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RECENT UPDATES IN INDIRECT TAX LAWS till 30.11.2014

(Important & procedure related amendments are highlighted)

A. Central Excise

Nature	Provision
Levy	
Exemption for EOU /EHTP	Goods produced or manufactured in an EOU or an Electronic Hardware Technology Park (EHTP) Unit or a Software Technology Park (STP) Unit are hereby exempt from Education Cess and Secondary and Higher Education Cess. Earlier only duty equivalent to special additional customs duty was exempt. (NOTIFICATION NO. 18/2014-CE, DATED 11-7-2014)
Valuation of Excisable Goods	
Price is the sole consideration – Rule 6	Where price is not the sole consideration for sale of excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value. (Notification No.20/2014 dt. 11.07.2014)
Rule 8 – Captive Consumption	If the whole or part of the excisable goods is used for consumption by him or on his behalf in the production or manufacture of other articles, the value of such goods that are consumed shall be 110% of the cost of production or manufacture of such goods. Note: Earlier, Rule 8 was applied only in a situation where entire goods are captively consumed.
Rule 9 – Clearances to Related Persons	Earlier Rule 9 was applicable only when the excisable goods are sold exclusively to Related Persons. However, w.e.f. 22.11.2013, the above Rule 9 is applicable, even if the whole or part of the goods is sold to Related Persons. (Notification No.14/2013 dt. 22.11.2013)
Rule 10 – Clearances to ICUs	Earlier Rule 10 was applicable only when the excisable goods are sold exclusively to Inter-Connected Undertakings(ICU's). However, w.e.f. 22.11.2013, the above Rule 9 is applicable, even if the whole or part of the goods is sold to ICU's. (Notification No.14/2013 dt. 22.11.2013)
Valuation of Goods below Cost and Profit – Rule 6	<ol style="list-style-type: none"> Situations for Valuation below Cost: The Supreme Court has cited that in the following cases, a Manufacturer may sell goods at a price lower than the cost of manufacture and profit and yet the declared value can be considered as Normal Price: <ol style="list-style-type: none"> The Company wants to switch over its business If a Manufacturer has goods which could not be sold within a reasonable time. Hence, mere sale of goods below the manufacturing cost and profit cannot be taken as the sole basis for rejecting the Transaction Value. Period of application of the decision in Fiat India decision: <ol style="list-style-type: none"> In the FIAT judgment, sale of cars at an abnormally lower price to penetrate the market has been considered by the Supreme Court as constituting extra-commercial consideration, even when there was no additional consideration of money value flowing directly or indirectly from the buyer to the seller. For the period prior to the date of the judgment, extended period of limitation is not acceptable. In such cases, only the normal period of limitation will apply. For the period from 29.8.2012 onwards, if there is a sale in the circumstances similar to the case of M/s FIAT, and yet Transaction Value of goods is declared as the correct assessable value, then such declaration would amount to wilful mis-statement of the Assessable Value. [Circular No.979/03/2014-CX dt. 15.01.2014]

Nature	Provision
Independent Valuation of each clearance	<ul style="list-style-type: none"> Transaction Value of excisable goods shall be valued independently for every clearance. Example: If an Assessee clears his first removal to an independent buyer, some goods are captively consumed, second removal is to a Related Person covered under Rule 9, and third removal is to a person covered under Rule 10, then the first removal should be assessed u/s 4, captively consumed goods should be assessed under Rule 8, second removal should be assessed under Rule 9, and third removal should be assessed under Rule 10. Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 are not required to be followed sequentially. [Circular No.975/09/2013–CX dt 25.11.13]
Other Procedures	
Registration	An Importer who issues Invoice on which CENVAT Credit can be taken, must be registered under the Central Excise Act and its Rules. [Notification No.6/2014–C.E.(N.T.) dt 26.02.2014]
E–payment	Every Assessee shall electronically pay the duty through internet banking. However, if the AC / DC may allow an assessee to make payment by any mode other than internet banking. (Rule 8(1B)) (Notification No.19/2014 dt. 11.07.14)
Non–payment of duty after filing returns	If the assessee fails to pay the duty declared by him in the return within 1 month from the due date, then the assessee is liable to pay penalty at 1% p.m. or part thereof on the unpaid duty. “Month” means the period between 2 consecutive due dates. (Rule 8(3A))(Notification No.19/2014 dt. 11.07.14)
Powers of Central Excise Officers – Procedures	
Sec.2(b) – Definition of CEO	Central Excise Officer includes (a) Principal Commissioner of Central Excise (b) Principal Commissioner of Central Excise. (Finance Act, 2014)
Sec.15A – Information Returns	<ol style="list-style-type: none"> Persons who need to furnish Information Returns: <ol style="list-style-type: none"> An assessee A local authority or other public body or association A State Government Authority responsible for the collection of VAT / Sales Tax An Income Tax Authority A Banking Company A State Electricity Board or an Electricity Distribution or transmission Licensee under the Electricity Act, 2003 The Registrar or Sub-Registrar appointed under the Registration Act, 1908; or A Registrar within the meaning of the Companies Act, 2013; or Authority empowered to register motor vehicles under the Motor Vehicles Act, 1988 the Collector referred in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or The Recognised Stock Exchange A depository referred to in the Depositories Act, 1996; or An officer of the Reserve Bank of India, Documents to be submitted: Such person is responsible for maintaining record of registration / statement of accounts or any periodic return or document with details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property. Furnishing the Information Returns: The above persons shall furnish an Information Return for such periods, within such time, in such form and manner, to the prescribed authority or agency. Verification of Information Returns: <ol style="list-style-type: none"> Where the prescribed authority considers that the information in the information return is defective, he may intimate the defect to the person concerned. Revised information returns to be submitted within 30 days from the date of such intimation or extended period. <p>Note: The Concept of “Annual Information Returns” is now introduced into Central Excise also. (Finance Act, 2014)</p>

Nature	Provision
Sec.15B – Non Filing of AIR	<p>Non-Submission of Information Returns:</p> <p>(a) Where a person has not furnished the returns within the specified time, the prescribed authority may serve a notice to furnish within 90 ninety days.</p> <p>(b) If such Information Returns is not filed within the above period, then the prescribed authority may levy penalty of ₹ 100 per day of default (Finance Act, 2014)</p>

B. Customs

Classification of Customs Duties	
Customs Tariff Act – Levy of Safeguard Duty (Section 8B)	<p>Safeguard Duty shall not be levied on the goods imported by 100% EOU and SEZ. However, imports by 100% EOU and SEZ shall be subject to safeguard duty in the following cases:</p> <p>(a) If the notification / order specifically made it applicable or</p> <p>(b) If such articles are cleared as such into DTA or</p> <p>(c) If such articles are used in manufacture of articles which are cleared in DTA (Safeguard Duty shall be levied on the extent of articles cleared into DTA as was leviable when it was imported into India)</p> <p>Further, the above exemption is not applicable for imports by Free Trade Zone. (Finance Act, 2014)</p>

C. Service Tax

Nature	Provision								
Levy of Service Tax									
ST for Services from Foreign Banks	Foreign Banks are recovering certain charges for processing of import/export documents regarding remittance of Foreign Currency. The Banks in India would be treated as Recipient of Service, and therefore required to pay Service Tax. (Trade Notice No.20/13 dated 10.02.2014)								
Exchange rate for conversion	The exchange rate for determination of value of taxable service shall be the applicable rate of exchange as per the generally accepted accounting principles on the date of Point of Taxation. (NOTIFICATION NO.19/2014-ST, DATED 25-8-2014)								
Reverse Charge Mechanism	In the following cases recipient of the service is liable to pay service tax:								
	<table border="1"> <thead> <tr> <th>Nature of Service</th> <th>Person liable</th> </tr> </thead> <tbody> <tr> <td>Service by a director of a company or a body corporate</td> <td>The Company or the body corporate</td> </tr> <tr> <td>Recovery Agent</td> <td>The banking company or the financial institution or the non-banking financial company</td> </tr> <tr> <td>Renting of a motor vehicle designed to carry passengers on non-abated value to any person who is not engaged in the similar line of business</td> <td>ST payable be shared between Service provider and service receiver equally (earlier it was 60% by Service receiver and 40% by service provider)</td> </tr> </tbody> </table>	Nature of Service	Person liable	Service by a director of a company or a body corporate	The Company or the body corporate	Recovery Agent	The banking company or the financial institution or the non-banking financial company	Renting of a motor vehicle designed to carry passengers on non-abated value to any person who is not engaged in the similar line of business	ST payable be shared between Service provider and service receiver equally (earlier it was 60% by Service receiver and 40% by service provider)
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Renting of a motor vehicle designed to carry passengers on non-abated value to any person who is not engaged in the similar line of business	ST payable be shared between Service provider and service receiver equally (earlier it was 60% by Service receiver and 40% by service provider)								
(Notification No.10/2014-ST dt.11.07.2014)									
Point of Taxation									
Point of Taxation Rules (Rule 7)	In case of services for which reverse charge mechanism is applicable, POT shall be the date of payment. However, if the payment is not made within 3 months of date of invoice, Point of Taxation shall be the date immediately following three months. However this change will not apply only when the invoice is issued before 01.10.2014 (Notification No.13/2014-ST, dated 11-7-2014)								

Nature	Provision
Negative List and Exemptions	
Transportation of Passengers	Radio taxi will also be covered under service tax. However taxable portion will be only 40% of amount charged (notification 18/2014 dated 25/08/2014)
Sec.66D(g) & Sec.65B(39a) – Print Media	<p>Selling of space for advertisements in Print Media is covered in the Negative List and hence not leviable to service tax.</p> <p>Print Media Means</p> <p>(a) "Book" as defined in Section 1(1) of the Press and Registration of Books Act, 1867.</p> <p>(b) But it excludes business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.</p> <p>(c) "Newspaper" as defined in Section 1(1) of the Press and Registration of Books Act, 1867</p> <p>Note: Earlier, selling of space for advertisements in Radio and TV was taxable. Every other space selling was not taxable. Now selling space in any modes like hoarding, bill boards, websites, business directories, yellow pages and other trade catalogues meant for commercial purposes are leviable to service tax. Negative list covers only advertisements in Books and Newspapers.</p>
Exemption of service tax on service provided to a unit of SEZ	<p>(a) Jurisdictional DC / AC of Central Excise shall give authorization to claim exemption in Form A-2 within 15 working days of submission of form A-1 by SEZ Developer.</p> <p>(b) The above authorization is valid from date of verification of form A-1 by Specified Officer of SEZ. But if the Form A-1 is not submitted within 15days of said verification, the authorization shall be valid from date of submission.</p> <p>(c) SEZ developer shall give a copy of authorisation to the service provider on the basis of which he can claim exemption from service tax. Even pending the issue of authorization, the service provider can claim exemption of service tax provided copy of authorisation is given to him within 3months from the time service is deemed to be provided.</p> <p>(d) If service is not used exclusively for authorized operations of SEZ , theSEZ Unit shall pay the service tax which was exempted along with interest applicable. A service shall be considered as being used exclusively for authorized operations only if service is received under an invoice in the name of SEZ Unit and used for purpose of authorized operations</p> <p>(e) In Forms A-1,A-2 and A-3, ST registration number need not be given if Service Tax is payable under reverse charge mechanism</p> <p>(f) In Form A-2 the date from which authorisation is valid shall also be mentioned</p> <p>(g) The SEZ Unit or the Developer shall furnish to the Jurisdictional Superintendent of Central Excise, a quarterly statement, in Form A-3, furnishing the details of specified services received by it without payment of service tax, by 30th of the month following the particular quarter.</p> <p>(Notfn. No.15/2013 dt. 21.11.2013) (Notification No.7/2014-ST, dt. 11.07.2014)</p>
Exemption Notification	<p>Services by a specified organization to a religious pilgrimage shall be exempt if it is facilitated by Ministry of External Affairs.</p> <p>Specified organization shall mean Kumaon Mandal Vikas Nigam, A Governemnt of Uttharkand Undertaking.</p> <p>(NOTIFICATION NO. 17/2014-ST, DATED 20-8-2014)</p>
Chit Fund and its taxability	<p>Facts: The Assessee is an Association of Chit Funds. and it did not pay the Service Tax, treating the activity of Chit Fund as non-taxable.</p> <p>Principle: The Delhi High Court held that –</p> <p>(a) Services of Chit Fund were transaction in money, and hence not liable to Service Tax.</p> <p>(b) There was no question of exempting whole or any part thereof.</p> <p>(c) Exclusion of "activity which constitutes transaction merely in money" implies exclusion of "service rendered in connection with activity which constitutes merely a transaction in money" and, therefore, Chit Funds (including Business Chit Funds), which are "transactions in money" are not liable to Service Tax.</p> <p>(d) Providing partial exemption/abatement in relation to Chit Fund Business is not valid, as the entire activity itself is not a service. [Union of India vs Delhi Chit Fund Association 32 Taxmann 332 (Del.)]</p>

Nature	Provision
<p>Changes in Exemption list</p>	<p>Services which became taxable afresh:</p> <ol style="list-style-type: none"> 1. Technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation shall be taxable. 2. Transport of passengers (with or without accompanied belongings) by way of a contract carriage shall be exempt. However, in the following cases, it shall be taxable: <ol style="list-style-type: none"> (a) If it is meant for tourism, conducted tour, charter or hire (or) (b) If it is air-conditioned vehicle (or) (c) If it is a Radio Taxi (Note: Radio taxi means a taxi including a radio cab, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS)) <p>Services which became exempt afresh:</p> <ol style="list-style-type: none"> 1. Services provided by operators of the Common Bio-medical Waste Treatment Facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto. 2. Services provided by an educational institution to its staff, students or to an educational institution by way of <ol style="list-style-type: none"> (a) Transportation of students, faculty and staff; (b) Catering including any mid-day meals scheme sponsored by the Government; (c) Security or cleaning or house-keeping services performed in such educational institution; (d) Services relating to admission to, or conduct of examination by, such institution;" shall be exempt from service tax. (the definition of educational auxiliary services removed) <p>Educational Institution means an institution providing services specified in any of the services mentioned in point (1) above</p> <ol style="list-style-type: none"> 3. Services by a hotel, inn, guest house, club or campsite, for residential or lodging purposes, having declared tariff per unit unit of accommodation < ` 1,000per day or equivalent shall be exempt from service tax. 4. Transportation of chemical fertilizer, organic manure, oil cakes, cotton (ginned / baled) by Rail / Goods Transport Agency from one place in India to another shall be exempt. 5. Services provided to Government, a local authority or a governmental authority by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation is exempt from service tax. <i>(Earlier there was a requirement that these services should be of nature that they would be ordinarily entrusted to municipality, now this requirement is dispensed with)</i> 6. Services of general insurance business in relation to life micro-insurance product as approved by the IRDA, having maximum cover of ` 50,000 are exempt from service tax. (Note: Life micro-insurance product shall have the meaning as per the IRDA (Micro-insurance) Regulations, 2005) 7. Services by way of loading, unloading, packing, storage or warehousing of rice, cotton (ginned or baled) are exempt from service tax. 8. Services received by the RBI, from outside India in relation to management of Forex Reserves 9. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India. 10. Loading, Packing, Transportation and Warehousing of Rice and Milling of Paddy into Rice on Job Work Basis is exempt. 11. Services provided by Cord Blood Banks by way of preservation of stem cells or any other service in relation to such preservation is exempt. (Notification No.5/2014 dt. 24.02.2014)
<p>Sub Broker services</p>	<p>Services provided by an Authorised Person or Sub-Broker, to the Member of a Recognized Association or a Registered Association, in relation to a Forward Contract, is exempted from service tax. (Notification No.3/2014 dt. 03.02.2014)</p>

Nature	Provision		
Remittance of Foreign Currency	<ol style="list-style-type: none"> Service tax is not payable because it is a transaction in money. Even if an Indian service provider remits currency abroad it is not a taxable service as service is provided to a person located outside India. However where an agent in India is appointed by the foreign remitter to facilitate remittance and a commission or fee received by such agent, then he is covered under definition of intermediary. Under Place of Provision of Service Rules, location of service provider is the place of provision of service. (CIRCULAR NO. 180/06/2014-ST, DATED 14-10-2014) 		
Changes in Abatement of Service Tax	<ol style="list-style-type: none"> Instead of Renting of Motor Vehicle, it shall be considered as "Renting of Motor Cab". Abatement and CENVAT Credit: 		
	Service	Taxable Value	Condition
	Goods Transport Agency	25%	Service receiver can claim the abatement, if CENVAT Credit is not taken by the Service Provider
	Services relating to Chit	70%	CENVAT credit on inputs, input services and capital goods is not availed
	Tour Operator	Multiple %	CENVAT credit on inputs, input services and capital goods is not availed. Input service of another tour operator is eligible for CENVAT
	Renting of Motor Cab	60%	<ol style="list-style-type: none"> CENVAT Credit for Inputs, Capital Goods and Input Services. Input Services in relation to renting motor cab can be taken. CENVAT Credit for input service of renting of motor cab has been claimed in the following manner – Full credit on input service when the person has paid tax on 40% of value or 40% of input service when the person has paid tax on entire value.
	Transport of passengers (with / without accompanied belongings), by a contract carriage (except motor cab) and radio taxi	40%	CENVAT Credit has not been taken in respect of inputs, Capital goods and input services.
	Transport of goods in a vessel	40%	Earlier taxable value was 50%
(NOTIFICATION NO.8/2014-ST, dt.11.07.2014)			
Place of Provision of Service Rules, 2012			
Place of Provision of Service Rules	<ol style="list-style-type: none"> "Intermediary" means a broker, an agent or any other person, who arranges or facilitates a provision of a service or a supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his account. As per Rule 4, Where goods are to be physically made available to service provider for providing service such as repairs, place of provision of service shall be the place of performance of service. However this criterion shall not apply where such goods are imported and are exported after Repairs without using them in taxable territory. i.e. in such case, the place of provision shall be as per Rule 3 i.e. location of service receiver. As per rule 9, in case of hiring of any means of transport for a period of one month, the place of provision shall be location of service provider, Such means include yachts but do not include aircraft and other vessels. <p>(NOTIFICATION NO.14/2014-ST, DATED 11-7-2014)</p>		

Nature	Provision								
Valuation of Taxable Services									
Works Contract (Determination of Value) Rules	<p>In case of works contract services like</p> <p>(a) Maintenance or repair or reconditioning or restoration or servicing of any goods</p> <p>(b) Maintenance or repair or completion and finishing services such as glazing or plastering or floor and wall tiling or installation of electrical fittings of immovable property,</p> <p>Taxable Value shall be 70% of the total amount charged (NOTIFICATION NO.11/2014-ST, dt.11.07.2014)</p>								
Service Tax Procedures									
Payment of service tax	Every assessee shall deposit the service tax electronically. But AC / DC may allow the assessee to deposit through any other mode for reasons to be recorded in writing. (Notification No.9/2014 dt. 11.07.2014)								
Interest Rates for delayed payment of service tax	<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">Period of delay from due date</th> <th style="width: 50%;">Interest rate</th> </tr> </thead> <tbody> <tr> <td>Upto 6 Months</td> <td>18%</td> </tr> <tr> <td>6 – 12 Months</td> <td>24%</td> </tr> <tr> <td>Greater than 12 Months</td> <td>30%</td> </tr> </tbody> </table> <p>(Notification No.12/2014-ST, dt.11.07.2014)</p>	Period of delay from due date	Interest rate	Upto 6 Months	18%	6 – 12 Months	24%	Greater than 12 Months	30%
Period of delay from due date	Interest rate								
Upto 6 Months	18%								
6 – 12 Months	24%								
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Service Tax Audit Rule 5A(2)	<p>Every assessee, shall make available to the officer empowered or the audit party deputed by the Commissioner or the C&AG of India, or a CWA / CA nominated u/s 72A of the Finance Act, 1994, the following records:</p> <ul style="list-style-type: none"> • the records maintained or prepared by him • the cost audit reports • the income-tax audit report, if any, u/s 44AB of the Income-tax <p>for the scrutiny of the officer or the audit party, or the cost accountant or chartered accountant, within the time limit specified.</p>								

Service Tax on Resident Welfare Association (RWA)

Circular No. 175/01/2014-ST, dated 10-1-2014

No.	Issue	Clarification
1.	In a Residential Complex, monthly contribution collected from Members, is used by the RWA for the purpose of making payments to the third parties, for commonly used services or goods. Example.for providing security service, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of Electricity Bill for the common area and lift, etc.]. Is Service Tax leviable?	Such contributions (meant for sourcing of goods/ services from third party for common use of members) would be liable for service tax subject to a monetary ceiling of ` 5,000 p.m. per Member.
2.	If the contribution of a member/s of a RWA exceeds ` 5,000 p.m. how should the Service Tax liability be calculated?	If the monthly contribution per any or some of the members exceeds ` 5,000, the entire contribution of those members whose per month contribution exceeds ` 5,000 would be ineligible for the exemption. Service Tax would then be leviable on the aggregate amount of monthly contribution of such Members.
3.	Is the Small Service Provider exemption of ` 10,00,000 eligible for RWA?	The Exemption of ` 10,00,000 is available for the aggregate value of services provided by RWA.

	Issue	Clarification
4.	Does "Aggregate Value" for the purpose of threshold exemption, include the value of exempt service?	Aggregate Value does not include the value of services which are exempt from Service Tax.
5.	If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a "Pure Agent" of its members, is exclusion from value of taxable service?	Expenditure or Costs incurred by a RWA as a Pure agent of the Member, shall be excluded from the value of taxable service, subject to the conditions specified in the Rule.
6.	Is CENVAT Credit available to RWA for payment of Service Tax?	RWA may avail cenvat credit and use the same for payment of Service Tax, as per the CENVAT Credit Rules.

Procedure for Cancellation of Service Tax Registration (Trade Notice No.18/2013–ST dt. 19.12.2013)

1. Reasons for Surrender / Cancellation:

- (a) Assessee's Turnover is below the threshold limit.
- (b) Change in the constitution of Assessee, e.g. from Partnership to Company or Amalgamation, etc.
- (c) Death of Proprietor.
- (d) Assessee closing down his taxable service business.
- (e) Assessee has centralized registration and hence wants to surrender his other multiple registrations of branches.
- (f) Assessee has shifted its office from the jurisdiction of one Division/Commissionerate to another, and instead of requesting for change in the Location Code and Premises Code of the Assessee, a fresh registration has been taken at the new address.

2. Procedure: All the Assesseees who wish to surrender their Registration Certificates, shall file their application on-line using the ACES module on www.aces.gov.in. The Assessee shall submit signed copy of print out of the application generated by the ACES System to the Jurisdictional Superintendent of "Centralized Surrender Cell" in the concerned Division Office along with the following documents:

- (a) Application Form & Undertaking for Surrender of Service Tax Registration.
- (b) Copies of ST-3 Returns from the date of taking registration till the date of surrender (maximum 6 returns only)
- (c) In case the Assessee has not filed ST-3 Returns for the period mentioned above, then it is not necessary for him to file the fresh return for surrender purpose, if his Taxable Turnover is below the exemption limit. He can apply for waiver of penalty under Rule 7C of STR for non-filing of returns. The fact of non-filing of return should be clearly mentioned in the Undertaking.
- (d) Copies of Profit & Loss Account and Balance Sheet from the date of taking registration to the date of surrender but for a maximum of last 3 financial years only. However, if Balance Sheet, Profit & Loss statement has not been prepared, the Applicant may submit copies of Income Tax Return for the said period. If said Return has also not been filed, then, the applicant should provide some evidence like Bank Statement to satisfy the office about the correctness of reason for surrender.
- (e) Details of Show Cause Notice, pending adjudication, details of confirmed demands, details of cases, audit, etc.
- (f) Other relevant proofs must be given based on the reason for change.

D. CENVAT Credit Rules, 2004

Topic	Subject / Reference
Definitions	
First Stage Dealer	First Stage Dealer includes an Importer who sells goods imported by him under the cover of an Invoice on which CENVAT Credit may be taken, and such Invoice shall include an Invoice issued from his Depot or the Premises of his Consignment Agent. Note: Earlier, the Dealer who purchases from the Importer was considered as First Stage Dealer. However, w.e.f. above amendment, such Dealers are excluded from the definition of First Stage Dealers. (Notification No.18/2013 dt. 31.12.13)
CENVAT CREDIT – CONDITIONS	
Time limit for claiming CENVAT	Manufacturer or the provider of output service shall not take CENVAT credit after six months of the date of issue of any of the eligible documents mentioned in Rule 9 of CENVAT Credit Rules. (NOTIFICATION NO. 21/2014-C.E. (N.T.), DATED 11-7-2014)
Time limit not applicable for re-credit	It is clarified the limitation of 6 months would apply when the credit is taken for the first time on an eligible document. It would not apply for taking re-credit of amount reversed, after meeting the conditions prescribed in these rules. (CIRCULAR NO990/14/2014-CX-8 dt 19.11.14)
CENVAT Credit on Input services liable under Reverse Charge mechanism	<ol style="list-style-type: none"> In respect of input service where 100% of the service tax is to be paid by the service receiver, credit shall be allowed after the service tax is paid. In respect of input service, where the service receiver and service provider jointly share the liability to pay service tax, CENVAT credit shall be allowed on or after the day on which the service value and service tax thereon is paid as indicated in invoice, bill or challan. In case if the above payment is not made within 3 months of the date of the invoice, bill or challan, the manufacturer / the service provider, shall pay an amount equal to the CENVAT credit availed on such input service In case the said payment is made, the manufacturer or output service provider, 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. (NOTIFICATION NO. 21/2014-C.E. (N.T.), DATED 11-7-2014)
CENVAT Credit in case of export of services	If such payment is received after the specified or extended period allowed by the RBI but within 1 year from such period, the service provider shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier under Rule 6(3) based on documentary evidence of the payment so received. (NOTIFICATION NO. 21/2014-C.E. (N.T.), DATED 11-7-2014)
Reversal of Credit	
Reversal of Credit – Rule 3	<p>Due Date of Payment: The amount payable under sub-rules (5), (5A), (5B) and (5C), unless specified otherwise, shall be paid by the Manufacturer of goods or the Provider of Output Service, by debiting the CENVAT Credit or otherwise, on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.</p> <p>Recovery: If the Manufacturer of goods or the Provider of Output Service fails to pay the amount payable under sub –rules (5), (5A), (5B) and (5C), it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT Credit wrongly taken and utilised. [Notification No. 01/2014–CX (NT), dated 08.01.2014]</p>
Reversal of Input Service Credit in case of Remission of Duty	Where on any goods manufactured or produced by an Assessee, the payment of duty is ordered to be remitted under Rule 21 of the Central Excise Rules, 2002, the CENVAT Credit taken on the inputs or Input Services used in or in relation to the manufacture or production of said goods shall be reversed. Impact: Earlier Rule 3(5C) required only reversal of Input Credit. However, pursuant to the above, even Input Service Credit shall be reversed. [Notification No. 01/2014–CX (NT), dated 08.01.2014]
Input Service Distributor	
Input Service Distributor	Rule 7 Clause (d) has been amended to provide that the credit of service tax attributable to service used by more than one unit shall be distributed pro-rata, on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year , during the said period [Notification No 05/2014 – CX., (N.T.), dated 24.02.2014]

Topic	Subject / Reference												
Input Service Distributor	<p>Illustration for calculation under Input Service Distributor:</p> <p>An Input Service Distributor (ISD) has a total of 4 units namely 'A', 'B', 'C' and 'D', which are operational in the current year. The credit of input service pertaining to more than one unit shall be distributed as follows:</p> $\text{Distribution to 'A'} = \frac{X}{Y} \times Z$ <p style="margin-left: 40px;">X = Turnover of unit 'A' during the relevant period Y = Total turnover of all its unit i.e. 'A'+ 'B'+ 'C'+ 'D' during the relevant period Z = Total credit of service tax attributable to services used by more than one unit. Similarly the credit shall be distributed to other units 'B', 'C' and 'D'.</p> <p>An ISD has a common input service credit of ₹ 12,000 pertaining to more than one unit. The ISD has 4 units namely 'A', 'B', 'C' and 'D' which are operational in the current year.</p>												
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Unit</th> <th style="width: 40%;">Turnover in the previous year (in ₹)</th> </tr> </thead> <tbody> <tr> <td>A (Manufacturing Excisable Goods)</td> <td style="text-align: right;">25,00,000</td> </tr> <tr> <td>B (Manufacturing Excisable and Exempted Goods)</td> <td style="text-align: right;">30,00,000</td> </tr> <tr> <td>C (providing exclusively exempted service)</td> <td style="text-align: right;">15,00,000</td> </tr> <tr> <td>D (providing taxable and exempted service)</td> <td style="text-align: right;">30,00,000</td> </tr> <tr> <td style="text-align: center;">Total</td> <td style="text-align: right;">1,00,00,000</td> </tr> </tbody> </table>	Unit	Turnover in the previous year (in ₹)	A (Manufacturing Excisable Goods)	25,00,000	B (Manufacturing Excisable and Exempted Goods)	30,00,000	C (providing exclusively exempted service)	15,00,000	D (providing taxable and exempted service)	30,00,000	Total	1,00,00,000
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<p>The Common Input Service relates to units 'A', 'B' and 'C', the distribution will be as under:</p>													
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(iv)	Distribution to 'D'	$= 12000 \times \frac{30,00,000}{1,00,00,000} = 3,600$											
<p>The distribution for the purpose of Rule 7(d), will be done in this ratio in all cases, irrespective of whether such common input services were used in all the units or in some of the units. (CIRCULAR NO.178/4/2014-ST, DATED 11-7-2014)</p>													
Records and Returns													
Returns u/r 9	<p>Rule 9 has been amended to provide that Registered Importers shall also be required to file periodic returns as may be specified by the Board. [Notification No 9/2014 – CE (NT), dated 28.02.2014]</p> <p>Note: The Board has notified the same form as applicable for First Stage and Second Stage Dealers shall also be filed by Registered Importers on a quarterly basis [Notification No. 11/2014 CE (NT) dated 28.02.2014]</p>												
Valid Documents for CENVAT Credit	<p>CENVAT Credit shall be taken on basis of following document in case of transportation of goods by rail – 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 (NOTIFICATION NO. 26/2014-C.E. (N.T.), dt27-8-2014)</p>												

Rule 5B – Procedures for Refund – Partial Reverse Charge [Notification No.12/2014–C.E.(N.T.), dated 03.03.2014]

1. **Applicability:** Refund of the Unutilized CENVAT Credit shall be claimed, if it used for following Output Services (hereinafter referred to as “Partial Reverse Charge Services”)
 - (a) Renting of a Motor Vehicle designed to carry passengers on non–abated value, to any person who is not engaged in a similar business,
 - (b) Supply of manpower for any purpose or security services, or
 - (c) Service portion in the execution of a works contract.

2. **Refund:** Unutilised CENVAT Credit taken on Inputs and Input Services during the half year for Partial Reverse Charge = A – B, where,

$$A = \text{CENVAT Credit taken on Inputs and Input Services during the half year} \times \frac{\text{Turnover of Output Service under Partial Reverse Charge during the half year}}{\text{Total Turnover of Goods and Services in that half year}}$$

$$B = \text{Service Tax paid by the Service Provider for such Partial Reverse Charge Services during the half year.}$$

3. **Conditions and Safeguards:**
 - (a) Refund \leq ST Liability paid or payable by the Service Receiver w.r.t. partial reverse charge.
 - (b) The refund amount claimed shall be debited by the Claimant from his CENVAT Credit account.
 - (c) If amount sanctioned is less than the amount of refund claimed, then the Claimant may take back the credit of the difference between the amount claimed and amount sanctioned.
 - (d) Only one refund shall be claimed for every 6 months under this Notification.
 - (e) The Refund claimed shall be filed after filing the Service Tax Return.
 - (f) No refund shall be admissible for the CENVAT Credit taken on Input or Input Services received before 01.07.2012.
4. **Procedure for filing the Refund Claim:**
 - (a) The Output service provider shall submit an application in Form A along with all the specified documents to the Jurisdictional AC / DC, before the expiry of 1 year from the due date of filing of return for the half year.
Note: The last date of filing of application in Form A, for the period starting from 1st July 2012 to 30th September 2012, shall be 30th June 2014.
 - (b) In case of more than one return, time limit for of one year shall be calculated from the due date of filing of the Return for the later period.
 - (c) Copies of the Return (s) filed for the half year for which the refund is claimed shall also be submitted while claiming the refund.
 - (d) AC / DC shall satisfy himself of the correctness / completeness of the refund claim. He may call for any document, in case he has reason to believe that information provided is incorrect / insufficient, and further enquiry needs to be caused before the sanction of refund.

E. Common Topics

Section	Provision												
Authority for Advance Rulings													
Notified persons for AAR	Resident Private Limited Company shall be a person notified for eligible applicant before Authority for Advance Ruling. (Notification No.15/2014–Cus(NT)dt. 11.07.2014, (Notification No.51/2014–Cus(NT) dt. 11.07.2014))												
Determination of ST Liability – Demand													
Sec.73A(4B) – Time Limit for Determination of ST due	Time Limit for determination of ST liability: The Central Excise Officer shall try to determine the amount of ST liability as follows:												
	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">Situation</th> <th style="text-align: center;">Time Limit for determination of ST</th> </tr> </thead> <tbody> <tr> <td>Cases whose limitation period is 18 Months</td> <td>6 Months from the date of notice</td> </tr> <tr> <td>Fraudulent cases and those fraudulent cases identified during audit / investigation</td> <td>1 Year from the date of notice</td> </tr> </tbody> </table>	Situation	Time Limit for determination of ST	Cases whose limitation period is 18 Months	6 Months from the date of notice	Fraudulent cases and those fraudulent cases identified during audit / investigation	1 Year from the date of notice						
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(Finance Act, 2014)													
Recovery of Dues													
Sec.87 – Recovery of ST dues in case of sale of business / trade	<p>Situation: The person-in-default transfers or disposes of his business or trade in whole or in part, or effects any change in the ownership to another person</p> <p>Impact: In order to recover service tax and other sums due from the predecessor on the date of transfer, all goods, which are in the possession of the successor must be attached and sold by the officer empowered by CBEC (subject to written approval of the Commissioner of Central Excise).</p> <p>(Finance Act, 2014)</p>												
Appeals and Revision													
Sec.35F / Sec.129E – Compulsory Pre-deposit before appeals	The Appellate Authority shall not accept any appeal unless the appellant has made a pre-deposit of the following amounts:												
	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">Appellate Authority</th> <th style="text-align: center;">Original Order passed by</th> <th style="text-align: center;">% of Pre-deposit</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Commissioner (Appeals)</td> <td style="text-align: center;">An Adjudicating Authority below the rank of Commissioner</td> <td style="text-align: center;">7.5%</td> </tr> <tr> <td style="text-align: center;">Appellate Tribunal</td> <td style="text-align: center;">Commissioner</td> <td style="text-align: center;">7.5%</td> </tr> <tr> <td style="text-align: center;">Appellate Tribunal</td> <td style="text-align: center;">Commissioner (Appeals)</td> <td style="text-align: center;">10%</td> </tr> </tbody> </table>	Appellate Authority	Original Order passed by	% of Pre-deposit	Commissioner (Appeals)	An Adjudicating Authority below the rank of Commissioner	7.5%	Appellate Tribunal	Commissioner	7.5%	Appellate Tribunal	Commissioner (Appeals)	10%
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	Appellate Tribunal	Commissioner (Appeals)	10%										
	Maximum Pre-deposit: ` 10 Crores												
% is calculated on													
(a) Total Duty Amount – if the dispute is related to Duty / Duty & Penalty													
(b) Total Penalty Amount – if the dispute is related to penalty alone													
Duty amount includes (a) Demand u/s 11D (Excess collection of ED) (b) Erroneous CENVAT Credit taken (c) Amount payable u/r 6 of CENVAT Credit Rules, 2004 in relation to exempted goods and exempted services.													
The above provisions shall not apply to the stay applications and appeals pending before any appellate authority prior to the Finance Act, 2014.													
Note: Earlier, the pre-deposit is on specific direction of the appellate authority. However, now it is made compulsory w.e.f. Finance Act, 2014. (Finance Act, 2014)													
Offences, Penalties and Prosecution													
Sec.80 – Waiver of penalty	<p>Penalty shall not be waived if service tax is demanded for non-levy / short levy / non-payment / short payment /erroneous refund due to fraudulent reasons. Such penalty shall be compulsorily levied even if the true and adequate disclosures were available in specified records.</p> <p>Note: Earlier, penalty for the above situation can be waived by the department. However, now it is not possible. (Finance Act, 2014)</p>												

Section	Provision
<p>Can the Assessee pay reduced penalty of 25% beyond the time prescribed under section 11AC?</p>	<p>Facts: Penalty u/s 11AC was imposed on the Assessee. The Assessee paid the duty sought to be evaded and interest payable thereon, before the passing of the adjudication order. However, the Assessee did not pay 25% of the penalty imposed u/s 11AC within 30 days from the date of the communication of the order. Instead of paying 25% of the penalty within the stipulated time, the Assessee chose to file an appeal against imposition of penalty u/s 11AC.</p> <p>Point of dispute: The Revenue contended that Tribunal could not permit the Assessee to pay reduced penalty of 25% beyond the time prescribed u/s 11AC.</p> <p>Observations of the Court: The High Court elucidated that when the 25% penalty was required to be paid within 30 days, it would not be open to the Appellate Authority or the Court to direct the assessee to pay 25% penalty beyond the stipulated time period.</p> <p>Decision: The High Court held that Tribunal could not permit the Assessee to pay 25% penalty beyond the time prescribed under the first and second proviso to erstwhile section 11AC [now Sec.11AC(1)(c)]. CCEx. vs Castrol India Ltd 2012 (286) E.L.T. 194 (Bom.)</p>