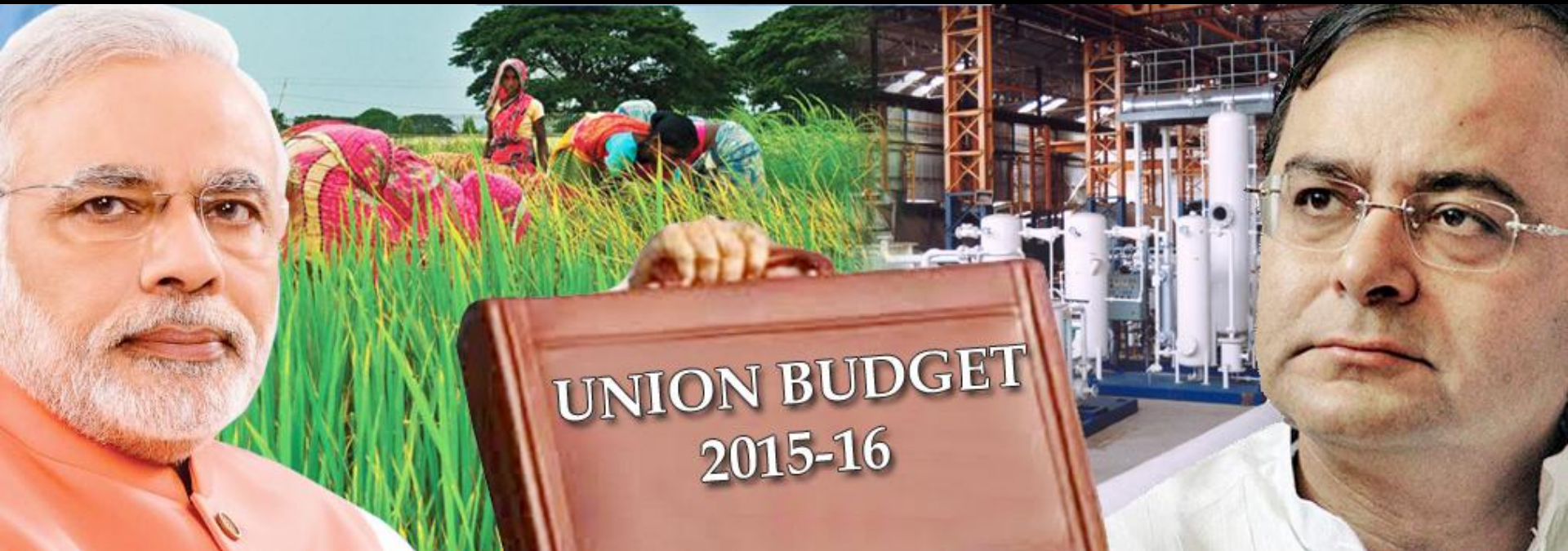


CHANGES IN INDIRECT TAXATION WITH BUDGET 2015-2016



CA Pradeep Jain



CENTRAL EXCISE

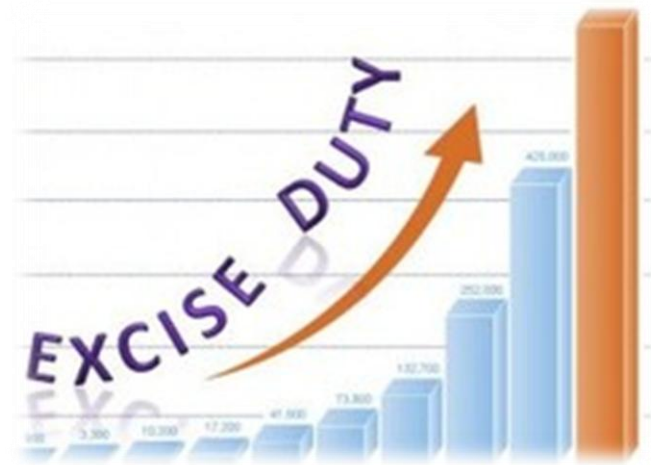
CENTRAL EXCISE

CENVAT RATES

➔ *Education cess and Secondary & Higher Education cess has been exempted w.e.f. 01/03/2015.*

➔ *Confusion over the lying balance of cenvat in books and goods in transit*

➔ *Increased balance of Cenvat for the manufacturers under scheme of concessional rate of duty. Notional loss of income tax for manufacturers under 6% duty scheme.*



CENVAT RATES

➔ *50% credit on capital goods in next year.*



➔ *No increase in rate of reversal of Cenvat credit.*

➔ *Refund and abatement issue in compound levy.*

➔ *No change in custom duty Cesses. Confusion for EOU.*

➔ *The standard ad valorem rate of duty of excise (i.e. CENVAT) is being increased from 12% to 12.5%. But no increase in 1% , 6% and 14% and other rate of duties.*

CENVAT RATES



➔ *MRP based 1% without Cenvat and 6% with Cenvat on condensed milk put in a unit container, ice tea and aerated water. Same duty without MRP based valuation on peanut butter.*

➔ *Duty of excise on “water, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored” falling under Chapter sub-heading 2202 10 is being increased from 12% to 18%. But additional duty of 5% levied on such goods have been omitted.*



CENVAT RATES

➔ Increase in duty of excise on cigarettes:-

Tariff item	Description (Length in mm)	BED Rs per 1000 Existing rate	BED Rs per 1000 New rate
24022010	Non filter not exceeding 65	990	1280
24022090	Non filter exceeding 65 but not exceeding 70	1995	2335
24022030	Filter not exceeding 65	990	1280
24022040	Filter exceeding 65 but not exceeding 70	1490	1740
24022050	Filter exceeding 70 but not exceeding 75	1995	2335
2402090	Other	2875	3375

➔ Excise duty on cut tobacco is being increased from Rs.60 per kg to Rs.70 per kg.

CENVAT RATES

→ *Tariff rate of excise duty on goods falling under Chapter sub-heading 2523 29 (Portland cement) is being increased from Rs.900 per tonne to Rs.1000 per tonne.*

→ *Tariff rate of excise duty on all goods falling under tariff item 3923 21 00 and Chapter sub-heading 3923 29 is being increased from 12% to 18%. But exemption given:-*

148B	3923210 0	<i>Sacks and bags , other than industrial use</i>	15%	-
148C	3923210 0	<i>All goods, other than goods mentioned at serial no. 148B above</i>	12.5%	-
148D	392329	<i>All goods</i>	12.5%	-

Only bags or sacks of polymer of ethylene, having non industrial use, will attract 15% duty. Others will attract 12.5%. Confusion about products as well as industrial use. Complicated way to impose duty.

CENVAT RATES

➔ *Tariff rate of excise duty on high speed diesel (HSD), unbranded petrol, branded petrol has changed but no change in overall duty.*

<i>Duty rates prior to 28.02.2015</i>					<i>Duty rates applicable after 01.03.2015</i>				
<i>Cenvat</i>	<i>SAED</i>	<i>AED</i>	<i>EDU CESS</i>	<i>TOTAL</i>	<i>Cenvat</i>	<i>SAED</i>	<i>AED</i>	<i>EDU CESS</i>	<i>TOTAL</i>
<i>UNBRANDED PETROL</i>									
8.95	6	2	3%	17.46	5.46	6	6	Nil	17.46
<i>BRANDED PETROL</i>									
10.10	6	2	3%	18.64	6.64	6	6	Nil	18.64
<i>UNBRANDED DIESEL</i>									
7.96	Nil	2	3%	10.26	4.26	Nil	6	Nil	10.26
<i>BRANDED DIESEL</i>									
14% +5/l or Rs 10.25/l	Nil	2	3%	12.62	6.62	Nil	6	Nil	12.62

CENVAT RATES

➔ *Full exemption to goods captively consumed in manufacture of Agarbatti*



➔ *Reduction in excise duty on leather footwear exceeding Rs 1000 per pair from 12% to 6%. Change in abatement Rate for MRP valuation from 35% to 25% for all foot wears.*

➔ *Retrospective exemption from 17.03.2012 to 2.02.2014 to railway or tramway track construction material of iron and steel.*



CENVAT RATES

→ *Full exemption to round copper wire and tinned alloys used in manufacture of PV ribbon for manufacture of solar PV cells and modules.*



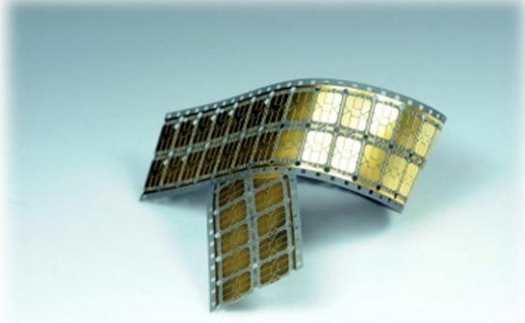
→ *Optional excise duty of either nil or 12.5% with Cenvat on solar water heater and system*

→ *Excise duty of 2% without CENVAT/ 12.5% with CENVAT on tablet computer, also exemption on parts, components used in manufacture of tablet computers subject to actual user condition.*



CENVAT RATES

➔ *Excise duty on mobile handsets changed to 1% without Cenvat and 12.5% with Cenvat*



➔ *Excise duty reduced from 12 to 6 on wafers used in IC modules and smart card*

➔ *Duty from 12 to 6 on inputs for LED driver and MCPCB for LED Lights and fixtures and LED lamps. MRP with 35% abatement on LED light or fixture including LED lamps.*



CENVAT RATES

➔ *Duty from 24 to 12.5 on chassis for ambulance.*



➔ *Validity period of concessional duty to specified goods of electrically operated vehicles and hybrid vehicles continued for one year*



➔ *Excise duty exemption to specified raw material used in manufacture of pace maker subject to actual user condition.*



CENVAT RATES

→ *Same condition for excise exemption will apply for goods for international competitive bidding as applicable for import of such goods.*



→ *Excise duty on Pan Masala, gutka, unmanufactured tobacco and chewing tobacco has been increased almost three times in compound levy scheme by introducing one more factor of “speed” in it.*

CENTRAL EXCISE ACT 1944

➔ *Sub section (3) of Section 3A, which empowers the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods, is being amended so as to enable the Central Government to specify more than one factor relevant to the production of such goods. “Speed” is also included for levy of compounded levy on Pan Masala, Gutka, /chewing tobacco and unmanufactured tobacco. Rate of compounded levy increased to three times.*

❖ *Section 11A is being amended so as to:*

(i) Remove from the statute provisions relating to the category of cases where fraud, collusion, willful mis-statement, etc. is involved but the transaction is recorded in the specified record so as to bring uniformity in treatment of all such cases irrespective of whether the transaction is so recorded or not;

*Amend the provision relating to relevant date to provide definition of relevant date in respect of cases where a return is not filed after the due date and cases where only interest is required to be recovered. Limitation increased. **{EXTENDED PERIOD MORE EXTENDED}***

*Provide that the provisions of section 11A shall not apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed. Dangerous provisions. Filing returns carefully otherwise recovery proceedings. **PROFESSIONAL OPPORUNITY.***

CENTRAL EXCISE ACT 1944

CHANGES IN SECTION 11 AC

Sub-section (1) of section 11AC of the Central Excise Act, 1944

Clause (a) :- when there is no fraud etc

higher of 10% of the duty or Rs. 5,000/-

if duty and interest paid within 30 days of issue of SCN, then no penalty.

If duty and interest paid within 30 days of the date of communication of order, then Penalty shall be reduced to 25%,.

Clause (c):- when there is fraud,

Penalty = Equal to duty determined by the order

if duty and interest paid within 30 days of the date of communication of SCN :- Penalty 15%

if duty and interest paid within 30 days of the date of communication of order :-Penalty reduced to 25%,

CENTRAL EXCISE ACT 1944

➔ *If transactions recorded in specified records upto the date on which the Finance Bill receives assent, penalty shall be 50% of the duty so determined.*



➔ *The new provision will be made applicable to the cases where notice has been issued but final order is not passed before the enactment of finance bill.*

Favorable provision. But certain authors opined that it is against the Article 20(1) of Constitution. Since duty reduced hence it is not violative of above article.

CENTRAL EXCISE ACT 1944

➔ *The proviso to sub-section (c) of section 31 relating to the provisions of Settlement Commission is being amended to delete the reference to “in appeal or revision, as the case may be” so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement.*

➔ *Section 32B is being amended so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman in the absence of the Chairman of the Settlement Commission.*

➔ *Sub-sections (4) and (5) of section 37 are being amended so as to increase the penalty from Rs.2000 to Rs.5000*

CER 2002 & CCR 2004

- ❖ *Direct dispatch of goods to customers without first bringing them to the dealer's / importer's registered premises subject to the conditions specified therein (Rule 11 of CER and Rule 4 of CCR refers)- **Beneficial provision, it was mandatory to bring goods in premises of dealer. But credit can be taken on invoice issued by dealer.***
- ❖ *Direct dispatch of inputs and capital goods to job worker without first bringing them to the manufacturer's /output service provider's premises subject to the conditions specified therein (Rule 11 of CER and Rule 4 of CCR refers)- beneficial as credit was earlier allowed when the goods received in factory of manufacturer.*
- ❖ *Definition of "export goods" (rule 5 of CCR refers) and "export" (rule 18 of CER refers), Nullifying the verdict of NBM industries {2012(276) E.L.T 9(Guj.)} and E.I Dupont India Pvt LTD. {2014(305) E.L.T 282(Guj.)}*
- ❖ *Application of certain provisions of these rules, presently applicable to the registered dealers, to apply to the registered importers also. Separate registration was prescribed for importer and dealer and now provisions.*

CER 2002 & CCR 2004

- ❖ *To provide for issue of digitally signed invoices and preservation of records in electronic form by a manufacturer (Rule 10 and 11 of CER refers).*
- ❖ *CENVAT Credit Rules, 2004 are also being amended to –*
*Increase the time limit for taking CENVAT credit on inputs and input services from the present six months to one year (Rule 4 of CCR refers), - **DEAD INVOICES ALIVE AGAIN***
- ❖ *(ii) Increase the time limit to return of Capital Goods from a job worker from the present six months to two years (Rule 4 of CCR refers), Earlier no time limit and now 2 years.*
- ❖ *(iii) Make provision relating to reversal for CENVAT Credit in rule 6, presently applicable to exempt goods and services, applicable to non-excisable goods also, - **wider implications.***
- ❖ *(iv) Provide for recovery of **CENVAT Credit taken but NOT utilized** (rule 14 refers). Further, the manner of determining utilization of Credit is also being provided in the rule itself- totally clarified. **“Taken or utilized” words going away***

CER 2002 & CCR 2004

- ❖ *(4) Registration process in Central excise simplified:- to ensure that registration is granted within two working days of the receipt of a duly completed application form. Verification of documents and premises, as the case may be, shall be carried out after the grant of the registration. –OLD PROCEDURE BUT GIVING REGISTRATION IN TWO DAYS IS WELCOME STEP*
- ❖ *(5) Circular No.996/3//2015-Central Excise dated 28th February, 2015 is being issued regarding Garnishee provisions and recovery of arrears in installments and the procedure to be followed in this regard. – WELCOME STEP*
- ❖ *(6) Circular No.999/6/2015-Central Excise dated 28th February, 2015 is being issued to clarify the scope of the term “place of removal” in case of export of goods by Manufacturers exporters as well as Merchants Exporters- **CREDIT ON OUTWARD FREIGHT IS NEVER ENDING LITIGATION***
- ❖ *(7) Circular No.998/5/2015-Central Excise dated 28th February, 2015 is being issued directing that application for withdrawal of prosecution be filed in accordance with law where the quasi-judicial proceedings on identical set of facts have not been upheld and same has attained finality.- **WELCOME STEP.***
- ❖ *The scheme of Advance Ruling is being extended to Resident firm.*



SERVICE TAX



HIKE IN RATE OF SERVICE TAX

- ↗ The ST will be increased from 12% to 14% :- date to be notified.
- ✗ The Education cess and Senior Secondary Education Cess shall be removed .
- ✓ 2% Swachh Bharat Cess will be levied on value of taxable service.
Therefore new tax rate shall be 16%



एक कदम स्वच्छता की ओर

SERVICE TAX IMPOSED ON...



➔ *Access to amusement facility by means of rides, gaming devices or bowling alleys in amusement parks, water parks and theme parks.*

SERVICE TAX IMPOSED ON....



➔ *entertainment event of concerts, pageants, musical concerts, award functions and sporting events (not recognized sports event,) if the amount is more than Rs 500/-.*

Exemption continued on:-

performance of music or dance or theater if the consideration is not more than one lakh except as a brand ambassador.

SERVICE TAX IMPOSED ON....



➔ *service carrying out any process for manufacture or production of alcoholic liquor.*

This amendment also makes job work done on intermediate product of alcoholic liquor taxable.

SERVICE TAX IMPOSED ON....

➔ *All support services provided by government or local authority to a business entity.*

➔ *Services provided to the Government by construction of:-*

(a) a civil structure or any other original works for use other than commerce, industry, business or profession;

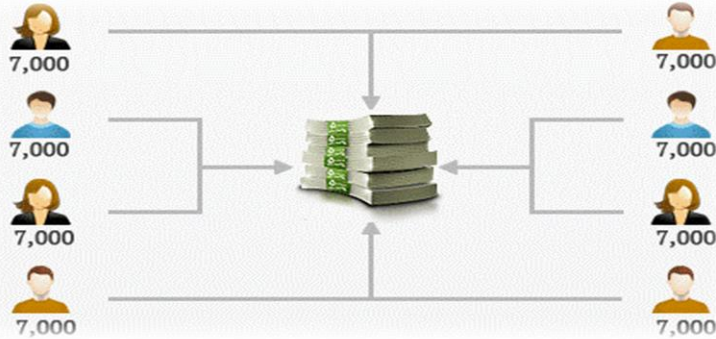
(b) a residential complex predominantly meant for self-use or the use of their employees or other persons.

Making these services taxable, an unjustified step of government.



MORE SERVICES TAXABLE

Services of chit fund foreman and lottery selling agent.



Various case laws had come in contrary view earlier such as:-

Delhi Chit fund association (2013(30)STR 347)

All Kerala Association of Chit Fund (2013(29) STR 557(KERALA)

AP Federation of Chit Funds (2009(13) STR 350 (AP)

P Muraleedharan 2012 (28) STR 344 (KERALA)



The crux of these is that the transactions of chit funds are in money only therefore the courts held that they are not liable to be taxed under service tax. Yet the government has bought this amendment which overrides the decisions of High courts and have put the services in the ambit of reverse charge.

EXEMPTION WITHDRAWN:-



➔ *Construction of airport or port*

➔ *Transportation of food stuff like tea, coffee, jaggery, sugar, edible oil, fruits, vegetables, eggs by rail, vessels or road.*



EXEMPTION WITHDRAWN:-

➡ *Departmentally run public telephone.*

➡ *Guaranteed public telephones operating only local calls.*

➡ *Free telephone calls at airport and hospital where no bills are issued.*

However there valuation for computing tax still remains uncertain



EXEMPTION WITHDRAWN:-

Services provided by overseas Commission agents



Looking into the history:-

- 1. Notification 41/2007-ST gave exemption to exporter*
- 2. Notification 17/2008-ST included overseas agents. But no refund were granted to the assesseees.*
- 3. New Notification 41/2012-ST was issued wherein no service tax was required to be paid. Either the benefit of notification could be taken or Cenvat could be taken.*
- 4. But the issue on taking credit also arose as in case of Ambika overseas [2012(25)STR 348(P&H)] credit was considered admissible but in Cadila Healthcare Limited [2013(30)STR 3 (Guj)] Gujrat High Court passed a contrary view stating it was for sale and not for sale promotion. Supreme court decision is still pending.*
- 5. Then the agents in 2014 were added in rule 9 of Place of Provision of Rules but still the revenue kept making them file EXP-4.*
- 6. Rescinding this notification only now no longer requires them to pay tax only and no question of credit arises. But all the revenue understood is that 'exemption notification has been rescinded' and hence the service is taxable.*

EXEMPTIONS GRANTED ON SERVICES:-

➔ *Ambulance services*



➔ *Life insurance services provided by Varishta Pension Bima Yojna*



➔ *Common effluent treatment plant*

{ in case law of Green Environment Services co-op. Society ltd. Versus UNION OF INDIA High court had held that this is a public welfare activity }



➔ *Transport of export goods by road to a Land Custom Station {further clarification brought}*

EXEMPTIONS GRANTED ON SERVICES:-

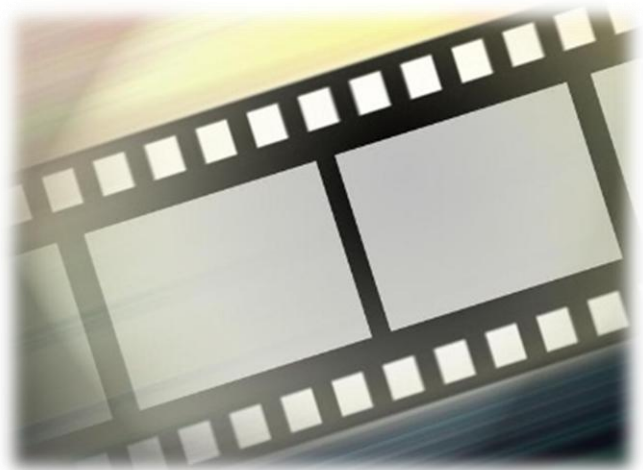


➔ *Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables.*

➔ *Admission to museum, zoo, national park, wild life sanctuary and a tiger reserve*



➔ *Exhibition of movie by the exhibitor to the distributor*



ABATEMENTS



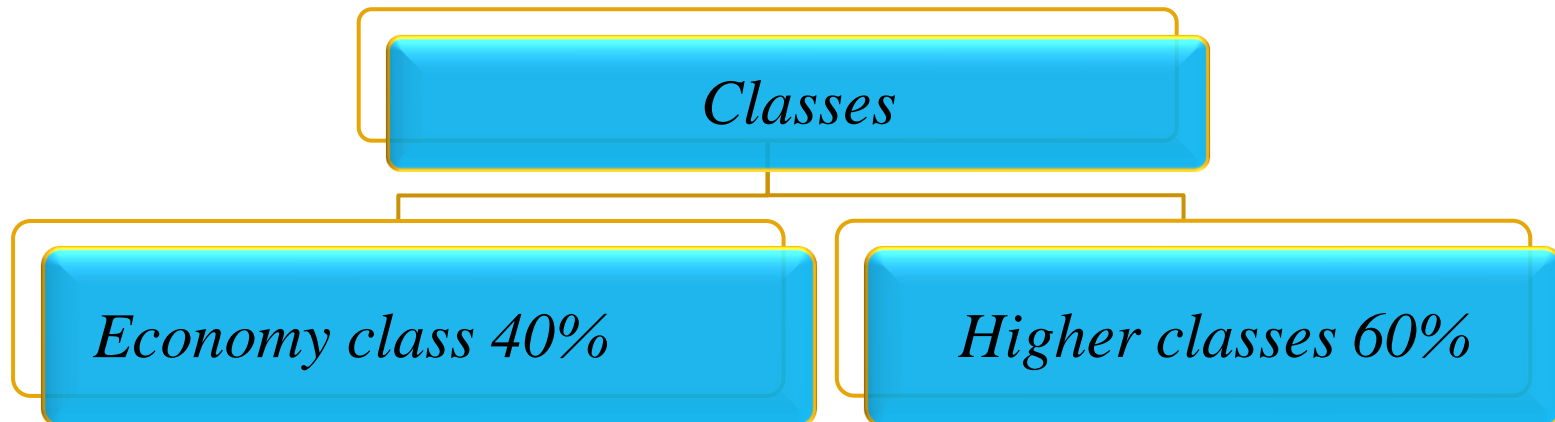
➔ Earlier in GTA there were different rates:-

1. 30%: Rail transport
2. 25%: Road transport
3. 40%: Vessel transport

Now a uniform rate of 30% has been prescribed with a condition that of non-availment of Cenvat. An unappreciable step, it must have been like rent-a-cab exemption provided in last budget. Created problems.

➔ Earlier there was 40% rate for air transport for all classes.

Now, the rate for air transport shall be :-



REVERSE CHARGE MECHANISM

- ➔ *Manpower and security services brought to full reverse charge mechanism.*
- ➔ *Services provided by mutual fund agents and lottery distributor agents.*
- ➔ *The credit under partial reverse charge is now allowed irrespective of payment to the service provider.*



CHANGES IN SERVICE TAX RULES

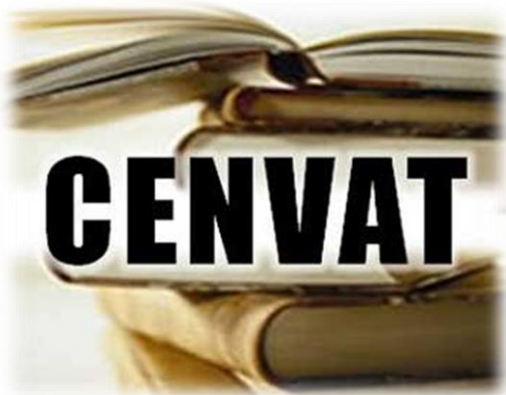


1. Aggregator

2. Rule 4 of registration has been amended which shall now require a photograph, mobile no., E-mail ID, BIN NO., IEC, TIN NO. CIN NO.. It may also require verification of premises.

3. Also now digitally signed invoices can be maintained

CHANGES IN SERVICE TAX RULES



4. The period of taking credit has been extended from six months to one year from the date of invoice.

5. Provisions of Advance rulings have been extended to resident firms also.

6. The services whom alternate rates have been provided, like of air travel agents, the alternate rates shall be revised in accordance with the new rate.

CHANGES IN VALUATION RULES

Section 67 prescribes valuation rules. Now the consideration for taxable service shall include :-

All reimbursable expenditure or cost incurred and charged by service provider.[Decision of INTERCONTINENTAL CONSLT. & TECH. PVT. LTD {2008 (12) S.T.R. 689 (Del.)} . Versus UNION OF INDIA overruled]



RECOVERY PROCEDURES

STRINGENT

Section 73 amended:-

- 1. If the amount of ST has been self assessed and declared but still not paid then recovery shall be made in section 87 without any issue of SCN. Rule 6 (6A) providing recovery of self assessed Service Tax has been omitted.*
- 2. Further sub section 4A which provided provision of reduced penalty if transaction was traceable in books has been omitted.*

This shall require high alertness while filling return and hence increase demand of our profession!!!

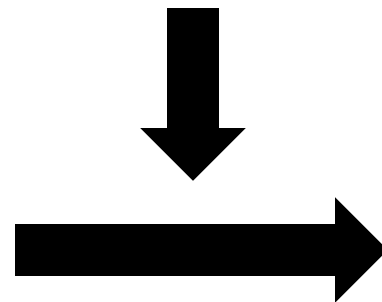


SECTION 66 F

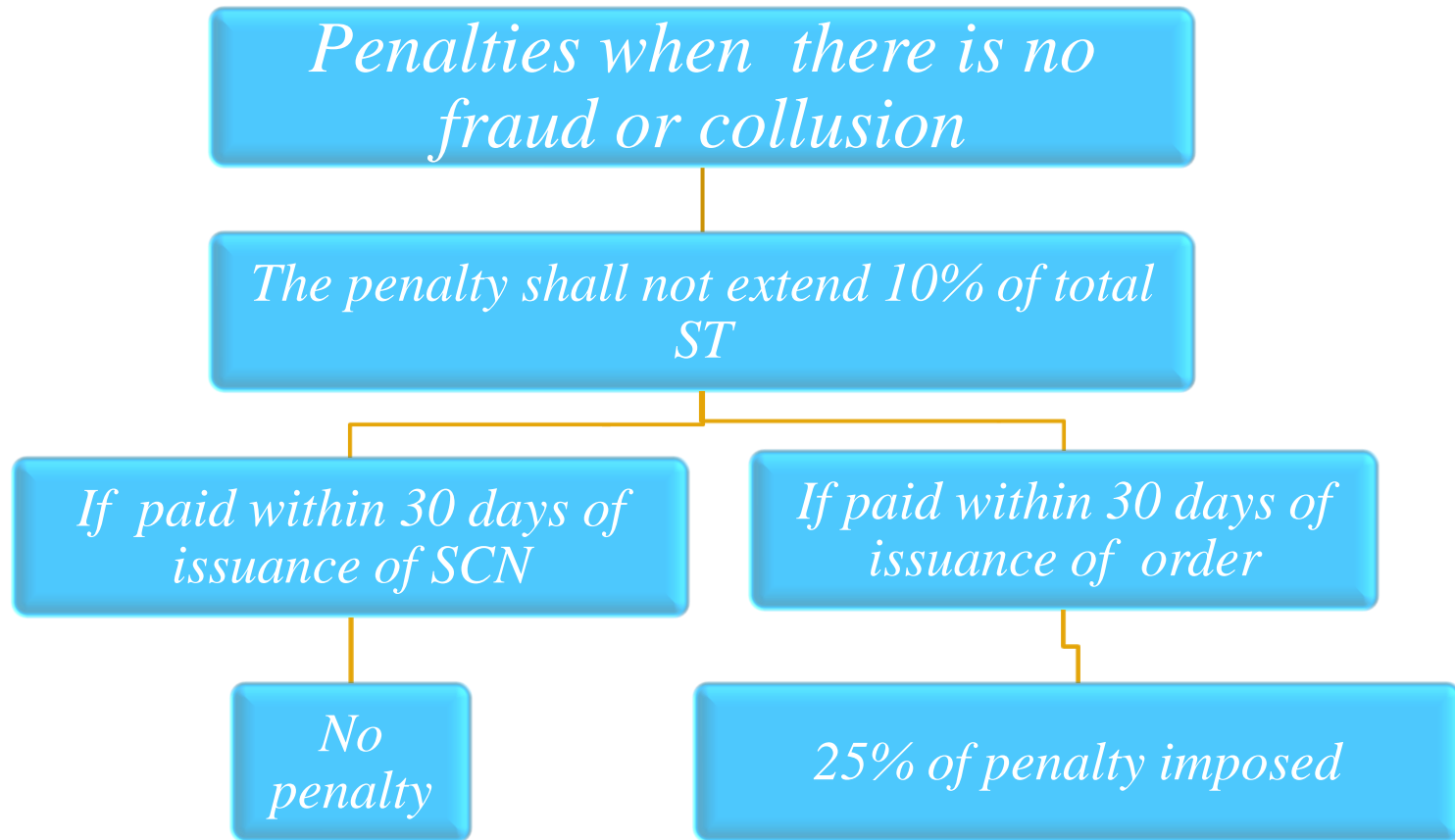
An illustration has been added in this clause to clarify the scope of the provision. The example is:-

If services are provided by Reserve Bank of India, in Section 66D (b) does not include any agency service provided by other banks to RBI, as such agency services are input services used by RBI for provision of its main services. Accordingly, banks providing agency service to or in relation to services of RBI are liable to pay Service Tax on the agency services so provided by virtue of Section 66F(1)

SERVICE TAX



SECTION 76



If amount of service tax is reduced in order then penalty shall also be reduced proportionately and if any higher penalty has been paid then refund of such high amount shall be granted to assessee

SECTION 78

Penalties when there is fraud or collusion

The penalty shall be equal to amount of ST

If paid within 30 days of issuance of SCN

Penalty shall only be 15%

If paid within 30 days of issuance of order

Penalty shall be 25%

If amount of service tax is reduced in order then penalty shall also be reduced proportionately and if any higher penalty has been paid then refund of such high amount shall be granted to assessee

SECTION 78 B

A new section has been inserted which states that:-

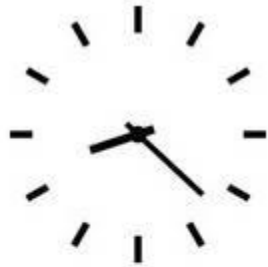
- 1. Amended provision of section 76 and 78 shall apply if no SCN has been issued or no order has been passed till the date of president gives accent to the budget.*
- 2. In respect of the issues covered under Section 73(4A) i.e. when the transaction is traceable in the books of accounts then the penalty shall be 50% of the Service Tax amount.*
- 3. Violative of article 20(1) of constitution.*

SECTION 80

This section has been omitted. This section gave relief to assessee by providing waiver of penalty to the assessee who had not attracted the said failure deliberately and were in bonafide belief.

Omission of this section have snatched away a substantial benefit from assessee





Q & A time



THANKING YOU !!!

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