

## 109. TRANSPORT OF GOODS BY ROAD

**(A) Date of Introduction:** 01.01.2005 vide Notification Nos. 33/2004-S.T, 34/2004-S.T, 35/2004-S.T., dated 03.12.2004.

**(B) Definition and scope of service:**

"Goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930).

(Section 65(50) of Finance Act, 1994 as amended)

"Goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

(Section 65(50a) of Finance Act, 1994 as amended)

"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.

(Section 65(50b) of Finance Act, 1994 as amended)

"Taxable Service" means any service provided or to be provided to any person, by a goods transport agency, in relation to transport of goods by road in a goods carriage.

(Section 65 (105) (zzp) of Finance Act, 1994 as amended)

**(C) Rate of Tax & Accounting Code:**

	Rate of Tax	Accounting Code
Service Tax	10% of the value of services	00440262
Education Cess	2% of the service tax payable	00440298
Secondary and Higher Education cess	1% of the service tax payable.	00440426
Other Penalty/interest	As levied or applicable	00440263

**( Rate of tax is effective from 24.02.2009.)**

**( D ) Classification of Taxable Services:**

- (1) The classification of taxable services shall be determined according to the terms of the sub-clauses (105) of section 65;
- (2) When for any reason , a taxable service is prima facie, classifiable under two or more sub-clauses of clause (105) of section 65, classification shall be effected as follows :-

- (a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;
- (b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;
- (c) when a service cannot be classified in the manner specified in clause (a) or clause (b), it shall be classified under the sub-clause which occurs first among the sub-clauses which equally merits consideration.

**( Sec.65A of Finance Act,1994)**

### **(E) Valuation of taxable services for charging Service tax**

(1) Service tax chargeable on any taxable service with reference to its value shall,—

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation.—For the purposes of this section,—

(a) “consideration” includes any amount that is payable for the taxable services provided or to be provided;

(b) “money” includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

**( Sec.67 of Finance Act,1994)**

**Inclusion in or Exclusion from value of certain expenditure or cost:**

(1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

[Rule 5(1) of Service Tax (Determination of Value) Rules, 2006]]

(2) The expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:-

- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;
- (ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;
- (iii) the recipient of service is liable to make payment to the third party;
- (iv) the recipient of service authorizes the service provider to make payment on his behalf;
- (v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;
- (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
- (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and
- (viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

[Rule 5(2) of Service Tax (Determination of Value) Rules,2006]]

**(F) Clarifications issued by the Board:**

**Service tax on transport of goods by road-**

In the Budget 2004, it was proposed to levy service tax on services provided by a goods transport agency in relation to transport of goods by road.

2. For this purpose vide Finance (No.2) Act, 2004, a sub-clause (zpz) was inserted in clause (105) of section 65 of the Finance Act, 1994, defining taxable service as any service provided to a customer, by a goods transport agency, in relation to transport of goods by road in a goods carriage.

2.1 The definitions of "goods carriage" and "goods transport agency" were also provided by inserting clauses (50a) and 50b) in the Finance Act, 1994 as follows:

(50a) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988; and

(50b) "goods transport agency" means any commercial concern which provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

3. In pursuance to an agreement dated 27<sup>th</sup> August, 2004 between the Government and representatives of transport industry, a Committee was set up to look into appropriate mechanism/ modalities for collection and payment of service tax. It was instructed vide letter issued from F.No. B2/8/2004-TRU, dated 10.09.2004 [2004(171) E.L.T. T17] that no tax would be payable by the goods transport agency till such time the Government comes out with the relevant rules/ notifications prescribing the modalities for levy and collection (refer para 26 of the letter).

4. The Committee has submitted its report on 27<sup>th</sup> October, 2004. Taking into account the recommendations of the Committee, Notification Nos. 32 to 35/2004-Service Tax all dated 3<sup>rd</sup> December, 2004 have been issued prescribing the modalities for levy and collection of service tax in respect of transport of goods by road. These notifications would be effective from 1<sup>st</sup> January, 2005.

4.1. Notification no. 32/2004-Service Tax, dated 3<sup>rd</sup> December, 2004 [now Notification no.1/2006-S.T., dated 1.3.2006] exempts service tax on seventy-five per cent of the gross amount charged in respect of taxable service provided by a goods transport agency to a customer, provided that credit of duty paid on inputs or capital goods [now input services also] used for providing such taxable service is not taken and benefit of Notification No. 12/2003-service tax, dated 20<sup>th</sup> June, 2003 is not availed of by the goods transport agency.

4.2. Notification No. 33/2004-Service Tax, dated 3<sup>rd</sup> December, 2004 exempts service tax on taxable service provided by the goods transport agency to a customer, in relation to transport of fruits, vegetables, eggs or milk by road in a goods carriage.

4.3. Notification No. 34/2004-Service Tax, dated 3<sup>rd</sup> December, 2004 exempts the taxable service provided by a goods transport agency to a customer, from the whole of service tax, in such cases where,-

- (i) the gross amount charged on consignments transported in a goods carriage does not exceed rupees on thousand five hundred' or
- (ii) the gross amount charged on an individual consignment transported on a goods carriage does not exceed rupees seven hundred fifty.

For the purpose of this notification, "an individual consignment" would mean all goods transported by a goods transport agency by road in a goods carriage for a consignee.

4.4. Notification No. 35/2004-Service Tax, dated 3<sup>rd</sup> December, 2004 prescribes that the person making payment towards freight would be liable to pay the service tax, in case the consignor or the consignee of the goods transported in one of the following,-

- (i) Factory registered under or governed by the Factories Act;
- (ii) Company established by or under the Companies Act;
- (iii) Corporation established by or under any law;
- (iv) Society registered under Societies Registration Act or similar law;

- (v) Co-operative society established by or under any law;
- (vi) Dealer of excisable goods, registered under the Central Excise Law; or
- (vii) Any body corporate established, or a partnership firm registered, by or under any law.

4.5. In cases other than those mentioned in para 4.4 above, the service tax is to be paid by the Goods transport Agency. The Goods Transport Agencies are required to issue a consignment note (even in cases covered under para 4.4) other than in cases where the service in relation to transport of goods by road is wholly exempted from service tax. The consignment note should be serially numbered and should contain the names of the consignor and consignee, registration number of the goods carriage used for transport of goods, details of goods transported, place of origin and destination and person liable for paying service tax.

5. To ensure smooth implementation of the levy on the goods transport agency following instructions are issued:

5.1. According to provisions of section 69 of the Finance act, 1994, requirement of registration is limited to persons liable to pay service tax. Thus those goods transport agencies, which are not liable to pay any service tax, are not required to be registered under the service tax rules.

5.2. Permission to goods transport agency for centralized registration under Rule 4(3A) of Service Tax Rules, 1994, should not be denied unless there is a substantial reason to believe that it would lead to evasion of service tax. In case of centralized registration, all verification or audit checks should be carried out through registered office only.

5.3. No vehicle should be stopped en route for verification of service tax compliance unless there is specific information/ intelligence about deliberate evasion of service tax. Such verification, if carried out, should be under explicit authorization, on case-to-case basis, from an officer not below the rank of a Commissioner. In such cases, the vehicle and the goods should be released immediately after obtaining photocopy of transport documents. Any further verification relating to service tax provisions should be made with the office registered with the Department.

5.4. In case the central office of a transport company is registered with the department for payment of service tax, no independent enquiries, verification or audit checks should be carried out of the subordinate offices of such goods transport agency, unless it is based on information/ intelligence about deliberate evasion, and such checks/ verification is authorized by an officer not below the rank of a Commissioner. All queries, notices or scrutiny of records, if required, should only be made through the registered office by the department offices having jurisdiction over such central office. The registered offices, would however, be subjected to audit checks as per the guidelines of the government.

5.5. Records pertaining to the period prior to imposition of service tax levy on the goods transport should not be called for verification unless the same are in connection with cases booked for violation of the provisions of customs or central excise laws against customers of the transporters.

5.6. In case of omission in payment of service tax or procedural lapses by persons liable to pay service tax on the goods transport by road, committed before 31<sup>st</sup> December, 2005, the consequences should be limited to recovery of tax with interest payable thereon. No penalty

should be imposed on such defaulters unless the default is on account of deliberate fraud, collusion, suppression of facts or willful misstatement or contraventions of the provisions of service tax with intent to evade payment of service tax.

5.7. If service tax due on transportation of a consignment has been paid or is payable by a person liable to pay service tax, service tax should not be charged for the same amount from any other person, to avoid double taxation.

**[vide M.F.(D.R) Letter F.No. 341/18/2004-TRU (Pt.), dated 17.12.2004- 2004 (174) E.L.T. (T15).**

**Procedure for availing abatement prescribed.-** An abatement of 75% in taxable service of goods transport by road is available on the condition that the goods transport agency has not availed credit on inputs and capital goods used for providing taxable service and has also not availed benefit of Notification No. 12/2003- Service Tax, dated 20.6.2003 (vide Notification No. 32/2004-Service Tax, dated 3.12.2004 [now 1/2006-S.T., 1.3.2006]. It has been requested that in cases where liability for tax payment is on the consignor or consignee, the procedure as to how it should be confirmed by such consignor or consignee that the goods transport agency has not availed credit or benefit of Notification no. 12/2003- Service Tax may be prescribed. In such cases it is clarified that a declaration by the goods transport agency in the consignment note issued, to the effect that neither credit on inputs or capital goods [now input services also] used for provision of service has been taken nor the benefit of Notification no. 12/2003-Service Tax has been taken by them suffice for the purpose of availment of abatement by the person liable to pay service tax.

**[vide M.F.(D.R) Letter F.No. B1/6/2005-TRU, dated 27.7.2005- 2006 (1) S.T.R. (C48).**

**Goods transport agency-Abatement of 75% -Withdrawal of letter confirmed.-** Several references are received on the above issue. This Directorate had issued a clarification vide letter of even No. dated 30.3.2005 [2006 (1) S.T.R. C40]], that the benefit of Notification No. 32/2004-S.T., dated 3.12.2004 is not available in cases where the provision of Notification no. 35/2004-S.T., dated 3.12.2004 are applicable. However, said letter dated 30.3.2004 of this office **had been withdrawn by this Directorate vide letter of even No. dated 11.4.2005** [2006 (2) S.T.R. S34] (copy enclosed) [not printed here].

**[Vide D.G.S.T. Letter F.No. V/DGST.43-GTO/02/2005/2740, dated 3.4.2006-2006 (3) S.T.R. (C4).**

**Goods transport agency (GTA) Services- Exemption under Notification 1/2006-S.T. available to person made liable to pay service tax.-** In exercise of the power conferred under Section 37B of the Central Excise Act, 1994, as made applicable to Service Tax by section 83 of the Finance Act, 1994, the Central Board of Excise and Customs considers it necessary, for the purpose of uniformity with respect to levy of service tax, to issue the following orders:-

2. In terms of Notification no. 32/2004-S.T., dated 3.12.2004 (rescinded on 1.3.2006), and No. 1/2006-S.T., dated 1.3.2006, the Central Government has exempted the taxable service provided by a goods transport agency to a customer, in relation to transport of goods by road, in goods carriage, from so much of service tax leviable thereon as is in

excess of the service tax calculated on the value which is equivalent to twenty-five per cent of the gross amount charged from the customer by such goods transport agency, subject to the following conditions,-

- (i) the credit of duty paid on inputs or capital goods used for providing such taxable service has not been taken;
- (ii) the goods transport agency has not availed of the benefit under the Notification No. 12/2003-S.T., dated 20.6.2003.

3. Vide Rule 2(1)(d) of the Service Tax Rules, 1994, in certain cases, the person who pays or is liable to pay freight, either himself or through his agent, for the transport of goods by road in a goods carriage, has been made liable to pay service tax, instead of the service provider, namely, the goods transport agency. In such cases, the Revenue Audit of the Comptroller & Auditor General of India has objected to the availment of benefit of the aforesaid exemption.

4. The issue has been re-examined. These notifications exempt taxable services from so much of service tax as specified therein, irrespective of the person made liable to pay service tax. It is, therefore, clarified that any person who is made liable to pay service tax, while discharging service tax liability on such service, is entitled to avail of the benefit of exemption in terms of aforesaid Notifications No. 32/2004-S.T., and No. 1/2006-S.T., subject to fulfillment of the conditions prescribed therein by adopting the procedure prescribed vide para 31 of Circular No. B1/6/2005-TRU,,dated 27.7.2005[2005 (186) E.L.T. T14]. The procedure prescribed is that a declaration by the service provider, in all such cases, on the consignment note, to the effect that the conditions of the aforesaid exemption notification have been satisfied, would be sufficient for availing of the benefit under the said notifications. Opinion of Law Ministry has also been sought in this matter. Law Ministry has concurred with the above views of the Department.

5. Therefore, in all such cases, where the above procedure has been followed, no demand notice may be issued on the basis of objection raised by the C & AG office, and all pending matters may be decided accordingly. Past instructions, circulars and orders on the issue stand suitably modified.

**[vide M.F.(D.R) 37B order No. 5/1//2007-S.T., dated 12.3.2007- 2007 (6) S.T.R. (C13).**

**Goods Transport Agency Service- Clarifications on details in consignment note-** Rule 4B of Service Tax Rules prescribes that any 'goods transport agency' providing service in relation to transport of goods by road in a goods carriage shall issue a consignment note to the customer. In terms of this rule, the "consignment note" means "a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, per liable for paying service tax whether consignor, consignee or the goods transport agency".

2. The Road Transport Agency Association has informed that it may not always be possible for goods transport agency to mention Truck No. on consignment note in respect of small consignments, i.e. consignments that are less than a truck load. In such cases, the transporters have to wait till they accumulate a truck load of small consignments for a particular destination. Further, at times some consignments are shifted to other trucks in accordance with the business exigency. These factors make it practically impossible to know

the registration number of the truck transporting a particular shipment at the time of booking of cargo.

3. The matter has been examined by the Board. As stated, in case of small consignments, it would not be feasible to mention Truck No. on consignment note as the Truck no. may not be known at the time of booking of cargo. Therefore, in respect of small consignments, where truck number is not known, an endorsement, i.e., "truck number not known" may be made on customers copy of consignment note, against the entry for Truck no. As and when the Truck No. is known, the goods transport agency shall make an entry of trucks no. in their copy of consignment note to satisfy the requirements of said Rule 4B and also for any future reference. Similarly, in case of transshipment of goods, the goods transport agency would make entry of such transshipment, in their copy of consignment note. For example, if goods moves from Delhi to Agra, and is transshipped there for further movement to Mumbai, the goods transport agency would mention in his copy of consignment note, against Vehicle No. as "(i) Delhi to Agra: Vehicle No.-XXX (ii) Agra to Mumbai: Vehicle No.XXXX". This would satisfy the requirement of the said Rule 4B.

**[vide CBE & C. Circular No.95/6/2007-S.T., dated 11.6.2007- 2007 (7) S.T.R. C3 read with CBE & C. Circular No.97/8/2007-S.T., dated 23.8.2007- 2007 (215) E.L.T. (T24-T34).**

**Exemption of GTA service- Notification No. 1/2006-S.T. amended and new Notification No. 13/2008-S.T., issued.-** In the case of services provided for the transport of goods by road in a goods carriage, service tax is required to be paid by certain categories of persons who pay the freight instead of the service provider namely Goods Transport Agency. The actual amount of service tax payable is 25% of the amount of freight i.e. 75% of amount of freight is provided as abatement, subject of the condition that no Cenvat credit of the duty paid has been availed of under Cenvat Credit Scheme. It has been represented that fulfillment of the condition of non-availment of Cenvat credit by the service provider is, at times, difficult to prove, when the service tax is required to be paid not by the service provider but by the consignor or consignee who pays the freight. Taking into account the special nature of the goods transport agency (GTA) service, it is being exempted from the payment of service tax unconditionally to the extent of 75% of the freight. In other words, service tax is required to be paid only on 25% of the freight irrespective of who pays the service tax. Simultaneously, the benefit of Cenvat credit has been withdrawn to GTA service under Cenvat Credit Scheme by deleting the said service from the scope of output service in the CENVAT Credit Rules, 2004. Henceforth, the person who is required to pay service tax under reverse charge method on GTA service can pay service tax on 25% of the freight unconditionally. Recipient of GTA service paying service tax under reverse charge method is no more required to prove non-availment of CENVAT credit by GTA service provider.

**[Vide M.F. (D.R) Letter D.O.F. No. 334/1/2008-TRU, dated 29.3.2008.]**

**Goods Transport Agency service- Clarification on ancillary services and classification.-**

1. **Issue:** GTA provides service to a person in relation to transportation of goods by road in a goods carriage. The service provided is a single composite service which may include various intermediary and ancillary service such as loading/ unloading, packing/ unpacking, transshipment, temporary warehousing. For the service

provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services. In such a case, whether the intermediary or ancillary activities are to be treated as part of GTA service and abatement should be extended to the charge for such intermediary or ancillary service?

**Clarification:** GTA provides a service in relation to transportation of goods by road which is a single composite service. GTA also issues consignment note. The composite service may include various intermediate and ancillary services provided in relation to the principal service of the road transport of goods. Such intermediate and ancillary services may include services loading/ unloading, packing/ unpacking, transshipment, temporary warehousing etc., which are provided in the course of transportation by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road. The contention that a single composite service should not be broken into its components and classified as separate services is a well-accepted principle of classification. As clarified earlier vide F.No. 334/4/2006-TRU, dated 28.2.2006 (para 3.2 and 3.3) [2006 (4) S.T.R.. C30] and F.No. 334/1/2008-TRU, dated 29.2.2008 (para 3.2 and 3.3) [2008 (9)S.T.R. C61], a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service and accordingly classified. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The method of invoicing does not alter the single composite nature of the service and classification in such cases are based on essential character by applying the principle of classification enumerated in section 65A. Thus, if any ancillary/ intermediate service is provided in relation to transportation of goods, and the charges, if any, for such services are included in the invoice issued by the GTA, and not by any other person, such service would form part of GTA service and, therefore, the abatement of 75% would be available on it.

2. **Issue 2:** GTA providing service in relation to transportation of goods by road in a goods carriage also undertakes packing as an integral part of the service provided. It may be clarified whether in such cases service provided is to be classified under GTA service.

**Clarification:** Cargo handling service [section 65(105)(zr)] means loading, unloading, packing or unpacking of cargo and includes the service of packing together with transportation of cargo with or without loading, unloading and unpacking. Transportation is not the essential character of cargo handling service but only incidental of the cargo handling service. Where service is provided by a person who is registered as GTA service provider and issues consignment note for transportation of goods by road in a goods carriage and the amount charged for the service provided is inclusive of packing, then the service shall be treated as GTA service and not cargo handling service.

3. **Issue 3:** Whether time sensitive transportation of goods by road in a goods carriage by a GTA shall be classified under courier service and not GTA service?

**Clarification:** On this issue, it is clarified that so long as, (a) the entire transportation of goods is by road; and (b) the person transporting the goods issues a consignment note, it would be classified as 'GTA Service'.

**[Based on CBE &C. Circular No. 104/7/2008-S.T., dated 6.8.2008-2008 (11) S.T.R. (C23)].**

**Budget 2009-10 changes** - Goods Transport Agents (GTAs) receive several services from other service providers (such as warehouse keeper, cargo handlers, C&F agents) during the movement of goods, en-route. While these individual services are taxable at the hands the service providers, the GTA cannot take credit of tax paid on such services, as the abatement allowed to them is subject to condition that no credit should be availed. This matter was agitated by the GTAs, and the government agreed to exempt such services. Consequently, notification No.1/2009-S.T, dated 5.1.2009 was issued. It was, however, pointed out by GTAs that litigation is pending for the pas period. In this regard Board's letter F.No. 137/175/2007-CX.4 (Vol. II) dated 22.4.2009 was sent to the field formations to identify such cases, as the Govt. has promised to drop all past demands/ litigation on this matter, latest by the end of August, 2009. In order to enable the field formations to dispose of the pending demands and discharge the notices issued for the past period, the said notification no. 1/2009 S.T. is being given retrospective effect (with effect from 1.1.2005) through changes made in the Finance (No.2) Bill, 2009. Upon the enactment of the Bill, field formations must be directed to take up these cases on priority and ensure that all such cases are disposed of latest by 31<sup>st</sup> August, 2009.

**[Based on M.F. (D.R) Letter D.O.F. No. 334/13/2009-TRU, dated 7.7.2009].**

## **(G) Exemption & Exclusion:**

### **1. Exemption to Small Scale Service Providers:**

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services of aggregate value not exceeding **Ten lakh\*** rupees in any financial year from the whole of the service tax leviable thereon under section 66 of the said Finance Act:

Provided that nothing contained in this notification shall apply to,-

- (i) taxable services provided by a person under a brand name or trade name, whether registered or not, of another person; or
- (ii) such value of taxable services in respect of which service tax shall be paid by such person and in such manner as specified under sub-section (2) of section 68 of the said Finance Act read with Service Tax Rules,1994.

2. The exemption contained in this notification shall apply subject to the following conditions, namely:-

- (i) the provider of taxable service has the option not to avail the exemption contained in this notification and pay service tax on the taxable services provided by him and such option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year;

(ii) the provider of taxable service shall not avail the CENVAT credit of service tax paid on any input services, under rule 3 or rule 13 of the CENVAT Credit Rules, 2004 (herein after referred to as the said rules), used for providing the said taxable service, for which exemption from payment of service tax under this notification is availed of;

(iii) the provider of taxable service shall not avail the CENVAT credit under rule 3 of the said rules, on capital goods received in the premises of provider of such taxable service during the period in which the service provider avails exemption from payment of service tax under this notification;

(iv) the provider of taxable service shall avail the CENVAT credit only on such inputs or input services received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable;

(v) the provider of taxable service who starts availing exemption under this notification shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which the provider of taxable service starts availing exemption under this notification;

(vi) the balance of CENVAT credit lying unutilised in the account of the taxable service provider after deducting the amount referred to in sub-paragraph (v), if any, shall not be utilised in terms of provision under sub-rule (4) of rule 3 of the said rules and shall lapse on the day such service provider starts availing the exemption under this notification;

(vii) where a taxable service provider provides one or more taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each premises or each services; and

(viii) the aggregate value of taxable services rendered by a provider of taxable service from one or more premises, does not exceed rupees **\*ten lakhs** in the preceding financial year.

3. For the purposes of determining aggregate value not exceeding **ten**\*lakh rupees, to avail exemption under this notification, in relation to taxable service provided by a goods transport agency, the payment received towards the gross amount charged by such goods transport agency under section 67 for which the person liable for paying service tax is as specified under subsection (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994, shall not be taken into account.

*Explanation.*- For the purposes of this notification,-

(A) "brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, logo, label, signature, or invented word or writing which is used in relation to such specified services for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any indication of the identity of that person;

(B) "aggregate value not exceeding **\*ten lakh rupees**" means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the said Finance Act, charged by the service provider towards taxable services till the aggregate amount of such payments is equal to ten lakh rupees but does not include payments received towards such gross amount which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.

4. This notification shall come into force on the 1st day of April, 2005.

**[Notification No. 6/2005-ST, dated 1-3-2005. \*Amended by Notfn.No. 8/2008-ST dated 01.03.2008]**

## **2. Services to UN Agencies**

Services provided to United Nations or an International Organizations are exempt.

[Notification No. 16/2002-ST, dated 2-8-2002]

**3. Export of service:** Any service which is taxable under clause 105 of Section 65 may be exported without payment of service tax.

( Rule 4 of Export of Services Rules,2005)

## **4. Exemption to services provided to a developer of SEZ or a unit of SEZ:**

Exempts the taxable services specified in clause (105) of section 65 of the said Finance Act, which are provided in relation to the authorized operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the whole of the service tax leviable thereon under section 66 of the said Finance Act subject to certain conditions. ( Refer notification for details)

{ Notification No. 09/2009ST dated 03.03.2009 (Prior to 03.03.2009 Notfn.No4/2004-ST dated 31.03.2004)}

**5. Exemption to value of goods & material sold by service provider:** In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts so much of the value of all the taxable services, as is equal to the value of goods and materials sold by the service provider to the recipient of service, from the service tax leviable thereon under section (66) of the said Act, subject to condition that there is documentary proof specifically indicating the value of the said goods and materials.

(Notification No. 12/2003-ST dated 20.06.2003 effective from 01.07.2003)

**6. Exemption to taxable services provided by TBI and STEP:** All taxable services, provided by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. ( Refer notification for details)

(Notification No.09/2007 ST dated 01.03.2007)

**7. Exemption to taxable services provided by entrepreneurs located within the premises of TBI or STEP:** All taxable services, provided by an entrepreneur located within the premises of a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. ( Refer notification for details)

(Notification No.10/2007 ST dated 01.03.2007)

**8. Exemption to services provided to Foreign Diplomatic Missions or Consular Post in India:** All services provided by any person, for the official use of a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 33/2007-ST dated 23.05.2007)

**9. Exemption to services provided for personal use of a family member of Diplomatic Agent or Career Consular Officers posted in Foreign Diplomatic Mission/Consular Post in India:** All services provided by any person, for personal use of family member of Diplomatic Agents or Career Consular officers posted in a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 34/2007-ST dated 23.05.2007)

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