

CHAPTER V
SERVICE TAX

143. In the Finance Act, 1994,—

Amendment of
Act 32 of
1994.

5 (A) in section 65, after the *Explanation* occurring at the end of clause (121), the following proviso shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

"Provided that the provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.";

10 (B) in section 65A, after sub-section (2), the following sub-section shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

"(3) The provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.";

(C) after section 65A, the following section shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

15 '65B. In this Chapter, unless the context otherwise requires,—

Interpretations.

4 of 1882.

(1) "actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882;

20 (2) "advertisement" means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;

(3) "agriculture" means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

25 (4) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;

(5) "agricultural produce" means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

30 (6) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;

22 of 1934.

(7) "aircraft" has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934;

55 of 1994.

35 (8) "airport" has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994;

(9) "amusement facility" means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided;

52 of 1962.

40 (10) "Appellate Tribunal" means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

(11) "approved vocational education course" means,—

52 of 1961.

45 (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or

(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment; or

50 (iii) a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India;

- (12) "assessee" means a person liable to pay tax and includes his agent;
- (13) "associated enterprise" shall have the meaning assigned to it in section 92A of the Income-tax Act, 1961; 43 of 1961.
- (14) "authorised dealer of foreign exchange" shall have the meaning assigned to "authorised person" in clause (c) of section 2 of the Foreign Exchange Management Act, 1999; 5 42 of 1999.
- (15) "betting or gambling" means putting on stake something of value, particularly money, with consciousness of risk and hope of gain on the outcome of a game or a contest, whose result may be determined by chance or accident, or on the likelihood of anything occurring or not occurring;
- (16) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963; 10 54 of 1963.
- (17) "business entity" means any person ordinarily carrying out any activity relating to industry, commerce or any other business;
- (18) "Central Electricity Authority" means the authority constituted under section 3 of the Electricity (Supply) Act, 1948; 15 54 of 1948.
- (19) "Central Transmission Utility" shall have the meaning assigned to it in clause (10) of section 2 of the Electricity Act, 2003; 36 of 2003.
- (20) "courier agency" means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles; 20
- (21) "customs station" shall have the meaning assigned to it in clause (13) of section 2 of the Customs Act, 1962; 52 of 1962.
- (22) "declared service" means any activity carried out by a person for another person for consideration and declared as such under section 66E;
- (23) "electricity transmission or distribution utility" means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003; or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government; 25 36 of 2003.
- (24) "entertainment event" means an event or a performance which is intended to provide recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or programme; 30
- (25) "goods" means every kind of movable property other than actionable claim and money; and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale; 35
- (26) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;
- (27) "India" means,—
- (a) the territory of the Union as referred to in clauses (2) and (3) of article 1 of the Constitution; 40
- (b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976; 80 of 1976.
- (c) the seabed and the subsoil underlying the territorial waters; 45
- (d) the air space above its territory and territorial waters; and
- (e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;
- (28) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment; 50

- 82 of 1985.
1 of 1917. (29) "inland waterway" means national waterways as defined in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 or other waterway on any inland water, as defined in clause (b) of section 2 of the Inland Vessels Act, 1917;
- 43 of 1961. 5 (30) "interest" has the meaning assigned to it in clause (28A) of section 2 of the Income-tax Act, 1961;
- (31) "local authority" means-
- (a) a Panchayat as referred to in clause (d) of article 243 of the Constitution;
- (b) a Municipality as referred to in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;
- 10 41 of 2006. (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- (e) a regional council or a district council constituted under the Sixth Schedule to the Constitution;
- (f) a development board constituted under article 371 of the Constitution; or
- 15 (g) a regional council constituted under article 371A of the Constitution;
- (32) "metered cab" means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder;
- 59 of 1988. 20 (33) "money" means Indian legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;
- 25 (34) "negative list" means the services which are listed in section 66D;
- (35) "non-taxable territory" means the territory which is outside the taxable territory;
- (36) "notification" means notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;
- 30 (37) "person" includes,—
- (i) an individual,
- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a society,
- 35 (v) a limited liability partnership,
- (vi) a firm,
- (vii) an association of persons or body of individuals, whether incorporated or not,
- (viii) Government,
- (ix) a local authority, or
- 40 (x) every artificial juridical person, not falling within any of the preceding sub-clauses;
- (38) "port" has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 or in clause (4) of section 3 of the Indian Ports Act, 1908;
- 38 of 1963.
15 of 1908. (39) "prescribed" means prescribed by rules made under this Chapter;
- (40) "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 alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State
- 1 of 1944. 45

Act for the time being in force;

- (41) "renting" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property; 5
- (42) "Reserve Bank of India" means the bank established under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.
- (43) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contract (Regulation) Act, 1956; 42 of 1956.
- (44) "service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include— 10
- (a) an activity which constitutes merely,—
- (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
- (ii) a transaction in money or actionable claim; 15
- (b) a provision of service by an employee to the employer in the course of or in relation to his employment;
- (c) fees taken in any Court or tribunal established under any law for the time being in force.
- Explanation 1.*— For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,— 20
- (A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or 25
- (B) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (C) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section. 30
- Explanation 2.*— For the purposes of this Chapter,—
- (a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
- (b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons. 35
- Explanation 3.*— A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;
- (45) "Special Economic Zone" has the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005; 28 of 2005.
- (46) "stage carriage" shall have the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988; 40 59 of 1988.
- (47) "State Electricity Board" means the Board constituted under section 5 of the Electricity (Supply) Act, 1948; 54 of 1948.
- (48) "State Transmission Utility" shall have the meaning assigned to it in clause (67) of section 2 of the Electricity Act, 2003; 45 36 of 2003.
- (49) "support services" means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis; 50
- (50) "tax" means service tax leviable under the provisions of this Chapter;

(51) "taxable service" means any service on which service tax is leviable under section 66B;

(52) "taxable territory" means the territory to which the provisions of this Chapter apply;

38 of 1963.

(53) "vessel" has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963;

5 (54) "works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, improvement, repair, renovation, alteration of any building or structure on land or for carrying out any other similar activity or a part thereof in relation to any building or structure on land;

1 of 1944.

10 (55) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.¹

(D) in section 66, the following proviso shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

15 "Provided that the provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.";

(E) in section 66A, after *Explanation 2* occurring at the end of sub-section (2), the following sub-section shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

20 "(3) The provisions of this section shall not apply with effect from such date as the Central Government may, by notification, appoint.";

(F) after section 66A, the following sections shall be inserted with effect from such date as the Central Government may, by notification, appoint, namely:—

25 '66B. There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

Charge of service tax on and after Finance Act, 2012.

30 66C. (1) The Central Government may, having regard to the nature and description of various services, by rules made in this regard, determine the place where such services are provided or deemed to have been provided or agreed to be provided or deemed to have been agreed to be provided.

Determination of place of provision of service.

(2) Any rule made under sub-section (1) shall not be invalid merely on the ground that either the service provider or the service receiver or both are located at a place being outside the taxable territory.

66D. The negative list shall comprise of the following services, namely:—

Negative list of services.

35 (a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;

40 (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers; or

(iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;

45 (b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture by way of—

(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;

(ii) supply of farm labour;

50 (iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

- (iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- (v) loading, unloading, packing, storage or warehousing of agricultural produce;
- (vi) agricultural extension services;
- (vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce; 5
- (e) trading of goods;
- (f) any process amounting to manufacture or production of goods;
- (g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television; 10
- (h) service by way of access to a road or a bridge on payment of toll charges;
- (i) betting, gambling or lottery;
- (j) admission to entertainment events or access to amusement facilities;
- (k) transmission or distribution of electricity by an electricity transmission or distribution utility;
- (l) services by way of— 15
- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;
- (m) services by way of renting of residential dwelling for use as residence; 20
- (n) services by way of—
- (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
- (ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers; 25
- (o) service of transportation of passengers, with or without accompanied belongings, by—
- (i) a stage carriage;
- (ii) railways in a class other than—
- (A) first class; or
- (B) an airconditioned coach; 30
- (iii) metro, monorail or tramway;
- (iv) inland waterways;
- (v) public transport, other than predominantly for tourism purpose, in a vessel of less than fifteen tonne net; and
- (vi) metered cabs, radio taxis or auto rickshaws; 35
- (p) services by way of transportation of goods—
- (i) by road except the services of—
- (A) a goods transportation agency; or
- (B) a courier agency;
- (ii) by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or 40
- (iii) by inland waterways;
- (q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

66E. The following shall constitute declared services, namely:—

Declared services.

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion-certificate by the competent authority.

Explanation.— For the purposes of this clause,—

(I) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(A) architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

(B) chartered engineer registered with the Institution of Engineers (India); or

(C) licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(II) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

(f) transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;

(g) activities in relation to delivery of goods on hire purchase or any system of payment by instalments;

(h) service portion in the execution of a works contract;

(i) 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.

66F. (1) Unless otherwise specified, reference to a service (herein referred to as main service) shall not include reference to a service which is used for providing main service.

(2) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

(3) Subject to the provisions of sub-section (2), the taxability of a bundled service shall be determined in the following manner, namely:—

(a) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character;

(b) if various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax.

Explanation.— For the purposes of sub-section (3), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.;

(G) in section 67, in the *Explanation*, clause (b) shall be omitted, with effect from such date as the Central Government may, by notification, appoint;

(H) after section 67, the following section shall be inserted, namely:—

'67A. The rate of service tax, value of a taxable service and rate of exchange, if any, shall be the rate of service tax or value of a taxable service or rate of exchange, as the case may be, in force or as applicable at the time when the taxable service has been provided or agreed to be provided.

Explanation.— For the purposes of this section, "rate of exchange" means the rate of exchange referred to in the *Explanation* to section 14 of the Customs Act, 1962.;

Principles of interpretation of specified descriptions of services or bundled services.

Date of determination of rate of tax, value of taxable service and rate of exchange.

(I) in section 68, in sub-section (2), with effect from such date as the Central Government may, by notification, appoint,—

(i) for the words "any taxable service notified", the words "such taxable services as may be notified" shall be substituted;

(ii) the following proviso shall be inserted, namely:— 5

"Provided that the Central Government may notify the service and the extent of service tax which shall be payable by such person and the provisions of this Chapter shall apply to such person to the extent so specified and the remaining part of the service tax shall be paid by the service provider.";

(J) after section 72, the following section shall be inserted, namely:— 10

Special audit.

'72A. (1) If the Commissioner of Central Excise, has reasons to believe that any person liable to pay service tax (herein referred to as "such person"),—

(i) has failed to declare or determine the value of a taxable service correctly; or

(ii) has availed and utilised credit of duty or tax paid-

(a) which is not within the normal limits having regard to the nature of taxable service 15 provided, the extent of capital goods used or the type of inputs or input services used, or any other relevant factors as he may deem appropriate; or

(b) by means of fraud, collusion, or any wilful misstatement or suppression of facts; or

(iii) has operations spread out in multiple locations and it is not possible or practicable to obtain a true and complete picture of his accounts from the registered premises falling under 20 the jurisdiction of the said Commissioner,

he may direct such person to get his accounts audited by a chartered accountant or cost accountant nominated by him, to the extent and for the period as may be specified by the Commissioner.

(2) The chartered accountant or cost accountant referred to in sub-section (1) shall, within the period specified by the said Commissioner, submit a report duly signed and certified by him to the 25 said Commissioner mentioning therein such other particulars as may be specified by him.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of such person have been audited under any other law for the time being in force.

(4) The person liable to pay tax shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in 30 any proceeding under the provisions of this Chapter or rules made thereunder.

Explanation.— For the purposes of this section,—

(i) "chartered accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949; 38 of 1949.

(ii) "cost accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of 35 section 2 of the Cost and Works Accountants Act, 1959. 23 of 1959.

(K) in section 73,—

(i) for the words "one year", wherever they occur, the words "eighteen months" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:— 40

"(1A) Notwithstanding anything contained in sub-section (1), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition 45 that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.";

(iii) in sub-section (4A), for the words, brackets and figures "sub-sections (3) and (4)", the word, brackets and figure "sub-section (4)" shall be substituted;

(L) section 80 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

5 "(2) Notwithstanding anything contained in the provisions of section 76 or section 77 or section 78, no penalty shall be imposable for failure to pay service tax payable, as on the 6th day of March, 2012, on the taxable service referred to in sub-clause (zzzz) of clause (105) of section 65, subject to the condition that the amount of service tax along with interest is paid in full within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.";

10 (M) in section 83, for the figures and letters "12E, 14, 14AA, 15, 33A, 34A, 35F", the figures, letters, words and brackets "12E, 14, 15, 31, 32, 32A to 32P (both inclusive), 33A, 34A, 35EE, 35F" shall be substituted;

(N) in section 85,—

15 (i) in sub-section (3), after the words "under this Chapter", the words and figures ", made before the date on which the Finance Bill, 2012 receives the assent of the President" shall be inserted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 receives the assent of the President, relating to service tax, interest or penalty under this Chapter:

20 Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellatant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.";

(O) in section 86,—

25 (i) in sub-section (1), after the words "against such order", the words "within three months of the date of receipt of the order" shall be inserted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Chief Commissioners or, as the case may be, the Committee of Commissioners.";

30 (P) in section 88, for the word "duty", the word "tax" shall be substituted;

(Q) in section 89, in sub-section (1), for clause (a), the following clause shall be substituted with effect from the date on which the Finance Bill, 2012 receives the assent of the President, namely:—

"(a) knowingly evades the payment of service tax under this Chapter; or";

35 (R) in section 93A, for the words "of such goods", the words "or removal or export of such goods" shall be substituted;

(S) after section 93A, the following section shall be inserted, namely:—

Insertion of new section 93B.

32 of 1994. 40 "93B. All rules made under section 94 and applicable to the taxable services shall also be applicable to any other service in so far as they are relevant to the determination of any tax liability, refund, credit of service tax or duties paid on inputs and input services or for carrying out the provisions of Chapter V of the Finance Act, 1994.";

Rules made under section 94 to be applicable to services other than taxable services.

(T) in section 94, in sub-section (2),—

(i) clause (ee) shall be omitted;

(ii) in clause (hhh), after the words "provision of taxable service", the words, figures and letter "under section 66C" shall be inserted;

45 (iii) clause (i) shall be re-lettered as clause (k) thereof and before the clause (k) as so re-lettered, the following shall be inserted, namely:—

"(i) provide for the amount to be paid for compounding and the manner of compounding of offences;

1 of 1944. 50 (j) provide for the settlement of cases, in accordance with sections 31, 32 and 32A to 32P (both inclusive), in Chapter V of the Central Excise Act, 1944 as made applicable to service tax vide section 83;"

(U) in section 95, after sub-section (1H), the following sub-section shall be inserted, namely:—

"(1-I). If any difficulty arises in giving effect to section 143 of the Finance Act, 2012, in so far as it relates to insertion of sections 65B, 66B, 66C, 66D, 66E and section 66F in Chapter V of the Finance Act, 1994, the Central Government may, by order published in the Official Gazette, which is not inconsistent with the provisions of this Chapter, make such provisions, as may be necessary or expedient for the purpose of removing the difficulty from such date, which shall include the power to give retrospective effect from a date not earlier than the date of coming into force of the Finance Act, 2012:

32 of 1994.

Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of these provisions.;"

(V) in section 96C, in sub-section (2), for clause (e), the following clause shall be substituted, namely:—

"(e) admissibility of credit of duty or tax in terms of the rules made in this regard;"

(W) after section 96J, the following sections shall be inserted, namely:—

"97. (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16th day of June, 2005 to the 26th day of July, 2009 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

98. (1) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of non-commercial Government buildings, during the period on and from the 16th day of June, 2005 till the date on which section 66B comes into force.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President."

Insertion of new sections 97 and 98. Special provision for exemption in certain cases relating to management, etc., of roads.

Special provision for exemption in certain cases relating to management, etc., of non-commercial Government buildings.

Amendment of rule 6 of CENVAT Credit Rules, 2004.

144. (1) In the CENVAT Credit Rules, 2004, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, 1944, sub-rule (6A) of rule 6 as inserted by clause (ix) of rule 5 of the CENVAT Credit (Amendment) Rules, 2011, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 134(E), dated the 1st March, 2011 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Eighth Schedule, on and from the date specified in column (3) of that Schedule, against the rule specified in column (1) of that Schedule.

1 of 1944.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, on and from the 10th day of February, 2006, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendments made by sub-section (1) had been in force at all material times.

(3) For the purpose of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, 1944, retrospectively, at all material times.

1 of 1944.

Validation of exemption given to club or association including cooperative societies in relation to project.

145. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 566 (E), dated the 25th July, 2011, issued in exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994, granting exemption from the whole of service tax leviable under section 66 thereof, on the club or association service referred to in sub-clause (zzzø) of clause (105) of section 65 of the said Act, provided by a club or an association including registered cooperative societies, in relation to the project, shall be deemed to have, and deemed always to have, for all purposes, validly come into force on and from the 16th day of June, 2005, at all material times.

32 of 1994.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected as if the notification referred to in sub-section (1) had been in force at all material times.

32 of 1994. (3) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance Bill, 2012 receives the assent of the President.

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

5 (i) project means common facility set-up for treatment and recycling of effluents and solid wastes, with financial assistance from the Central Government or a State Government;

1 of 1944. (ii) the provisions of section 11B of the Central Excise Act, 1944, shall be applicable in case of refunds under this section.