officer (hereinafter referred to as the said Officer) and the description, value of the taxable service provided or agreed to be provided and service tax leviable thereon;

(4) that the said Customs Authority, taking into account the debits already made under notification number 24/2015-Customs, dated the 8th April, 2015, notification No 20/2015-Central Excise, dated the 8th April, 2015 and this exemption, shall debit the service tax leviable, but for this exemption in or on the reverse of the scrip and also mention the necessary details thereon, updates its own records and sends written advice of these actions to the said Officer;

(5) that the date of debit of service tax leviable, in the scrip, by the said Customs Authority shall be taken as the date of payment of service tax;

(6) that in case the service tax leviable as per the point of taxation determined in terms of the Point of Taxation Rules, 2011 is prior to date of debit or that the rate of tax determined in terms of rule 4 of the Point of Taxation of Rules, 2011, is in excess of the rate of service tax mentioned in the invoice, bill or challan, as the case may be, the holder of the scrip shall pay such interest or short-paid service tax along with interest, as the case may be;

(7) that the holder of the scrip presents the scrip debited by the said Customs Authority within thirty days to the said Officer, along with an undertaking addressed to the said Officer, that in case of any service tax short debited in the scrip, he shall pay such service tax along with applicable interest;

(8) that based on the said written advice and undertaking, the said Officer shall verify and validate, on the reverse of the scrip, the details of the service tax leviable, which were debited by the said Customs Authority, and keep a record of payment of such service tax and interest, if any;

(9) that the service provider retains a copy of the scrip, debited by the said Customs Authority and verified by the said Officer and duly attested by the holder of the scrip, in support of the provision of taxable services under this notification; and

(10) that the said holder of the scrip, to whom the taxable services were provided or agreed to be provided shall be entitled to avail drawback or CENVAT credit of the service tax leviable under

section 66B of the said Act, against the service tax debited in the scrip and validated by the said Officer.

Any amount due to the Central Government under this notification shall be recoverable under the provisions of the said Act and the rules made there under.

Explanation - For the purposes of this notification-

(A) "Foreign Trade Policy" means the Foreign Trade Policy, 2015-2020, published by the Government of India in the Ministry of Commerce and Industry notification number 01/2015-2020, dated the 1st April 2015 as amended from time to time;

(B) "Point of taxation" shall have the same meaning assigned to it in clause (e) of rule 2 of the Point of Taxation Rules, 2011;

(D) "Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorised by him to grant an authorisation including a duty credit scrip under the said Act;

(E) "Scrip" means Merchandise Exports from India Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.04 read with paragraph 3.05 of the Foreign Trade Policy.

Notification No. 11 / 2015 – Service Tax dated the 8th April, 2015

The Central Government, on being satisfied that it is necessary in the public interest so to do, exempted the taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory from the whole of the service tax leviable thereon under section 66B of the said Act.

Application – This notification shall be applicable to the Service Exports from India Scheme duty credit scrip issued by the Regional Authority in accordance with paragraph 3.10 read with paragraph 3.08 of the Foreign Trade Policy.

The exemption shall be subject to the following conditions, namely:-

(1) that the conditions (1) and (2) specified in paragraph 2 of the Notification No. 25/2015-Customs, dated the 8th April, 2015 are complied and the said scrip has been registered with the Customs Authority at the port of registration specified on the said scrip (hereinafter referred as the said Customs Authority);

(2) that the holder of the scrip, to whom taxable services are provided or agreed to be provided shall be located in the taxable territory;

(3) that the holder of the scrip who may either be the person to whom the scrip was originally issued or a transferee-holder, presents the scrip to the said Customs Authority along with a letter and an invoice or challan or bill, as the case may be, issued under rule 4A of the Service Tax Rules, 1994

by the service provider indicating details of his jurisdictional Central Excise Officer (hereinafter referred to as the said Officer) and the description, value of the taxable service provided or agreed to be provided and service tax leviable thereon;

(4) that the said Customs Authority, taking into account the debits already made under notification number 25/2015-Customs, dated the 8th April, 2015, notification No. 21/2015-Central Excise, dated the 8th April, 2015 and this exemption, shall debit the service tax leviable, but for this exemption in or on the reverse of the scrip and also mention the necessary details thereon, updates its own records and sends written advice of these actions to the said Officer;

(5) that the date of debit of service tax leviable, in the scrip, by the said Customs Authority shall be taken as the date of payment of service tax;

(6) that in case the service tax leviable as per the point of taxation determined in terms of the Point of Taxation Rules, 2011 is prior to date of debit or that the rate of tax determined in terms of rule 4 of the Point of Taxation of Rules, 2011, is in excess of the rate of service tax mentioned in the invoice, bill or challan, as the case may be, the holder of the scrip shall pay such interest or short-paid service tax along with interest, as the case may be;

(7) that the holder of the scrip presents the scrip debited by the said Customs Authority within thirty days to the said Officer, along with an undertaking addressed to the said Officer, that in case of any service tax short debited in the scrip, he shall pay such service tax along with applicable interest;

(8) that based on the said written advice and undertaking, the said Officer shall verify and validate, on the reverse of the scrip, the details of the service tax leviable, which were debited by the said Customs Authority, and keep a record of payment of such service tax and interest, if any;

(9) that the service provider retains a copy of the scrip, debited by the said Customs Authority and verified by the said Officer and duly attested by the holder of the scrip, in support of the provision of taxable services under this notification; and

(10) that the said holder of the scrip, to whom the taxable services were provided or agreed to be provided shall be entitled to avail drawback or CENVAT credit of the service tax leviable under section 66B of the said Act, against the service tax debited in the scrip and validated by the said Officer.

Any amount due to the Central Government under this notification shall be recoverable under the provisions of the said Act and the rules made there under.

Explanation- For the purposes of this notification,-

(A) "Foreign Trade Policy" means the Foreign Trade Policy, 2015-2020, published by the Government of India in the Ministry of Commerce and Industry notification number 01/2015-2020, dated the 1st April 2015 as amended from time to time;

(B) “Point of taxation” shall have the same meaning assigned to it in clause (e) of rule 2 of the Point of Taxation Rules, 2011.

(C) “Regional Authority” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorised by him to grant an authorisation including a duty credit scrip under the said Act.

(D) “Scrip” means Service Exports from India Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.10 read with paragraph 3.08 of the Foreign Trade Policy.

Notification No. 12/2015-Service Tax, dated the 30th April, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendments in the Notification No.25/2012-Service Tax, dated the 20th June, 2012,

- in entry 26, after item (o), the following items has been inserted, namely:- “(p) Pradhan Mantri Suraksha Bima Yojna;”
- in entry 26A, after item (d), the following items has been inserted, namely:- “(e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yogana;”;
- after entry 26A, the following entry has been inserted, namely:- “26B Services by way of collection of contribution under Atal Pension Yojana (APY).”

Notification No. 13/2015-Service Tax, dated the 19th May, 2015

The Central Government, being satisfied that it is necessary in the public interest so to do, omitted clause ‘a’ in the paragraph 2 relating to definitions, of the Notification No.26/2012- Service Tax, dated the 20th June, 2012

Notification No. 14/2015-Service Tax, dated the 19th May, 2015

In exercise of the powers conferred by clauses (a), (c) and (f) of section 107, section 108, sub-sections (2), (3) and (4) of section 109, section 153 and section 159 of the Finance Act, 2015 (No. 20 of 2015), the Central Government appointed the 1st day of June, 2015 as the date on which the provisions of clauses (a), (c) and (f) of section 107, section 108, sub-sections (2), (3) and (4) of section 109, section 153 and section 159 of the said Act came into force.

Notification No. 15/2015-Service Tax, dated the 19th May, 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 appointed the 1st day of June, 2015 as the date on which the provisions of sub-clauses (a), (b) and (c) and item (A) of sub-clause (d) of clause (ii) of sub-paragraph (e) of paragraph 2 of the Notification No. 05/2015 – Service Tax, dated 1st March, 2015, came into force.

Notification No. 16/2015-Service Tax dated, the 19th May, 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, appointed the 1st day of June, 2015 as the date on which the provisions of sub-paragraphs (ix) and (xii) of paragraph 1 and subparagraph (b) of paragraph 2 of the notification No. 06/2015 – Service Tax, dated the 1st March, 2015 came into force.

Notification No. 17/2015-Service Tax dated, the 19th May, 2015

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994, the Central Government, being satisfied that it is necessary in the public interest so to do, exempted taxable services provided under the Power System Development Fund Scheme of the Ministry of Power (hereinafter referred to as the Scheme), from the whole of the service tax leviable thereon under section 66B of the said Act:- by way of,-

(A) re-gasification of Liquefied Natural Gas imported by the Gas Authority of India Limited (GAIL);

(B) transportation of the incremental Re-gasified Liquefied Natural Gas (RLNG) (e-bid RLNG) to the power generating companies or plants as specified in the Annexure-I and Annexure -II to this notification,

subject to the following conditions, namely:-

(a) GAIL is appointed as the 'e-bid RLNG Operator' for the gas based plants outside Gujarat and Gujarat State Petroleum Corporation Limited (GSPCL) will be 'e-bid RLNG Operator' for the gas based plants within Gujarat and GAIL will be the only agency for the procurement of e-bid RLNG under the Scheme;

(b) supply of imported spot RLNG 'e-bid RLNG' to the Stranded gas based plants as well as the plants receiving domestic gas, will be upto the target Plant Load Factor (PLF) selected through a reverse e-bidding;

(c) the eligible gas based power plants under the Scheme shall be the Stranded gas based power plants and those plants receiving domestic gas whose actual average PLF achieved during April-January 2014-15 was below the target PLF;

(d) in case of plants receiving domestic gas (Annexure-II), Power System Development Fund Scheme (PSDF) support being made available only for incremental generation of electricity during the relevant period over and above the PLF achieved during April-January 2014-15, for example, if the PLF actually achieved during April-January 2014- 15 is 20%, and if during the relevant period the PLF is 25% from all sources including that from e-bid RLNG, then PSDF support will be made available for the electricity corresponding to $25 - 20 = 5\%$ PLF, but limited to the actual generation from e-bid RLNG during that relevant period;

(e) the person liable to pay service tax produces the following certificates as verified by the Empowered Pool Management Committee (EPMC) constituted by Ministry of Power *vide* Office Memorandum No. 4/2/2015-Th-1 dated 27th March, 2015, within a period of three months, or such extended period not exceeding a further period of six months as the Assistant Commissioner or Deputy Commissioner of Central Excise or Service Tax, may allow, before the jurisdictional Central Excise officer:-

(i) certification by Central Electricity Authority (CEA) for each participating gas based plant regarding the quantum of electricity to be generated per unit of gas based on the technical parameters of that plant;

(ii) certification by GAIL regarding quantity of e-bid RLNG gas supplied during the relevant period;

(iii) self-certification by the participating gas based plant regarding the quantity of e-bid RLNG gas actually utilised during the relevant period for generation of electricity, and Discom-wise supply of such electricity; and

(iv) certification by participating Discoms regarding the quantum of e-bid RLNG based electricity purchased during the relevant period from participating gas based plants;

(f) the person, failing to produce the aforesaid certificates before Central Excise Officer within the stipulated period, would pay the duty leviable on such services along with the applicable interest thereon; Provided that the exemption shall not be available if such Re-gasified Liquefied Natural Gas (RLNG) and Liquefied Natural Gas (LNG), is used for generation of electrical energy by captive generating plant as defined in clause (8) of section 2 of the Electricity Act, 2003 (36 of 2003):

Provided further that nothing contained in this notification shall apply on or after the 1st day of April, 2017.

ORDERS AND CIRCULARS

Order No. 1/2015-Service Tax, dated 28th February, 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-Service Tax dated 23-8-2007 and Order No. 2/2011-Service Tax dated 13-12-2011 also explain some of the procedural aspects of registration in service tax.

In supersession of Order No. 2/2011-Service Tax 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.

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 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.

(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.

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.

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.

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 nonexistent 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.

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.

Paragraph 2.0 of Circular 97/8/2007-Service Tax dated 23-8-2007 consisting of subparagraphs 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 to.

Circular No. 183 / 02 / 2015-ST, dated 10th April, 2015

The circular clarifies the doubts regarding the increase in the rate of service tax from 12.36% (including education cesses) to 14% on the value of taxable service. It clarifies that:

- The changes proposed in the Budget have/are coming into effect on various dates as indicated in JS (TRU-II) D.O. letter dated 28th February, 2015.
- Further, certain amendments made in the Finance Act, 1994, including the change in service tax rate, come into effect from a date to be notified by the Government after the enactment of the Finance Bill, 2015. In this regard your attention is invited to clause 106 of the Finance Bill, 2015 and paragraph 3 of JS (TRU-II) D.O. letter, which is reproduced 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.”

- Similarly, certain doubts have been raised with regard to abatement on value of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year. Valuation of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess is determined as provided in rule 2C of the Service Tax (Determination of Value) Rules, 2006. In the Union Budget, 2015, no change has been made in these rules; therefore, any confusion is unwarranted. Further, as explained above, the rate of service tax on the specified portion of the amount charged for such supply which continues to be 40% of the rate of prevailing service tax.

Note: The revised rate came into effect from 1st June, 2015 as notified.

Circular No. 184/3/2015-ST, dated 3rd June, 2015

Clarification on rate of service tax on restaurant service:

- The Service Tax rate has been increased to 14% with effect from 1st June, 2015. Certain doubts have been raised in regard to abatement on value of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year.
- Matter has been examined. Valuation of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess having the facility of air conditioning or central air-heating in any part of the establishment, is determined as provided in rule 2C of the Service Tax (Determination of Value) Rules, 2006. In the said rule, service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity, at a restaurant has been specified as 40 percentage of the total amount charged for such supply.
- In Budget, 2015, no change has been made in abatement and the rate of service tax on the abated value has been increased to 14% with effect from 1st June, 2015. Therefore, effective service tax rate would be 5.6% (14% of 40%) of the total amount charged.
- Hence, with the increase in the applicable rate of service tax from 12.36% (including education cesses) to 14%, the effective rate on such establishments has increased from 4.9% to 5.6% of the total amount charged.
- It is further clarified that exemption from service tax still continues to services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year.

GOODS AND SERVICE TAX

"GST is expected to play a transformative role in the way our economy functions. It will add buoyancy to our economy by developing a common Indian market and reducing the cascading effect on the cost of goods and services. We are moving in various fronts to implement GST from the next year"

-Arun Jaitley, Budget Speech, 2015

The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 was introduced in the Lok Sabha on December 19, 2014 by the Minister of Finance, Mr. Arun Jaitley. The Bill seeks to amend the Constitution to introduce the goods and services tax (GST) and subsume state value added tax, octroi and entry tax, luxury tax, etc. The Bill proposes to insert a new Article in the Constitution to give the Central and State governments the concurrent power to make laws on the taxation of goods and services. It also proposes compensations to states and provides that Parliament may, by law, provide for compensation to states for revenue losses arising out of the implementation of the GST, on the GST Council's recommendations.

On 28th February, 2015, the Finance Minister reaffirmed the introduction of this landmark reform with effect from 1st April, 2016.

Highlights of GST Bill, 2014

- The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 was introduced in the Lok Sabha on December 19, 2014 by the Minister of Finance, Mr. Arun Jaitley.
- Amendment of Constitution: The Bill seeks to amend the Constitution to introduce the goods and services tax (GST). Consequently, the GST subsumes various central indirect taxes including the Central Excise Duty, Countervailing Duty, Service Tax, etc. It also subsumes state value added tax, octroi and entry tax, luxury tax, etc.
- Concurrent powers for GST: The Bill inserts a new Article in the Constitution to give the central and state governments the concurrent power to make laws on the taxation of goods and services.
- Integrated GST (IGST): Only the centre may levy and collect GST on supplies in the course of inter-state trade or commerce. The tax collected would be *divided* between the centre and the states in a manner to be provided by Parliament, by law, on the recommendations of the GST Council.
- GST Council: The President must constitute a Goods and Services Tax Council within sixty days of this Act coming into force. The GST Council aim to develop a harmonized national market of goods and services.
- Composition of the GST Council: The GST Council is to consist of the following three members: (i) the Union Finance Minister (as Chairman), (ii) the Union Minister of State in

charge of Revenue or Finance, and (iii) the Minister in charge of Finance or Taxation or any other, nominated by each state government.

- **Functions of the GST Council:** These include making recommendations on: (i) taxes, cesses, and surcharges levied by the centre, states and local bodies which may be subsumed in the GST; (ii) goods and services which may be subjected to or exempted from GST; (iii) model GST laws, principles of levy, apportionment of IGST and principles that govern the place of supply; (iv) the threshold limit of turnover below which goods and services may be exempted from GST; (v) rates including floor rates with bands of GST; (vi) special rates to raise additional resources during any natural calamity; (vii) special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and (viii) any other matters.
- **Resolution of disputes:** The GST Council may decide upon the modalities for the resolution of disputes arising out of its recommendations.
- **Restrictions on imposition of tax:** The Constitution imposes certain restrictions on states on the imposition of tax on the sale or purchase of goods. The Bill amends this provision to restrict the imposition of tax on the supply of goods and services and not on its sale.
- **Additional Tax on supply of goods:** An additional tax (not to exceed 1%) on the supply of goods in the course of inter-state trade or commerce would be levied and collected by the centre. Such additional tax shall be assigned to the states for two years, or as recommended by the GST Council.
- **Compensation to states:** Parliament may, by law, provide for compensation to states for revenue losses arising out of the implementation of the GST, on the GST Council's recommendations. This would be up to a five year period.
- **Goods exempt:** Alcoholic liquor for human consumption is exempted from the purview of the GST. Further, the GST Council is to decide when GST would be levied on: (i) petroleum crude, (ii) high speed diesel, (iii) motor spirit (petrol), (iv) natural gas, and (v) aviation turbine fuel.

Note : The GST Bill, 2014 was passed in Lok Sabha on 6th May, 2015. However, it is still pending in Rajya Sabha.

CUSTOMS LAW

AMENDMENTS VIDE FINANCE ACT, 2015

Recovery And Penal Provisions

Section 28 of the Customs Act, 1962 related to “Recovery of duties not levied or short-levied or erroneously refunded” has been amended vide section 82 of the Finance Act, 2015 to provide following:

- in sub-section (2), the following proviso has been inserted, to provide that where there is no fraud, collusion, wilful mis-statement, suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed subject to certain conditions, the proviso be read as:

"Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.";

- in sub-section (5), for the words "twenty-five per cent", the words "fifteen per cent" has been substituted;

Thus, 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 duty, the amount of penalty payable shall be 15% instead of the present 25%;

- after Explanation 2, the following Explanation has been inserted, namely:—

"Explanation 3.— For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received."

Thus, where a notice under clause (a) of sub-section (1) or sub-section (4) of section 28, has been served but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 received the assent of the President, i.e. 14th May, 2015 then, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within 30 days from the date on which such assent is received.

Section 112 of the Customs Act, 1962 related to “Penalty for improper importation of goods, etc.” has been amended vide section 83 of the Finance Act, 2015

Sub-clause (ii) in clause (b) of section 112, has been substituted and be read as:

"(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;"

Section 114 of the Customs act, 1962 related to “Penalty for attempt to export goods improperly, etc” has been amended vide section 84 of the Customs Act, 1962

Clause (ii) in section 114 of the Customs Act has been substituted and be read as:

In the Customs Act, in section 114, for clause (ii), the following clause has been substituted, namely:—

"(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;"

Settlement of Cases

Following sections/sub-sections of Customs Act has been omitted vide Section 85, 86, 87, 88, 89 and 90 of the Finance Act, 2015

- The words "in any appeal or revision, as the case may be," in the proviso in clause (b) of section 127A: so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement.
- Sub-section (1A) of section 127B: The actual operation of the said sub-section provided for the payments to be made within thirty days from 1st day of June 2007. The said provision has become redundant and been omitted.
- Sub-section (6) of section 127C: It provided that in respect of the applications filed before 31st day of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 127C latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have

been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant and has been omitted.

- Section 127 E: It provided that Settlement Commission can reopen the completed proceedings in certain conditions. However, and as per second proviso to the said section Settlement Commission cannot reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007. Therefore, this section has been omitted.
- Explanation to sub-section (1) of section 127H: It provided that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessary been disposed of by 29th day of February 2008, the said explanation has become redundant. Hence, it has been omitted.
- The words, brackets, figures and letters "passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C" in clause (i) of Section 127 (1): The, above phrase has become redundant and hence been omitted.
- The words, brackets, figures and letter "under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C" in clause (ii) of Section 127 (1): The, above phrase has become redundant and hence been omitted.

AMENDMENTS VIDE NOTIFICATIONS

Notification No. 56/2014-Customs (N.T.), dated 6th August, 2014

In exercise of the powers conferred by sections 25, 151A, 156 and 157 of the Customs Act, 1962 (52 of 1962) and of all other powers enabling it in this behalf, the Central Government has directed that the references to the authorities specified in column (2) of the Table below, in the rules made or deemed to have been made under the said sections or in any other notifications, instructions, regulations, decisions, orders, issued or made under the said sections or rules or under any other section of the said Act, shall, unless the context otherwise requires, be construed as references to the authorities specified in column (3) of the said Table, namely:

Sl. No.	Existing reference	Substituted reference
(1)	(2)	(3)
1.	Chief Commissioner	Principal Chief Commissioner or Chief Commissioner, as the case may be
2.	Commissioner	Principal Commissioner or Commissioner, as the case may be

Notification No.70 / 2014 – Customs (N.T.) dated 12th August, 2014

In exercise of powers conferred by section 129EE of the Customs Act, 1962 (52 of 1962), the Central Government has fixed the rate of interest at six percent per annum for the purpose of the said Section.

Notification No. 109 /2014- Customs (N.T), dated 17th November, 2014

In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, in rule 7, in sub-rule (1), for the words “he may within three months”, the words “he may, except where a claim for drawback under rule 3 or rule 4 has been made, within three months” has been substituted.

Notification No. 20 / 2015- Customs (N.T), dated 10th February, 2015

In exercise of the powers conferred by section 75 of the Customs Act, 1962, section 37 of the Central Excise Act, 1944 and section 93A read with section 94 of the Finance Act, 1994, the Central Government made the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 namely the Customs, Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2015 which came into force on 13th February, 2015.

In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995,-

- (i) in rule 3, in sub-rule (1), in the second proviso, in clause (v), the words and figures “on any of the goods falling within heading 1006 or”, has been omitted;
- (ii) in rule 6, in sub-rule (4), the words and figures “any of the goods falling within heading 1006 or on”, has been omitted;

(iii) in rule 7, in sub-rule (5), the words and figures “any of the goods falling within heading 1006 or on”, has been omitted.

Notification No. 27/2015–Customs (N.T.), dated 1st March, 2015

In exercise of the powers conferred by sub-clause (iii) of clause (c) of section 28E of the Customs Act, 1962 (52 of 1962), the Central Government has specified “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 28E of the Customs Act, 1962. (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.

Notification No. 29/2015 - Customs (N.T.) dated 10th March, 2015

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) and in supersession of the Customs Tariff [Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries] Rules, 2008, except as respects things done or omitted to be done before such supersession, the Central Government has made the Customs Tariff (Determination of Origin of Products under the Duty Free Tariff Preference Scheme for Least Developed Countries) Rules, 2015. They shall come into force on the date of their publication in the Official Gazette.

Notification No.62/2015 - Customs (N.T.) dated 17th June, 2015

In exercise of the powers conferred under section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs made the following amendments to amend the Courier Imports and Exports (Clearance) Regulations,1998 *vide* the Courier Imports and Exports (Clearance) Amendment Regulations, 2015 which shall come into force on the date of their publication in the Official Gazette:

In regulation 2, in sub-regulation (2), in clause (e),-

- for the sub-clause (iii), the following has been substituted, namely:-

“goods proposed to be exported under Duty Exemption Schemes, Export Promotion Capital Goods Scheme or any other similar export promotion schemes:

Provided that this sub-clause shall not apply to goods notified in Appendix 3C of the Foreign Trade Policy (2015-2020), proposed to be exported from Chennai, Delhi and Mumbai airports under the Merchandise Exports from India Scheme (MEIS) in consignment of value upto rupees twenty five thousand and involving transaction in foreign exchange;”;

- for the sub-clause (iv) , the following has been substituted, namely:-

“goods, other than the goods specified in Appendix 3C of the Foreign Trade Policy (2015-2020), in respect of which the proper officer directs the filing of shipping bill or bill of export in the prescribed form;”;

- the proviso to sub-clause (v) has been omitted.

In regulation 6, after sub-regulation (3) and before the existing proviso,

- the following proviso has been inserted, namely:-

“Provided that for the goods specified in Appendix 3C of the Foreign Trade Policy (2015-2020), such entry shall be made in the form prescribed in the Shipping Bill and Bill of Export (Form) Regulations, 1991.”;

- in the existing proviso, after the word “Provided”, the word “further” has been inserted.

In the Form Courier Shipping Bill-II (CSB-II) and (CBEx-II) in the Declaration, for clause (ii), the following has been substituted, namely:-

“(ii) I /We hereby declare that the goods for export as per this Shipping Bill include only bonafide commercial samples and prototypes of goods of a value not exceeding Rs. 50,000/- per consignment and bonafide gifts of articles for personal use of a value not exceeding Rs. 25,000/- per consignment and which are for the time being not subject to any prohibition or restriction on their export from India and on export of which no transfer of foreign exchange is involved”.

Notifications regarding Implementation of schemes under FTP 2015-20

CBEC has also issued various Notifications regarding implementation of various schemes under Foreign Trade Policy 2015-2020: These are:

- 16/2015-Cus,dated 01-04-2015: Regarding implementation of EPCG Scheme under FTP 2015-2020
- 17/2015-Cus,dated 01-04-2015: Regarding implementation of Post Export EPCG Scheme under FTP 2015-2020
- 18/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme under FTP 2015-2020
- 19/2015-Cus,dated 01-04-2015: Regarding implementation of Duty Free Import Authorisation Scheme under FTP 2015-2020

- 20/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for annual requirement under FTP 2015-2020
- 21/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for deemed export under FTP 2015-2020
- 22/2015-Cus,dated 01-04-2015: Regarding implementation of Advance Authorisation Scheme for export of prohibited goods under FTP 2015-2020.

ORDERS AND CIRCULARS

Circular No. 01/15-Customs dated 12th January, 2015

Merging of Commercial invoice and packing list:

As per the extant Customs procedures for both import and export, an importer / exporter is required to submit a commercial invoice and packing list along with the Customs declaration form viz. Bill of Entry/Shipping Bill. Both commercial invoice and packing list are critical for Customs purposes as the former evidences the value of the import/ export goods while the latter facilitates examination of goods for ascertaining correctness of duty and quantity. However, there are many identical data fields in a commercial invoice and packing list. In this regard, it is seen that the following data fields / information are invariably contained in a packing list (other than the common data fields / details of commercial invoice):

- Description of Goods;
- Marks and Numbers;
- Quantity;
- Gross Weight;
- Net Weight;
- Number of Packages;
- Types of Packages (such as pallet, box, crates, drums etc.).

The Board has decided that as a measure of simplification, in case an importer/exporter submits a commercial invoice cum packing list that contain above mentioned data fields / information in addition to the details in a commercial invoice, a separate packing list should not be insisted upon by Customs. In other words, for Customs purposes a commercial invoice cum packing list (with details of marks and numbers as mentioned above) would suffice but if importer/exporter desires to give a separate packing list for some reason, the same would also be accepted, as at present.

Circular No. 04/2015-Customs, dated 20th January, 2015

Re-export of goods imported under bonafide mistake:

Circular No.100/2003–Cus., dated 28.11.2003 prescribes that permission for re-export of goods that are shipped contrary to instruction of the importer has to be granted by Commissioner of Customs.

References have been received in the Board that the current procedure for allowing re-export of goods that are imported under a bonafide mistake is being followed at Customs stations is time consuming and causes avoidable hardship to importer/airlines/consol agents. This is especially happening at air cargo complexes because numerous requests in respect of wrong shipments are to be dealt with here on daily basis. These references contain a request for a simpler procedure.

The matter was deliberated upon and there was consensus to prescribe a simplified and uniform procedure which may obviate delays in cases warranting the grant of permission to re-export. A view emerged that a solution lies in delegating the powers to permit re-export to the Customs Officers in accordance with their powers of adjudication.

The matter has been examined by the Board. Requests for re-export of imported goods may be received when the said goods are destined for elsewhere but which are inadvertently imported at a particular Customs station. With a view to expedite decision-making in respect of re-export of such goods, the Board has decided that the permission for re-export may be granted on merit by the officer concerned as per the adjudication powers. In regard to the adjudication powers, a reference may be made to Section 122 of the Customs Act, 1962 and Circular No.24/2011-Cus., dated 31.05.2011. Thus, Circular No 100/2003-Cus., dated 28.11.2003 stands modified to the above extent.

Circular No. 05/2015-Customs, dated 28th January, 2015

Collection of anti-dumping duty beyond the validity period:

Since, the Directorate General of Anti Dumping and Allied Duties (DGAD) had not initiated any sunset review, the levy under notification (No.100/2005-Customs) could not have been extended (for one year) in terms of the 2nd Proviso to Section 9A (5) of the Customs Tariff Act, which reads as under:

“Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

However, reportedly field formations were still collecting anti-dumping duty. It was in this context that the Circular No.28/2011- Customs dated 8th July 2011 was issued so as to clarify that in such cases, definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition.

In view of the above, Para 3 of the Circular No.28/2011- Customs dated 8th July 2011 is substituted as under:

“From a plain reading of this provision it is *evident* that definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition. Generally by virtue of sub-section (2) of section 9A of the Customs tariff Act, 1975, the anti-dumping duty levied in pursuance of final findings of the Directorate General of Anti-Dumping and Allied Duties (DGAD) is effective for a period of five years from the date of imposition of provisional duty except in cases where the DGAD initiates a review before expiry of such five year period. In cases where the DGAD has not initiated any sunset review before the expiry of aforesaid five years, no anti-dumping duty can be collected beyond the period of five years from the date of its imposition.”

Circular No. 10/2015-Customs, dated 31st March, 2015

Usage of Digital Signature Certificate in Remote EDI filing (RES) of Customs Documents:

The Government has prioritized trade facilitation and created an environment for ease of doing business. In continuation of this approach it has now been decided to allow the electronic submission of *digitally signed* Customs process documents viz. Bills of Entry, Shipping Bills,

Import General Manifest (IGM), Export General Manifest (EGM) and Consol General Manifest (CGM).

It is imperative to ensure the integrity of the said documents. Implementation of digital signature provides a solution. The facility of digitally signing the documents that are filed electronically would provide the necessary assurance regarding the integrity and non-repudiation of these documents. This shall also enhance the acceptability of such documents by other agencies.

Accordingly, the Board has decided that with effect from **01.04.2015** importers, exporters, customs brokers, shipping lines, airlines or their agents shall be given the facility to use Digital Signature Certificate for filing Customs process documents viz. Bills of Entry, Shipping Bills, IGM (General Declaration and Cargo Declaration), EGM (General Declaration), CGM through Remote EDI System (RES). For the present, the facility of using digital signatures is optional for all users.

In this context it may be noted that CBEC's Circular No.42/2005-Cus., dated 24.11.2005 mandates that the importers, who are recognized under the Accredited Client Programme (ACP), shall file Bills of Entries using digital signatures. However, this requirement has not been enforced so far. With the introduction of the general facility of electronic filing of digitally signed Customs process documents, the ACP importers shall be required to mandatorily file Bills of Entry with digital signature w.e.f. **01.05.2015**.

CENTRAL EXCISE LAW

AMENDMENTS *VIDE* FINANCE ACT, 2015

Levy of /Exemption from Central Excise Duty

Rate of Excise Duty

The First Schedule to the Central Excise Tariff Act, 1985 has been amended vide finance act, 2013 to provide the following:

- Education Cess and Secondary & Higher Education Cess leviable on excisable goods have been fully exempted.
- The standard ad valorem rate of duty of excise (i.e. CENVAT) has been increased from 12% to 12.5%.

Charging of Excise Duty

Section 3A of the Central Excise Act, 1944, which empowers the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods has been amended vide section 92 of the Finance Act, 2015 so as to insert an Explanation after Explanation 2, namely:—

“Explanation 3— For the purposes of sub-sections (2) and (3), the word "factor" includes "factors".'.

This has been done to provide that factor relevant to production includes factors relevant to production and enable the Central Government to specify more than one factor relevant to the production of such goods.

Retrospective Exemption

S.No.205A of notification No.12/2012-CE dated 17-3-2012 exempts railway or tramway track construction material of iron and steel from payment of excise duty on the value of rails, subject to condition that such rails have suffered excise duty and no credit of duty paid on them is taken under the CENVAT Credit Rules, 2004. This exemption has been made applicable retrospectively for the period from 17.03.2012 to 02.02.2014.

Recovery And Penal Provisions

Section 11A of the Central Excise Act, 1944 has been amended *vide* section 93 of the Finance Act, 2015 to omit and insert certain provisions.

Following has been omitted:

- sub-sections (5), (6) and (7) of section 11A
- the words, brackets and figure "or sub-section (5)", wherever they occur, in sub-sections (7A), (8) and clause (b) of sub-section (11)
- the words "on due date" in clause (b), in sub-clause (ii) in Explanation 1 to section 11A
- clause (c) in the Explanation 1 to section 11A

Following has been inserted:

- after sub-clause (v), the following sub-clause has been inserted, namely :—
"(vi) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.";
- after sub-section (15), the following sub-section has been inserted, namely :—
"(16) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.".
- for Explanation 2, the following Explanation has been substituted, namely :—
"Explanation 2.— For the removal of doubts, it is hereby declared that any non-levy, short levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015.";

Thus, the above amendments, remove from the statute the category of cases where extended period of time applies but the transactions are recorded in the specified record; provide that the provisions of section 11A shall not apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed and that in such cases recovery of duty shall be made in such manner as may be prescribed in the rules.

In the Central Excise Act, for section 11AC relating to “Penalty for short-levy or non-levy of duty in certain cases”, the following section has been substituted

"11AC. Penalty for short-levy or non-levy of duty in certain cases-

(1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows:—

(a) where any duty of excise 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 any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent of the duty so determined or rupees five thousand, whichever is higher:

Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

(b) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (a) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined

such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined:

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with the 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent of the duty so determined;

(d) where any duty demanded in a show cause notice and the interest payable thereon under section 11AA, issued in respect of transactions referred to in clause (c), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent of the duty demanded, subject to the condition that such reduced penalty is also paid within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded;

(e) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified.

(2) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10) of section 11A, then, the amount of penalty payable under clause (c) of sub-section (1) and the interest payable under section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay such amount of penalty and interest so modified.

(3) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (10) of section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (b) or clause (e) of sub-section (1) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court.

Explanation 1- For the removal of doubts, it is hereby declared that—

(i) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the

assent of the President shall be governed by the provisions of section 11AC as amended by the Finance Act, 2015;

(ii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order determining duty under sub-section (10) of section 11A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (a) of sub-section (1) or on payment of duty, interest and penalty under clause (d) of sub-section (1), subject to the condition that the payment of duty, interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President;

(iii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (10) of section 11A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (b) or clause (e) of sub-section (1), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order.

Explanation 2 – For the purposes of this section, the expression "specified records" means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.

This has been done to rationalize the penalty in various cases where any duty has not been paid, short levied or paid erroneously and no 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 excise duty is involved. This could be better understood by the table as given below:

Case	Penalty	Conditions
Case 1	not exceeding 10% of the duty so determined or Rs. 5000 whichever is higher	Duty has not been levied or paid or has been short levied or short paid or erroneously refunded. no 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 excise duty is involved.
Case 2	no penalty	Interest payable under section 11AA is paid either before issue of show cause notice or within 30 days of issue of show cause notice.
Case 3	25% of the penalty so imposed	Duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer. such reduced penalty is also paid within 30 days of the date of communication of such order all proceedings in respect of said duty and interest shall be deemed to be concluded

In cases 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 excise duty, in the following manner:-

Case	Penalty	Conditions
Case 1	50% of the duty so determined	Cases where the details relating to such transactions are recorded in the specified record for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015. i.e. 14th May, 2015 (inclusive of both days).
Case 2	15% of the duty demanded	Duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice. such reduced penalty is also paid 30 days of communication of show cause notice and all proceedings in respect of said duty and interest shall be deemed to be concluded;
Case 3	25% of the duty so determined	Duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty.

The proviso to sub-section (3) of section 32 which provided that where a Member of the Central Board of Excise & Customs is appointed as the Chairman, Vice Chairman or Member of the Settlement Commission, he shall cease to be a member of the Board, has been omitted vide Section 95 of the Finance Act, 2015, as it has become redundant due to the amended Customs and Central Excise Settlement Commission (Recruitment and Conditions of Service of Chairman, Vice Chairman and Members) Rules, 2000 which prescribes that Members of the Board are not eligible to be Member of the Settlement Commission.

Sub-sections (4) and (5) of section 37 of Central Excise Act has been amended vide section 103 of the Finance Act, 2015 so as to increase the penalty from Rs. 2000 to Rs.5000.

Settlement of Cases

Clause (c) of section 31 relating to the provisions of Settlement Commission

The above provision has been amended vide section 95 of the Finance Act, 2015 to delete the reference to “in any appeal or revision, as the case may be” so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement. Thus, now it be read as:

“case” means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, pending before an adjudicating authority on the date on which an application under sub-section (1) of section 32E is made: Provided that when any proceeding is referred back, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication

or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;

Certain Redundant provisions have been omitted:

- Section 32B of the Central excise Act has been amended vide section 96 of the Finance act, 2015 to substitute the words “the member” in place of “, as the case may be, such one of the Vice-chairmen,”. This has been done so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman in the absence of the Chairman of the Settlement Commission.
- Sub-section (1A) to section 32E has been omitted vide Section 98 of the Finance Act, 2015. Section 32E (1A) provided that where applications have been made prior to 1st day of June 2007, and where no order under section 32F (1) has been made before said date or applicant has not paid the amount so ordered by the Settlement Commission within thirty days from 1st day of June 2007, his application shall be liable to be rejected. Thus, the said sub-section has become redundant and omitted.
- Sub-section (6) of section 32F has been amended so as to omit the phrase “in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of application made on or after the 1st day of June, 2007”. Section 32F (6) provided that in respect of the applications filed before 31st day of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 32F latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant and thus the said phrase has been omitted vide section 99 of the Finance Act, 2015.
- Section 32H provided that Settlement Commission can reopen the completed proceedings in certain conditions. As per the first proviso to the said section no proceedings can be reopened after five years from the date of application, and as per second proviso to the said section Settlement Commission cannot reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007, thus making this section redundant. Therefore, this section has been omitted vide section 100 of the Finance Act, 2015
- Explanation to sub-section (1) of section 32K provided that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessarily been disposed of by 29th day of February 2008, the said Explanation has become redundant and hence omitted vide section 101 of the Finance Act, 2015.
- Clauses (i) and (ii) of sub-section (1) of section 32O have been amended vide section 102 of the Finance Act, 2015 to omit the phrase “passed under sub-section (7) of the section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of the section 32F”. Section 32O provides the situations in which the person in

whose case the order has been passed by the Settlement Commission cannot again approach the Settlement Commission.

AMENDMENTS VIDE NOTIFICATIONS**Notification No. 23/2014-Central Excise (N.T.), dated 6th August, 2014**

In exercise of the powers conferred by sections 5A, 37, 37A and 37B of the Central Excise Act, 1944, (1 of 1944) and of all other powers enabling it in this behalf, the Central Government hereby directs that the references to the authorities specified in column (2) of the Table below, in the rules made or deemed to have been made under the said sections or in any other notifications, instructions, decisions, or orders, issued or made under the said sections or rules or under any other section of the said Act, shall, unless the context otherwise requires, be construed as references to the authorities specified in column (3) of the said Table, namely:-

Sl. No.	Existing reference	Substituted reference
(1)	(2)	(3)
1.	Chief Commissioner	Principal Chief Commissioner or Chief Commissioner, as the case may be
2.	Commissioner	Principal Commissioner or Commissioner, as the case may be

Notification No. 24 / 2014 – CE (N.T.), dated 12th August, 2014

In exercise of powers conferred by section 35FF of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby fixes the rate of interest at six percent per annum for the purpose of the said Section.

Notification No. 25/2014-Central Excise (N.T.), dated 25th August, 2014

In the CENVAT Credit Rules, 2004, in rule 12AAA, after the words “first stage and second stage dealer”, the words “provider of taxable service” has been inserted.

Notification No. 26/2014 – Central Excise (N.T.), dated 27th August, 2014

In the CENVAT Credit Rules, 2004, in rule 9, in sub-rule (1), after clause (f), the following clause has been inserted, namely:-

“(fa) a Service Tax Certificate for Transportation of goods by Rail (herein after referred to as STTG Certificate) issued by the Indian Railways, along with the photocopies of the railway receipts mentioned in the STTG certificate; or”.

Notification No. 29 /2014-Central Excise (N.T.), the 16th September, 2014

In exercise of the powers conferred by section 37A of the Central Excise Act, 1944, with effect from 15th October, 2014, the Central Government has delegated the powers of the Central Board of Excise and Customs under rule 3 of the Central Excise Rules, 2002, to the Principal Chief Commissioner of Central Excise or the Chief Commissioner of Central Excise, to specify within his jurisdiction, the jurisdiction of a Commissioner of Central Excise (Appeals) or a Commissioner of Central Excise (Audit) and the jurisdiction of such Commissioner of Central Excise (Appeals) or Commissioner of Central Excise (Audit) shall be limited to the jurisdiction so specified.

Notification No. 02 / 2015 – Central Excise (N.T.), dated the 10th February, 2015

In exercise of the powers conferred by rule 3 of the Central Excise Rules , 2002, the Central Board of Excise and Customs has specified that the Principal Director General or the Director General of Central Excise Intelligence shall have jurisdiction as Principal Chief Commissioner or Chief Commissioner of Central Excise over the Principal Commissioners of Central Excise or the Commissioners of Central Excise , whose respective jurisdictions are specified in Table III(A) and III(B) of the notification no 27/2014- Central Excise (N.T) dated the 16th September, 2014 , for exercising the powers of the Central Board of Excise and Customs and for the purposes of assigning the cases for adjudication of show cause notices, delegated *vide* notification number 11/2007 – Central Excise (N.T) dated the 1st March, 2007.

Notification No. 6/2015-Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government has made the following rules further to amend the CENVAT Credit Rules namely the CENVAT Credit (Amendment) Rules, 2015 and these came into force on the 1st day of March, 2015, save as otherwise provided in these rules. It provides for following amendments:

In rule 4

- in sub-rule (1), –
 - 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,” has been inserted;
 - in the third proviso, for the words “six months”, the words “one year” has been substituted;
- 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,” has been inserted;
- in sub-rule (5), for clause (a), the following clause has been 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 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.”;

- in sub-rule (7), –
 - for the first, second and third provisos, the following provisos has been 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:”;

- in the sixth proviso, for the words “six months”, the words “one year” has been substituted;
- in the Explanations I and II, for the words “sub-rule”, the word “rule” has been substituted.

In rule 5

in Explanation 1, after clause (1), the following clause has been inserted, namely:— “(1A) "export goods" means any goods which are to be taken out of India to a place outside India.”.

In rule 6

in sub-rule (1), after the proviso, the following Explanations has been 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.”.

In rule 9

in sub-rule (4), the following proviso has been inserted at the end, namely:–

“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.”.

In rule 12AAA

- after the words “restrictions on a manufacturer” , the words “registered importer,” has been inserted.
- after the words “suspension of registration in case of” , the words “an importer or” has been inserted.

In rule 14

The following rule has been 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.

In rule 15

with effect from the date on which the Finance Bill, 2015 received the assent of the President i.e. 14th may, 2015 –

- 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 subsection (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” has been substituted;
- 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.” has been 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” has been substituted.

Notification No. 8/2015–Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government has made the following rules further to amend the Central Excise Rules, 2002, namely the Central Excise (Amendment) Rules, 2015 which came into force on the 1st day of March, 2015, save as otherwise provided in these rules:

In rule 8

In sub-rule (4), for the words, brackets and figure “and the interest under sub-rule (3)”, the words, brackets, figure and letter “and mentioned in the return filed under these rules, the interest under sub-rule (3) and the penalty under sub-rule 3(A)” has been substituted.

In rule 10

after sub-rule (3), the following sub-rules has been inserted, namely: –

“(4) The records under this rule may be preserved in electronic form and every page of the record so preserved has been 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.

In rule 11

- in sub-rule (2), after the proviso, the following provisos has been inserted, namely:–

“Provided further that if goods are directly sent to a job worker on the direction of a manufacturer or the provider of output service, the invoice shall also contain the details of the manufacturer or the provider of output service, as the case may be, as buyer and contain the details of job worker as the consignee:

Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer’s invoice:

Provided also that if the goods imported under the cover of a bill of entry are sent directly to buyer’s premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer’s premises.;

- in sub-rule (7), after the words “to goods supplied by”, the words “an importer who issues an invoice on which CENVAT credit can be taken, or” has been inserted;
- after sub-rule (7), the following sub-rules has been inserted, namely: –

“(8) An invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature:

Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer shall be used for transport of goods.

(9) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice.

Explanation. – For the purposes of rule 10 and this rule, the expressions, “authenticate”, “digital signature” and “electronic form” shall have the respective meanings as assigned to them in the Information Technology Act, 2000 (21 of 2000).

In rule 12

after sub-rule (5), the following sub-rule has been inserted, namely:–

“(6) Where any return or Annual Financial Information Statement or Annual Installed Capacity Statement referred to in this rule is submitted by the assessee after due date as specified for every return or statements, the assessee shall pay to the credit of the Central Government, an amount

calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement.”.

In rule 12CCC

- after the words “restrictions on a manufacturer,” , the words “a registered importer,” has been inserted;
- after the words “suspension of registration in case of” , the words “an importer or,” has been inserted.

In rule 17

after sub-rule (5), the following sub-rule has been inserted, namely:–

“(6) Where the return is submitted under sub-rule (3) by the assessee after the due date as mentioned in that sub-rule, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each return.”.

In rule 18

for the Explanation, the following Explanation has been substituted, namely:

“Explanation. – For the purposes of this rule, “export”, with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.”.

In rule 22

in sub-rules (2) and (3), after the words “Every assessee,” , the words “an importer who issues an invoice on which CENVAT credit can be taken,” has been inserted.

In rule 25

in sub-rule (1), –

- after the words “registered person of a warehouse,” the words “or an importer who issues an invoice on which CENVAT credit can be taken,” has been inserted.
- in the long line, – (i) after the words “registered person of the warehouse,” the words “or an importer who issues an invoice on which CENVAT credit can be taken,” has been inserted; (ii) for the words “two thousand rupees” the words “five thousand rupees” has been substituted with effect from the date on which the Finance Bill, 2015, received the assent of the President i.e. 19th May, 2015.

Notification No.9/2015 - Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944, the Central Government hereby makes the following rules further to amend the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001, namely

Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Amendment Rules, 2015. These came into force from the 1st day of March, 2015.

In the rule 3, after sub-rule (3), the following proviso has been inserted, namely: –

“Provided that it shall be sufficient to provide a letter of undertaking by a manufacturer against whom no show cause notice has been issued under subsections (4) or (5) of section 11A of Central Excise Act, 1944 or where no action is proposed under any notification issued in pursuance of rule 12CCC of Central Excise Rules, 2002 or rule 12AAA of CENVAT Credit Rules, 2004.”

Notification No. 11/2015-Central Excise (N.T.), dated the 1st March, 2015

In exercise of the powers conferred by sub-clause (iii) of clause (c) of section 23A of the Central Excise Act, 1944 (1 of 1944), the Central Government has specified “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-
- (iv) 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
 - (v) limited liability partnership which has no company as its partner; or
 - (vi) the sole proprietorship; or
 - (vii) One Person Company.
- (b) (i) “sole proprietorship” means an individual who engages himself in an activity as defined in sub-clause (a) of section 23A of the Central Excise Act, 1944. (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.

Notification No. 1/2015-Clean Energy Cess, dated the 1st March, 2015

In exercise of the powers conferred by sub-section (7) of section 83 of the Finance Act, 2010 read with section 5A of the Central Excise Act, 1944, the Central Government, being satisfied that it is necessary in the public interest so to do, has exempted all goods leviable to the Clean Energy Cess under section 83 of the said Finance Act, from so much of the Clean Energy Cess leviable thereon under the Tenth Schedule to the said Finance Act, 2010, as is in excess of the amount calculated at the rate of Rs. 200 per tonne.

Notification No. 1/2015-M & TP, dated the 1st March, 2015

In exercise of the powers conferred by rule 8 of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, the Central Government, being satisfied that it is necessary in the public interest so to do, made the following further amendment in the notification No. 2/2003-M&TP, dated the 1st March, 2003,

In the said notification, in the Table, in column (4), for the entry, “Twelve per cent. Ad valorem”, wherever it occurs, the entry “Twelve and half per cent. ad valorem” has been substituted.

Notification No. 12/2015-Central Excise (N.T.), dated the 30th April, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government has made the following rules further to amend the CENVAT Credit Rules, 2004, namely, the CENVAT Credit (Second Amendment) Rules, 2015 which came into force from the date of their publication in the Official Gazette.

In rule 3, in sub-rule (7), in clause (b), after the second proviso, the following has been substituted, namely:-

“Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the factory of manufacture of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise leviable under the First Schedule to the Excise Tariff Act:

Provided also that the credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act:

Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act.”

Notification No. 14/2015-Central Excise (N.T.) dated, 1st March, 2015

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 and section 94 of the Finance Act, 1994, the Central Government made the following rules further to amend the CENVAT Credit Rules, 2004 namely the CENVAT Credit (Third Amendment) Rules, 2015 and it came into force with effect from 1st of June, 2015.

In rule 6, in sub-rule (3), –

- in clause (i), after the words “goods and”, the words “seven per cent. of value of the” has been inserted.
- in the second proviso, for the word “six”, the word “seven” has been substituted.
