

## **SIGNIFICANT NOTIFICATIONS / CIRCULARS ISSUED DURING THE PERIOD 16<sup>TH</sup> MARCH, 2012 TO 15<sup>TH</sup> APRIL, 2012**

### **A. SERVICE TAX**

- 1. Association including registered cooperative societies providing club or association service in relation to specified project has been exempted:** Club or association service provided by an association including registered cooperative societies in relation to specified project has been exempted from payment of service tax. The specified project means common facility set-up for treatment and recycling of effluents and solid waste with financial assistance from the central or state government. Earlier, this exemption was available only to association of dyeing units. *[Notification No. 1/2012 ST dated 17.03.2012]*
- 2. The rate of service tax is restored to the statutory rate of 12%:** *Notification No. 8/2009 ST dated 24.02.2009, which had exempted all the taxable services specified in sub-section 105 of section 65 of the Finance Act from so much of service tax leviable thereon under section 66 of the Finance Act, as is in excess of the rate of ten percent of the value of taxable services, has been rescinded w.e.f. 01.04.2012. [Notification No. 2/2012 ST dated 17.03.2012]*
- 3. Amendment in Service Tax Rule, 1994:** The major amendments are:
  - (i) Time period for issuance of invoice/bill/challan has been increased from 14 days to 30 days. Further, for banks and financial institutions providing banking and other financial services, the time period for issuance of invoice/ bill/challan would be 45 days.
  - (ii) Rule 6(4B) has been amended to allow unlimited amount of permissible adjustments subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification. *[Notification No. 3/2012 ST dated 17.03.2012]*
- 4. Amendment in Point of Taxation Rules, 2011:** The major amendments are:
  - (i) Clause (ba) has been inserted in rule 2 to define the term “change in effective rate of tax”, which include a change in the portion of value on which tax is payable as per the provisions of the Finance Act, 1994 or rules made thereunder. Earlier this was in the form of an explanation to the Rule 4.
  - (ii) Date of payment has been defined by inserting rule 2A to mean the earlier of the date of entry in the books of accounts or credited to the bank account of the person liable to pay tax. However, in the following cases, the date of payment would always be date of credit in bank:-
    - (a) In case of change in rate between such entry and payment
    - (b) In case the credit in bank is beyond 4 days from the date of change of rate
    - (c) Payment made by an instrument which is credited to a bank account
  - (iii) Definition of continuous supply of service has been amended to capture the entire dimension of the concept. Small service providers [less than 50 lakh per year] being individuals/ partnership firms could discharge the tax on receipt basis.
  - (iv) A new residual rule inserted by way of best judgement to ascertain the point of taxation in cases where the same cannot be ascertained by the rules prescribed. *[Notification No. 4/2012 ST dated 17.03.2012]*

5. **Exemption to small service provider on invoice basis:** Notification No. 06/2005–ST dated 01.03.2005 granting exemption to small service providers has been amended recognizing that the first clearances up to Rs.10 lakh will be in terms of invoices and not in terms of mere payments received. *[Notification No. 5/2012 ST dated 17.03.2012]*
6. **Exemption of 60% from service tax on air fare:** Service tax on services to any passenger in relation to air transport of such passenger embarking in India for domestic journey or international journey has been exempted from so much of service tax leviable thereon, under section 66 of the Finance Act, as is in excess of the service tax calculated on a value which is equivalent to 40 percent of the value of taxable services provided that CENVAT credit of duty on inputs or capital goods, used for providing such taxable services has not been taken. Earlier notification in this regard for charging dual rate of service tax from passenger of economy class has been rescinded. *[Notification No. 6/2012 ST dated 17.03.2012]*
7. **Exemption to transport of goods by the Government railways extended till June, 2012:** Service tax levy on transport of goods by the Government railways and transport of goods by rail otherwise than in containers has been further postponed by three months. Now the levy would be applicable from June, 2012 instead of April, 2012 which was proposed earlier. Consequently, exemption for transport of notified goods like defence military equipments, railways equipment /materials, postal mail bags by rail and abatement of 70% of the gross amount charged for transport of goods by the Government railways and transport of goods by rail otherwise than in containers would also be effective from June, 2012. *[Notification No. 7-9/2012 - ST dated 17.03.2012]*
8. **Rate of optional service tax to be paid under works contract increased from 4% to 4.8%:** Rule 3(1) of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 have been amended to increase the rate of service tax to be paid under optional composition scheme from 4% to 4.8% of the gross amount charged for the works contract. *[Notification No. 10/2012 - ST dated 17.03.2012]*
9. **Amendment in Service Tax (Determination of Value) Rules, 2006:** The major amendments are:
  - (i) Rule 2A has been substituted by a new rule 2A to determine the value of taxable services involved in the execution of a works contract.
  - (ii) A new rule 2C has been inserted after rule 2B to determine the value of taxable service involved in supply of food and drinks in restaurant or as outdoor catering.
  - (iii) Rule 3 has been amended to provide that 'prescribed manner' in rule 3 will be applicable only in the cases where valuation is not ascertainable.
  - (iv) Rule 6 has been amended to include any amount realized as demurrage in the valuation and exclude 'accidental damage due to unforeseen action not relatable to the provision of service' from the valuation. *[Notification No. 11/2012 - ST dated 17.03.2012]*
10. **Abatement from service tax on 34 services:** In addition to the 17 services listed as negative lists of services by Section 66 D, additional 34 services have been notified to be exempt from payment of service tax. This may be called as mega exemption notification. *[Notification No. 12/2012 - ST dated 17.03.2012]*
11. **Partial exemption from payment of service tax on 11 services:** The government has granted exemption to 11 services listed in the notification from so much of the service tax leviable thereon as is in excess of the service tax calculated on a value which is equivalent to a percentage specified in this notification. *[Notification No. 13/2012 - ST dated 17.03.2012]*

12. **Exemption from payment of service tax to the extent of cess paid on import of technology:** The government has granted exemption from payment of service tax for the taxable service involving import of technology, to the extent of amount of cess paid on the said import, subject to some condition specified in the notification. *[Notification No. 14/2012 - ST dated 17.03.2012]*
13. **Reverse charge mechanism of service tax modified:** The government has issued new reverse charge mechanism wherein 10 services have been included and has also specified percentage of service tax payable by service provider and receiver. In the case of three notified services, both service provider and receiver would be liable to pay service tax. *[Notification No. 15/2012 - ST dated 17.03.2012]*

## **B. CENTRAL EXCISE**

1. **Tariff value in case of jewellery would be 30% of invoice value:** Government has fixed the tariff value in respect of articles of jewellery (other than silver jewellery) at the rate of 30% of transaction value as declared in the invoice. *[Notification No. 09/2012-Central Excise (N.T.) dated 17.03.2012]*
2. **Modification in the Form ER-1:** CBEC has amended Form ER-1 by adding following two points in the Form ER-1:
  - (i) after sl. no. 9, sl. no. "9A - Credit taken from inter-unit transfer of credit under rule 10A of CENVAT Credit Rule, 2004" has been inserted.
  - (ii) after sl. no. 16, sl. no. "16A – Credit utilized towards inter-unit transfer of credit under Rule 10A of CENVAT Credit rules, 2004" has been inserted.

Form ER-1 is the form for filing monthly return for production and removal of Goods. *[Notification No. 12/2012-Central Excise (N.T.) dated 17.03.2012]*

3. **Quarterly return in place of monthly return under Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001:** Rule 5 of Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 has been amended to provide filing of quarterly return by manufacturer in place of monthly return. *[Notification No. 13/2012-Central Excise (N.T.) dated 17.03.2012]*
4. **Amendment in CENVAT Credit Rules, 2004:** The major amendments are:
  - (i) CENVAT Credit on motor vehicles has been liberalized. CENVAT credit on motor vehicles, other than those falling under tariff heading 8702, 8703, 8704, 8711 and their chassis, would be allowed. The credit of service tax paid on their hiring, insurance and repair will also be allowed.
  - (ii) Rule 4(1) and 4(2) has been amended to allow a service provider to take credit of inputs or capital goods as soon as the goods are delivered to him, subject to specified conditions.
  - (iii) A simplified scheme for refunds of unutilized credit on account of exports has been introduced by substituting old Rule 5 with a new one. The correlation or nexus between exports and input services used in such exports would not be required under such substituted rule.
  - (iv) Changes have been made in Rule 7 relating to distribution of credits of input services by an input service distributor (ISD). This is to ensure their scientific allocation to only such units where they have been put to use and proportionate to turnover.
  - (v) Rule 10A has been inserted to permit transfer of unutilized credit of SAD lying in balance at the end of each quarter to another factory of the manufacturer. *[Notification No. 18/2012-Central Excise (N.T.) dated 17.03.2012]*

The complete text of the above-mentioned notifications and circulars can be downloaded from the following link: [www.cbec.gov.in](http://www.cbec.gov.in)