



# **UNION BUDGET-2016**

## **SERVICE TAX**

**-- CMA R.K.DEODHAR**



# **A] CHANGES IN FINANCE ACT, 1994**

**[ TO BE EFFECTIVE FROM THE DATE OF  
ENACTMENT OF FINANCE ACT, 2016 ]**

## **1] Section 65B :- Interpretations :-**

a) The definition of "Approved Vocational Course" has been omitted. This has been incorporated in Not.No.25/2012-S.T.

b) It is clarified that activity carried out by a lottery distributor or selling agents of State Govt. under the provisions of "Lotteries ( Regulation) Act,1998" is liable to tax.

## **2] Section 66D :- Negative List :-**

a) Specified Educational services under clause(l) have been omitted. These have been covered under General Exemption Notification No.25/2012-S.T.

b) Service of transportation of passengers by a stage carrier has been omitted w.e.f.1-6-2016. But such services by a non air-conditioned contract carriage will be continued to be exempted under Not.No.25/2012-S.T. Services by air-conditioned contract carriages will be taxed with 60% abatement.

c) The entry that covers services by way of transportation of goods by an aircraft or a vessel from a place outside India upto the Customs Station of clearance has been omitted. However such services by aircraft will be continued to be exempt under Not.No.25/2012-S.T.

### 3] Section 66E :- Declared services :-

Assignment by the Govt. of right to use the radio-frequency spectrum & subsequent transfers thereof is proposed to be declared as a Service.

#### 4] Section 67A :- Date of Determination of rate of Tax, value etc. :-

This Section is proposed to be amended to obtain specific Rule making powers in respect of Point of Taxation Rules, 2011. Point of Taxation Rules, 2011 have been amended accordingly.

#### 5] Section 73 :- Recovery of Service Tax :-

The limitation period for recovery of Service Tax not levied or not paid or short paid for cases not involving fraud, collusion etc. is proposed to be increased from 18 months to 30 months.

#### 6] Section 75 :- Interest on delayed payment of Service Tax :-

A person who collects but does not pay Service Tax to the Govt. will have to pay an interest at higher rate [ 24% p.a.].

## **7] Section 78A :-Penalty for offences by Directors :-**

It is provided that the penalty proceedings under this Section shall be deemed to be closed in cases where the main demand & penalty proceedings have been closed under Section 76 or Section 78.

## **8] Section 89 :- Offences & penalties :-**

The monetary limit for filing complaints for punishment of imprisonment has been increased from Rs.50 Lakhs to Rs.2 Crores.

# **B] SERVICE TAX NOTIFICATIONS**

# 1] Notification No.8/2016-S.T.dt.1-3-2016 :-

## Abatements :-

[ To be effective from 1-4-2016]

Notification No.26/2012- S.T. dt.20-6-2012 has been amended to make the following changes in the abatements-

<u>Service</u>	<u>Tax payable on (%)</u>
a)Transport of goods by rail	30
b)Transport of goods in containers by rail by any person other than Railways	40
c)Transport of Household goods	40
d)Service provided by a Foreman of Chit Fund	70
e)Service by a Tour Operator in relation to tour only for the purpose of arranging or booking accommodation	10



Service

Tax payable on (%)

f) Tours other than above	30
g) Construction of Complex, building, civil structure intended for sale before obtaining completion certificate	30

# **C] REVIEW OF EXEMPTIONS**

1] Exemption in respect of the following services is being withdrawn,-

i) Services provided by a senior advocate to an advocate or partnership firm of advocates, and

ii) A person represented on an arbitral tribunal to an arbitral tribunal;

Service tax in the above instances would be levied under forward charge.

2] Exemption under Sl. No. 23 (c) of the notification No.25/2012-ST on transport of passengers, with or without accompanying belongings, by ropeway, cable car or aerial tramway is being withdrawn.

3] Exemption to construction, erection, commissioning or installation of original works pertaining to monorail or metro (under S. No 14 of the notification No. 25/12-ST) is being withdrawn, in respect of contracts entered into on or after 1st March 2016. The other exemptions under S. No. 14 of notification No. 25/12-ST shall continue unchanged.

The above changes in notification No. 25/12-ST, except the change mentioned in para 6.3, shall come into effect from the 1st day of April 2016. The change mentioned in para 6.3 will come into effect from 1st March, 2016.

# **DJ NEW EXEMPTIONS**

1] The services of life insurance business provided by way of annuity under the National Pension System (NPS) regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from service tax.

2] Services provided by Securities and Exchange Board of India (SEBI) set up under SEBI Act, 1992, by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market are being exempted from service tax.

3] Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from service tax.

4] Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to the incubatees are being exempted from service tax.

5] Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from service tax.

6] Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from service tax.

7] Services of general insurance business provided under „Niramaya“ Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from service tax.

8] The threshold exemption limit of consideration charged for services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from Rs 1 lakh to Rs 1.5 lakh per performance.

9] Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners are being exempted from service tax.



10] Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from service tax.

11] Services by way of construction, erection etc. of a civil structure or any other original works pertaining to the "In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation" component of Housing for All (HFA) (Urban) Mission / Pradhan Mantri Awas Yojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers, is being exempted from service tax.

12] Services by way of construction, erection etc., of a civil structure or any other original works pertaining to the "Beneficiary-led individual house construction / enhancement" component of Housing for All (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY) is being exempted from service tax.

13] Services by way of construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq.m per house in a housing project approved by the competent authority under the "Affordable housing in partnership" component of PMAY or any housing scheme of a State Government are being exempted from service tax.

14] Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management are being exempted from service tax.

The above changes in notification No. 25/12-ST, except the change mentioned in para 11, 12, 13 and 14 (which will come into effect from 1st March, 2016), shall come into effect from the 1st day of April 2016.

**E] SHIFTING OF EXEMPTIONS FROM  
NEGATIVE LIST TO MEGA EXEMPTION  
NOTIFICATION**

1] Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India were in negative list of services [clause (p)(ii) of section 66D]. As this entry is proposed to be omitted through the Finance Bill 2016 [para 4.1(C) above refers], the said service is being exempted by amending notification No.25/2012-ST.

2] Services by a stage carriage were in the negative list of services [clause (o) (i) of section 66D]. As this entry is proposed to be omitted through the Finance Bill 2016 [para 4.2 above refers], a new entry is being inserted in notification No.25/2012-ST so as to exempt services by a stage carriage other than air conditioned stage carriage

These changes shall be made effective from 1st of June, 2016.

# **F] REVERSE CHARGE MECHANISM**

1] Mutual fund or Asset Management Company as the person liable for paying service tax is being deleted along with consequential changes in notification No. 30/2012-ST.

2] The liability to pay service tax on any service provided by Government or a local authority to business entities shall be on the service recipient. Consequently, notification No. 30/2012-ST is being amended so as to delete the words „*by way of support services*“ appearing at Sl. No. 6 of the Table in the said notification with effect from 1st April, 2016. Further, 1st April, 2016 is being notified as the date from which the words „*by way of support services*“ shall stand deleted from paragraph 1, clause A (iv), item (C) of notification No. 30/2012-ST.

The above changes shall come into effect from the 1st day of April 2016.

# **G] SERVICE TAX RULES**



1] The benefits of (a) quarterly payment of service tax and (b) payment of service tax on receipt basis, which are available to individual and partnership firms, are being extended to One Person Company (OPC) whose aggregate value of services provided is up to Rs. 50 lakh in the previous financial year. Further, the benefit of quarterly payment of service tax is also being extended to HUF. Rule 6 of the Service tax Rules, 1994, which deals with the payment of service tax and prescribes relaxation for individual or proprietary firm or partnership firm, is being amended accordingly.

2] Rule 2(1)(d)(i) (D)(II) is being modified so that legal services provided by a senior advocate shall be on forward charge.

3] The service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service. Amendments are being made in rule 7A of Service Tax Rules, 1994 accordingly.

4] At present, support services provided by Government or local authorities to business entities are taxable under reverse charge mechanism that is the liability to pay service tax on such services is on the service recipient. With effect from 1st April, 2016, any service (and not only support services) provided by Government or local authorities to business entities shall be taxable.

Consequently, 1st April, 2016 is being notified as the date from which the word "support" shall stand deleted from rule 2(1)(d)(i) (E) of Service Tax Rules, 1994 so as to provide that the liability to pay service tax on any service provided by Government or local authorities to business entities shall also be on the service recipient on reverse charge basis.

5] Recipient of services availed from foreign shipping line by a business entity located in India will get taxed under reverse charge at the hands of the business entity. (No fresh provision is being made in this regard, as it is already covered by Place of Provision of Service Rules.)

The above changes, except the changes mentioned in para 5 (which will come into effect from 1st June, 2016), shall come into effect from the 1st day of April 2016.

# **H] THE POINT OF TAXATION RULES, 2011**

The Point of Taxation Rules, 2011 have been framed under provisions of clause (a) and (hhh) of sub-section (1) of section 94, now specific powers is also being obtained under section 67A to make rules regarding point in time of rate of service tax. Thus, any doubt about the applicability of service tax Page 19 of 38 rate or apparent contradiction between section 67A and POTR would be taken care of. Therefore, consequent modifications have been done in POTR.

(a) Rule 5 of POTR applies when a new service comes into the service tax net. Although in the case of new levy, provisions of Chapter V of the Finance Act, 1994, and rules made thereunder, are invariably made applicable in relation to the levy and collection of the new levy. However, doubts have been raised regarding its applicability in case of new levy.

Therefore, an *Explanation* is being inserted in Rule 5 stating that the same is applicable in case of new levy on services.

(b) Further, in rule 5 of POTR, it is provided that in two specified situations the new levy would not apply. Another *Explanation* is being inserted therein stating that in situations other than those specified where new levy or tax is not payable, the new levy or tax shall be payable.

The above changes shall come into effect from 1st March, 2016.

# **I] RATIONALISATION**

Interest rates on delayed payment of duty/tax across all indirect taxes is proposed to be made uniform at 15%, except in case of service tax collected but not deposited with the Central Government, in which case the rate of interest will be 24% from the date on which the service tax payment became due. Notifications under section 73B and section 75 of the Finance Act, 1994 are being issued accordingly.

In case of assesseees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of service tax will be 12%.



# **J] REFUND OF CENVAT CREDIT**

Notification No. 27/2012 - C.E. (N.T.) is being amended so as to provide that time limit for filing application for refund of Cenvat Credit under Rule 5 of the Cenvat Credit Rules, 2004, in case of export of services, shall be 1 year from the date of -

(a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or

(b) the date of issue of invoice, where payment for the service has been received in advance prior to the date of issue of the invoice.

**K] INDIRECT TAX DISPUTE RESOLUTION**  
**SCHEME, 2016**

Indirect tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in certain specified type of cases.

**L]RETURNS.**

Service tax assesseees above a certain threshold will also be required to file an annual return. This change shall come into effect from 1st April, 2016.

**THANK YOU**