

# INDEX

## **INDIRECT TAXES**

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# CENTRAL EXCISE LAW

## 1. LEVY OF EXCISE

- 1.1. Central Excise is a tax levied by the Parliament under the powers granted by Article 246 of the Constitution of India and it is listed in Entry 84 of Schedule VII of Union List (List I). As per Entry 84 of Schedule VII, "duties of excise on tobacco and other goods manufactured or produced in India, except alcoholic liquors for human consumption, opium, narcotics, but including medical and toilet preparations containing alcohol, opium or narcotics." The power to impose excise on alcoholic liquors, opium and narcotics is granted to states under Entry 51 of List II of Schedule VII of the constitution. Such levy is called State Excise.
- 1.2. Section 3 of CEA is the charging section for levy of excise duty. It is levied at the rate specified in First Schedule of CETA. The standard rate of duty for non-petroleum products is 12% with effect from 17-3-2012. Education Cess is a duty of excise which is to be levied @ 2% of the aggregate duty of excise w.e.f. 08.07.2004. The Secondary & Higher Education cess is payable @ 1% of CEA w.e.f.01.03.2007. However w.e.f 01.06.2015 the rates of duties have been amended to a flat rate of 12.5% (except some entries of chapter 22,24,39) and there will be no additional Education or Secondary & Higher Secondary Cess levied.

## 2. DEFINITIONS

### 2.1. MEANING OF GOODS

As per section 2(d) of the CEA, excisable goods means goods specified in the First Schedule and the Second Schedule to the CETA as being subjected to a duty of excise. The term 'goods' is not been defined in the Act. However the term 'goods' has been defined in the Indian Constitution under Article 366(12) to include all material, commodities and articles. Further, it was observed in the landmark decision of Union of India vs Delhi Cloth & General Mills Co Ltd [1977 (1) ELT J199 (SC)] that to become 'goods', an article must be something which can ordinarily come to the market to be bought and sold. Actual sale is not important to be as goods.

Thus, in order for an article to constitute 'goods', it must satisfy two requirements:

- (a) it must be movable and
- (b) it must be marketable.

### 2.2. MEANING OF MANUFACTURE

Section 2(f) defines "manufacture" to include any process-

- (i) incidental or ancillary to the completion of a manufactured product;
- (ii) which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture; or
- (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labeling or re-labeling of containers including the declaration or alteration of RSP on it or adoption of any other treatment on the goods to render the product marketable to the consumer;

Clause (ii) and (iii) are considered as deemed manufacture. In the case of UOI vs Delhi Cloth & General Mills Co Ltd [1977 (1) ELT J199 (SC)] Apex court held that the word 'manufacture' is generally understood to mean "bringing into existence a new substance". Thus, manufacture implies a change but every change is not manufacture. A new and different article must emerge having a distinctive name, character or use.

### 2.3. MEANING OF MANUFACTURER

Section 2(f) of CEA requires the word "manufacturer" to be construed in accordance with the definition of "manufacture" and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.

The definition of manufacturer is not exhaustive but inclusive. The definition enlarges definition of 'manufacturer' to two categories of persons, besides actual manufacturers, namely

- Persons who get the goods manufactured through hired labour
- Person who engage in manufacture of goods on their own account.

### 3. CLASSIFICATION UNDER CENTRAL EXCISE

Section 3 specifies that the rates of Central Excise Duty shall be the rates as specified in the Schedules of the Central Excise Tariff Act, 1985 (CETA). CETA consists of three schedules; Schedule 1 gives basic excise duties leviable on various products; Schedule 2 lists products on which special excise duty is leviable; Schedule 3 contains all the items covered under Maximum Retail Price (in short 'MRP') valuation provisions, which are covered under 'deemed manufacture' provisions. The first schedule contains 96 Chapters grouped into 20 sections and has been selectively aligned with the Harmonised System of Nomenclature.

The correct classification of goods is necessary to ascertain the rate of duty on it and exemptions if any, applicable to it. Thus, it is essential to determine the correct heading or sub-heading of the Tariff under which the goods fall. The schedule of Tariff Act provided the following rules of interpretation to aid in classification of goods:

**Rule 1** -- Classification to be as per terms of headings and chapter/section notes

**Rule 2** – Reference in a heading to an article ,to include certain references:

- a. Reference to an article, to include reference to that article incomplete/unfinished or unassembled/disassembled.
- b. Reference to a material /substance, to include reference to mixtures or combinations of that material /substance.

**Rule 3** -- Classification when goods classifiable under two or more headings:

- a. Specific heading to prevail over general.
- b. Classification as if goods consisted of material/component, which give them essential character.
- c. Latter the better maxim which means goods which are not classified by reference to (a) & (b) they shall be classified under the heading , which occurs last in the numerical order among those ,which equally merit considerations.

**Rule 4** -- Akin rule: Goods, which cannot be classified in accordance with the above rules, shall be classified under the heading appropriate to the goods to which they are most alike/akin.

**Rule 5** -- In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

- a. camera cases, and similar containers , specially shaped or fitted to contain a specific article or set of articles, suitable for long term use and presented with the article for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character.
- b. Subject to the above provision, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

**Rule 6** -- Last rule of interpretation:

For legal purpose, the classification of goods in the sub headings shall be determined according to the terms of those sub heading and related notes and mutatis mutandis, to the above rules, on the understanding that only sub heading at the same level are comparable.

### 4. VALUATION

Once the levy of excise is established and the products are correctly classified, next step is to calculate the amount of excise duty payable. There are different basis on which the duty is payable:(a)Special

duty payable on the basis of units like length, weight, volume etc,(b)Duty based on value(as valorem duty),(c)Duty based on production capacity,(d)Compounded Levy Scheme,(e)Tariff Value u/s3(2) of CEA,1994,(f)Transaction Value u/s4 of CEA,2002,(G)Retail Sale Price u/4A of CEA,1994.

#### **4.1. TARIFF VALUE FIXED U/S 3(2) OF CEA,1994**

Section 3(2) of CEA empowers Central Government to fix tariff values of any excisable goods that are chargeable with duty on ad valorem basis which may be different for different classes of goods. The duty in such cases is the % of such tariff value and not the Assessable Value.

#### **4.2. TRANSACTION VALUE DETERMINED U/S 4 OF CEA**

4.2.1. As per Section 4 of CEA, when the excise duty is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall transaction value if all of the following conditions are satisfied- goods are sold by the assessee, for delivery at the time and place of the removal, assessee and the buyer of the goods are not related, price is the sole consideration for the sale. If any of the condition does not get satisfied, then the value will be determined in accordance with the Central Excise Valuation (Determination of Price of Excisable Goods) Rules 2000. Section 4(3)(d) of CEA defines “transaction value” to mean the price actually paid or payable for the goods when sold.

4.2.2. The valuation rules have to be followed when transaction value cannot be determined u/s4(1)(a)which are as follows :

- (a) Goods are not sold by the assessee while removing from the factory, Value of similar goods sold by the assessee for delivery at any other time nearest to the time of the removal of goods under assessment. [RULE 4]
- (b) Goods are sold for delivery at the place other than place of the removal, Value shall be deemed to be the transaction value, excluding the actual transportation cost from the place of removal to the place of deliver. [RULE 5]
- (c) Price is not the sole consideration for the sale, Value shall be deemed to be the aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee. However, w.e.f. 11.07.2014,it has been provided that where price is not the sole consideration for sale of excisable goods and they are sold by the assessee at a price less than the manufacturing cost and profit and no additional consideration is flowing directly or indirectly from the buyer to the assessee, the value of such goods shall be deemed to be the transaction value.[RULE6]
- (d) Goods are transferred to a depot, premises of a consignment agent or any other place or premises, Value shall be the normal transaction value of such goods sold from such other place at or about the same time.[RULE 7]
- (e) Whole or part of the excisable goods are captively consumed, Value would be 110% of cost of production or manufacture of such goods [RULE 8]
- (f) Whole or part of the excisable goods are sold by the assessee to or through a related person, Value shall be the price at which the related person has sold the goods to an unrelated person. If captively consumed by the related person, Value shall be 110% of cost of production [RULE 9]
- (g) Goods manufactured by the Job worker on behalf of the principal manufacturer, the value shall be the price at which goods are sold by the principal manufacturer [RULE 10A].

#### **4.3. M.R.P. value U/S 4A OF CEA,1994**

Section 4A of CEA empowers Central Government to specify goods on which duty will be payable based on ‘retail sale price’ (RSP). Central Government vide Notification 49/2008-CE (NT) dated 1-3-2006 has specified goods which shall be covered by Section 4A of the CEA. The said Notification also prescribes the rate of abatement which shall be required to be deducted from the RSP for arriving at the value on which excise may be levied. As per Explanation I to Section 4A of CEA, “Retail Sale Price” means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and the price is the sole consideration for such sale and includes all taxes,freight, transport charges, commission to dealers, advertisement etc.

#### **4.4. SPECIFIC DUTY**

It is the duty which is payable on the basis of certain unit like weight, length, volume, thickness etc. For instance specific duty is payable on cigarettes (on length basis), matches (per 100 boxes/pack), Marble slabs and tiles (square meter basis).

#### **4.5. COMPOUNDED LEVY SCHEME**

Rule 15 of CER empowers Central Government to specify the goods in respect of which an assessee shall have the option to pay duty of excise on the basis of specified factors (like size of equipment employed, number and types of machine used for manufacture etc.) relevant to production of such goods at specified rates. The scheme has been notified in respect of stainless steel patta and aluminium circles

#### **4.6. ANNUAL PRODUCTION CAPACITY**

Central Government may notify goods on which excise duty shall be levied and collected on the basis of production capacity of the factory. If the factory does not operate for a part of the year, annual production will be calculated on proportionate basis. This scheme has been notified in respect of Pan Masala containing tobacco etc.

#### **4.7. SPECIAL DUTY + AD VALOREM**

There are certain goods on which specific duty on a certain unit along with duty at the prescribed rate on the assessable value is leviable. At present cement is one of the goods for which valuation is done as per this method.

### **5. REGISTRATION**

#### **5.1. Persons requiring registrations:**

- a. Every manufacturer of dutiable and excisable goods.
- b. First and second stage dealers (including manufacturer's depots and importers) issuing cenvatable invoices.
- c. Person who seeks to obtain excisable goods for availing end used based exemption.
- d. Persons holding warehouses for storing non duty paid goods.
- e. Exporter-manufacturers under rebate /bond procedures, EOU &EPZ units which have interactions with the domestic economy through DTA sales or procurement of duty free inputs.
- f. Importers who want to issue cenvatable invoices for the imported goods sold.

5.2. Separate registration is required in respect of separate premises except in cases where two or more premises are actually part of the same factory (where processes are interlinked), but are segregated by public road, canal or railway-line.

5.3. Notification No. 36/2001-CE (NT) dated 26.6.2001 provided exemption from registration to the following:

- Person who manufacture the excisable goods, which are chargeable to nil rate of excise duty or are fully exempt from duty by a notification.
- SSI manufacturers having annual turnover below the specified exemption limit.
- In respect of ready-made garments, the job-worker need not get registered if the principal manufacturer undertakes to discharge the duty liability
- Person manufacturing excisable goods by following the warehousing procedure under the Customs Act, 1962. Such exemption from registration is subject to certain conditions.
- The person who carries on wholesale trade or deals in excisable goods (except first and second stage dealer, as defined in CCR and the depots of a registered manufacturer);
- A Hundred per cent Export Oriented Undertaking, licensed or appointed, as the case may be, under the provisions of the Customs Act, 1962 other than having dealings with DTA.

- Persons who use excisable goods for any purpose other than for processing or manufacture of goods availing benefit of concessional duty exemption notification.

## **6. ASSESSMENT OF DUTY**

- 6.1. Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse, shall pay the duty leviable on such goods on its removal from any place, where they are produced or manufactured, or from a warehouse, unless otherwise provided.

The duty on the goods removed from the factory or the warehouse during a month shall be paid by the 6th day of the following month, if the duty is paid electronically through internet banking [5th day of the following month, in any other case] and the 31st day of March in case of goods removed during the month of March

## **6.2. SELF ASSESSMENT**

As per Rule 6 of the CER, an assessee is himself (self-assessment) required to determine duty liability at the time of removal of excisable goods and discharge the same. Assessee is also required to submit the return (in the prescribed format under form E.R.-1 and form E.R.-2) for the month stating in it the details of production and removal of goods and other relevant particulars including CENVAT credit for a month and submit the same to the Range Office having jurisdiction over his factory within the prescribed time.

## **6.3. PROVISIONAL ASSESSMENT**

As per Rule 7 of the CER, where the assessee is unable to determine the value of excisable goods or the rate of duty applicable thereto, he may request the AC/DC of Central Excise, as the case may be, in writing giving reasons for payment of duty on provisional basis and the relevant authority, may order allowing payment of duty on provisional basis at such rate or on such value as may be specified by him. Such payment under provisional assessment is allowed if the assessee executes a bond in the prescribed form with such surety or security binding the assessee for payment of difference between the amounts of duty as may be finally assessed and the amount of duty provisionally assessed.

## **7. PROCEDURE FOR CLEARANCE OF GOODS FROM THE FACTORY**

As per Rules 8,10,11 and 12 of CER,2002, registered person is required to follow the following procedure for clearance of goods:

- Maintain Daily Stock Account(DSA) indicating the opening balance, quantity produced, inventory of goods, quantity removed, assessable value, the amount of duty payable and duty paid on manufactured goods.
- The goods should be removed under invoice. The invoice should be prepared in triplicate. Original for buyer, duplicate for transporter and triplicate for assessee. It shall be serially numbered and shall contain the registration number, name of the consignee, description, classification, time and date of removal, mode of transportation, vehicle registration number, rate of duty, quantity and value of goods and duty payable thereon.
- The excise duty on the goods removed shall be paid on 5th(6th if paid electronically) of the following month [for small scale assessee it is end of quarter] but the goods removed during the month of March the duty shall be paid by 31st March.
- The ER-1 return shall be filed within 10days from the close of the month to which the return relates. However, where the assessee has availed the benefit of the notification providing exemption based on the value of clearance in a financial year, he shall file ER-3 return within 10 days after the end of quarter.
- Goods may be cleared for exports without payment of duty by following the procedure specified in Notification No.42/2001-CE(NT), to 45/2201-CE(NT) dated 26.06.2001. Goods may be exported under claim for rebate by following procedure contained in Notification No.19/2004 and 20/2004-CE(NT), both dated 06.09.2004.

## **8. SMALL SCALE INDUSTRIES**

- 8.1. The benefit of Notification No. 8/2003-CE dated 1-3-2003 (as amended) is available to small scale manufacturer where the value of clearances for home consumption in the previous financial year has

not exceeded rupees four hundred lakhs. The following clearances shall not be considered for the said limit:

- (a) Goods not cleared for home Consumption i.e. goods exported
  - (b) Goods cleared to without payment of duty to certain units/ organization - The clearances (without payment of duty) made to the following shall not be considered while determining the aggregate value of Rs 400 Lakhs:
    - unit in free trade zone
    - unit in special economic zone
    - 100% export oriented undertaking
    - unit in Electronic Hardware Technology Park or Software Technology Park
    - supplied to United Nations or an international organization for their for their official use or supplied to projects funded by them
  - (c) Goods cleared with brand name or trade name of another person
  - (d) Goods cleared for captive consumption
  - (e) Goods cleared under specified Notifications- The goods which are cleared from the unit on availing the exemption from duty by virtue of Notification No. 214/86 dated 25-3-1986, Notification No. 83/94 dated 11-4-1994 and Notification No. 84/94 dated 11-4-1994, shall not be included in computing the aggregate value of Rs 400 Lakhs.
- 8.2. This notification provides exemption from whole of duty leviable on goods specified up to the aggregate value clearance of Rs.150 lakhs. This limit shall be calculated excluding the following clearances:
- (a) Goods which are exempted from whole of excise duty
  - (b) Goods cleared with brand name or trade name of another person
  - (c) Goods cleared for captive consumption

## **9. JOB WORK**

9.1. The term job work has been defined in Rule 2(n) of CCR as per which "job work" means processing or working upon of raw material or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression "job worker" shall be construed accordingly.

### **9.2. EXEMPTION TO GOODS MANUFACTURED IN THE FACTORY AS JOB WORK**

- (A) Where principal manufacturer intends to receive the semi-finished goods manufactured by job worker into its factory premises for further processing, it can examine the option of going in under Notification 214/86 CE dated 25.03.86 which provides exemption to the goods manufactured in a factory as a job work. The said notifications requires that the goods manufactured by the job worker are used in relation to manufacture of final product-
- on which duty of excise is leviable in whole or part and such goods are cleared on payment of duty on home consumption
  - for removal to a unit in FTZ, 100% EOU, EHTP or STP or supply to United Nations or international organization for their official work and such goods are cleared without payment of duty
  - for removal under bond of export
  - by a manufacturer of dutiable and exempted final goods after discharging his obligation in respect of said goods under Rule 6 of CCR.
- (B) The exemption under Notification is available if the supplier of raw material gives an undertaking to AC/ DC of Central Excise having jurisdiction over the factory of the job worker that:
- Goods would be used in or in relation to manufacture of final product in his factory
  - It would be removed on payment of duty for home consumption from his factory (except when

removed under bond for export or to a unit in FTZ, 100% EOU, EHTP or STP or supply to United Nations or international organization for their official work or by a manufacturer of dutiable and exempted final goods after discharging his obligation in respect of said goods under Rule 6 of CCR)

- (C) Additionally, in order to claim exemption, the principal manufacturer is required to produce evidence that the said goods have been used or removed in the manner prescribed above and would be required to undertake the responsibilities of discharging the liabilities in respect of Central Excise duty, if any, leviable on the final product.

## 10. CAPTIVE CONSUMPTION

- 10.1. As per Notification No. 67/95 dated 16-3-1995, exemption is available to:
- (a) Capital Goods as defined in CCR which are manufactured in the factory and used within the factory of production
  - (b) Inputs (other than light diesel oil, high speed diesel oil, motor spirit) manufactured in the factory and are used within the factory of production in or in relation to manufacture of final product when the final products are liable to excise duty.
- 10.2. As per excise provisions, no duty is payable if final products are cleared to FTZ, EOU, EHTP and STP. In such cases, duty on intermediate product is not payable even if the final product is cleared without payment of duty.
- 10.3. If the final product is exempt from the duty but is cleared in accordance with Rule 6 of CCR i.e. after paying 6% on the value of exempted goods, no duty is required to be paid on the intermediate goods.
- 10.4. It may be noted that when the goods are exported, the goods are neither exempt from excise duty nor chargeable to nil duty. Hence no duty is payable on the intermediate goods. This principle may also apply to supply of final goods to SEZ also, as supply to SEZ is also considered to be export.

## 11. DEMAND & RECOVERY

The demand of duty is governed by Section 11A of CEA. As per the said section, where the excise duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the Central Excise Officer can serve a Show Cause Notice on the person chargeable with duty as to why he should not pay the amount specified in the notice.

As mentioned earlier, the demand of duty is governed by Section 11A of CEA and the provisions of the said section has been summarized in the following table:

|  |   |
|--|---|
| Initiation of proceedings under Section 11A  | Whenever there is a short levy/short payment or non-levy or non-payment, or there has been erroneous refund, proceedings can be undertaken.   |
| Show cause Notice                            | It is mandatory for the Department to issue a show cause notice.  |
| Time limit                                   | <p>(a) Cases involving fraud, collusion, willful misstatement or suppression of facts or contravention of any provisions with intent to evade payment of duty – notice should be served within <b>5 years</b> from relevant date. (Section 11(4) of CEA)</p> <p>(b) In other cases – notice should be serviced within 18 months from relevant date. (Section 11A (1)(a))</p> <p>(c) Where the service of notice is stayed by court order, the period of such stay would be excluded in computing this time limit. (Section 11(8) of CEA)</p>  |
| Payment by assessee before serving of notice | <p>the person chargeable with duty may pay on the basis of,—</p> <p>(i) his own ascertainment of such duty; or</p> <p>(ii) duty ascertained by the Central Excise Officer, the amount of duty along with interest payable thereon under section 11AA. (Section 11A(1)(b) of CEA)</p> <p>The person after paying the aforesaid duty, shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice in respect of the duty so paid or any penalty leviable. (Section 11A(2) of CEA)</p> <p>If the Central Excise Officer is of the opinion that the amount paid falls short of the amount actually payable, then he shall proceed to issue the notice of such amount that falls short (Section 11A(3) of CEA)</p> |
| Determination of duty                        | The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice. (Section 11A(10) of CEA)   |



|   |   |
|---|---|
| Time limit for determining the duty by Central Excise Officer | The Central Excise Officer shall determine the amount of duty of excise—<br>(a) within six months from the date of notice in respect of cases where there was no fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of law;<br>(b) <b>within Two year (Amended by finance Act 2016)</b> from the date of notice in respect of cases involving fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of law. (Section 11A(11) of CEA)   |
| From which date the time limit will be computed               | The date from which the time limit will be computed is defined as 'Relevant date'. It means -<br>(a) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and <b>no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed</b> under this Act and the rules made thereunder;<br>(b) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed, <b>the date on which such return has been filed</b> ;<br>(c) in any other case, <b>the date on which duty of excise is required to be paid</b> under this Act or the rules made thereunder;<br>(d) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, <b>the date of adjustment of duty after the final assessment thereof</b> ;<br>(e) in the case of excisable goods on which duty of excise has been erroneously refunded, <b>the date of such refund</b> ;<br>(f) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates. |
| Payment on passing of the order                               | The manufacturer can either pay the duty determined or on the other hand has right to challenge the order by going for further appeal, where he may get a stay of demanded amounts.   |
| Non-applicability of Section 11A                              | The provisions of Section 11A does not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed. (Section 11A(16) of CEA) w.e.f. 14.05.2015  |

### Rationalization of penal provision (SECTION 11AC)

**Non Fraud Cases:** In cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any of the provision of the Excise act or rules with the intent to evade payment of duty, in the following manner:

- a. Ceiling of 10% of the duty determined under section 11A(10) of the Excise Act or Rs.5000/- whichever is higher has been incorporated:
- b. No penalty leviable if the duty amount and interest is paid within 30 days of the issuance of SCN and proceedings in respect of such duty amount and interest shall be deemed to have been concluded.
- c. Reduced penalty equal to 25% (i.e. 2.5% of duty) of the penalty if the duty amount, interest and reduced penalty is paid within 30 days of communication of the Adjudication Order.
- d. If the duty amount or penalty is increased in any Appellate proceedings, then the benefit of reduced penalty (i.e. 25%) shall be admissible if duty, interest and reduced penalty on such increased amount is paid within 30 days of such Appellate Order.

**Fraud Cases:** In cases involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Excise Act or rules with the intent to evade payment of duty. In the following manner;

- a. Penalty shall be of 100% of the duty determined under section 11A (10) of the excise. However, in respect of the cases where the details relating to such transactions are recorded in the specified recorded for the period beginning with the April 8,2011 upto the date on which the Finance Bill,2015 receives the assent of the President (i.e. May 14,2015)(both days inclusive),the penalty shall be 50% of the duty so determined;
- b. Reduced penalty equal to 15% of the duty amount alleged in the SCN shall be levied if duty, interest and

reduced penalty is paid within 30 days of issuance of SCN. Further proceedings in respect of such duty amount , interest, and penalty shall be deemed to be concluded;

- c. Reduced penalty equal to 25% of the duty amount, determined by the central excise officer by an adjudication order , shall be levied if the duty, interest and reduced penalty is paid with 30 days of communication of order of the Central Excise Officer;
- d. If the duty amount gets modified in any Appellate proceedings, then the amount of penalty and the interest payable thereon shall stand modified accordingly ,and after taking into account the amount of duty so modified, the person who is liable to pay such amount of duty, shall also be liable to pay the amount of penalty and interest so modified;
- e. If the duty amount or penalty is increased in any Appellate proceedings, then the benefit of reduced penalty @ 25% shall be admissible if duty, interest and reduced penalty on such increased amount is paid within 30 days of such appellate order.

**Transitional provisions:** Explanation 1 prescribes the transitional provisions in the following manner:

- a. Amended provisions of section 11AC of the Excise Act shall apply to cases where no SCN is issued before the date of enactment of the Finance Bill,2015 (i.e, May,2015) and
- b. In cases where SCN has been issued but no adjudication order has been issued before the date of enactment of the finance bill, 2015 (i.e. May 14, 2015), the assessee shall be eligible to closure of proceedings on payment of duty and interest in non-fraud cases or on payment of duty, interest and 15% penalty in fraud cases, within 30 days from the date on which the Finance Bill, 2015 receives the assent of the President.
- c. In cases where adjudication order is passed after the date of enactment of the Finance Bill, 2015, assessee shall be eligible to benefit of reduced penalty of 25% of penalty amount in non fraud cases or 25 % of duty amount in fraud cases, subject to the conditions that the payment of duty, interest, and penalty is made within 30 days of the communication of the order.

## 12. REFUND

Section 11B of CEA, provides that any person claiming refund of duty of excise shall make an application for such amount to the AC/DC in such form and manner as may be prescribed. The application shall be accompanied by the documentary evidence of payment of duty and also other documents to substantiate that incidence of duty has been borne by the applicant. A refund application should be filed within one year from the date of payment of duty. The period of one year shall not apply where any duty has been paid under protest.

In case the refund has not been granted within a period of 3 months from the date of application, the applicant shall be entitled to interest @ 6% of duty amount from the date immediately after the expiry of 3 months from the date of receipt of application.

## 13. OFFENCES AND PENALTIES

13.1. As per Section 9 of CEA, some of the offences like

- Evasion of payment of any duty payable under the Act
- Removal of any excisable goods in contravention of any of the provisions of CEA or any rules made thereunder
- Contravention of any of the provisions of CEA or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products
- Contravention of any of the provisions of CEA or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products
- Failure to supply any information which is required by rules made under this Act to supply, or supplies false information shall be punishable, —
  - (i) in the case of an offence relating to any excisable goods, the duty leviable thereon under this Act exceeds fifty lakhs of rupees, with imprisonment for a term which may extend to seven years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court such imprisonment shall not be for a term of less than six months;

- (ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.

13.2. As per Section 9A of CEA, offences relating to excisable goods where the duty leviable thereon under this Act exceeds fifty lakh rupees and punishable for evasion of the payment of any duty or for dealing with any excisable goods which he knows or has reason to believe are liable to confiscation shall be cognizable and non-bailable.

13.3. A breach of any rules under CER, where no other penalty is provided herein or in the Act, be punishable with a penalty which may extend to five thousand rupees and with confiscation of the goods in respect of which the offence is committed

## CENVAT CREDIT RULES

### RULE 2 – DEFINITIONS

|                    |  |
|--------------------|--|
| Capital Goods      | <p>Capital Goods mean :-</p> <p>(A) the following goods, namely :-</p> <ul style="list-style-type: none"> <li>(i) all goods falling under Chapter 82, Chapter 84, Chapter 85, Chapter 90, [heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804] of the First Schedule to the Excise Tariff Act;</li> <li>(ii) pollution control equipment;</li> <li>(iii) components, spares and accessories of the goods specified at (i) and (ii);</li> <li>(iv) moulds and dies, jigs and fixtures;</li> <li>(v) refractories and refractory materials;</li> <li>(vi) tubes and pipes and fittings thereof;</li> <li>(vii) storage tank, and</li> <li>(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis [but including dumpers and tippers, used - <ul style="list-style-type: none"> <li>(1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or</li> <li>(1A) outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory; or]</li> <li>(2) for providing output service;</li> </ul> </li> </ul> <p>(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for -</p> <ul style="list-style-type: none"> <li>(i) providing an output service of renting of such motor vehicle; or</li> <li>(ii) transportation of inputs and capital goods used for providing an output service; or</li> <li>(iii) providing an output service of courier agency;</li> </ul> <p>(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of -</p> <ul style="list-style-type: none"> <li>(i) transportation of passengers; or</li> <li>(ii) renting of such motor vehicle; or</li> <li>(iii) imparting motor driving skills;</li> </ul> <p>(D) components, spares and accessories of motor vehicles which are capital goods for the assessee;</p> |
| First Stage Dealer | <p>“First stage dealer” means a dealer, who purchases the goods directly from, -</p> <ul style="list-style-type: none"> <li>(i) the manufacturer under the cover of an invoice issued in terms of the provisions of Central Excise Rules, 2002 or from the depot of the said manufacturer, or from premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice; or</li> <li>(ii) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice;</li> </ul>   |

|               |   |
|---------------|---|
| Input         | <p>“Input” means -</p> <ul style="list-style-type: none"> <li>(i) all goods used in the factory by the manufacturer of the final product; or</li> <li>(ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or</li> <li>(iii) all goods used for generation of electricity or steam for captive use; or</li> <li>(iv) all goods used for providing any output service;</li> </ul> <p>but excludes -</p> <ul style="list-style-type: none"> <li>(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;</li> <li>(B) any goods used for - <ul style="list-style-type: none"> <li>(a) construction or execution of works contract of a building or a civil structure or a part thereof; or</li> <li>(b) laying of foundation or making of structures for support of capital goods, except for the provision of service portion in the execution of a works contract or construction service as listed under clause (b) of section 66E of the Act;]</li> </ul> </li> <li>(C) capital goods except when used as parts or components in the manufacture of a final product;</li> <li>(D) motor vehicles;</li> <li>(E) any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and</li> <li>(F) any goods which have no relationship whatsoever with the manufacture of a final product.</li> </ul>   |
| Input Service | <p>“input service” means any service, -</p> <ul style="list-style-type: none"> <li>(i) used by a provider of [output service] for providing an output service; or</li> <li>(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,</li> </ul> <p>and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;</p> <p>but excludes, -</p> <ul style="list-style-type: none"> <li>(A) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for - <ul style="list-style-type: none"> <li>(a) construction or execution of works contract of a building or a civil structure or a part thereof; or</li> <li>(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or</li> </ul> </li> <li>(B) services provided by way of renting of a motor vehicle], in so far as they relate to a motor vehicle which is not a capital goods; or</li> <li>(BA) service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not a capital goods, except when used by - <ul style="list-style-type: none"> <li>(a) a manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or</li> <li>(b) an insurance company in respect of a motor vehicle insured or reinsured by such person; or</li> </ul> </li> <li>(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee</li> </ul> |

### Rule 3 : CENVAT credit

This Rule specifies the duties in respect of which a manufacturer or producer or provider of service shall be allowed to take CENVAT Credit such as Excise duty specified in the First and Second Schedule to the Excise Tariff Act, leviable under the Excise Act, the additional Excise duty leviable u/s 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 and Additional Duties of Excise (Goods of Special Importance) Act, 1957, the National Calamity Contingent duty leviable u/s 136 of the Finance Act, 2001, the service tax leviable u/s 66A & 66B of the Finance Act, etc. paid on any input or capital goods received in the factory of manufacturer or by service provider and any input received by manufacturer or provider of output service.

Further, the CENVAT credit may be utilized for payment of –

- (a) any duty of excise on any final product; or
- (b) an amount equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or
- (c) an amount equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or
- (d) an amount under sub-rule (2) of rule 16 of Central Excise Rules, 2002; or
- (e) service tax on any output service :

The following conditions must be kept in mind:

- the CENVAT credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, for payment of duty or tax relating to that month or the quarter,
- it shall not be utilised for payment of any duty of excise on goods in respect of which the benefit is availed of an exemption under any specific notification in this behalf.
- credit of the additional duty leviable under section 3(5) of the Customs Tariff Act, shall be utilised for payment of service tax on any output service.
- Further, CENVAT credit cannot be used for payment of service tax in respect of services where the person liable to pay tax is the service recipient.
- When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, or premises of the service provider or manufacturer, he shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9 except where they are removed for providing output service or for providing free warranty for final products. The amount so paid shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods.
- If the capital goods, on which CENVAT credit has been taken, are removed after being used, whether as capital goods or as scrap or waste, the manufacturer or provider of output services shall pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT Credit, namely –
  - (a) for computers and computer peripherals :

|   |      |
|---|------|
| for each quarter in the first year            | @10% |
| for each quarter in the second year           | @8%  |
| for each quarter in the third year            | @5%  |
| for each quarter in the fourth and fifth year | @1%  |
  - (b) for capital goods, other than computers and computer peripherals @ 2.5% for each quarter:

Provided that if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.

The amount so paid shall be eligible as CENVAT credit as if it was a duty paid by the person who removed such goods.

- If the value of any input, or capital goods before being put to use, on which CENVAT credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account then the manufacturer or service provider, shall pay an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods. Credit shall however be allowed if the input or capital goods is subsequently used in the manufacture of final products or the provision of output services.
- Where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods [and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods] shall be reversed.
- Quantum of CENVAT credit in respect of inputs or capital goods produced or manufactured, by a 100% export-oriented undertaking or by a unit in an Electronic Hardware Technology Park or in a Software Technology Park other than a unit which pays excise duty levied under section 3 of the Excise Act read with Notification No. 23/2003-Central Excise, dated 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003] and used in the manufacture of the final products or in providing an output service, in any other place in India, in case the unit pays excise duty under section 3 of the Excise Act as per Notification No. 23/ 2003-Central Excise, dated the 31st March, 2003 [G.S.R. 266(E), dated the 31st March, 2003], shall be calculated as per the formula prescribed under Rule 3 (7).

#### **Rule 4: Conditions for allowing CENVAT credit.**

The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service or in the premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be,:

- The CENVAT credit in respect of inputs may be taken *immediately* on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service or in the premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be.
- The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service or outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory or in the premises of the job worker, in case capital goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be, at any point of time in a given financial year shall be taken only for an amount not exceeding 50% of the duty paid on such capital goods in the same financial year. The balance of CENVAT credit may be taken in any financial year subsequent to the year in which the capital goods were received in the factory or in the premises, if the capital goods, are in the possession of the manufacturer of final products, or provider of output service in such subsequent years.
- Full CENVAT credit can be taken in the same financial year if such capital goods are cleared as such in the same financial year or where an assessee is eligible to avail of the exemption under a notification based on the value of clearances in a financial year.
- In case of spare parts, components, moulds and dies, refractory materials and grinding wheels etc., the balance credit can be availed in subsequent year, even if they are not in possession of the manufacturer or the output service provider.
- The CENVAT credit on inputs or capital goods shall be allowed even if any inputs as such or after being partially processed or capital goods as such are sent to a job worker and from there subsequently sent to another job worker and likewise, for further processing, testing, repairing, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final products or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or the provider of output service taking the CENVAT credit that the inputs or the products produced therefrom are received back by the manufacturer or the provider of output service, as the case may be, within 180 days [2 years in case of capital goods] of their being sent from the factory or premises of the provider of output service, as the case may be:
- Provided that credit shall also be allowed even if any inputs or capital goods are directly sent to a job worker without their being first brought to the premises of the manufacturer or the provider of output

service, as the case may be, and in such a case, the period of 180 days [ 2 years in case of capital goods] shall be counted from the date of receipt of the inputs or capital goods by the job worker;

- If the inputs or capital goods, as the case may be, are not received back within the time specified under sub-clause (i) or (ii), as the case may be, by the manufacturer or the provider of output service, the manufacturer or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods, as the case may be, by debiting the CENVAT credit or otherwise, but the manufacturer or the provider of output service may take the CENVAT credit again when the inputs or capital goods, as the case may be, are received back in the factory or in the premises of the provider of output service.”;
- The CENVAT credit shall also be allowed in respect of jigs, fixtures, moulds and dies sent by a manufacturer of final products to another manufacturer for the production of goods or a job worker for the production of goods on his behalf, according to his specifications.
- The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose allow final products to be cleared from the premises of the job-worker.
- The CENVAT credit in respect of input service shall be allowed, on or after the day on which the invoice, bill or, as the case may be, challan referred to in rule 9 is received. However, that in respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid.
- “Provided further that in case the payment of the value of input service and the service tax paid or payable as indicated in the invoice, bill or, as the case may be, challan is not made within three months of the date of the invoice, bill or, as the case may be, challan, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service, except an amount equal to the CENVAT credit of the tax that is paid by the manufacturer or the service provider as recipient of service, and in case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules.
- With effect from 1 March 2015, CENVAT credit of input, capital goods or input services has to be taken within a period of one year from the date of issue of invoice/ challan/ other specified documents under Rule 9(1) of the Credit Rules.

**Rule 5: Refund of CENVAT Credit.**

It provides for the refund of CENVAT credit to a manufacturer who clears a final product or an intermediate product for export without payment of duty under bond or letter of undertaking, or a service provider who provides an output service which is exported without payment of service tax, shall be allowed refund of CENVAT credit as determined by the following formula subject to conditions and limitations, as may be specified by the Board by notification:

$$\text{Refund Amount} = \frac{(\text{Export Turnover of goods} + \text{Export Turnover of services})}{\text{Total Turnover}} \times \text{Net CENVAT Credit}$$

Where, -

- (A) “**Refund amount**” means the maximum refund that is admissible;
- (B) “**Net CENVAT credit**” means total CENVAT credit availed on inputs and input services by the manufacturer or the output service provider reduced by the amount reversed in terms of sub-rule (5C) of rule 3, during the relevant period;
- (C) “**Export turnover of goods**” means the value of final products and intermediate products cleared during the relevant period and exported without payment of Central Excise duty under bond or letter of undertaking;
- (D) “**Export turnover of services**” means the value of the export service calculated in the following manner, namely :-

**Export turnover of services** = payments received during the relevant period for export services + export services whose provision has been completed for which payment had been received in advance in any period prior to the relevant period - advances received for export services for which the provision of service has not been completed during the relevant period;

- (E) **“Total turnover”** means sum total of the value of -
- (a) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported;
  - (b) export turnover of services determined in terms of clause (D) of sub-rule (1) above and the value of all other services, during the relevant period; and
  - (c) all inputs removed as such under sub-rule (5) of rule 3 against an invoice, during the period for which the claim is filed.

**Rule 5A- Refund of CENVAT credit to units in specified areas:** It provides for refund of CENVAT credit to units in specified areas, i.e, areas where utilization of CENVAT credit on manufacture of final products specified in notification No. 20/2007-Central Excise, dated the 25th April, 2007, is not possible.

**Rule 5B- Refund of CENVAT credit to service providers providing services taxed on reverse charge basis:** It provides for refund of CENVAT credit to service providers providing services taxed on reverse charge basis subject to limitations and conditions notified by the Board in the behalf.

**Rule 6- Obligation of a manufacturer or producer of final products and a provider of output service:** It provides that credit shall not be allowed on so much of the input or input services as used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services. However, it shall not apply to a job worker referred to in Rule 12AA of the Central Excise Rules, 2002.

Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for exempted and taxable goods or output services in respect of -

- (a) the receipt, consumption and inventory of inputs used—
  - (i) in or in relation to the manufacture ;
  - (ii) for the provision of services; and (b)the receipt and use of input services —
    - (i) in or in relation to the manufacture and clearance upto the place of removal ;
    - (ii) for the provision of services;

and shall take CENVAT credit only on inputs used in manufacture or provision of taxable goods or services.

Where the manufacturer of goods or the provider of output service, opts not to maintain separate accounts, he shall follow any one of the following options :-

- (i) pay an amount equal to 6% of value of the exempted goods and exempted services; or
- (ii) pay an amount as determined under Rule 6 (3A); or
- (iii) maintain separate accounts for the receipt, consumption and inventory of inputs as provided above and take CENVAT credit only on inputs used in manufacture or provision of taxable goods or services and pay an amount as determined under sub-rule (3A) in respect of input services.

**Rule 7- Manner of distribution of credit by input service distributor :** It provides that the input service distributor may distribute the CENVAT credit in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions:

- (a) the credit distributed against a document referred to in Rule 9 does not exceed the amount of service tax paid thereon;



- (b) credit of service tax attributable to service used in a unit exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed;
- (c) credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit; and
- (d) credit of service tax attributable to service used in more than one unit shall be distributed pro rata on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units to which the service relates during the same period.

**Rule 7A - Distribution of credit on inputs by the office or any other premises of output service provider:**

It provides that a provider of output service shall be allowed to take credit on inputs and capital goods received, on the basis of an invoice or a bill or a challan issued by an office or premises of the said provider of output service, which receives invoices, issued in terms of the provisions of the Central Excise Rules, 2002, towards the purchase of inputs and capital goods.

**Rule 8 - Storage of input outside the factory of the manufacturer:** It provides that the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, having jurisdiction over the factory of a manufacturer of the final products may, in exceptional circumstances having regard to the nature of the goods and shortage of storage space at the premises of such manufacturer, by an order, permit such manufacturer to store the input in respect of which CENVAT credit has been taken, outside such factory, subject to such limitations and conditions as he may specify.

**Rule 9: Documents and accounts:** It specifies the documents on the basis of which the CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor.

Further, The CENVAT credit in respect of input or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if such dealer has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him.

The manufacturer of final products or the provider of output service shall maintain proper records for the receipt, disposal, consumption and inventory of the input and capital goods and records for the receipt and consumption of the input services in which the relevant information regarding the value, duty paid, CENVAT credit taken and utilized, the person from whom the input or capital goods have been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

The manufacturer of final products shall submit within 10 days from the close of each month to the Superintendent of Central Excise, a monthly return and where a manufacturer is availing exemption under a notification based on the value or quantity of clearances in a financial year, he shall file a quarterly return within 10 days after the close of the quarter to which the return relates.

A first stage dealer or a second stage dealer shall submit a Return within 15 days from the close of each quarter of a year to the Superintendent of Central Excise.

The provider of output service availing CENVAT credit, shall submit a half yearly return in form ST – 3, by the end of the month following the particular quarter or half year.

The input service distributor, shall furnish a half yearly return, giving the details of credit received and distributed during the said half year to the Superintendent of Central Excise, not later than the last day of the month following the half year period.

The provider of output service, availing CENVAT credit or the input service distributor as the case may be, may submit a revised return to correct a mistake or omission within a period of 60 days from the date of submission of the return.

**RULE 9A - Information relating to principal inputs:** A manufacturer of final products shall furnish to the Superintendent of Central Excise, annually by 30th April of each Financial Year, a declaration in the Form ER - 5 in respect of each of the excisable goods manufactured or to be manufactured by him, the principal inputs and the quantity of such principal inputs required for use in the manufacture of unit quantity of such final products.

Further, a manufacturer of final products shall submit, within 10 days from the close of each month, to

the Superintendent of Central Excise, a monthly return in the Form ER - 6 in respect of information regarding the receipt and consumption of each principal inputs with reference to the quantity of final products manufactured by him. Every assessee shall file electronically, the declaration or the return, as the case may be, specified in this rule.

**Rule 10 - Transfer of CENVAT credit:** It provides that if a manufacturer of the final products shifts his factory to another site or the factory is transferred on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the factory to a joint venture with the specific provision for transfer of liabilities of such factory, then, the manufacturer shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated factory.

If a provider of output service shifts or transfers his business on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the business to a joint venture with the specific provision for transfer of liabilities of such business, then, the provider of output service shall be allowed to transfer the CENVAT credit lying unutilized in his accounts to such transferred, sold, merged, leased or amalgamated business.

The transfer of the CENVAT credit shall be allowed only if the stock of inputs as such or in process, or the capital goods is also transferred along with the factory or business premises to the new site or ownership and the inputs, or capital goods, on which credit has been availed of are duly accounted for to the satisfaction of the Deputy Commissioner of Central Excise or, as the case may be, the Assistant Commissioner of Central Excise.

**Rule 10A - Transfer of CENVAT credit of additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act:** (1) A manufacturer or producer of final products, having more than one registered premises, for each of which registration under the Central Excise Rules, 2002 has been obtained on the basis of a common Permanent Account Number under the Income-tax Act, 1961, may transfer unutilised CENVAT credit of additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, lying in balance with one of his registered premises at the end of a quarter, to his other registered premises by—

- (i) making an entry for such transfer in the documents maintained under rule 9;
- (ii) issuing a transfer challan containing registration number, name and address of the registered premises transferring the credit and receiving such credit, the amount of credit transferred and the particulars of such entry as mentioned in clause (i), and such recipient premises may take CENVAT credit on the basis of the transfer challan.

The manufacturer or producer is also required to submit the monthly return, as specified under these rules, separately in respect of transferring and recipient registered premises.

**Rule 11 - Transitional provision:** When a manufacturer opts for exemption from whole of excise duty under a Notification based on value of clearances in a financial year and who has been taking and who has been taking CENVAT credit on inputs or input services before such option is exercised, shall be required to pay an amount equivalent to the CENVAT credit, if any, allowed to him in respect of inputs lying in stock or in process or contained in final products lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any excisable goods, whether cleared for home consumption or for export.

A manufacturer or producer of a final product shall be required to pay an amount equivalent to the CENVAT credit, if any, taken by him in respect of inputs received for use in the manufacture of the said final product and is lying in stock or in process or is contained in the final product lying in stock, if,-

- (i) he opts for exemption from whole of the duty of excise leviable on the said final product manufactured or produced by him under a notification issued under section 5A of the Act; or
- (ii) the said final product has been exempted absolutely under section 5A of the Act, and after deducting the said amount from the balance of CENVAT credit, if any, lying in his credit, the balance, if any, still remaining shall lapse and shall not be allowed to be utilized for payment of duty on any other final product whether cleared for home consumption or for export, or for payment of service tax on any output service, whether provided in India or exported.

A provider of output service shall be required to pay an amount equivalent to the CENVAT credit,

if any, taken by him in respect of inputs received for providing the said service and is lying in stock or is contained in the taxable service pending to be provided, when he opts for exemption from payment of whole of the service tax

**Rule 12- Special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim.:** It provides for special dispensation in respect of inputs manufactured in factories located in specified areas of North East region, Kutch district of Gujarat, State of Jammu and Kashmir and State of Sikkim.

**Rule 12A- Procedure and facilities for large tax payer:** A large tax payer may remove inputs, except motor spirit, commonly known as petrol, high speed diesel and light diesel oil or capital goods, as such, on which CENVAT credit has been taken, without payment of an amount specified in sub-rule (5) of rule 3 of these rules, under the cover of a transfer challan or invoice, from any of his registered premises to his other registered premises, other than a premises of a first or second stage dealer, for further use in the manufacture or production of final products in recipient premises subject to condition that -

- (a) the final products are manufactured or produced using the said inputs and cleared on payment of appropriate duties of excise leviable thereon within a period of 6 months, from the date of receipt of the inputs in the recipient premises; or
- (b) the final products are manufactured or produced using the said inputs and exported out of India, under bond or letter of undertaking within a period of 6 months, from the date of receipt of the input goods in the recipient premises, and that any other conditions prescribed by the Commissioner of Central Excise, Large Tax payer Unit in this regard are satisfied.

**Rule 12AAA- Power to impose restrictions in certain types of cases :** Notwithstanding anything contained in these Rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, registered importer, first stage and second stage dealer or an exporter, may by a notification in the Official Gazette, specify nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by an officer authorized by the Board.

**Rule 13 - Power of Central Government to notify goods for deemed CENVAT credit:** Notwithstanding anything contained in Rule 3, the Central Government may, by notification, declare the input or input service on which the duties of excise, or additional duty of customs or service tax paid, shall be deemed to have been paid at such rate or equivalent to such amount as may be specified in that notification and allow CENVAT credit of such duty or tax deemed to have been paid in such manner and subject to such conditions as may be specified in that notification even if, in the case of input, the declared input, or in the case of input service, the declared input service, as the case may be, is not used directly by the manufacturer of final products, or as the case may be, by the provider of output service, declared in that notification, but contained in the said final products, or as the case may be, used in providing the output service.

**RULE 14. Recovery of CENVAT credit wrongly taken or erroneously refunded. —**

- (1)
  - (i) Where the CENVAT credit has been taken wrongly but not utilised, the same shall be recovered from the manufacturer or the provider of output service, as the case may be, and the provisions of section 11A of the Excise Act or section 73 of the Finance Act, 1994 (32 of 1994), as the case may be, shall apply mutatis mutandis for effecting such recoveries;
  - (ii) Where the CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same shall be recovered along with interest from the manufacturer or the provider of output service, as the case may be, and the provisions of sections 11A and 11AA of the Excise Act or sections 73 and 75 of the Finance Act, 1994, as the case may be, shall apply mutatis mutandis for effecting such recoveries.
- (2) For the purposes of sub-rule (1), all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely: -
  - (i) the opening balance of the month has been utilised first;

- (ii) credit admissible in terms of these rules taken during the month has been utilised next;
- (iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter.

**RULE 15- Confiscation and penalty:**

- (1) If any person, takes or utilises CENVAT credit in respect of input or capital goods or input services, wrongly or in contravention of any of the provisions of these rules, then, all such goods shall be liable to confiscation and such person, shall be liable to a penalty in terms of section 11AC of the Excise Act or of section 76 of the Finance Act (32 of 1994), as the case may be.
- (2) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Excise Act, or of the rules made thereunder with intent to evade payment of duty, then, the manufacturer shall also be liable to pay penalty in terms of the provisions of of section 11AC of the Excise Act.
- (3) In a case, where the CENVAT credit in respect of input or capital goods or input services has been taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of these rules or of the Finance Act or of the rules made thereunder with intent to evade payment of service tax, then, the provider of output service shall also be liable to pay penalty in terms of the provisions of sub-section (1) of section 78"of the Finance Act.
- (4) Any order under sub-rule (1), sub-rule (2) or sub-rule (3) shall be issued by the Central Excise Officer following the principles of natural justice.

**RULE 15A- General penalty:** Whoever contravenes the provisions of these rules for which no penalty has been provided in the rules, he shall be liable to a penalty which may extend to five thousand rupees.

**SETTLEMENT OF INDIRECT TAX CASES BY CUSTOMS AND CENTRAL EXCISE SETTLEMENT COMMISSION**

**SECTION 32E . Application for settlement of cases. —**

- (1) An assessee may, in respect of a case relating to him, make an application, before adjudication, to the Settlement Commission to have the case settled, in such form and in such manner as may be prescribed and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification, under-valuation, inapplicability of exemption notification or Cenvat credit or otherwise and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless, —

- (a) the applicant has filed returns showing production, clearance and Central excise duty paid in the prescribed manner;
- (b) a show cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant;
- (c) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and
- (d) the applicant has paid the additional amount of excise duty accepted by him along with interest due under section 11AB :

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any court:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985 (5 of 1986).

- (1A) Notwithstanding anything contained in sub-section (1), where an application was made under sub-section (1), before the 1st day of June, 2007 but an order under sub-section (1) of section 32F has not been made before the said date or payment of amount so ordered by the Settlement Commission under sub-section (1) of section 32F has not been made, the applicant shall within a period of thirty days from

the 1st day of June, 2007, pay the accepted duty liability failing which his application shall be liable to be rejected.

- (2) Where any excisable goods, books of accounts, other documents have been seized under the provisions of this Act or rules made thereunder, the assessee shall not be entitled to make an application under sub-section (1), before the expiry of one hundred and eighty days from the date of the seizure.
- (3) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.
- (4) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

**SECTION 32F . Procedure on receipt of an application under section 32E. —**

- (1) On receipt of an application under sub-section (1) of section 32E, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

- (2) A copy of every order under sub-section (1), shall be sent to the applicant and to the Commissioner of Central Excise having jurisdiction.
- (3) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the Commissioner of Central Excise having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission :

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

- (4) Where a report of the Commissioner called for under sub-section (3) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case :

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

- (5) After examination of the records and the report of the Commissioner of Central Excise received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (4), and after giving an opportunity to the applicant and to the Commissioner of Central Excise having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Central Excise and Commissioner (Investigation) under sub-section (3) or sub-section (4).
- (6) An order under sub-section (5) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority

before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.

Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months.

- (7) Subject to the provisions of section 32A, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (5) and, in relation to the passing of such order, the provisions of section 32D shall apply.
- (8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefore and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts :

Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the duty liability admitted by the applicant under section 32E.

- (9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the assessee within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of section 11.
- (10) Where a settlement becomes void as provided under sub-section (8), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Central Excise Officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.

#### **SECTION 32H . Power of Settlement Commission to reopen completed proceedings. —**

If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 32E was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also :

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 32E is made on or after the 1st day of June, 2007.

#### **SECTION 32 I . Powers and procedure of Settlement Commissions. —**

- (1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a Central Excise Officer under this Act or the rules made thereunder.
- (2) Where an application made under section 32E has been allowed to be proceeded with under section 32F, the Settlement Commission shall, until an order is passed under sub-section [(5)] of section 32F, have, subject to the provisions of sub-section [(4)] of that section, exclusive jurisdiction to exercise the powers and perform the functions of any Central Excise Officer, under this Act in relation to the case.
- (3) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.
- (4) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its

powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

**SECTION 32K . Power of Settlement Commission to grant immunity from prosecution and penalty. —**

- (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 32E has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act [and also either wholly or in part from the imposition of any penalty and fine] under this Act, with respect to the case covered by the settlement:

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 32E.

[Explanation. — For the removal of doubts, it is hereby declared that applications filed before the Settlement Commission on or before the 31st day of May, 2007 shall be disposed of as if the amendment in this section had not come into force.]

- (2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under [sub-section (5) of section 32F within the time specified in such order] or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.
- (3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

**SECTION 32L . Power of Settlement Commission to send a case back to the Central Excise Officer. —**

- (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 32E has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the Central Excise Officer having jurisdiction who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.
- (2) For the purpose of sub-section (1), the Central Excise Officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such Central Excise Officer or held or recorded by him in the course of the proceedings before him.
- (3) For the purposes of the time limit under section 11A and for the purposes of interest under section 11BB, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 32E and ending with the date of receipt by the Central Excise Officer of the order of the Settlement Commission sending the case back to the Central Excise Officer shall be excluded.

**SECTION 32M . Order of settlement to be conclusive. —**

Every order of settlement passed under sub-section [(5)] of section 32F shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

**SECTION 32N . Recovery of sums due under order of settlement. —**

Any sum specified in an order of settlement passed under sub-section [(5)] of section 32F may, subject to such conditions if any, as may be specified therein, be recovered, and any penalty for default in

making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions under section 11 by the Central Excise Officer having jurisdiction over the person who made the application for settlement under section 32E.

**SECTION 32O . Bar on subsequent application for settlement in certain cases. —**

- (1) Where-
- (i) an order of settlement passed under sub-section (7) of section 32F, as it stood immediately before the commencement of section 122 of the Finance Act ,2007(22 of 2007) or sub- section 5 of section 32F, provides for the imposition of a penalty on the person who made the application under section 32E for settlement, on the ground of concealment of particulars of his duty liability; or
  - (ii) after the passing of an order of settlement under the said sub-section (7), as it stood immediately before the commencement of section 122 of the Finance Act ,2007(22 of 2007) or sub- section 5 of section 32F, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or
  - (iii) the case of such person is sent back to the Central Excise Officer having jurisdiction by the Settlement Commission under section 32L, then, he shall not be entitled to apply for settlement under section 32E in relation to any other matter.

**SERVICE TAX.**

Chapter V of the Finance Act, 1994

**SECTION 83 . Application of certain provisions of Act 1 of 1944. –**

The provisions of the following sections of the Central Excise Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise: -

Sections 9A, 9AA, 9B, 9C, 9D, 9E, 11B, 11BB, 11C, 12, 12A, 12B, 12C, 12D, 12E, 14,15, 31,32, 32A to 32P, 33A, 35EE, 34A, 35F, 35FF to 35O (both inclusive), 35Q, 35R, 36, 36A, 36B, 37A, 37B, 37C, 37D, 38A and 40



# INDIAN CUSTOMS LAW

## 1.0 INTRODUCTION

The Constitution of India (Article 265) lays down that no tax shall be levied or collected except by authority of law. The law for the levy and collection of Customs duties is the Customs Act, 1962. This legislation has been enacted by Parliament in exercise of the exclusive power vested in it under Article 246 read with Entry 83 of List-I of the Seventh Schedule of the Constitution. The Customs Duties are major tax revenue for the Union Government and constitute around 30% of its total tax revenues. It helps the Government to keep a check on imports to and exports from the country.

## 2.0 DEFINITION OF CUSTOMS DUTY

Customs duty is a duty or tax, which is levied by Central Government on import as well as export of goods from, India and collected from the importer or exporter of goods, but its incidence, is actually borne by the consumer of the goods and not by the importer or the exporter who pays it. These duties are usually levied with ad valorem rates and their base is determined by the domestic value of the imported goods calculated at the official exchange rate. Similarly, export duties are imposed on export values expressed in domestic currency.

## 3.0 SCOPE & COVERAGE OF CUSTOMS LAW

The following two Acts, form part of Customs Law in India:

- The Customs Act, 1962: - It is the basic Act for levy and collection of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandize and baggage of persons arriving in India. The purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods, to keep a check on imports and exports and earn revenue. The Act extends to the whole of the India.
- The Customs Tariff Act, 1975: - The Customs Duty is levied on goods imported or exported from India at the rates specified under the Customs Tariff Act, 1975. The Act contains two schedules for classification and rate of duties for imports, and for classification and rates of duties for exports. The Schedule is based on the internationally accepted Harmonised System of Nomenclature (HSN).

## 4.0 OBJECTIVES

The Custom Law was incorporated to achieve the following objectives: -

- Regulate import of foreign goods into India;
- Raise revenue;
- Regulate supply of goods into domestic market and conserve foreign exchange;
- Protect the domestic industry from foreign competition by restricting import of selected goods and services, import licensing, import quotas, and outright import ban.

## 5.0 TYPES OF CUSTOMS DUTY

Customs duty includes duties that are imposed at the time of import and export of articles. The following are various duties imposed by the customs law:

- **Basic Customs Duty:** - The rates of this duty are indicated in the Schedule-1 of the Customs Tariff Act, 1975 as amended from time to time. The duty may be fixed on ad-valorem basis or may be a percentage of the value of the goods or at a specific rate. The Central Government has the power to reduce or exempt any good from the duties.
- **Additional (Countervailing) Duty (CVD):** -This duty is leviable as additional duty on goods imported into the country and the rate is equal to the excise duty on like articles produced in India. The base of this additional duty is CIF (Cost, Insurance, and Freight) value of imports plus the duty levied earlier. CVD is payable on assessable value plus basic customs duty. In case of products covered under Maximum Retail Provisions, CVD is payable on MRP basis as per Sec 4A of Central Excise;
- **Special CVD:** - Special CVD is payable in lieu of VAT or Sales Tax on imported goods u/s 3(5) of Customs

Tariff Act. Traders importing goods can get refund. Special CVD is not payable if goods are covered under MRP valuation provisions.

- **Cesses:** - Cesses are leviable on some specified articles like coffee, coir, lac, mica, tobacco(unmanufactured), marine products cashew kernels, etc. These cesses are collected as part of Customs Duties.

An education cess @2%and secondary and higher education cess@1% of the aggregate duty of customs was also leviable earlier. However now the same has been removed and a general Custom Duty rate has been fixed at 12.5%.

- **Anti-Dumping Duty:** - It is leviable when manufacturer from abroad export goods at very low prices compared to prices in his domestic market. In order to avoid such dumping, Central Government can impose, u/s 9A of Customs Tariff Act, anti-dumping duty up to margin of dumping on such articles. Levy of such anti-dumping duty is permissible as per WTO agreement. Anti dumping action can be taken only when there is an Indian industry producing 'like articles'.

Margin of dumping is the difference between normal value (i.e. sale price in importer's country) and export price (price at which goods are exported). 'Injury margin' means difference between fair selling price of domestic industry and landed cost of imported products. Dumping duty is lower of dumping margin or injury margin. CVD, Education cess and SAH education cess is not payable on anti-dumping duty;

- **Safeguard duty:** - Central Government has the power to impose 'safeguard duty' on specified imported goods which are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. It is a step in providing a need-based protection to domestic industry, with ultimate objective of restoring free and fair competition. However, safeguard duty leviable on goods imported from China in increased quantities has been removed.

- **National Calamity Contingent Duty(NCCD):** It has been imposed vide Sec. 129 of Finance Act, 2001. This duty is imposed on specified articles. It varies from 10% to 45%;

#### General Computation of Custom Duty

| Sl. No. | Particulars                                      | Rate             |
|---------|--|------------------|
| (1)     | Assessable Value                                 |                  |
| (2)     | Basic Customs Duty                               | % of (1)         |
| (3)     | Additional Duty of Customs u/s 3(1) of CTA' 1975 | % of (1) + (2)   |
| (4)     | Customs Duty Cess                                | % of (2) + (3)   |
| (5)     | Special Additional Duty u/s 3(5) of CTA' 1975    | % of (1) to (4)  |
| (6)     | Total Tax  | Total (2) to (5) |

#### 6.0 VALUATION RULE OF IMPORTED GOODS

Customs duty is payable as a percentage of 'Value' often called 'Assessable Value' or 'Customs Value'. As per Section 14(1), transaction value at the time and place of importation or exportation, when price is sole consideration and buyer and sellers are unrelated is the basic criteria for 'value' u/s 14(1) of Customs Act. Thus, CIF value of the transaction is relevant. Further, Exchange rate as applicable on date of presentation of bill of entry u/s 46 should be considered.

Rule 3(1) of the Valuation Rules states that the value of the imported goods shall be the transaction value adjusted in accordance with the provisions of Rule 10, subject to the certain conditions. Thus, transaction value should be taken when the buyer and seller are not related and Price is the sole consideration for the sale. As per rule 3(2) of Valuation Rules, conditions for accepting transaction value are:

- There should be no restriction on buyer for disposal, disposition or use of goods by the buyer;
- Sale or price should not be subject to a condition or consideration for which value cannot be determined;

- No parts of the proceeds or any subsequent resale, disposal or use of the goods should accrue to the seller;
- Buyer and seller should not be related unless the transaction value is acceptable under rule 3(3).

Rule 10 of the Valuation Rules, provides for adjustment in the transaction value. As per Rule 10(2) the following shall be included in the value of imported goods: -

- Actual cost of transport of the imported goods to the place of importation: If actual cost unascertainable, such cost shall be 20% of FOB value of the goods.
- Actual cost of Insurance incurred: If actual cost unascertainable, such cost shall be 1.125% of FOB value of the goods.
- Loading, unloading and handling charges: are always deemed to be equal to 1% of CIF value i.e. 1% of [FOB value + Cost of Transport + Cost of Insurance]. Thus, CIF value of goods plus 1% landing charges (for loading, unloading and handling) is the basis for deciding 'Assessable Value'.
- Let us take an illustration of computation of transaction value where the value of Imports (DDP) is INR 150/- which includes custom duty INR 20/, loading/unloading charges of INR 10/- and domestic transport cost of INR 20/ -

Computation of Transaction Value after adjustment under Rule 10

| <b>Particulars</b>  | <b>Amount(in INR)</b> |
|---|-----------------------|
| Value of Goods  | 150                   |
| Less: Loading/ unloading Charges  | 10                    |
| Less: Post importation charges [as per Interpretative Notes in Rule 13] |                       |
| (a) Duties and taxes payable in India                                   | 20                    |
| (b) Domestic Transport Charges  | 20                    |
| <b>Transaction Value (CIF Value)</b>                                    | <b>100</b>            |
| Add : Adjustments under Rule 10 (2)                                     |                       |
| (a) Freight Charges – assumed that already included in CIF value        | -                     |
| (b) Insurance – assumed that already included in CIF value              | -                     |
| Loading, unloading and handling charges (1% of CIF value)               | 1                     |
| <b>Transaction Value for the purpose of calculating custom duty</b>     | <b>101</b>            |

Further, the value of imported goods shall not include certain charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods, such as:

- Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- The cost of transport after importation;
- Duties and taxes in India.

The following cost are required to be added to the transaction value:

- the Commission to local agents;
- packing cost;
- value of goods and tooling's supplied by buyer;
- Designs / engineering work done outside India;
- Royalty relating to imported goods, insurance, transportation upto port, ship demurrage.

Where transaction value cannot be the assessable value, then valuation should be done as per the Valuation Rules (methods are to be applied sequentially): -

- Transaction Value of Identical Goods [Rule 4]
- Transaction Value of Similar Goods [Rule 5]
- Deductive Value [Rule 7]
- Computed value i.e. cost of manufacture of goods plus profits [Rule 8]
- Residual method based on reasonable means and data available [Rule 9].

## **7 VALUATION RULE OF EXPORTED GOODS**

Customs value of export goods is to be determined under section 14 of Customs Act, read with Customs Valuation (Determination of Value of Export Goods), Rules, 2007. As per Section 14(1), transaction value at the time and place of importation or exportation, when price is sole consideration and buyer and sellers are unrelated is the basic criteria for 'value' u/s 14(1) of Customs Act. Thus, FOB value of the transaction is relevant.

Exchange rate as applicable on date of presentation of a shipping bill or bill of export u/s 50 should be considered.

Normally, the transaction value is taken as the Assessable Value. But, if the buyer or seller are related or price is not the sole consideration, value of the goods will be determined as per Valuation Rules. The methods for valuation are: –

- Export value by comparison [Rule 4]
- Computed value Method [Rule 5]
- Residual method [Rule 6]

## **8 VALUATION FOR CVD WHEN GOODS ARE UNDER MAXIMUM RETAIL PRICE (MRP) PROVISIONS**

In respect of some consumer goods, excise duty is payable on basis of MRP printed on the carton. If such goods are imported, CVD will be payable on basis of MRP printed on the packing. However, it has been clarified by DGFT vide policy circular No. 38(RE-2000)/1997-2002 dated 22-01-2001 that labelling requirements for pre-packed commodities are applicable only when they are intended for retail sale. These are not applicable to raw materials, components, bulk imports etc. which will undergo further processing or assembly before they are sold to consume.

## **9.0 OTHER PROVISIONS IN CUSTOMS LAW**

Capital goods and spares can be imported under 'project imports' at concessional/Nil rate of customs duty.

Remission can be obtained on goods lost (other than pilferage) in port. No remission shall be allowed after the goods are cleared from customs. In case of pilferage it should be before order for clearance is made. Duty on pilfered goods is payable by customs authorities. Title of imported goods can be relinquished and then no customs duty will be payable. This is 'remission on relinquished goods'. Title can be relinquished even after imported goods are warehoused. If imported goods are in damaged condition, abatement can be obtained in customs duty.

Goods exported can be re-imported. Such goods are considered as normal imports and customs duty is payable on such re-imports, subject to certain exemptions.

A show cause notice (SCN) for recovery of duty is required to be issued in cases where duty on goods has not been levied or paid or has been short levied or short paid or refunded erroneously, or any interest has not been paid, or short-paid, or erroneously refunded. Such SCN can be issued within 5 years from the relevant date where duty is not paid by the importer for reasons such as collusion, willful misstatement, or suppression of facts, else the SCN is required to be issued within 2 years from the relevant date. Demand for recovery of customs duty can be made within 6 months. In case of imports by individuals, Government or charitable institutions, show cause notice for demand can be issued within one year. Interest is payable for delayed payment of customs duty. Recovery procedures are prescribed in section 142 of Customs Act, which has been made applicable to Central Excise also.

Refund claim for customs duty can be made within 6 months. In case of imports by individuals, Government or

charitable institutions, refund claim can be filed within one year. Refund would be subject to unjust enrichment provisions. Central Government can prohibit or restrict imports and exports of goods u/s 11 of Customs Act.

Besides, there are other restrictions under other Acts like FTDR, Ancient Monument Preservation, Environment Control Legislation, Hazardous substances, Arms Act etc. which are required to be abided by.

An importer or exporter can transact business of imports and exports either himself or through his employees. However, generally, it is not possible as it requires expertise in procedures. Hence, Customs House Agent (CHA) is usually appointed by importer/ exporter. Section 146 of Customs Act provide for license to persons to carry on business as an agent relating to import or export of goods or entry/ departure of conveyance.

Imported goods can be kept in customs warehouse (public or private) without payment of customs duty. Bond has to be executed while clearing goods from port to warehouse. Goods can be kept in warehouse

up to 1 year awaiting receipt of import authorization or when imported goods are not immediately required for consumption. Interest is payable for warehousing beyond 90 days, @ 15%. Goods intended for use in any 100% Export Oriented Unit (EOU) can also be warehoused.

Normal warehousing period for inputs used in EOU is till their consumption or clearance from the warehouse for and for capital goods used in EOU, it is till their clearance from the warehouse. Goods can be manufactured in warehouse and exported without payment of customs duty. This facility is useful to EOU. Warehoused goods can be (a) Cleared on payment of duty (b) Cleared for export without payment of duty or (c) transferred to another warehouse without payment of duty.

# GST REFERENCER

The Goods and Services Tax (GST) will be a significant breakthrough and the next logical step towards a comprehensive indirect tax reform in the country.

## Why Goods and Service Tax (GST)?

Despite the success of VAT in mitigating the cascading effect of taxation, there are still certain shortcomings in the structure of VAT both at the Central and at the State level.

The shortcomings in CENVAT of the Government of India lies in non-inclusion of several Central taxes in the overall framework of CENVAT, such as additional customs duty, surcharges, etc. Thus, there is non-availability of benefits of comprehensive input tax and service tax set-off to manufacturers/dealers. No step has yet been taken to capture the value-added chain in the distribution trade below the manufacturing level in the existing scheme of CENVAT.

Further, there has not been any integration of VAT on goods with tax on services at the State level with the removal of cascading effect of service tax. In addition, although the burden of Central Sales Tax (CST) on inter-State movement of goods has been lessened with reduction of CST rate from 4% to 2%, this burden has also not been fully phased out. Also, there are several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which have still not been subsumed in the VAT.

The introduction of GST will subsume all major Central and State indirect taxes (subject to certain exceptions) into one tax rate, i.e., GST. It shall integrate all goods and service taxes for set-off relief, and hence a continuous chain of set-off from the original producer's and service provider's point upto the retailer's level would be established which would eliminate the burden of all cascading effects.

It may also result in revenue gain for the Centre: -

- through widening of the dealer base by capturing value addition in the distributive trade, and
- through increased compliances.

## What is Goods and Service Tax (GST)?

The idea of moving towards GST was first suggested by the then Union Finance Minister in his Budget for Financial Year 2006-2007, and it was proposed that GST would come into effect from April 1, 2010.

GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits. It is essentially a tax only on value addition at each stage, and a supplier at each stage is permitted to take set-off, through a tax credit mechanism. The GST paid on the purchase of goods and services shall be available for set-off with the GST to be paid on the supply of goods and services. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

## Understanding GST

GST is a destination-based Consumption Tax. It applies to all supplies of goods/services (as against manufacture, sale, or provision of service) made for a consideration except: -

- Exempted Goods/Services
- Goods/Services outside the purview of GST
- Transactions below the threshold limits stated in the Act.

CGST & SGST shall be levied on intra-State supplies of goods/ services in India. On the other hand, IGST will be levied and collected by the Centre and is applicable in the following cases: -

- Inter-State supplies of goods / services in India
- Inter-state stock transfers of goods
- Import of goods / services

- Export of goods / services (if made on payment of GST under claim of rebate)

## Various Taxes Subsumed Under GST

The following taxes have been subsumed under GST: -

### Central Taxes

Central Excise Duty, Additional Excise Duty

Excise Duty under Medicinal & Toiletries Preparation Act

Additional Customs Duty (i.e., CVD)

Special Additional Customs Duty (i.e., SAD)

Service Tax

Surcharges & Cesses

### State Taxes

VAT/Sales Tax/CST

Entertainment Tax (not levied by local bodies), Luxury Tax

Taxes on lottery, betting, and gambling.

Entry Tax in lieu of Octroi

Purchase Tax

Surcharges & Cesses

\* Non-inclusion: - Major Fuels, Alcohol for human consumption, Stamp Duty, Property Taxes, Vehicle Tax, Electricity Duty, Several Cesses.

\* GST on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas & aviation turbine fuel to be levied from a later date on recommendations of the GST Council.

\* Tobacco Products have been included under the purview of GST. (Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC.)

## Salient Features of GST

- GST would be applicable on “supply” of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.
- The GST shall have two components: - one levied by the Centre (hereinafter referred to as CGST), and the other levied by the States (hereinafter referred to as SGST). Rates for CGST and SGST would be prescribed appropriately, reflecting revenue considerations and acceptability. This dual GST model would be implemented through multiple statutes (one for CGST and the other for SGST).
- A threshold exemption limit of upto Rs. 20 lakh of gross annual turnover of goods and services have been prescribed for all the States and Union Territories with adequate compensation for the Special Category States (viz, Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand). In such Special Category States, lower threshold of Rs. 10 lakh has been prescribed. The threshold exemption limit shall be optional and the taxpayers would have an option of voluntary registration.
- Power to declare certain supplies as supply of goods or services or neither has been provided under the Act.
- Taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST. Cross utilization of ITC between the Central GST and the State GST would not be allowed except in the case of inter-State supply of goods and services under the IGST model. Hence, the credit would be permitted to be utilized in the following manner: -
  - ITC of CGST allowed for payment of CGST & IGST in that order;
  - ITC of SGST allowed for payment of SGST & IGST in that order;
  - ITC of IGST allowed for payment of IGST, CGST & SGST in that order.

ITC of CGST cannot be used for payment of SGST and vice versa.
- Ideally, the problem related to credit accumulation on account of refund of GST should be avoided by both the Centre and the States except in the cases such as exports, purchase of capital goods,

input tax at higher rate than output tax etc. where, again refund/adjustment should be completed in a time bound manner. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit.

- Accounts would be settled periodically between the Centre and the State. This is to ensure that the credit of SGST used for payment of IGST is transferred by the Exporting State to the Centre. Similarly, the IGST used for payment of SGST would be transferred by the Centre to the Importing State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by the Centre to the destination State. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers.
- The administration of the Central GST to the Centre and for State GST to the States would be given. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers. Such jurisdiction shall be based on the thresholds for goods and services prescribed for the States and the Centre.
- Government may convert existing Area based exemption schemes into refund based scheme
- The taxpayer would be required to submit periodical returns, for different registrations obtained under the Act.
- Each registered taxable person would be allotted a PAN-linked taxpayer identification number (i.e., GSTIN) with a total of 15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax, facilitating data exchange and taxpayer compliance.
- A person having multiple business verticals in a State may obtain separate registration for each business vertical.
- Where any information/documents in relation to assessment, enforcement, scrutiny and audit, have been provided under CGST/SGST Law, such information/documents would be shared with the concerned person under the SGST/CGST Law, as required.

## **Benefits of GST**

- 1) Benefits to Manufacturing States: -
  - Economies of Scale
  - Goods manufactured in India shall become more competitive globally.
  - Reduction in imports as GST provides for appropriate Countervailing Duty.
  - Reduction in Compliance Cost
- 2) Benefits to Consuming States: - Since GST is a destination based tax, the consuming states will be benefited from price reduction resulting from removal of cascading effect. Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.
- 3) Benefits to micro and small scale industries: - Since micro and small businesses primarily operate within a state, the GST will give relief to them, as these sectors whose annual turnover remains below Rs. 1.5 crore, shall remain under single control of the State Government. At present, the ability of SMEs to reach out to potential customers across India is limited, due to the Central Sales Tax (CST) on sales between states.
- 4) Benefits to Traders: -
  - Reduction in multiplicity of taxes
  - Mitigation of cascading/double taxation
  - More efficient neutralization of taxes especially for exports
  - Development of Common National Market



- Simpler Tax Regime
- Fewer rates and exemptions
- Distinction between goods and services is no longer required.

5) Benefits to consumers: -

- Simpler Tax System
- Reduction in prices of goods & services due to elimination of cascading effects.
- Uniform Prices throughout the country
- Transparency in taxation system
- Increase in Employment Opportunities

### How will GST work?

The illustration given below will give a clear understanding on how GST will work across the supply chain. Here is a hypothetical example: -

Let us suppose that the GST rate is 10% and the manufacturer makes value addition of Rs. 30 on his purchases worth Rs. 100 of input of goods and services used in the manufacturing process and sells the goods to the wholesaler. As per the rate of 10%, the gross GST comes down to Rs. 13 on Rs. 130/-. The manufacturer will then pay net GST of Rs. 3 after setting-off Rs. 10 as GST paid on his inputs (i.e. Input Tax Credit) from gross GST of Rs. 13.

When the wholesaler sells the same goods to the retailer after making value addition of (say) Rs.20, he pays net GST of only Rs. 2 to the manufacturer, after setting-off Input Tax Credit of Rs. 13 from the gross GST of Rs. 15.

Similarly, when a retailer sells the same goods after a value addition of (say) Rs. 10, he pays net GST of only Re.1, after setting-off Rs.15 from his gross GST of Rs. 16 paid to wholesaler. Thus, the manufacturer, wholesaler and retailer will have to pay only Rs. 6 (= Rs. 3+Rs. 2+Re. 1) as GST on the value addition along the entire value chain, from the producer to the retailer, after setting-off GST paid at the earlier stages. The overall burden of GST on the goods is thus much less. The same illustration will hold in the case of final service provider as well.

### Why is GST introduced as a Dual Structure?

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources.

Hence, a Dual GST structure with defined functions and responsibilities of the Centre and States is recommended. This system shall also fulfil the need for upholding the powers of Central and State Governments in their taxation regime. A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

### Composition/Compounding Scheme

The Composition/Compounding Scheme for GST shall have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. A registered taxable person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, can opt to pay, an amount calculated at such rate as may be prescribed. Such rate should not be less than two and a half percent in case of a manufacturer and one percent in any other case, of the turnover in a State during the year. Such option shall not be available if the taxable person: -

- is engaged in supply of services, or,
- makes any supply of goods which are not leviable to tax under this Act, or,

- makes any inter-state supply of goods, or,
- makes supply of goods through an e-commerce operator who is required to collect tax at source, or,
- is a manufacturer of such goods as may be notified on the recommendation of the Council.

The Act also allows an option to pay tax under Normal Levy for dealers with turnover below the compounding cut-off.

### **Inter-State Transaction of Goods and Services**

An IGST Model has been adopted for taxation of Inter-State transactions of Goods and Services. The scope of IGST Model is that Centre would levy IGST on all inter-State transactions of taxable goods and services. Such IGST rate would be the sum-total of CGST and SGST rates. This model shall also include appropriate provision for consignment or stock transfer of goods and services.

The Inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

### **Major advantages of IGST Model are: -**

- Maintenance of uninterrupted ITC chain on Inter-State transactions.
- No upfront payment of tax or substantial blockage of funds for the Inter-State seller or buyer.
- No refund claim in exporting State, as ITC is used up while paying the tax.
- Self-monitoring model.
- Central and State Governments should be able to computerize their processes expeditiously.
- As all inter-State dealers, will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
- Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

### **Zero Rating of Exports**

Exports would be zero-rated. Similar benefits may be given to Special Economic Zones (SEZs). However, such benefits will only be allowed to the processing zones of the SEZs. No benefit to the sales from an SEZ to Domestic Tariff Area (DTA) will be allowed.

### **How will GST benefit the exporters?**

The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of

locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

### **GST on Imports**

Import of goods or services would be treated as Inter-State supplies and would be subject to IGST in addition to the applicable customs duties. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.

### **Need for compensation on implementing GST**

Despite the sincere attempts made to determine the GST rate structure, revenue neutral rates, it is

difficult to estimate accurately as to how much the States will gain from service taxes and how much they will lose on account of removal of cascading effect, payment of input tax credit and phasing out of CST. Thus, it is essential to provide adequately for compensation for loss that might emerge during the process of implementation of GST, for the next five years.

### **How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?**

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits.

Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT.

Illustration I: - Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. Say, a wholesale dealer of steel in Uttar Pradesh

supplies steel bars and rods to a construction company which is also located within the same State for, say Rs. 100. The dealer would therefore charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government.

Of course, he need not actually pay Rs. 20 (Rs. 10 + Rs. 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his purchases (say, inputs). But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases. Similarly, for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST and vice-versa.

Illustration II: - Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. Say, an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100. The advertising company would therefore charge CGST of Rs. 10 as well as SGST of Rs. 10 to the basic value of the service. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government.

Of course, he need not again actually pay Rs. 20 (Rs.10+Rs. 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc.). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilise the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

### **GST Rate Structure**

Under the GST regime, there would be different rates for different products. Till now four bands of tax rates have been fixed, viz: -

- 0 percent: - Several items in the CPI Basket including foodgrains.
- 5 percent: - Necessities
- 12 percent: - Lower Standard Rate
- 18 percent: - Higher Standard Rate
- 28 percent + Variable Additional Cess: - Tax Rate on pan masala, tobacco products, luxury cars, and aerated drinks.

### **Audit under GST**

Every Registered Taxable Person whose turnover during a financial year exceeds Rs. 1 crore, shall be required to get their accounts audited, under the GST Law.

## RETURNS UNDER GST

- Registered person has to file return even if there is no business activity (nil return).
- There will be common E-return for CGST, SGST, IGST and additional tax.
- Government entities / PSUs , etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non –GST goods or services would neither be required to obtain registration nor required to file returns under the GST law.

### Periodicity of Return Filing

| Sl. No. | Return / Ledger                             | Description  | Due Date                                       |
|---------|---|--|--|
| 1       | <b>GSTR 1</b><br>Normal / Regular taxpayers | Outward supplies made by taxpayer (other than compounding taxpayer and ISD)      | 10 <sup>th</sup> of the next month             |
| 2       | <b>GSTR 2</b><br>Normal / Regular taxpayers | Inward supplies received by a taxpayer (other than a compounding taxpayer & ISD) | 15 <sup>th</sup> of the next month             |
| 3       | <b>GSTR 3</b><br>Normal / Regular taxpayers | Monthly return (other than compounding taxpayer and ISD)                         | 20 <sup>th</sup> of the next month             |
| 4       | <b>GSTR 4</b><br>Compounding taxpayers      | Quarterly return for compounding Taxpayer  | 18 <sup>th</sup> of the month next to quarter  |
| 5       | <b>GSTR 5</b>                               | Periodic return by Non-Resident Foreign Taxpayer                                 | Last day of registration                       |
| 6       | <b>GSTR 6</b>                               | Return for Input Service Distributor (ISD)                                       | 15 <sup>th</sup> of the next month             |
| 7       | <b>GSTR 7</b>                               | Return for Tax Deducted at Source  | 10 <sup>th</sup> of the next month             |
| 8       | <b>GSTR 8</b>                               | Details of supplies effected through e commerce operator                         | 10 <sup>th</sup> of the next month             |
| 9       | <b>GSTR 9</b><br>Normal / Regular taxpayers | Annual Return  | <b>31<sup>st</sup> December from end of FY</b> |
| 10      | <b>GSTR 9A</b>                              | Annual Return for Compounding taxable persons                                    | <b>31<sup>st</sup> December from end of FY</b> |
| 11      |   | ITC Ledger of taxpayer   | Continuous                                     |
| 12      |   | Cash Ledger of taxpayer  | Continuous                                     |
| 13      |   | Tax ledger of taxpayer   | Continuous                                     |

### Components of valid GST Return for outward Supplies made by the Taxpayer

#### GSTR 1

- For all B2B supplies (whether inter-state or intra-state), invoice level specified details will be uploaded.
- For inter-state B2C the supplier will update the invoice value more than 250000, amount below state wise summary of the supply statement should be filed, and if invoice value is above Rs 50,000 buyer address mandatorily be reflected in invoice.
- The recommendation of the Committee on IGST and GST on Imports with respect to the details about HSN code for goods and Accounting code for services to be captured in an invoice have been accepted with certain modifications. The details proposed by this Committee are as follows:-

| Sl no. | Particulars          | Conditions   |
|--------|----------------------|--|
| 1      | IGST & GST on import | <ul style="list-style-type: none"> <li>Turnover above 5 corer in previous year 4 digit code</li> <li>Turnover between 1.5-5 corer in previous year 2 digit chapter HSN code</li> </ul> |
| 2      | Any taxpayer         | HSN code 6digit or 8 digit level as desire.  |
| 3      | Compounding dealers  | No HSN required  |
| 4      | Exports and imports. | HSN Codes at 8-digit level and Accounting Codes  |

Outward return will contain information :

- Place of supply service
- Details relating to supplies attracting Reverse charge will also be submitted
- Advance receive against supply to made in future
- Detail of any tax paid on advance

- Detail of export both on IGST and without IGST payment
- Separate table for revision of previous year outward supply. This will include the details of Credit/Debit Note issued by the suppliers and the differential value impact and the concomitant tax payable or refund/tax credit sought.
- Separate table for error and omission
- Separate table for nil rate Exempted and Non GST outward supplies to registered taxpayers and consumers.

## **Components of valid GST Return for Inward Supplies received by the Taxpayer**

### **GSTR 2**

- GSTR 2 > detail of taxpayer, GST no. , period for return is prepared.
- Separate invoice of good and service received.
- Separate detail of import of good & service from outside India.
- The details of inward supplies would be auto-populated in the ITC ledger of the taxpayer on submission of his return.
- GST Law may provide that Input credit pertaining to Capital Goods will be allowed to be availed over a period of 2 years in two equal instalments.
- If inputs are purchase in one lot than ITC will be given on the date of record such purchase & when good are received in part and a single bill is issued than ITC will be clam on last purchase is recorded.
- The return should be filed by 17th of the succeeding month. Late filing would be permitted on payment of late fees only.
- There will be a separate table for submitting the details of revisions in relation to inward supply invoices pertaining to previous tax periods (including post purchase discounts received). This will include the details of Credit/Debit Note issued by the suppliers and the differential value impact and concomitant tax payable or refund/tax credit sought.

### **GSTR3**

- Final aggregate level outward and inward supply information. These details will be auto populated from GSTR-1 and GSTR-2
- DELAIL of gross turnover & net turnover.
- Details of other liabilities (i.e. Interest, Penalty, Fee, others etc.).
- There will be separate table for calculation of tax, TDS credit received.
- The ITC ledger and the cash ledger will be utilized by the taxpayer for discharging the tax liabilities of the returns and others. Details in these ledgers will get auto populated from previous tax period return (irrespective of mode of filing return i.e. online / offline utility)
- GST Law may have provision for maintaining four head wise account for CGST, SGST, IGST and Additional tax and at associated minor heads for interest, penalty, fee and others.
- Excess payment of tax can be adjusted in next month.
- Details of other payments - Interest/Penalties/Fee/Others, etc. This will be auto populated from the Debit entry in Cash ledger irrespective of mode of filing i.e. online / offline utility
- Detail of ITC balance at the end of the tax period will be auto-populated in the ITC ledger irrespective of mode of filing return .where there is an excess ITC balance is left it can be claim for refund.
- The return form should display all bank account numbers mentioned in the registration, out of

which one will be selected by the taxpayer to which the refund will be credited. To begin with GST law may provide that the refund will be processed quarterly.

- The return would be filed by 20th of the succeeding month. Late filing would be permitted on payment of late fees only.

#### **GSTR4**

Person opting for compounding scheme has to file GST4. It's a simple return filed every quarterly and assessee is not allowed to take ITC.

#### **GSTR5**

Non-Resident foreign taxpayers would be required to file GSTR-5 for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days as stated earlier.

#### **GSTR6**

- GST6> detail of taxpayer, GST no. , period for return is pertains
- Details of the Invoices along with the GSTIN of the receiver of the credit i.e. to whom the ISD is distributing credit.
- There will be separate ISD Ledger in the return that will detail the Opening Balance of ITC (to be auto-populated on the basis of previous return), credit for ITC services received, debit for ITC reversal and ITC distributed and Closing Balance.

#### **GSTR7**

- GST7 > detail of taxpayer, GST no. , period for return is pertains
- Details of GSTIN of the Supplier along with the invoices against which the Tax has been deducted. This will also contain the details of tax deducted against each major head i.e. CGST, SGST and IGST.

#### **Steps for return**

1. Upload return either directly through data entry at the GST Common Portal or by uploading the file containing the said GSTR-1 return form through Apps by 10th day of month succeeding the month during which supplies has been made.
2. GST Common Portal (GSTN) will auto-draft the provisional GSTR-2 of taxpayer based on the supply invoice details reported by the counter-party taxpayer (supplier) on a near real-time basis
3. Assessee can reject auto-drafted provisional GSTR2 and can modify it off-line.
4. Assessee can add purchase invoice
5. Taxpayers will have the option to do reconciliation of inward supplies with counter-party taxpayers (suppliers) during the next 7 days by following up with their counter-party taxpayers for any missing supply invoices in the GSTR-1 of the counter-party taxpayers, and prompt them to accept the same as uploaded by the purchasing taxpayer. All the invoices would be auto-populated in the ITC ledger of taxpayer. The taxpayer would, however, indicate the eligibility / partial eligibility for ITC in those cases where either he is not entitled or he is entitled for partial ITC.
6. ICT receivable, tax payable & Interest/Penalty, taxes paid during the current tax period etc. would get auto-populated in the GSTR-3.
7. Payment through draft & automatically at the Portal post finalization of activities mentioned in Step 6 above.
8. Taxpayer will debit the ITC ledger and cash ledger and mention the debit entry No. in the GSTR-3 return and would submit the same.

## **Acknowledgement**

Final acknowledgement of receipt of return will be generated after validation of data is completed, which also lock-in the Transaction will ID.

## **Impact of GST on Businesses**

**GST will have a considerable impact in the following areas: -**

- Pricing, Costing, Margins
- Supply Chain Management
- Change in IT Systems
- Treatment of tax incentives
- Treatment of excluded sectors
- Transaction issues
- Tax Compliance

### **Role of Professionals**

- Tracking GST development
- Review of draft legislation and impact analysis
- Industry preparedness/Communication issues related to industry
- Review of final legislation and impact analysis
- Implementation assistance
- Post implementation support
- Tax Planning
- Record Keeping
- Departmental Audit

## **Conclusion**

Introduction of GST is just the beginning and this reform has a long way to go. The focus now, should be on the pre-requisites for attainment of the targeted benefits from implementation of the same. GST would be a step forward towards growth, globalization and reformation.

# ASSAM VAT ACT, 2003

## 1. REGISTRATION:

| Sl. No. | PARTICULARS                                | DETAILS  |
|---------|--|--|
| 1.      | <b>Registration of dealer</b>              | <p>1. <b><u>Mandatory Registration</u></b> : A dealer must get himself Registered if :</p> <ol style="list-style-type: none"><li>His gross Turnover of sale and purchases during the year has exceeded the taxable limit of ₹6 lakhs.</li><li>He is liable to pay tax or is registered or required to be registered under the Central Sales Tax Act, 1956.</li><li>He sells any goods imported by him from outside Assam.</li><li>He sells goods manufactured by him by using goods imported from outside the state.</li></ol> <p>(A dealer dealing exclusively in tax free goods shall not be liable for registration)</p> <p>2. <b><u>Voluntary Registration</u></b></p> <p>A dealer who desires to get himself registered voluntarily notwithstanding that he is not liable to pay tax may file an online application in the prescribed manner to the prescribed authority for voluntary registration.</p>  |
| 2.      | <b>Procedure for Registration</b>          | <ol style="list-style-type: none"><li>Every Dealer (other than those opting for composition) liable to be registered shall submit an Online application in Form-2 to the prescribed authority within the whose jurisdiction the principal place of business of the dealer is situated. A fee of Rs.100 shall be payable in respect of every application. The certificate of registration shall be issued in Form-3. Every certificate of Registration shall bear the Taxpayer Identification Number (TIN).</li><li>Every dealer who opts for a composition scheme or a casual dealer shall apply for registration online in Form-4. He shall be granted a certificate in Form-5 and shall be assigned a General Registration Number (GRN).</li></ol> <p><b>Note:</b> Where any dealer is engaged in different kinds of business activities and the dealer is required to obtain Taxpayer Identification Number(TIN) for one kind of such business activity but is permitted to opt for a General Registration Number(GRN) for other activity or activities, he shall be allotted TIN as well as a separate and distinct GRN for each type of business activity qualifying for separate composition scheme(s) notified under the Act. The dealer shall keep separate set of accounts in respect of each of such activities and shall submit separate sets of accounts in respect of each of such activities and shall submit separate returns, statements or communication to the concerned prescribed authority.</p> |
| 3.      | <b>Documents required for Registration</b> | <p>The following documents are to be uploaded/filed/submitted alongwith an application for registration, wherever applicable :-</p> <ol style="list-style-type: none"><li>*Trade License issued by local Municipal Local Authority.</li><li>*Evidence/Proof of possession of premises i.e. address proof of the premises to be registered (property papers, house</li></ol>  |



tax bill, electricity bill etc., if the property is owned by the applicant and lease agreement, and NOC from the owner of the premises with the evidence of ownership, if it is rented)

3. \*Copy of the PAN CARD
4. Copy of the Registration Certificate, if the applicant is registered under any other Act along with Trading License
5. Bank Statement/ Cancelled Cheque with name printed on it
6. Driving Licence/Passport/Election Card/Bank Passbook of the Authorized Signatory and the Directors/ partners/ Proprietor
7. Memorandum and Articles of Association, Certificate of Incorporation in case of the applicant being a Company.
8. Resolution authorizing the Principal Officer to deal with the sales tax authorities.
9. List of Directors in case of Companies and
10. \*Photographs of the Directors and authorized representatives.
11. Initial Security Deposit Challan @ Rs.1000/-

After submission of such online application, a hard copy of such application with duly signed and verified by the person making an application along with the hard copies of the documents uploaded with the e-application shall be submitted to the prescribed authority within whose jurisdiction the principal place of business of the dealer is situated.

\*marked documents are compulsorily needed to be attached to the online application.

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## 5. Mode of Payment of Security Deposit

Security or Additional Security may be furnished in the following manner :

1. By means of E- payment of challan in an online designated bank
2. By means of a challan in a designated bank
3. By depositing it with the prescribed authority
4. By depositing National Savings Certificate
5. By furnishing a bank Guarantee

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## 6 Rate of Taxes

1. Schedule I- List of Exempted Goods taxable @ 0%
2. Schedule II - List of goods taxable at 6% (w.e.f 04.07.2016)
3. Schedule III – List of goods taxable at specified rate ( Gold , bullion etc) and other declared goods as specified in Section 14 of the Central Sales Tax Act, 1956(Central Act 74 of 1956) other than those covered by the First Schedule & Fourth Schedule
4. Schedule IV- List of goods taxable at the point of first sale in the state at different rates
5. Schedule V –
  - a. All other not covered under the First, Second, Third and Fourth Schedule taxable @15% (w.e.f 10.08.2016)

- b. Work Contract taxable @15% (w.e.f 10.08.2016)
- c. Lease Transactions @ 6% (w.e.f 10.08.2016)
- 6. Schedule VII – Negative List of Capital Goods for Input Tax Credit

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## 2. DOCUMENTATION

Documents to be maintained under ASSAM VAT Act

1. Every dealer shall keep separate accounts of sales and purchases made :
  - a. In the state,
  - b. In the course of inter-state trade or commerce,
  - c. In the course of import into India, and
  - d. In the course of export out of India.
2. Every dealer registered under the Act shall maintain separate accounts for exempted goods.
3. Every dealer shall keep separate purchase and sales accounts for different goods liable to be taxed at different rates.
4. A registered dealer shall maintain a VAT account showing the month wise details of total output tax, total input tax, total purchases, Central Sales Tax, Reverse Tax, net tax payable, tax paid and the input tax credit due for refund or carry forward.
5. The dealer shall maintain the following documents in addition to the above:-
  - a. Details of input tax calculations where the dealer is making both taxable and tax-free sales
  - b. Original tax invoices for purchases on which tax has been charged, and invoices for purchases made without charge of Value Added Tax shall be retained in the order of the date.
  - c. Copies of Tax invoice related to taxable sales and invoices related to taxable sales and invoices related to exempt sales, all retained in the date and numerical order.
  - d. Credit and debit notes issued and received all retained as per the date and numerical order.
  - e. Bank records, including statements, cheque book counterfoils and pay-in-slips, and
  - f. Sale and purchase registers as per specimen available in Form 44 and Form 45, respectively.

A registered dealer engaged in the manufacturing or processing of goods shall maintain details of the following :

1. Capital goods purchased
2. Inputs purchased
3. Inputs used in manufacturing and processing of exempted goods for sale

4. Inputs used in the manufacturing and processing capital goods for sale
5. Goods manufactured including manufacturing account
6. Goods sold; and
7. Stock accounts of inputs, consumables, packing materials, fuel and finished products and by-products, if any.

### 3. VAT RETURNS AND PAYMENT OF TAXES:

|                         | Taxable turnover   | Tax Return Cycle | Due Date of Filing                                  |
|-------------------------|--------------------|------------------|---|
| Tax period of ASSAM VAT | Exceeds 40 lakhs   | Monthly          | Within 21 days from the end of a particular month   |
| Returns with due dates  | Less than 40 lakhs | Quarterly        | Within 21 days from the end of a particular quarter |

| FORM NO  | TYPE OF DEALER  | DUE DATE  |
|--|---|---|
| 14   | All dealers are required to file this annual return   | Annually, within 6 months after the close of the year and in case there is a need of certificate of audit of accounts by a CA, the annual return shall be submitted within 9 month from the end of the end of the year. (w.e.f. 10.08.2016) |
| RD-1<br>(Retailers)/WC-3<br>(Contractors) /<br>Annexure-3<br>(Real Estate<br>Developers) | Registered dealer who is permitted to avail any scheme of composition within the meaning of Section 20 of the Act | Shall furnish to the prescribed authority tax return on quarterly basis within 21 days from the end of a particular quarter. The due date for filing Annual Return is same as mentioned here-in-above for general dealers.                  |

#### Revision of Return

1. In case of discovery of any omission or any other error in the monthly/ quarterly tax return filed, the dealer may furnish a revised monthly/quarterly tax return at any time before expiration of filling of an annual return by him
2. In case of discovery of any omission or any other error in the annual tax return filed, the dealer may furnish a revised annual tax return within a period of 6 months from the due date of submission of annual return, provided that no revised tax return or revised annual return shall be entertained if the case has been taken for audit assessment and a notice to that effect has already been served on the dealer.

#### Interest

If any dealer fails to pay the amount of tax due within the time limit prescribed for its payment, such dealer shall in addition to the tax, be liable to pay simple interest, @1.5% per month on the amount of tax not paid or on any less amount thereof remaining unpaid during such period

Note: For the purpose of calculating interest,

1. Month shall mean 30 days and
2. Where the period of default is in respect of period less than 1 month, interest shall be computed proportionately.

#### Payment

It has been made compulsory for dealers importing goods from outside the State to make online /E-payment of taxes. However, for rest of the dealers, this limit is fixed @ Rs 1000/- i.e if the tax amount exceeds this limit the dealer has to compulsorily make online/E-payment.

#### Details to be furnished with the returns

Following details are required to be furnished with the monthly returns:

1. Monthly details of the purchases made from the registered local parties along with the TIN Number(Tax Invoice Local Purchase)

2. Monthly details of the sales made to the registered local parties along with the TIN Number(Tax Invoice Local Sales)
3. Monthly details of the purchases made from the registered parties outside ASSAM along with the CST Number.
4. Monthly details of the sales made to the registered parties outside ASSAM along with the CST Number.
5. Monthly details of the stock transfer /consignment sent to Other States.
6. Monthly details of stock transfer and consignment receipt from other States.
7. Details of sales made in the course of export or to the SEZ
8. Monthly details of credit notes received from the registered parties within the state.
9. Monthly details of credit notes issued to the registered parties within the state.

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#### 4. INPUT TAX CREDIT

1. Any registered dealer who makes purchases from other registered dealer shall be eligible for input tax credit except pertaining to the goods specified in Schedule-IV.

2. In case of manufacturing unit, input tax credit on Capital Goods shall be admissible from the date of commencement of commercial production and shall be adjusted against the tax payable on output for a period of 3 years.

However Input Tax Credit shall not be allowed in the following cases:

- Tax paid on the purchase of goods using manufacturing, processing or packing of goods specified in Schedule I to Schedule IV.
- Purchases made in the course of inter-state trade and commerce or in the course of import from outside the country or outside the state.
- Purchases of goods made in states from an unregistered dealer or a provisionally registered dealer or a dealer whose certificate has been suspended or a registered dealer under the composition scheme or a dealer opting for lump sum tax.
- Purchases of goods used as free samples or gifts or for personal consumption.
- Goods Purchased but not sold because of theft, loss or destruction
- Purchase of Capital goods other than those used directly and exclusively for the manufacturing or processing of taxable goods
- Goods remaining unsold at the time of closure of business, in which case, if a dealer has already availed of any input tax credit, such tax credit shall be reversed.
- Tax paid on purchase of goods dispatched to a place outside the state not as a direct result of sale in the course of inter-state trade.

- Tax paid on purchase of goods used as raw materials for the manufacture of goods dispatched outside the state otherwise than by way of sale.
- Tax paid on purchase of goods specified in Schedule IV
- Purchase of goods which are used as fuel in generation of energy
- Purchases where –
  - a. The Tax Invoice is not available
  - b. There is evidence that the same has not been issued by the selling dealer
  - c. The original invoice does not contain the details of tax charged separately by the selling dealer.
- Automobiles of any type including commercial vehicle, two and three wheeler, unless the dealer is in the business of dealing in such automobile or spare parts.
- Foods, beverages and tobacco products, unless the dealer is in the business of providing food, beverage and tobacco product.
- Air conditioning unit, unless the dealer is in business of dealing in such units.
- Goods purchased and accounted for in business but utilized for the purpose of providing a facility to the employees including any residential accommodation.
- Purchases of goods, wherein the tax payable to the government by the purchaser himself in respect of the purchase of such goods has not been paid.
- Purchases of goods from an industrial unit eligible for Assam industries (Tax Exemption) Scheme 2015, and sells such goods in the course of inter-state trade and commerce or in the course of export out of the territory of India and transfers such goods to the other state not amounting to sale.

## 5. ROAD PERMIT AND WAY BILL :

Road permits and Delivery Notes

In case of the import of taxable goods into Assam for resale, Delivery Note in Form-61, along with the invoice and Consignment Note is required.

In case of import of taxable goods into Assam for use in the setting up of an industrial unit or for use as raw materials in the manufacture of goods or for personal use or consumption, a Road Permit vide Form-62, along with the invoice and Consignment Note is required.

Documents to be carried by the person or the owner in charge of goods vehicle to be produced at the Check post

1. In case of movement of tax free goods from Assam to places outside the state, Bill of Sale vide Form-60, consignment note, invoice and manifesto to the transporter.
2. In case of import of taxable goods into Assam for resale, the original and duplicate copy of delivery note vide Form-61, consignment note, invoice and manifesto to the transporter.

3. In case of import of taxable goods other than those exempt in the First Schedule of the Act, into Assam for use in the setting up of an industrial unit or for use of raw materials in the manufacture of goods or for personal use, original and duplicate foils of Road Permit vide Form-62 to be transmitted to the transporter by the importer or receiver of goods in the state, consignment note, invoice and manifesto to the transporter.
4. In case of dispatch of taxable goods outside the state from a place within Assam, and in case of intra-state movement of taxable goods, a valid tax clearance certificate vide Form-63, consignment note, invoice and manifesto to the transporter.
5. In case of movement of goods taxable in Assam through Assam, a transit pass vide Form-64 issued by the entry check post, consignment note, statutory documents of the importing state if the goods are taxable in that state, invoice and manifesto of the transporter.
6. In all cases, the following documents are to be carried by the vehicle:
  - a) Goods vehicle record, a trip sheet containing particulars specified in specimen Form-65 or a log book containing the prescribed particulars; and
  - b) Registration Certificate of the vehicle weighed at the weigh bridge authorized by the Government, if any.

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## 6. COMPOSITION SCHEME:

Composition scheme for retail traders:

A registered retail trader of the state whose annual gross turnover does not exceed 60 lakhs, may pay at his option, in lieu of the amount of tax payable by him under the provisions of the ACT, by way of composition, an amount determined in the manner hereinafter fixed or to be computed as may be applicable in the following cases:

- a) For a dealer whose annual gross turnover does not exceed 12 lakhs, the compounded amount of tax shall be as follows: ₹ 4000/- per year when the gross turnover exceeds 6 lakhs but not exceed and 7 lakhs rupees.
- b) ₹ 5500/- per year when the gross turnover exceeds ₹ 7 lakhs but not exceed and ₹ 8 lakhs rupees.
- c) ₹ 6000/- per year when the gross turnover exceeds ₹ 8 lakhs but do not exceed ₹ 12 lakhs.

For a dealer whose annual turnover exceeds ₹ 12 lakhs but does not exceed ₹ 60 lakhs rupee, the compounded tax rate would be calculated as 0.5% of the actual derived gross turnover for that quarter of the year.

Composition scheme for Works contractor:

Composition scheme for a works contract permits a registered dealer of the state who executes a works contract, to pay at his option, in lieu of the tax payable by him under the provisions of the Act, by way of composition, an amount @ 5% of the total aggregate value of the works contract received or receivable by him w.e.f. 31.03.2012.

The dealer opting from this scheme shall be eligible for to make a purchase of goods in course of inter-state trade and commerce on the strength of declaration in FORM-C prescribed under the Central Sales Tax (registration and turnover) Rules, 1957. The dealer shall also be eligible to make use of Delivery Notes(Form 61) prescribed under the RULES, for the purpose of imparting the consignment of goods for being used in the execution of works contracts in Assam.

Composition Scheme for  
Real Estate Developers

A composition scheme for a real estate developer permits a registered dealer to pay at his option, in lieu of the amount of tax payable by him by way of composition, an amount equal @1 % of the aggregate amount specified in the agreement entered into between the real estate developer and the purchaser of flats, dwellings or premises or the value specified for the purpose of stamp duty in respect of the said agreement under the Indian Stamp(Assam Amendment) Act, 2004, whichever is higher

NB “**Act**” mentioned above refers to the ASSAM Value Added Tax Act, 2003 “**Rules**” mentioned above refers to the Assam Value Added Tax Rules, 2005

# SERVICE TAX

## I. Quick Referencer

### a) Rate of Service Tax

| Period                   | Rate of Tax        |
|--------------------------|--------------------|
| 01-07-1994 to 13-05-2003 | 5%                 |
| 14-05-2003 to 09-09-2004 | 8%                 |
| 10-09-2004 to 17-04-2006 | 10.20%(ST+EC)      |
| 18-04-2006 to 10-05-2007 | 12.24%(ST+EC)      |
| 11-05-2007 to 23-02-2009 | 12.36%(ST+EC+SHEC) |
| 24-02-2009 to 31-03-2012 | 10.30%(ST+EC+SHEC) |
| 01-04-2012 to 31-05-2015 | 12.36%(ST+EC+SHEC) |
| 01-06-2015 Onwards       | 14%                |

### b) Periodic Basic Exemption Limit

| Period                   | Basic Exemption Limit (INR) |
|--------------------------|-----------------------------|
| 01-07-1994 to 31-03-2005 | No Exemption                |
| 01-04-2005 to 31-03-2007 | Upto 4 Lakhs                |
| 01-04-2007 to 31-03-2008 | Upto 8 Lakhs                |
| 01-04-2008 Onwards       | Upto 10 Lakhs               |

### c) Periodic Rate of Interest

| Period                   | Rate of Tax   |
|--------------------------|---|
| 01-07-1994 to 15-07-2001 | 1.5% P.M or part thereof  |
| 16-07-2001 to 15-08-2002 | 24% p.a   |
| 16-08-2002 to 09-09-2004 | 15% p.a   |
| 10-09-2004 to 31-03-2011 | 13% p.a   |
| 01-04-2011 to 30-09-2014 | <ul style="list-style-type: none"> <li>For assesses having turnover upto INR 60 Lakhs</li> <li>For other assesses</li> </ul>                      |
| 01-10-2014 Onwards       | <ul style="list-style-type: none"> <li>Delay Upto 6 months</li> <li>Delay More than 6 months and upto 1 year</li> <li>More than 1 year</li> </ul> |
| 14.05.2016 Onwards       | <ul style="list-style-type: none"> <li>Service Tax Collected but not deposited.</li> <li>Other than the above situation</li> </ul>                |

### d) Mandatory e-payment of Service Tax

| Sr.No. | From       | To         | Monetary Limit   |
|--------|------------|------------|--|
| 1      | 01/10/2006 | 31/03/2010 | Above 50 lakhs   |
| 2      | 01/04/2010 | 31/12/2013 | Above 10 lakhs   |
| 3      | 01/01/2014 | 30/09/2014 | Above 1 lakh   |
| 4      | 01/10/2014 | --         | Mandatory, irrespective of the Amount paid in previous year. |

### e) Procedural Compliances

| Sr.No. | Heading                  | Sub-Heading                           | Time Period  | Form No. | To whom                                 | Ref. & Remarks   |
|--------|--------------------------|---------------------------------------|--|----------|---|--|
| 1      | Registration             | Single Premise Registration           | Within 30 days of<br>(i) starting of new business or<br>(ii) turnover exceeding Rs. 9 lakhs or<br>(iii) commencement of new levy | ST-1     | To the superintendent of Central Excise | Sec 69 of the Act, read with Rule 4 of the Service Tax Rules, 1994 |
|        | Centralised Registration | To The Commissioner of Central Excise |  |          |   |  |



|   |  |  |   |      |   |  |
|---|--|--|---|------|---|--|
| 2 | Grant of Registration Certificate  | The registration granted under this rule shall be subject to such conditions, safeguards and procedure as may be specified by an order issued by the board<br><br><b>(w.e.f 01<sup>st</sup> March, 2015 vide not no. 05/2015-ST)</b> | Within 7 days from the date of receipt of application   | ST-2 |   | The CBEC shall specify the documents to be submitted along with the application within such time as may be specified in the order. <b>(Deleted w.e.f 01<sup>st</sup> March, 2015 vide not no. 05/2015-ST)</b>      |
| 3 | Amendment in registration certificate  |  | Within 30 days of the change  | ST-1 | To the jurisdictional AC/DC   |  |
| 4 | Transfer of Business   |  |   |      |   | Obtain fresh certificate   |
| 5 | Issue of Invoice, Bill or Challan  | By assesses other than Banking Company, financial institution, NBFC or a goods transport agency  | Within 30 days from the date of completion of taxable service or receipt of payment whichever is earlier (within 14 days upto 31.03.2012).    |      | To the Service recipient<br>i) Should be serially numbered<br>ii) must contain the name, address and registration no. of the service provider<br>iii) must contain the name, address and regd. no. of the service recipient<br>iv) description of value of taxable service provided or agreed to be provided, and<br>v) the service tax payable thereon | Rule 4A of the Service Tax Rules, 1994<br><br>Such invoice, bill or challan may be authenticated by digital signature<br><b>(inserted vide Rule 4C by Not. No. 05/2015-ST, w.e.f. 01<sup>st</sup> March, 2015)</b> |
|   | Issue invoice, bill or challan or any document by whatever name called                         | By Banking Co., other financial Institution or NBFC  | Within 45 days  |      | To the Service recipient<br><br>Clause (i) and clause (iii) as stated above not applicable  |  |
|   | Issue consignment note   | By Goods Transport Agency  | Within 30 days  |      | To the service recipient<br><br>In addition to the clauses mentioned in Sl.No. 5, such document must also contain the details of the consignment note no. and gross weight of the consignment   | Rule 4B of the Service Tax Rules, 1994<br><br>Such consignment note may be authenticated by digital signature<br><b>(inserted vide Rule 4C by Not. No. 05/2015-ST, w.e.f. 01<sup>st</sup> March, 2015)</b>         |
|   | Issue of Invoice, Bill or Challan  | In the case of continuous supply of service  | Within 30 days of the date when each event specified in the contract , which requires the service recipient to make the payment, is completed |      |   |  |
|   | Issue of Invoice, Bill or Challan shall include any ticket in any form by whatever name called | By transport of Passenger  | Within 30 days  |      | To the service recipient.<br><br>It may or may not contain the registration no. of the provider of service or the address of the service recipient. But must contain other information.   |  |

|   |  |  |  |          |   |  |
|---|--|--|--|----------|---|--|
|   | Issue of Invoice, Bill or Challan in respect of credit distributed | By Input Service Distributor   | Within 30 days   |          | To the recipient of the credit distributed.<br><br>Shall be serially numbered and must contain:<br>1) the name, address and registration no. of the person providing input service, and the serial no. and date of the invoice or bill or challan as the case may be;<br>2) the name and address of the ISD<br>3) the name and address of the recipient of the credit distributed;<br>4) the amount of the credit distributed |  |
| 6 | Maintenance of records   |  | Such records must be preserved for a period of at least five years                                       |          |   | The records including computerize data is acceptable.<br><br>Rule 5 of the Service Tax Rules, 1994<br><br>w.e.f 01 <sup>st</sup> March, 2015 the records may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of digital signature.<br><b>(inserted vie not. No. 05/2015-ST)</b>  |
| 7 | Payment of Service Tax   | By Body Corporate or AOP<br><br>i) manual Payment<br>ii) e-payment<br>iii) for month ended 31 <sup>st</sup> March                                    | By 5 <sup>th</sup> of the month end<br>By 6 <sup>th</sup> of the month end<br>31 <sup>st</sup> March     | G.A.R.-7 |   | Rule 6 of the Service Tax Rules, 1994<br><br>e-payment is mandatory w.e.f. 01 <sup>st</sup> October, 2014  |
|   |  | By Individuals, proprietary firm or partnership firms<br><br>i. manual payment<br>ii. e-payment<br>iii. for the quarter ended 31 <sup>st</sup> March | By 5 <sup>th</sup> of the quarter end<br>By 6 <sup>th</sup> of the quarter end<br>31 <sup>st</sup> March | TR-6     |   | Where the value of taxable services provided or agreed to be provided is upto Rs. 50 lakhs in the previous financial year, the service provider has the option to pay service tax on receipt basis upto the turnover of Rs. 50 lakhs.<br><br>e-payment is mandatory w.e.f. 01 <sup>st</sup> October, 2014<br><br>However, the AC/DC of the Central Excise ,as the case may be, having jurisdiction may, for the reasons to be recorded in writing , allow the assessee to deposit service tax by any mode other than internet banking.<br><b>(amended vide not. No. 09/2014-ST dated 11<sup>th</sup> July, 2014)</b> |

|    |                                       |   |  |      |  |   |
|----|---------------------------------------|---|--|------|--|---|
| 8  | Returns                               | Half yearly<br>For half year ended 30 <sup>th</sup> Sep<br>For half year ended 31 <sup>st</sup> March | By 25 <sup>th</sup> October<br>By 25 <sup>th</sup> April   | ST-3 |  | Section 70 read with Rule 7 of Service Tax Rules, 1994<br><br>Mandatory to file return electronically   |
| 9  | Revision of Return                    |   | Within a period of 90 days from the date of submission of original return  | ST-3 |  | Rule 7B of Service Tax Rules, 1994  |
| 10 | Payment for belated return (Late Fee) | <b>Period of Delay</b>  | <b>Amount to be paid</b>   |      |  | Rule 7C of the Service Tax Rules, 1994.<br><br>If the gross amount of service tax payable is NIL, the CEO on being satisfied, may reduce or waive the penalty |
|    |                                       | Upto 15 days from the due date  | Rs. 500  |      |  |   |
|    |                                       | Beyond 15 days but upto 30 days from the due date   | Rs. 1000   |      |  |   |
|    |                                       | Beyond 30 days from the due date  | Rs. 1000+ Rs. 100 for every day from the 31 <sup>st</sup> day till the date of furnishing the return upto maximum of Rs. 20000/- |      |  |   |

**f) List of Abatements (Notification No. 26/2012 –ST as updated upto Not. No. 8/2016 dated 01.04.2016)**

| Sr. No. | Name of the Service   | Abatement % | Taxable % | Conditions  |
|---------|---|-------------|-----------|---|
| 1       | Services in relation to financial leasing including hire purchase   | 90%         | 10%       | NIL   |
| 2       | Transport of goods by rail  | 70%         | 30%       | NIL (Upto 31 <sup>st</sup> March, 2015)<br><br>CENVAT credit on Inputs, Capital goods and Input Services, used for providing the taxable services, has not been taken under the provisions of CENVAT Credit Rules, 2004.(W.e.f. 01 <sup>st</sup> April, 2015) |
| 2A      | Transport of Goods in containers by rail by any person other than Indian Railways   | 60%         | 40%       | CENVAT credit on Inputs and Capital goods used for providing the taxable services, has not been taken under the provisions of CENVAT Credit Rules, 2004.<br><br>(Inserted by N.No. 08/2016 dated 01.03.2016 W.e.f. 01.04.2016)                                |
| 3       | Transport of passengers, with or without accompanied belongings by rail   | 70%         | 30%       | NIL (Upto 31 <sup>st</sup> March, 2015)<br><br>Same condition as Above (w.e.f 01 <sup>st</sup> April, 2015)   |
| 4       | Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises ( including hotel, convention center, club, pandal,shamiana or any other place, specially arranged for organizing a function) together with renting of such premises | 30%         | 70%       | CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.                           |
| 5       | Transport of passengers by air, with or without accompanied belongings<br>(Upto 31 <sup>st</sup> March, 2015)<br><br>(w.e.f.01 <sup>st</sup> April, 2015)<br>Transport of passengers by air, with or without accompanied belongings in  | 60%         | 40%       | CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.  |
|         | (a) Economy Class   | 60%         | 40%       | CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.  |
|         | (b) Other than economy class  | 40%         | 60%       |   |

|   |   |  |  |   |
|---|---|--|--|---|
| 6   | Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.                         | 40%  | 60%  | Same as Above   |
| 7   | Services of goods transport agency in relation to transportation of goods.[Other Than Household Goods]  | 75%(upto 31 <sup>st</sup> March, 2015)<br>70%(W.e.f 01 <sup>st</sup> April, 2015)  | 25% (upto 31 <sup>st</sup> March, 2015)<br>30% (W.e.f 01 <sup>st</sup> April, 2015)  | CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.  |
| 7A  | Services of goods transport agency in relation to transportation of used household goods.<br>(Inserted by Notification No. 08/2016 w.e.f. 01.04.2016) | 60%  | 40%  | CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.  |
| 8   | Services provided by a foreman of Chit fund in relation to chit   | 30%  | 70%  | CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.  |
| (Omitted w.e.f. 01 <sup>st</sup> April, 2015) | Services provided in relation to chit   | 30%  | 70%  | CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004   |
| 9.  | Renting of motor cab (as amended by not. No. 8/2014 w.e.f 01-10-2014)   | 60%  | 40%  | i) CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.<br><br>ii) CENVAT credit on input service of renting of motorcab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner:<br><br>(a) Full CENVAT Credit of such input service received from a person who is paying service tax on 40% of the value; or<br><br>(b) Up to 40% Cenvat credit of such input service received from a person who is paying service tax on full value;<br><br>iii) CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004. |
| 9A  | Transport of passengers, with or without accompanied belongings, by a contract carriage other than motor cab, or by a radio taxi                      | 60%  | 40%  | CENVAT Credit on Inputs, Capital Goods and Input Services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.  |
| 10  | Transport of goods in a vessel  | 50%(upto 30 <sup>th</sup> Sep, 2014)<br>60% (01 <sup>st</sup> Oct, 2014 to 31 <sup>st</sup> March, 2015)<br>70%(w.e.f 1 <sup>st</sup> April, 2015) | 50%(upto 30 <sup>th</sup> Sep, 2014)<br>40% (01 <sup>st</sup> Oct, 2014 to 31 <sup>st</sup> March, 2015)<br>30%(w.e.f 1 <sup>st</sup> April, 2015) | Same as above   |

|    |   |  |   |  |
|----|---|--|---|--|
| 11 | Services by a tour operator in relation to,-<br><br>(i) a package tour  | 75%(Before<br>31.03.2016)  | 25%(Before<br>31.03.2016)   | (i) CENVAT credit on inputs, capital goods and input services other than the input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.<br><br>(ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.  |
|    | (ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour   | 90%  | 10%   | (i) CENVAT credit on inputs, capital goods and input services other than the input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.<br><br>(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation.<br><br>(iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation. |
|    | (iii) any services other than specified at (i) and (ii) above.  | 60%<br>(Before<br>31.03.2016)<br><br><b>70% (After<br/>01.04.2016)</b> | 40%<br>(Before<br>31.03.2016)<br><br><b>30%(After<br/>01.04.2016)</b> | (i) CENVAT credit on inputs, capital goods and input services other than the input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.<br><br>(ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.   |
| 12 | Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly, except where entire consideration is received after issuance of completion certificate by the competent authority |  |   | (i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004.<br><br>(ii) The value of land is included in the amount charged from the service receiver.  |
|    | a) For a residential unit satisfying both the following conditions namely:-<br><br>(i) The carpet area of the unit is less than 2000 square feet; and<br>(ii) The amount charged for the unit is less than Rs. 1 crore                      | 75%<br>(Before<br>31.03.2016)<br><br>70%<br>(After<br>01.04.2016)      | 25% (Before<br>31.03.2016)<br><br>30%<br>(After<br>01.04.2016)        |  |
|    | (b) For other than (a) above  | 70%  | 30%   |  |

#### Explanation.

#### A. For the purposes of exemption at Serial number 1 -

- (i) The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installments paid towards repayment of the lease amount and the principal amount contained in such instalments;
- (ii) The exemption shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee, which shall be added to the amount calculated in terms of (i) above.

B. For the purposes of exemption at Serial number 4 -

The amount charged shall be the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink (whether or not intoxicating) and whether or not supplied under the same contract or any other contract, after deducting-

- (i) the amount charged for such goods or services supplied to the service provider, if any; and
- (ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

C. For the purposes of exemption at Serial number 12 –

The amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract, after deducting-

- (i) the amount charged for such goods or services supplied to the service provider, if any; and
- (ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

**2. For the purposes of this notification, unless the context otherwise requires,-**

- a. "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,(Omitted w.e.f. 19th May, 2015 vide Notification No. 13/2015)
- b. "package tour" means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour,
- c. "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours,

**g) Reverse and Joint Charge Mechanism (Notification No. 30/2012 –ST updated upto Notification No. 18/2016-ST dated 01.04.2016)**

**I. The taxable services,—**

- (A) (i) provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;
  - (a) provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non banking financial company **(w.e.f. 11th July, 2014 vide not. 10/2014-ST)**
  - (b) provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company;**(w.e.f 01st April, 2015 vide not. No. 07/2015-ST)(Omitted from 01.04.2016)**
  - (c) provided or agreed to be provided by a selling or marketing agent of lottery tickets in relation to a lottery in any manner to a lottery distributor or selling agent off the state government under the provision of Lottery (Regulations) Act, 1998.**(w.e.f 01st April, 2016)**
- (ii) provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—

- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons;
- (iii) provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory;
- (iv) provided or agreed to be provided by,-
- (A) an arbitral tribunal, or
- (B) an individual advocate or a firm of advocates other than senior advocates(w.e.f 01.04.2016) by way of legal services, or
- (C) Government or local authority excluding,-
- (1) renting of immovable property, and
- (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994, to any business entity located in the taxable territory;
- (iva) provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate;
- (v) provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose or security service or service portion in execution of works contract by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory;
- (vi) provided or agreed to be provided by a person involving an aggregator in any manner;**(w.e.f.01st March, 2015 vide not. No. 07/2015-ST)**
- (B) provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory;
- II. The extent of service tax payable thereon by the person who provides the service and any other person liable for paying service tax for the taxable services specified in paragraph I shall be as specified in the following Table, namely:- **(W.e.f 01st March, 2015 vide not. No. 07/2015-ST)**

| Sr. No. | Description of in respect of services provided or agreed to be provided by  | Notes | % of service tax Payable by Service Provider | % of service tax payable By any person liable for paying service tax other than the service provider |
|---------|---|-------|--|--|
| 1       | an insurance agent to any person carrying on insurance business   |       | Nil  | 100%   |
| 1A      | a recovery agent to a banking company or a financial institution or a non banking financial company(w.e.f. 11 <sup>th</sup> July, 2014)                           |       | Nil  | 100%   |
| 1B      | a mutual fund agent or distributor, to a mutual fund or asset management company; (w.e.f. 01 <sup>st</sup> April, 2015)(Omitted from 01 <sup>st</sup> April 2016) |       | Nil  | 100%   |
| 1C      | a selling or marketing agent of lottery tickets to a lottery distributor or selling agent   |       | Nil  | 100%   |

|    |  |   |  |   |
|----|--|---|--|---|
| 2  | a goods transport agency in respect of transportation of goods by road   |   | Nil  | 100%  |
| 3  | way of sponsorship   |   | Nil  | 100%  |
| 4  | an arbitral tribunal   |   | Nil  | 100%  |
| 5  | individual advocate or a firm of advocates by way of legal services <b>other than Senior Advocates</b> (w.e.f 01.04.2016) by way of Legal Services   |   | Nil  | 100%  |
| 5A | a director of a company or a body corporate to the said company or the body corporate  |   | Nil  | 100%  |
| 6  | Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994   |   | Nil  | 100%  |
| 7  | (a) way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business<br><br>(b) way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business | 1 | Nil<br><br>60%(upto 30-09-2014)<br><br>50%(w.e.f.01-10-2014)                           | 100%<br><br>40%(upto 30-09-2014)<br><br>50%(w.e.f.01-10-2014)                           |
| 8  | way of supply of manpower for any purpose or Security service  | 1 | 25%(upto 31 <sup>st</sup> March, 2015)<br><br>NIL(w.e.f. 01 <sup>st</sup> April, 2015) | 75%(upto 31 <sup>st</sup> March, 2015)<br><br>100%(w.e.f. 01 <sup>st</sup> April, 2015) |
| 9  | in service portion in execution of works contract  | 1 | 50%  | 50%   |
| 10 | any person who is located in a non-taxable territory and received by any person located in the taxable territory   |   | Nil  | 100%  |
| 11 | a person involving an aggregator in any manner (w.e.f.01 <sup>st</sup> March, 2015)  | 2 | Nil  | 100%  |

Explanation-I. - The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Explanation-II. - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

Notes:

- 1) a) The service provider should be an individual or HUF or partnership firm (whether registered or not) including AOP;
- b) The service recipient should be a body corporate
- 2) aggregator means a person who owns or manages a web based software application, and by means of the application and communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or the trade name of the aggregator

## II. Non Taxable Services:

- a) By way of definition of Service
- b) By way of Negative List u/s 66D
- c) By way of Mega Exemption Service notification no. 25/2012-ST
- d) By way of otherwise specifically exempted



**a) Definition of Service u/s 65B(44) of the Act**

“(44) service means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—

- (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) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or
  - (iii) a transaction in money or actionable claim;
- (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,—

- (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
- (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.

Explanation 2. — For the purposes of this clause, transaction in money or actionable claim shall not include any activity-

- i) An activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.
- ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—
  - (a) by a lottery distributor or selling agent on behalf of the State government or facilitating in organising lottery of any kind, in any other manner, in accordance with the provisions of Lotteries (Regulation) Act, 1988.**(as amended w.e.f. 01.04.2016)**
  - b) by a foreman of chit fund for conducting or organising a chit in any manner.’; **(as amended by sec 107(g) of the Finance Act, 2015 w.e.f 14th May, 2015)**

Explanation 3. — 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.

Explanation 4. — 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”

**b) Negative List of Services (Sec 66D):-**

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

- (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;

- (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) [any services], other than services covered under clauses (i) to (iii) above, provided to business entities; (*Sec 109(1) of the Finance Act, 2015 has substituted the words support service by "any service". W.e.f 01.04.2016*).
- (b) services by the **Reserve Bank of India**;
- (c) services by a **foreign diplomatic mission** located in India;
- (d) services relating to **agriculture or agricultural produce** by way of—
- (i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
  - (ii) supply of farm labour;
  - (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;
- (e) **trading of goods**;
- (f) any process amounting to **manufacture or production of goods**;
- Excluding alcoholic liquor for human consumption (added w.e.f. 01st June, 2015 as amended by Finance Act, 2015)**
- (g) selling of space for advertisements in print media;
- (h) service by way of access to a road or a bridge on payment of toll charges;
- (i) betting, gambling or lottery;
- Explanation:** For the purpose of this clause, the expression "betting, gambling or lottery" shall not include the activity specified in Explanation 2 to clause (44) of Sec 65B(**w.e.f. 01st June, 2015 as inserted by Finance Act, 2015**)
- (j) admission to entertainment events or access to amusement facilities;
- (The Clause stands omitted w.e.f 01st June, 2015 as amended by Finance Act, 2015. Hence, now taxable)**
- (k) transmission or distribution of electricity by an electricity transmission or distribution utility;
- (l) services by way of—
- (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;

**(Omitted w.e.f 14.05.2016)**

- (m) services by way of renting of residential dwelling for use as residence;
- (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;
- (o) service of transportation of passengers, with or without accompanied belongings, by—
  - (i) a stage carriage;(Omitted w.e.f. 01.06.2016)
  - (ii) railways in a class other than—
    - (A) first class; or
    - (B) an air conditioned coach;
  - (iii) metro, monorail or tramway;
  - (iv) inland waterways;
  - (v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
  - (vi) metered cabs or auto rickshaws;
- (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 up to the customs station of clearance in India; or(Omitted w.e.f 01.06.2016)
  - (iii) by inland waterways;
- (q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

**c) Mega Exemption Notification No. 25/2012-ST (as amended 22/2016 dated 13.04.2016)**

- (1) Services provided to the United Nations or a specified international organization;
- (2) (i) Health care services by a clinical establishment, an authorised medical practitioner or paramedics;
- (ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above; (as amended vide notification no. 06/2015-ST w.e.f 01-04-2015)
- (2A) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation;(as inserted vide notification no. 04/2014-ST)
- (2B) Services provided by operators of the Common Bio-Medical Waste Treatment Facility to a clinical establishment by way of treatment or disposal of bio- medical waste or the processes incidental thereto;(as inserted vide notification no. 06/2014-ST)
- (3) Services by a veterinary clinic in relation to health care of animals or birds;
- (4) Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
- (5) Services by a person by way of-
  - (a) renting of precincts of a religious place meant for general public; or
  - (b) conduct of any religious ceremony;

- (5A) Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement;(inserted vide notification no. 17/2014-ST)
- (6) Services provided by-
- (a) an arbitral tribunal to -
    - (i) any person other than a business entity; or
    - (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year;
  - (b) a partnership firm of advocates or an individual as an advocates other than a senior advocate by way of legal services to,-
    - (i) an advocate or partnership firm of advocates providing legal services ;
    - (ii) any person other than a business entity; or
    - (iii) a business entity with a turnover up to rupees ten lakh in the preceding financial year; or
  - (c) a senior advocate by way of legal services to a person other than a person ordinarily carrying out any activity relating to industry, commerce, or any other business or profession. (w.e.f. 01.04.2016)
- (7) Omitted vide notification no. 06/2014-ST
- (8) Services by way of training or coaching in recreational activities relating to arts, culture or sports;
- (9) Services provided
- (a) by an educational institution to its students, faculty and staff;
  - (b) to an educational institution, by way of,-
    - (i) transportation of students, faculty and staff;
    - (ii) catering; including any mid-day meals scheme sponsored by the Government;
    - (iii) security or cleaning or house-keeping services performed in such educational institution;
    - (iv) Services relating to admission to, or conduct of examination by, such institution **(as amended by notification no. 03/2013-ST & superseded by Notification no. 06-2014-ST)**
- (9A) Any services provided by, \_
- (i) the National Skill Development Corporation set up by the Government of India;
  - (ii) a Sector Skill Council approved by the National Skill Development Corporation;
  - (iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
  - (iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation.”(inserted vide notification no. 13/2013-ST)
- (9B) Services provided by the Indian Institute of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme,-**
- a) two year full time residential Post Graduate Programmes in management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test(CAT), conducted by Indian Institute of Management;**
  - b) fellow programme in Management;**

- c) **five year integrated programme in Management.(w.e.f 01.03.2016, Inserted By Notification No. 9/2016)**

**(9C) Services of Assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative Scheme. (w.e.f 01.04.2016, Inserted By Notification No. 9/2016).**

- (10) Services provided to a recognised sports body by-
- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
  - (b) another recognised sports body;
- (11) Services by way of sponsorship of sporting events organised,-
- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone or country;(as amended by notification no. 01/2014-ST)
  - (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
  - (c) by Central Civil Services Cultural and Sports Board;
  - (d) as part of national games, by Indian Olympic Association; or
  - (e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme;
- (12) Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -
- (a) Omitted vide notification no. 06/2015-ST effective from 01-04-2015;
  - (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
  - (c) Omitted vide notification no. 06/2015-ST effective from 01-04-2015;
  - (d) canal, dam or other irrigation works;
  - (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or
  - (f) Omitted vide notification no. 06/2015-ST effective from 01-04-2015;
- (12A) Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out repair, maintenance, renovation, or alteration of –**
- (a) A civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession.**
  - (b) A Structure meant predominantly for use as (i) an educational (ii) a clinical or(iii) an art or cultural establishment; or**
  - (c) A residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause (44) of section 65B of the said Act.**

**Under a contract which had been entered into prior to the 1st March 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date.**

**Provided that nothing contained in this entry shall apply on or after 01/04/2020.  
(Inserted by Notification No. 09/2016 dated 01.03.2016 w.e.f 01.03.2016)**

- (13) Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-
- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public;
  - (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;
  - (ba) a civil structure or any other original works pertaining to the 'In-Situ rehabilitation of existing slum dwellers using land as a resource through private participation' under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers.(Inserted by Notification No. 09/2016 dated 01.03.2016 w.e.f. 01.03.2016).**
  - (bb) a civil structure or any other original works pertaining to the Beneficiary-led Individual house construction/enhancement under the Housing for All(Urban)Mission/ Pradhan Mantri Awas Yojna; (Inserted by Notification No. 09/2016 dated 01.03.2016 w.e.f. 01.03.2016).**
  - (c) a building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;
  - (d) a pollution control or effluent treatment plant, except located as a part of a factory; or a structure meant for funeral, burial or cremation of deceased;
- (14) Services by way of construction, erection, commissioning, or installation of original works pertaining to,-
- (a) railways, excluding monorail or metro;
- Explanation: The Services by way of construction, erection, commissioning, or installation of original Works pertaining to monorail or metro, Where contract were entered into before 01.03.2016, on which appropriate stamp duty was paid, shall remain exempt.
- (b) a single residential unit otherwise than as a part of a residential complex;
  - (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
  - (ca) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority under:**
    - (i) the "Affordable Housing in Partnership" component of the Housing for All(Urban) Mission/ Pradhan Mantri Awas Yojna.**
    - (ii) Any housing scheme of State Government.  
(inserted by Notification 09/2016 dated 01.03.2016 w.e.f. 01.03.2016)**
  - (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
  - (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;
- (14A) Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport or port provided under a contract which had been entered into prior to 1st March 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date:

**Provided that** *ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, certifies that the contract had been entered into before the 1st March, 2015:*

**Provided Further that** *nothing contained in this entry shall apply on or after the 1st April 2020;*  
**(inserted by Notification 09/2016 dated 01.03.2016 w.e.f. 01.03.2016)**

- (15) Services provided by way of temporary transfer or permitting the use or enjoyment of a copyright-
- (a) covered under clauses (a) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works ;or
  - (b) of cinematograph films for exhibitions in a cinema hall or cinema theatre; **(as amended by notification no. 3/2013-ST)**
- (16) Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, if the consideration charged for such performance is not more than
- *one lakh rupees (before 01.04.2016) :*
  - *one Lakhs and Fifty Thousand Rupees (Substituted by Notification No. 09/2016 dated 01.03.2016 w.e.f 01.04.2016)*
- Provided that the exemption shall not apply to service provided by such artist as a brand ambassador;(as amended vide notification no. 06/2015-ST)
- (17) Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
- (18) Services by way of renting of a hotel, inn, guest house, club, campsite by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below rupees one thousand per day or equivalent;(as amended by notification no. 06/2014-ST)
- (19) Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, (as amended by notification no. 3/2013-ST)
- (19A) Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 (63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year.(as inserted vide notification no. 14/2013-ST)
- (20) Services by way of transportation by rail or a vessel from one place in India to another of the following goods -
- (a) Omitted Vide notification no. 3/2013-ST
  - (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
  - (c) defence or military equipments;
  - (d) Omitted Vide notification no. 3/2013-ST;
  - (e) Omitted Vide notification no. 3/2013-ST;
  - (f) newspaper or magazines registered with the Registrar of Newspapers;
  - (g) railway equipments or materials;
  - (h) agricultural produce;
  - (i) milk, salt and food grain including flours, pulses and rice;(as amended vide notification no. 06/2015-ST, w.e.f 01st April, 2015)
  - (j) chemical fertilizer, organic manure(inserted vide notification no. 06/2014-ST) and oilcakes;
  - (k) Cotton, ginned or baled (inserted vide notification no. 06/2014-ST)
- 21) Services provided by a goods transport agency, by way of transport in a goods carriage of-
- (i) agricultural produce;
  - (ii) goods where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; or

- (iii) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;
  - (iv) milk, salt and food grain including flours, pulses and rice; *(as amended vide notification no. 06/2015-ST, w.e.f 01st April, 2015)*;
  - (v) chemical fertilizers, organic manure *(inserted vide notification no. 06/2014-ST)* and oilcakes;
  - (vi) newspapers or magazines registered with the Registrar of Newspapers;
  - (vii) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishaps; or
  - (viii) defence or military equipments *(as amended vide notification no. 3/2013-ST)*
  - (ix) Cotton, ginned or baled *(as inserted vide notification no. 06/2014-ST)*
- 22) Services by way of giving on hire -
- (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
  - (b) to a goods transport agency, a means of transportation of goods;
- 23) Transport of passengers, with or without accompanied belongings, by -
- (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
  - (b) non air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or; *(amended vide notification no. 06/2014-ST)*
  - (bb) stage carriage other than air conditioned stage carriage** *(Inserted by Notification No.09/2016 dated 01.03.2016 w.e.f. 01.04.2016)*
  - (c) ropeway, cable car or aerial tramway; **(Omitted w.e.f. 01.04.2016 i.e. Service Tax will be leviable in case of service provided after 01.04.2016)**
- 24) Omitted vide notification no. 3/2013-ST
- 25) Services provided to Government, a local authority or a governmental authority by way of -
- (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or *(as amended vide notification no. 06/2014-ST)*
  - (b) repair or maintenance of a vessel ; *(or an aircraft deleted vide notification no. 3/2013-ST)*
- 26) Services of general insurance business provided under following schemes -
- (a) Hut Insurance Scheme;
  - (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
  - (c) Scheme for Insurance of Tribals;
  - (d) Janata Personal Accident Policy and Gramin Accident Policy;
  - (e) Group Personal Accident Policy for Self-Employed Women;
  - (f) Agricultural Pumpset and Failed Well Insurance;
  - (g) premia collected on export credit insurance;
  - (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;



- (i) Jan Arogya Bima Policy;
  - (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
  - (k) Pilot Scheme on Seed Crop Insurance;
  - (l) Central Sector Scheme on Cattle Insurance;
  - (m) Universal Health Insurance Scheme;
  - (n) Rashtriya Swasthya Bima Yojana; or
  - (o) Coconut Palm Insurance Scheme;
  - (p) Pradhan Mantri Suraksha Bima Yozna;(inserted vide notification no. 12/2015-ST w.e.f. 30th April, 2015)
- 26A) Services of life insurance business provided under following schemes –(inserted vide notification 49/2012-ST)
- (a) Janashree Bima Yojana (JBY); or
  - (b) Aam Aadmi Bima Yojana (AABY);
  - (c) life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees. *(as inserted vide notification no. 06/2014-ST)*
  - (d) Varishtha Pension Bima Yojana*(as inserted vide notification no. 06/2015-ST w.e.f. 01-04-2015)*
  - (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;*(inserted vide notification no. 12/2015-ST w.e.f. 30th April, 2015)*
  - (f) Pradhan Mantri Jan Dhan Yozana *(inserted vide notification no. 12/2015-ST w.e.f. 30th April, 2015)*
- 26B) Services by way of collection of contribution under Atal Pension Yojana; *(inserted vide notification no. 12/2015-ST w.e.f. 30th April, 2015)*
- 26C) Services of Life Insurance business provided by way of annuity under the National Pension System regulated by a Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory and Development Authority Act, 2013.*(Inserted By Notification 09/2016 dated 01.03.2016 w.e.f 01.04.2016)*
- 27) Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-
- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and
  - (b) a period of three years has not been elapsed from the date of entering into an agreement as an incubatee;
- 28) Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -
- (a) as a trade union;
  - (b) for the provision of carrying out any activity which is exempt from the levy of service tax; or
  - (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
- 29) Services by the following persons in respective capacities -
- (a) sub-broker or an authorised person to a stock broker;
  - (b) authorised person to a member of a commodity exchange;

- (c) omitted vide notification no. 06/2015-ST w.e.f 01st April, 2015;
  - (d) omitted vide notification no. 06/2015-ST w.e.f 01st April, 2015;
  - (e) omitted vide notification no. 06/2015-ST w.e.f 01st April, 2015;
  - (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;
  - (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or
  - (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;
- 30) Carrying out an intermediate production process as job work in relation to -
- (a) agriculture, printing or textile processing;
  - (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act ,1985 (5 of 1986);
  - (c) any goods “excluding alcoholic liquors for human consumption” (inserted vide notification no. 06/2015-ST w.e.f. 01st June, 2015)on which appropriate duty is payable by the principal manufacturer; or
  - (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black,during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
- 31) Services by an organiser to any person in respect of a business exhibition held outside India;
- 32) Omitted Vide notification no. 06/2015-ST w.e.f 01st April, 2015;
- 33) Services by way of slaughtering of animals;
- 34) Services received from a provider of service located in a non- taxable territory by -
- (a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
  - (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; or
  - (c) a person located in a non-taxable territory;
- 35) Services of public libraries by way of lending of books, publications or any other knowledge- enhancing content or material;
- 36) Services by Employees’ State Insurance Corporation to persons governed under the Employees’ Insurance Act, 1948 (34 of 1948);
- 37) Services by way of transfer of a going concern, as a whole or an independent part thereof;
- 38) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets;
- 39) Services by *[Government, a local authority or]* **Inserted by Notification No. 22/2016 dated 13.04.2016 w.e.f 13.04.2016** governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution;
- 40) Services by way of loading, unloading, packing, storage or warehousing of rice, cotton, ginned or baled;*(as inserted vide notification no. 04/2014-ST and superseded vide notification no 06/2014-ST)*

- 41) Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves;(as inserted vide notification no. 06/2014-ST)
- 42) Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India. (as inserted vide notification no. 06/2014-ST)
- 43) Services by operator of Common Effluent Treatment Plant by way of treatment of effluent;(inserted vide notification no. 06/2015-ST w.e.f 01st April, 2015)
- 44) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables; (inserted vide notification no. 06/2015-ST w.e.f 01st April, 2015)
- 45) Services by way of admission to a museum, national park, wild life sanctuary, tiger reserve or zoo; (inserted vide notification no. 06/2015-ST w.e.f 01st April, 2015)
- 46) Services provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members; (inserted vide notification no. 06/2015-ST w.e.f 01st April, 2015)
- 47) Services by way of right to admission to –
  - (i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
  - (ii) recognised sporting event;
  - (iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs. 500 per person.(inserted vide notification no. 06/2015-ST w.e.f. 01st June, 2015).
- 48) Services provided by Government or a local authority to a business entity with a turnover upto Rs.10 Lakhs in the preceding financial year.
- 49) Services provided by Employees Provident Fund Organisation(EPFO) to persons governed under the Employees' Provident Fund and Miscellaneous Provisions Act 1952.
- 50) Services provided by Insurance Regulatory and Development Authority of India to the Insurer under the IRDA Act 1999 (41 of 1999).
- 51) Services provided by SEBI under the SEBI Act 1992 by way of protecting the interest of the investor in securities and to promote the development of, and to regulate, the securities market.
- 52) Services provided by National Centre for cold chain Development under Ministry of Agriculture, co-operation and Farmer's welfare by way of cold chain dissemination.
- 53) Services by way of transportation of goods by an aircraft from a place outside India upto custom station of clearance in India.
- 54) Services provided by a government or local authority to another Government or Local authority: **Provided that** nothing contained in this entry shall apply to services specified in sub clause (i), (ii), (iii) of clause a of section 66D of the finance act 1994.
- 55) Services provided by Government or a local authority by way of issuance of passport, visa, driving license, birth certificate, or death certificate.
- 56) Services provided by Government or local authority where the gross amount charged for such services does not exceed Rs. 5,000/-

**Provided that** nothing contained in this entry shall apply to services specified in subclause (i), (ii) and (iii) of clause (a) of section 66D of Finance Act 1994.

**Provided further that** in case where continuous supply of services, as defined in clause (c) of Rule 2 of the point of taxation Rules 2011, is provided by the Government or a local authority, the exemption shall apply only where the gross amount charged for such services does not exceed Rs. 5,000 in a financial Year.

- 57) Services provided by Government or a local authority by way of tolerating non-performance of a contract for which consideration in the form of fines and liquidated damages is payable to the Government or the local authority under such contract;
- 58) Services provided by the government or a local authority by way of:-
- (a) Registration required under any law for the time being in force.
- (b) Testing, calibration, safety check or certification relating to protection or safety of workers, consumers, or public at large, required under any law for the time being in force;
- 59) Services provided by Government or Local authority by way of assignment of right to use natural resources to an individual farmer for the purpose of agriculture;
- 60) Services provided by Government or Local authority by way of any activity in relation to any function entrusted to a panchayat under article 234G of the constitution
- 61) Services provided by Government or Local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Government or the Local Authority before the 1st April 2016.

**Provided that** the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in instalments, for assignments of right to use such natural resources.

- 62) Services provided by Government or Local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the financial year 2015-16 on payment of License fee or spectrum user charges.
- 63) Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of MOT

**d) Exempted as Otherwise by following Notifications:**

| Sr.No. | Notification No.   | Exempts the services   |
|--------|--|--|
| 1      | 27/2012-ST   | taxable services provided by any person, for the official use of a foreign diplomatic mission or consular post in India, or for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein  |
| 2      | 29/2012-ST   | exempts the taxable service of renting of an immovable property, from so much of the service tax leviable thereon under section 66B of the said Finance Act, as is in excess of the service tax calculated on a value which is equivalent to the gross amount charged for renting of such immovable property less taxes on such property, namely property tax levied and collected by local bodies:<br>Provided that any amount such as interest, penalty paid to the local authority by the service provider on account of delayed payment of property tax or any other reasons shall not be treated as property tax for the purposes of deduction from the gross amount charged: |
| 3      | 31/2012-ST   | The taxable service received by an exporter of goods and used for export of goods of the description specified in column (2) of the Table given in the notification  |
| 3      | 32/2012-ST   | Taxable services, provided or to be 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, Government of India   |
| 4      | 42/2012-ST<br><b>Rescinded by Not. 03/2015-ST</b>  | The taxable service received by an exporter of goods and used for export of goods, of the description specified in column (2) of the Table as given in notification  |
| 5      | 40/2012-ST<br>Superseded by Not. 12/2013-ST<br>Amended by Not. 15/2013-ST, Not. 07/2014-ST | The services on which service tax is leviable u/s 66B of the said Act, received by a unit located in SEZ or Developer of SEZ and used for the authorized operations  |

|    |  |  |
|----|--|--|
| 6  | 06/2013-ST<br>Amended by Not<br>11/2013-ST<br>17/2013-ST,<br>)05/2014-ST | The taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory<br>This notification shall be applicable to the Focus Market Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.14 of the Foreign Trade Policy  |
| 7  | 07/2013-ST   | The taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory<br>This notification shall be applicable to the Focus Product Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.15 of the Foreign Trade Policy   |
| 8  | 08/2013-ST   | The taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory<br>This notification shall be applicable to the Vishesh Krishi and Gram Udyog Yojana (Special Agriculture and Village Industry Scheme) duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.13.2 of the Foreign Trade Policy |
| 9  | 10/2015-ST   | The taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory<br>This notification shall be applicable to the Merchandise Exports from India Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with paragraph 3.04 read with paragraph 3.05 of the Foreign Trade Policy.                          |
| 10 | 11/2015-ST   | The taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory<br>This notification shall be applicable to the Service Exports from India Scheme duty credit scrip issued by the Regional Authority in accordance with paragraph 3.10 read with paragraph 3.08 of the Foreign Trade Policy.   |
| 11 | 17/2015-ST   | The taxable services provided under the Power System Development Fund Scheme of the Ministry of Power by way of:<br>(A) Re-gasification of Liquefied Natural Gas imported by GAIL<br>(B) Transportation of the incremental Re-gasified Liquefied Natural Gas   |

### III. Taxable Services:

All services otherwise specifically excluded from the definition of service under section 65B(44), or by way of Negative List as mentioned under sec 66D, or by way of specifically exempted by Mega Exemption Notification No. 25/2012-ST or otherwise specifically exempted as issued by way of notifications by the government from time to time stands taxable provided it refers to any activity carried out by a person for another for consideration, and includes a declared service.

#### a) Declared Service:

The concept of declared services was introduced under section 66E of the Act to include most of the disputed services, like, transactions involving software, intellectual property rights, construction services, hire purchase, etc.

**Assignment by the government of right to use the spectrum and subsequent transfers thereof is proposed to be declared as a service.(Inserted by Finance Act, 2016 w.e.f 14.05.2016)**

#### Section 65B(22)

The term declared service has been defined u/s 65B (22) of the Act as under:

“(22) “declared service” means any activity carried out by a person for another person for consideration and declared as such under section 66E”

Hence, all the services mentioned under declared service are ‘deemed services’ to make clear the intention that these activities will be subject to service tax. Some of these are specifically included as these are partly covered under List II i.e., State List (like, works contract, supplier food, financial lease, etc.)

#### Section 66E

The services which are declared in section 66E are as follows:

- (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 (20 of 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.”
- (j) Assignment by the government of right to use the spectrum and subsequent transfers thereof is proposed to be declared as a service.(Inserted by Finance Act, 2016 w.e.f 14.05.2016).

#### IV. New Levy of Krishi Kalyan Cess

Krishi Kalyan Cess has been levied with effect from 01st June 2016 on any or all the taxable services at the rate of 0.5% on the value of such taxable services. Credit of Krishi Kalyan Cess paid on Input Services shall be allowed to be used for payment of the proposed Cess on the service provided by a service provided.

#### V. Valuation of Taxable Services for Charging Service Tax (Sec 67 of the Act read with Service Tax (Determination of Valuation) Rules, 2006

| Sr.No. | Where Consideration for service is       | Value of Taxable Service   | Remarks  |
|--------|--|--|--|
| 1      | Wholly in money                          | Gross amount charged by the service provider   | Sec 67 of the Act  |
| 2      | Not wholly or partly consisting of money | Such amount of money, with the addition of service tax charged, is equivalent to the consideration | As per amendment by sec 111 of the Finance Act, 2015 :<br>Consideration includes-<br>(i) Any amount payable for the taxable service provided or to be provided;<br>(ii) Any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions as may be prescribed; |

|   |  |   |  |
|---|--|---|--|
|   |  |   | (iii) Any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say the difference in the face value of lottery ticket and the price at which the distributor or selling agents get the tickets |
| 3 | Where consideration is not ascertainable               | Value shall be equivalent to the gross amount charged for providing the similar service to any other person<br>Where value cannot be ascertained as above then value shall be equivalent money value of such consideration which shall be at least equal to the cost of provision of such service | Rule 3 of the Valuation Rules, 2006 Note 1   |
| 4 | Where gross amount charged is inclusive of service tax | Value of Taxable Service = $\frac{\text{Gross amount charged} \times 100}{100 + \text{Rate of service Tax}}$  | Sec 67 of the Act  |

#### SPECIFIC SERVICE VALUATION

|   |  |   |  |  |
|---|--|---|--|--|
| 1   | <b>Valuation of Service portion in the execution of works contract</b> | Value shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract. Where value added tax or sales tax has been paid or payable on the actual value of property in goods transferred in execution of works contract, then such value adopted for the purpose of payment of VAT or sales tax shall be taken as the value of property in goods transferred for determining the value of property in the execution of works contract | There are specific inclusions and exclusions as provided in Rule 2A of Valuation Rules, 2006   |  |
|   |  | Where value cannot be determined as stated above, then value shall be   | <b>Explanation 1.-</b><br>For the purposes of this rule,-<br>(a) "original works" means- (i) all new construction (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;<br>(iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;<br><b>"total amount"</b> means the sum total of the gross amount |  |
|   |  | <b>Type of Work Contract</b>  |  | <b>% Value of the total amount charged</b> |
|   |  | A Original works  |  | 40%  |
|   |  | B In case of works contract not covered under sub-clause (A), including works contract entered into for,-<br>a. Maintenance or repair or reconditioning or servicing of any goods; or<br>b. Maintenance or repair or completion and finishing service such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property<br>(as amended by notification no. 11/2014-ST w.e.f. 01 <sup>st</sup> October, 2014)   |  | 70%  |
| C Other works not covered under (A) and (B) above including maintenance, repair, completion and finishing service such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property<br><b>(from 01<sup>st</sup> July, 2012 to 30<sup>th</sup> September, 2014)</b> | 60%  |   |  |  |

|   |   |  |   |   |
|---|---|--|---|---|
|   |   |  |   | <p>charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting-</p> <p>(i) the amount charged for such goods or services, if any; and</p> <p>(ii) the value added tax or sales tax, if any, levied thereon:</p> <p>Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.</p> <p><b>Explanation 2.</b>--For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004.".</p> |
| Valuation of Service in relation to purchase or sale of foreign currency including money changing | <b>1) For currency exchanged from or to Indian Rupees (INR)</b> | <b>Value</b>   | Rule 2B of the Valuation Rules, 2006<br>Note: The Service provider has the option to pay tax as under Rule 6(7B) of the Service Tax Rules, 1994 |   |
|   | a) When RBI rate is available                                   | Buying Rate/Selling Rate MINUS RBI rate for that currency for that day multiplied by the total units of currency   |   |   |
|   | b) When RBI reference rate for the currency is not available    | 1% of the gross amount of INR provided or received by the person changing the money  |   |   |
|   | <b>2) Where neither of the currencies exchanges is in INR</b>   | 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into INR on that day at the RBI reference rate |   |   |



|   |   |  |                                    |   |
|---|---|--|------------------------------------|---|
| 3 | Valuation of service portion involved in supply of food or any other article of human consumption or any drink in a restaurant or as outdoor catering | <b>For Service portion wherein goods being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner</b> | <b>% Value of the total amount</b> | <p>Explanation 1.- For the purposes of this rule, "total amount" means the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink(whether or not intoxicating), whether or not supplied under the same contract or any other contract, after deducting-</p> <p>(i) the amount charged for such goods or services, if any; and</p> <p>(ii) the value added tax or sales tax, if any, levied thereon:</p> <p>Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles</p> <p>Explanation 2.- For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986).</p> |
|   |   | a) In an activity, as a part of the activity , at a restaurant   | 40%                                |   |
|   |   | b) In outdoor catering, as a part of such outdoor catering   | 60%                                |   |

Notes:

1. Where the Central Excise Officer is satisfied that the value so determined by the service provider is not in accordance with the provisions of this Act or Rules, he shall issue a notice to such service provider and after giving reasonable opportunity of being heard, determine the value of such taxable service.
2. All expenditure or costs incurred by service provider in the course of providing taxable service to be included in the value for the purpose of charging service tax.
3. Expenditure or costs incurred shall be excluded from the value of taxable services provided by pure agent, if the following conditions are satisfied :
  - (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 for making 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 and services procured by the service provider from the third party as pure agent of the recipient of service are in addition to the services he provides on his own account

4. There are specific inclusions and exclusions for valuation of taxable service as tabulated under:

| Sr. No. | Inclusions   | Exclusions  |
|---------|--|---|
| (i)     | The commission of brokerage charged by a stock broker including commission or brokerage paid to stock broker   | Initial deposit paid for telephone connection, pager, facsimile, telegraph, telex or for leased circuit   |
| (ii)    | Amount adjusted by telegraph authority out of any deposit for telephone, pager, facsimile, telegraph, telex or leased circuit  | Airfare collected by Air Travel Agent   |
| (iii)   | Premium charged by the insurer from the policy holder  | Rail fare collected by rail travel agent  |
| (iv)    | Commission received by air travel agent from airline   | Interest on delayed payment of any consideration for the provision of service or sale of property, whether movable or immovable   |
| (v)     | Commission, fee or other sum received by actuary, intermediary, insurance intermediary or insurance agent from insurer   | Taxes levied by government on any passenger travelling by air, if shown separately on ticket or invoice for such ticket   |
| (vi)    | Reimbursement received by the authorized service station from manufacturer for carrying out service of motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer | Accidental damages due to unforeseen actions not related to the provision of service; and (inserted by notification no. 24/2012-ST w.e.f 01 <sup>st</sup> July, 2012)     |
| (vii)   | Commission or amount received by rail travel agent from Railways or customers  | Subsidies and grants disbursed by the Government, not directly affecting the value of service (inserted by notification no. 24/2012-ST w.e.f 01 <sup>st</sup> July, 2012) |
| (viii)  | Remuneration or commission paid to clearing & forwarding agent by the client for rendering services of clearing & forwarding operations  |   |
| (ix)    | Commission, fee or other sum paid to insurance agent by insurer in relation to insurance auxiliary services; and   |   |
| (x)     | Amount realized as demurrage or by any other name for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service                |   |

## VI. Payment of Service Tax at Composite Rates

The following four service providers have the option to pay service tax at composite rates as mentioned under. Such option once applied shall apply uniformly for the entire year and cannot be changed during a financial year under any circumstances.

### a) Air Travel Agents(Rule 6(7) of the Service Tax Rules, 1994) - w.e.f. 01.06.2015

| Sr.No. | Type of Booking        | Composite Rate         | Remarks   |
|--------|------------------------|------------------------|---|
| 1      | Domestic Bookings      | 0.7% of the Basic fare | Basic fare means that part of the air fare on which commission is normally paid to the air travel agent by the airline. |
| 2      | International Bookings | 1.4% of the Basic Fare |   |

*Note: for the figures 0.6% and 1.2%, the figures 0.7% and 1.4% shall respectively be substituted from the date yet to be notified by the Central Government (As amended by notification no. 05/2015-ST dated 01st March, 2015)*

**b) An Insurer carrying on life Insurance Business (Rule 6(7A) of the Service Tax Rules, 1994)- w.e.f. 01.06.2015**

| Sr. No. | Description   | Tax to be Paid   | Remarks  |
|---------|---|--|--|
| 1       | If the amount of investment or saving is intimated to the policy holder | On the gross premium charged less the amount collected for investment or savings | Such option is not available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance. |
| 2       | In all other cases  |  |  |
|         | For the first Year  | 3.5% of the premium charged  |  |
|         | For subsequent years  | 1.75% w.e.f 01.06.2015   |  |

Note: for the figures 3% and 1.5%, the figures 3.5% and 1.75% shall respectively be substituted from the date yet to be notified by the Central Government (As amended by notification no. 05/2015-ST dated 01st March, 2015)

**c) Service providers providing service of purchase or sale of foreign currency including money changing (Rule 6(7B) of the Service Tax Rules, 1994) - w.e.f. 01.06.2015**

| Sr.No | Amount of currency exchanged for an amount | % of Tax to be paid   | Remarks |
|-------|--|---|---------|
| 1     | Upto Rs. 1 lakh                            | 0.14% of the gross amount of currency exchanged<br>Subject to minimum of Rs. 30/-                                       |         |
| 2     | Exceeding Rs. 1 lakh and upto Rs. 10 lakh  | Rs. 140 Plus 0.07% of the gross amount of currency Exchanged exceeding Rs. 1 lakh and upto Rs. 10 lakh                  |         |
| 3     | Exceeding Rs. 10 lakh                      | Rs. 770 Plus 0.012% of the gross amount of currency Exchanged exceeding Rs.10 lakh subject to the maximum of Rs. 6000/- |         |

Note:

- In sl. No. 1 for the figures and words 0.12% and Rs.30/-, the figures and words 0.14% and Rs. 35/- shall respectively be substituted
- In sl. No. 2 for the figures and words 120 and 0.06%, the figures and words 140/- and 0.07% shall respectively be substituted
- In sl. No. 3 for the figures and words 660 and 0.012% and Rs. 6000/-, the figures and words 770/- and 0.014%% and Rs. 7000/- shall respectively be substituted from the date yet to be notified by the Central Government (As amended by notification no. 05/2015-ST dated 01st March, 2015)

**d) The Distributor or selling agent providing the taxable service of promotion, marketing, organizing or in any other manner assisting in organizing lottery(Rule 6(7C) of the Service Tax Rules, 1994) - w.e.f. 01.06.2015**

| Sr.No | Rate  | Condition   | Remark  |
|-------|---|---|---|
| 1     | Rs.8,200/- on every Rs. 10 lakh or (part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw  | If the lottery or lottery scheme is one where the Guaranteed prize pay out is more than 80% | In case of online lottery, the aggregate face value of lottery tickets for the purpose of this sub-rule shall be taken as the aggregate value of tickets sold, and service tax shall be calculated as specified in the table. |
| 2     | Rs.12,800/- on every Rs. 10 lakh or (part Of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw | If the lottery or lottery scheme is one where the Guaranteed prize pay out is less than 80% |   |

Note: for the figures 7000/- in Sr. No. 1 and 11000/- in Sr. No. 2, the figures 8200/- and 12800/- shall respectively be substituted from the date yet to be notified by the Central Government (As amended by notification no. 05/2015-ST dated 01st March, 2015)

## VII. Export and Import of Taxable Services

W.e.f. 01st July, 2012 Export and Import of taxable services are determined by sec 66C of the Act, read with Rule 6A of the Service Tax Rules, 1994 and Place of Provision of Service Rules, 2012.

Sec 66C determines 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 by way of Place of Provision of Service Rules, 2011.

Rule 6A of the Service Tax Rules, 1994 determined the conditions wherein the service shall be treated as export of service. As per Rule 6A the provision of any service provided or agreed to be provided shall be treated as export of service when,

- a) The provider of service is located in the taxable territory,
- b) The recipient of the service is located outside India,
- c) The service is not a service specified in sec 66D of the Act,
- d) The place of provision of the service is outside India,
- e) The payment for such service has been received in convertible foreign exchange by the service provider, and
- f) The provider of service and recipient of service are not merely establishment of distinct person in accordance with item (B) of Explanation 3 of clause (44) of sec 65B of the Act.

Where any service is exported, the Central Government may, by notification, grant rebate of service tax or duty paid on input services or inputs used in providing such services subject to the safeguards, conditions and limitations as may be specified in the notification. (Refer Not. No. 39/2012-ST dated 20th June, 2012, 41/2012-ST dated 20th June, 2012)

### a) Place of Provision of Service Rules, 2012

The Place of Provision of Service Rules, 2012 replaces the Export of Service Rules, 2005 and the Taxable of Services (Provided from outside India and Received in India) Rules, 2006. The Place of Provision of Services Rules are summarized as under:

| Sr. No | Relevant Rule | Situation   | Place of Provision of Service   | Remarks   |
|--------|---------------|---|---|---|
| 1      | 3             | On General Basis  | Location of the recipient of service:<br><br>However, if the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service. |   |
| 2      | 4             | Performance Based Service   |   |   |
| a)     |               | services provided in respect of goods that are required to be made physically available by the service receiver to the service provider   | Location at which the services are actually performed by service provider   | This sub-rule shall not apply in the case of a service provided in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any use in the taxable territory, other than that which is required for such repairs (as amended by not. No. 14/2012-ST w.e.f. 01 <sup>st</sup> Oct, 2014) |
|        |               | If such services are provided from a remote location by way of electronic means   | location where goods are situated at the time of provision of service   |   |
| b)     |               | services provided to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the receiver or the person acting on behalf of the receiver, with the provider for the provision of the service. | Location at which the services are actually performed by service provider   |   |

|    |    |  |  |   |
|----|----|--|--|---|
| 3  | 5  | Immovable property based service   | Location of the Immovable property located or intended to be located   |   |
| 4  | 6  | Event Based Service  | Location where the event is actually held  |   |
| 5  | 7  | Multiple Location Based Service in relation to service referred in Rule 4, 5 and 6 above   | location in the taxable territory where the greatest proportion of the service is provided   |   |
| 6  | 8  | Where service provider and service recipient are located in taxable territory  | location of the recipient of service   |   |
| 7  | 9  | For specified Services being:<br>a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;<br>b) Online information and database access or retrieval services;<br>c) Intermediary Services;<br>d) Service consisting of hiring of means of transport upto a period of one month(upto 30 <sup>th</sup> Sep, 2014)<br><br>(w.e.f. 01 <sup>st</sup> Oct, 2014 vide not. No 14/2014-ST)<br>Service consisting of hiring of all means of transport other than (i) aircrafts and (ii) vessels except yachts, upto a period of one month | the location of the service provider   | account <sup>n</sup> means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account |
| 8  | 10 | transportation of goods, other than by way of mail or courier for goods transportation agency  | place of destination of the goods<br><br>location of the person liable to pay tax  |   |
| 9  | 11 | Passenger Transport Service  | the place where the passenger embarks on the conveyance for a continuous journey   |   |
| 10 | 12 | services provided on board a conveyance during the course of passenger transport operation   | the first scheduled point of departure of that conveyance for the journey  |   |
| 11 | 13 | Powers to notify description of services or circumstances for certain purposes   | In order to prevent double taxation or non-taxation of the provision of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of provision shall be the place of effective use and enjoyment of a service |   |
| 12 | 14 | Order of Application of Rules  | Notwithstanding anything stated in any rule, where the provision of a service is, prima facie, determinable in terms of more than one rule, it shall be determined in accordance with the rule that occurs later among the rules that merit equal consideration.   |   |

### VIII. Point of Taxation Rules

The Point of Taxation Rules, 2011 provide for the determination of point in time when the service is deemed to have been provided both for the purpose of collection of service tax and to determine the rate of service tax applicable.

#### Determination of Point of Taxation

General rule for determination of point of taxation is as below:

**Rule 3** - Where the invoice is raised within the stipulated time period, i.e., 30 days from the date completion of service, the point of taxation would be earlier of the two:

- i. Date of invoice, or

ii. Date of receipt of payment

Where the invoice is not raised within the stipulated time period, i.e., 30 days from the date completion of service, the point of taxation would be earlier of the two:

- i. Date of completion of provision of service
- ii. Date of receipt of payment, to the extent of payment received

Thus, where the invoice is not raised within the stipulated time the point of taxation is the date of completion of provision of service.

In the case of continuous supply of service, where in terms of the contract the provision of the whole or part of the service is determined periodically on the completion of an event and such event requires the service receiver to make payment, the date of completion of each such event shall be the date of completion of provision of services.

**Rule 2 (C) defines the continuous supply of service as follows:**

“continuous supply of service” means any service which is provided, [or to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time], or where the Central Government, by a notification in the Official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition”

**Change in effective rate of tax**

**Rule 4** - Change in effective rate of tax should include, change of rate of tax itself, or change in any exemption or change in any other provisions which has the effect of changing the taxable value of a service.

Determination of point of taxation as per Rule 4 of the Point of Taxation Rules, 2011 in cases where there is a change in effective rate of tax would be as below:

| Sl. No. | Provision of taxable service               | Invoice has been issued                    | Payment received for the invoice           | Point of taxation shall be  | Applicable Rate |
|---------|--|--|--|---|-----------------|
| 1.      | BEFORE the change in effective rate of tax | AFTER the change in effective rate of tax  | AFTER the change in effective rate of tax  | Date of issuance of invoice or Date of receipt of payment, whichever is earlier | New Rate        |
| 2.      |  | BEFORE the change in effective rate of tax | AFTER the change in effective rate of tax  | Date of issuance of invoice   | Old Rate        |
| 3.      |  | AFTER the change in effective rate of tax  | BEFORE the change in effective rate of tax | Date of receipt of payment  | Old Rate        |
| 4.      | AFTER the change in effective rate of tax  | BEFORE the change in effective rate of tax | AFTER the change in effective rate of tax  | Date of receipt of payment  | New Rate        |
| 5.      |  | BEFORE the change in effective rate of tax | BEFORE the change in effective rate of tax | Date of issuance of invoice or Date of receipt of payment, whichever is earlier | Old Rate        |
| 6.      |  | AFTER the change in effective rate of tax  | BEFORE the change in effective rate of tax | Date of issuance of invoice   | New Rate        |

**Introduction of new services**

**Rule 5** - When any new services are made taxable or in case of New levy, then no tax shall be payable:

- i. to the extent invoice has been issued and the payment is received against such invoice before such service became taxable, also
- ii. no tax is payable where the payment is received before the service becomes taxable and the invoice for the same is issued within 14 days from the date when the service first becomes taxable.

**Point of taxation in case of payment of tax under reverse charge**

**Rule 7** - The point of taxation in case of payment of service tax by the recipient of service will be the date of payment of invoice. However, where the payment is not made within 3 months from the date of invoice, the point of taxation should be the date immediately following the said period of 3 months.

**Rule 10-** If the invoice is issued before 01st Day of October, 2014, but the payment has not been made as on the said date, the point of taxation shall be the date on which the payment is made if the payment is made within a period of 6 months of the date of invoice. If the payment is not made within a period of 6 months of the date of invoice, the point of taxation shall be determined as if Rule 7 and this Rule do not exist.

### **Point of taxation in case of associated enterprises**

In case of associated enterprises where the person providing the service is located outside India, the point of taxation should be the date of debit in the books by the service receiver or date of payment, whichever is earlier.

### **Point of taxation in case of copyrights, etc.**

In case of payments pertaining to copyrights, trademarks, designs, etc., where it is difficult to ascertain the consideration for the provision of service at the time when service was performed and the subsequent use of which gives rise to any payment of consideration, the service shall be treated as having been provided:

- i. each time a payment in respect of such use or benefit is received by the service provider; or
- ii. each time the service provider issues an invoice, whichever is earlier.

### **Unavailability of data**

As per Rule 8A, where there is unavailability of data in relation to the date of invoice or date of payment, or both, the Central Excise officer determine POT with the help of the books of accounts or other evidences made available to him on best judgement basis.

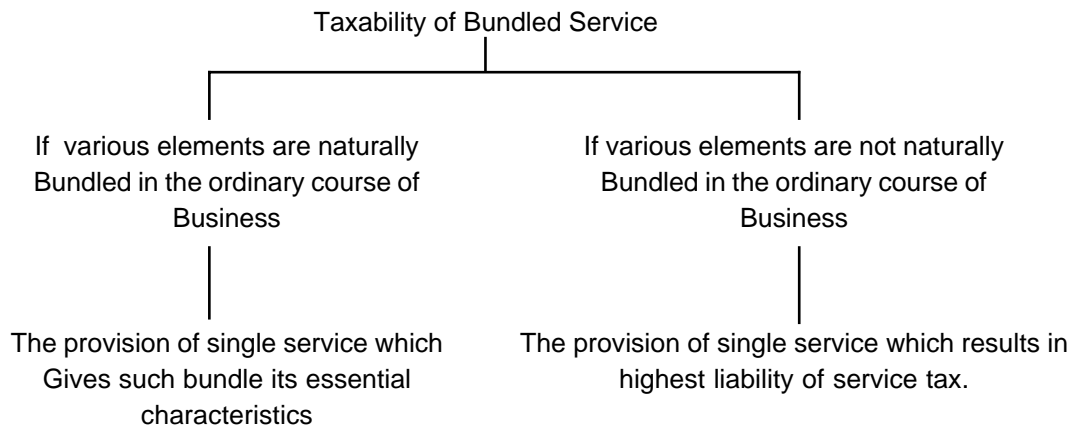
With effect from 01.06.2015 the service tax rate has been amended to 14% from 12.36%. The following table shows the impact of this change of rate depending on the following three events:

- Date of provision of service
- Date of issue of Invoice
- Date of receipt of payment

| <b>Service provided</b>          | <b>Invoice issued</b>            | <b>Payment received</b>          | <b>Applicable Rate</b> |
|----------------------------------|----------------------------------|----------------------------------|------------------------|
| Before the change in rate of tax | After the change in rate of tax  | After the change in rate of tax  | 14%                    |
|                                  | Before the change in rate of tax | After the change in rate of tax  | 12.36%                 |
|                                  | After the change in rate of tax  | Before the change in rate of tax | 12.36%                 |
| After the change in rate of tax  | Before the change in rate of tax | After the change in rate of tax  | 14%                    |

## **IX. Miscellaneous**

- a) Principles of Interpretation (Sec 66F)
  - i) Unless otherwise specified reference to a service (hereinafter referred to as main service) shall not include reference to a service which is used for providing main service.
  - ii) Prevalence of more specific description over general description where a service is capable of differential treatment on account of peculiarity of its description.
  - iii) Bundled Service: It applies where two or more services are bundled together in the ordinary course of business or not in such ordinary course of business
  - iv) Bundles service is defined as a bundle of provision of service wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.



**b) Best Judgement Assessment (Sec 72)**

- CEO empowered to call accounts, documents or other necessary evidences in case person liable to pay service tax :
  - a) Fails to furnish the return u/s 70;
  - b) Having filed return, failed to assess tax correctly
- After giving an opportunity of being heard to assessee, CEO to make assessment of value of taxable service and determine sum payable/refundable to the best of his assessment.

**c) Special Audit (Sec 72A)**

- The Commissioner of Central Excise is empowered to direct any person liable to pay service tax to get his accounts audited by a CA or Cost Accountant noominated by him if he has reasons to believe that such person-
  - a) Has failed to declare or determine the value of taxable service correctly; or
  - b) Has availed & utilized Cenvat credit
    - i) Which is not with the normal limits having regard to the nature of taxable service provided, the extent of capital goods used or the type of input or input services used, or any other relevant factor as he may deem appropriate; or
    - ii) By means of fraud, collusion or any willful misstatement or suppression of facts; or
  - c) 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 the jurisdiction of the said commissioner.
    - The CA or CWA shall submit a report duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified by him.
    - The Commissioner is empowered to order for such audit irrespective of the facts that the accounts of such person have been audited under any other law for the time being in force.
    - 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 and proposed to be utilised in any proceeding under the provisions of this Chapter or rules made thereunder.

**d) Demand under Service Tax (Sec 73)**



The Demand is governed by sec 73 the provisions of which can be summarized as under:

| Sr.No.  | Heading   | Provision  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
|---|---|--|------|---------------|---|---|-----------------------------------|-----------------------------|--------------------------------------|---|--------------------------------|-------------------------|
| 1   | Initiation of proceedings u/s 73  | where service tax has not been levied or paid or short levied or short paid or erroneously refunded  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 2   | Show Cause Notice (SCN)   | It is mandatory for the Department to issue SCN  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 3   | Follow up Demand  | 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 that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices   |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 4   | Time limit for issue of SCN   | (a) Five years from the relevant date- for cases involving fraud, collusion, willful misstatement or suppression of facts or contravention of any provisions with intent to evade payment of duty<br>(b) Within a period of 18 months from the relevant date- for other cases<br>(c) The period of stay may be excluded from such period if such notice is stayed by an order of court   |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 5   | Relevant Date   | The date from which the time limit would be computed is defined as 'Relevant Date'. It means- <table border="1" data-bbox="427 689 1381 1066"> <thead> <tr> <th>Case</th> <th>Relevant Date</th> </tr> </thead> <tbody> <tr> <td>a) In case of short levy/non levy or non levy/ short payment or non payment:<br/>i) Where return is filed<br/>ii) Where return is not filed</td> <td>The date on which the return is filed<br/>The last date on which it was required to be filed</td> </tr> <tr> <td>b) If there is no such time limit</td> <td>The date of payment of duty</td> </tr> <tr> <td>c) In case of provisional assessment</td> <td>The date of adjustment of duty after final assessment</td> </tr> <tr> <td>d) In case of erroneous refund</td> <td>The date of such refund</td> </tr> </tbody> </table> | Case | Relevant Date | a) In case of short levy/non levy or non levy/ short payment or non payment:<br>i) Where return is filed<br>ii) Where return is not filed | The date on which the return is filed<br>The last date on which it was required to be filed | b) If there is no such time limit | The date of payment of duty | c) In case of provisional assessment | The date of adjustment of duty after final assessment | d) In case of erroneous refund | The date of such refund |
| Case  | Relevant Date   |  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| a) In case of short levy/non levy or non levy/ short payment or non payment:<br>i) Where return is filed<br>ii) Where return is not filed | The date on which the return is filed<br>The last date on which it was required to be filed                               |  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| b) If there is no such time limit   | The date of payment of duty   |  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| c) In case of provisional assessment  | The date of adjustment of duty after final assessment   |  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| d) In case of erroneous refund  | The date of such refund   |  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 6   | Recovery of amount declared in return but not paid<br>(As amended by Finance Act, 2015 w.e.f. 14 <sup>th</sup> May, 2015) | Where the service tax amount has been self assessed in the return furnished u/s 70(1) and such amount is not paid either in full or in part, the same shall be recovered along with interest in any of the modes specified in sec 87, without service of any notice under sec 73(1)  |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 6   | Where the SCN is not sustainable by any appellate authority or tribunal or court  | Where any appellate authority or tribunal or court concludes that the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of,—<br>(a) fraud; or b) collusion; or (c) wilful misstatement; or<br>(d) suppression of facts; or (e) contravention of any of the provisions of this Chapter or the rules made thereunder with intent to evade payment of service tax, has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of eighteen months, as if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1).”   |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 7   | Voluntary Payment   | Where the person chargeable with the tax as mentioned in sub-sec (1) pay the amount of such service tax on the basis of his own ascertainment or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the Central Excise Officer of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid   |      |               |   |   |                                   |                             |                                      |   |                                |                         |
| 8   | Case where Voluntary Payment not allowed  | Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short- paid or erroneously refunded by reason of—<br>(a) fraud; or<br>(b) collusion; or<br>(c) wilful mis-statement; or<br>(d) suppression of facts; or<br>(e) contravention of any of the provisions of this Chapter or of the rules made there under with intent to evade payment of service tax  |      |               |   |   |                                   |                             |                                      |   |                                |                         |

|    |  |  |
|----|--|--|
| 9  | Payment to drop proceedings<br>(Omitted by Finance Act, 2015 w.e.f 14 <sup>th</sup> May, 2015) | It provides that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded which is found during the course of any audit, investigation or verification and true and complete details of transactions are available in the specified records, the assessee may pay the service tax in full or in part along with interest u/s 75 and penalty equal to 1% of such tax for each month of default (subject to maximum penalty of 25% of such tax) before service of notice on him. The CEO on intimation of such payment, shall not serve any notice u/s 73(1) in respect of amount so paid and proceedings in respect of such tax shall be deemed to have been concluded. |
| 10 | Recording of assessee's representation   | Sec 73(2) makes it mandatory for the officer to consider the representation of the assessee. The officer has to comply with the provisions of natural justice.   |
| 11 | Form of order and payment on passing of the order  | It is mandatory for the officer to pass a speaking order. After the order is passed the assessee can either pay the tax as determined or may challenge the order by going into appeals, where he may get a stay of demanded amounts.   |

## e) Appeals

| Sr.No  | Appeal to                                | Order appealed against  | Form No.                 | Time Period   | Ref.   | Remarks  |  |                 |                 |            |                                   |            |                        |             |
|--|--|---|--------------------------|---|--|--|--|-----------------|-----------------|------------|-----------------------------------|------------|------------------------|-------------|
| 1  | Commissioner of Central Excise (Appeals) | Adjudicating authority subordinate to the commissioner of Central Excise: AC/DC   | ST-4<br>In duplicate     | Within 2 months from the date of receipt of order<br><br>The commissioner being satisfied that the appellant was prevented by sufficient cause may extend the period to further one month   | Sec 85 of the Act, read with Rule 8 of the Service Tax Rules       | After giving the reasonable opportunity of being heard, the Commissioner may pass such order as he thinks fit.   |  |                 |                 |            |                                   |            |                        |             |
| 2  | Appellate Tribunal                       | Any assessee aggrieved by an order passed by a Commissioner of Central Excise under section 73, section 83A, or an order passed by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order<br><br>Refer Note | ST-5<br>In Quadruplicate | Within a period of three months from the date of receipt of such order<br><br>The time period may be extended if the appellate authority is satisfied that there was a reasonable cause that prevented the assessee to file the appeal within the prescribed time | Sec 86 of the Act, read with Rule 9 of the Service Tax Rules, 1994 | <b>Fee to be paid while filing the appeal:</b> <table border="1"> <thead> <tr> <th>Amt. of tax, interest and penalty levied for which appeal relates is</th> <th>Prescribed fees</th> </tr> </thead> <tbody> <tr> <td>Upto Rs 5 lakhs</td> <td>Rs. 1000/-</td> </tr> <tr> <td>More than lakhs upto Rs. 50 lakhs</td> <td>Rs. 5000/-</td> </tr> <tr> <td>More than Rs. 50 lakhs</td> <td>Rs. 10000/-</td> </tr> </tbody> </table> | Amt. of tax, interest and penalty levied for which appeal relates is | Prescribed fees | Upto Rs 5 lakhs | Rs. 1000/- | More than lakhs upto Rs. 50 lakhs | Rs. 5000/- | More than Rs. 50 lakhs | Rs. 10000/- |
| Amt. of tax, interest and penalty levied for which appeal relates is | Prescribed fees                          |   |                          |   |  |  |  |                 |                 |            |                                   |            |                        |             |
| Upto Rs 5 lakhs  | Rs. 1000/-                               |   |                          |   |  |  |  |                 |                 |            |                                   |            |                        |             |
| More than lakhs upto Rs. 50 lakhs                                    | Rs. 5000/-                               |   |                          |   |  |  |  |                 |                 |            |                                   |            |                        |             |
| More than Rs. 50 lakhs   | Rs. 10000/-                              |   |                          |   |  |  |  |                 |                 |            |                                   |            |                        |             |
| 3  | Memorandum of cross objections           | On receipt of notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) ] ,by the other party                         | ST-6<br>In Quadruplicate | Within 45 days of the receipt of notice<br><br>The time period may be extended if the appellate authority is satisfied that there was a reasonable cause that prevented the assessee to file the appeal within the prescribed time                                |  |  |  |                 |                 |            |                                   |            |                        |             |

Note:1) Every application made before the Appellate Tribunal, —

- a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
  - b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees
- 2) where an order passed u/s 85 relates to the export of service and the matter relates to the grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of sec 35EE of the Central Excise Act, 1944. (as amended by Finance Act, 2015 w.e.f 14th May, 2015)

**f) Penal Consequences**

| Sec | Sub-Sec | Nature of Default  | Penalty  |
|-----|---------|--|--|
| 76  |         | Penalty for failure to pay Service Tax (upto 13 <sup>th</sup> , May, 2015)   | Higher of: <ul style="list-style-type: none"> <li>Rs. 100/- per day for which the failure continues; or</li> <li>1% of such tax, per month</li> </ul> Starting with the first day after the due date till the date of actual payment<br>Subject to maximum of 50% of the service tax payable |
|     |         | <b>w.e.f 14<sup>th</sup> May, 2015</b><br><br>Where service tax has not been levied/short levied/not paid/short paid otherwise than fraud, collusion, willful misstatement, suppression of fact or contravention of the provision of the Act and the person has been served notice u/s 73(1)<br><br><b>Refer note 4 below</b>  | Upto 10% of the amount of such service tax   |
| 77  | 1(a)    | Failure to take registration   | Upto Rs. 10000/-   |
|     | 1(b)    | Failure to maintain records  | Upto Rs. 10000/-   |
|     | 1(c)    | Failure to furnish information, produce document or appear before the CEO when called for  | Higher of: <ul style="list-style-type: none"> <li>Rs. 10000/-; or</li> <li>Rs. 200/- per day for which the failure continues starting with the first day after the due date, till the date of actual compliance</li> </ul>   |
|     | 1(d)    | Failure to make e-payment of tax   | Upto Rs. 10000/-   |
|     | 1(e)    | Failure to issue proper invoice  | Upto Rs. 10000/-   |
|     | 2       | Contravention of any of the provisions of this chapter or Rules made thereunder for which no penalty is separately provided  | Upto Rs. 10000/-   |
| 78  |         | Penalty for failure to pay Service by way of fraud, collusion, willful misstatement, suppression of facts, contravention of provisions of the act with the intent to evade payment of service tax<br><br><b>(See Note 1 &amp; 2 below for the period upto 13<sup>th</sup> May, 2015)</b><br><b>(See Note 5 &amp; 6 below for the period w.e.f. 14<sup>th</sup> May, 2015)</b>  | 100% of the amount not levied/not paid/short levied/short paid/erroneously refunded  |
| 78A |         | <b>Penalty on director, manager, secretary or any other officer of the company:</b><br>Where a company has committed any of the following contraventions, namely:—<br>(a) evasion of service tax; or<br>(b) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules made under the provisions of this Chapter; or<br>(c) availment and utilisation of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or<br>(d) failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due, then any director, manager, secretary or other officer of such company, who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of business of such company and was knowingly concerned with such contravention | Shall be liable to penalty which may extend to Rs. 1 lakh  |

**Notes :**

- As per sec 80 of the Act no penalty u/ss. 76 & 77 shall be imposed if the assessee proves that there is "reasonable cause" for the failure. (Omitted by Finance Act, 2015 w.e.f 14th May, 2015) Further, the Central Excise Officer has the discretion to waive of penalty u/s 78 on 'reasonable cause' which would be available only where true and complete details of transactions are available in the 'specified records' and not in other cases.(upto 13th May, 2015)
- The Finance Act, 2011 has sought to provide for a reduction in penalty u/s. 78 where true and complete details of transactions are available in the "specified records' In such cases, the aforesaid penalty would be only 50% of the tax involved. A further reduction of the penalty in such cases (i.e where true and complete details of transactions are available in the 'specified records') to 25% of the tax involved is also sought to be provided if the tax, interest and penalty of 25% of the tax is paid within 30 days. (90 days in case of assesseees having value of taxable services less than 60 lakhs) from the date of communication of the adjudication order.(Upto 13th May, 2015)

3. Penalty for delay in payment or non-payment of service tax u/s. 76 would not be imposable where the penalty u/s. 78 for concealment or suppression of value of taxable service is payable.
4. No penalty shall be payable where the service tax and interest is paid within 30 days of receipt of SCN u/s 73(1) and the proceedings shall be deemed to have been concluded. The penalty payable shall be 25% of the penalty imposed by way of order u/s 73(2) provided such penalty is also paid within 30 days of the receipt of order.(As amended by Finance Act, 2015 w.e.f. 14th May, 2015)
5. The penalty shall be 50% of the service tax so determined in respect of the transaction mentioned in sec 78(1) where the details of such transactions are recorded in specified records for the period beginning with 08th April, 2011 upto 14th May, 2015 (both days inclusive)
6. The penalty shall be 15% of the service tax where the service tax and interest is paid within a period of thirty days of the date of service of notice under the proviso to sec 73(1) and the proceedings in respect of service tax, interest and penalty shall be deemed to be concluded. The penalty shall be 25% of the tax so determined where service tax ,interest along with the reduced penalty is paid within 30 days of the receipt of the order of CEO u/s 73(2)
7. Section 78B has been inserted in the Act to prescribe that all cases pending adjudication as on 14th May, 2015 shall be governed by new amended provisions and the thirty days limit for paying reduced penalties under sections 76 or 78 shall be counted from 14.05.2015.
8. Section 80, which provided for waiver of penalty in view of natural justice under existence of reasonable cause for failure to comply with the provisions, is omitted w.e.f. 14th May, 2015

**g) Prosecution under service tax law**

The Finance Act, 2011 has introduced the prosecution under service tax law by enacting a new section 89. Further sections 9A, 9AA, 9B, 9E and 34A of the Central Excise Act, 1944 have been made applicable to service tax. These provisions together constitute the provisions relating to prosecution of offences which are briefly described below –

Section 89 prescribes the offences and the quantum of punishment. The punishable offences enumerated in section 89(1) are the following :

- i. knowingly evades the payment of service tax under the provisions of the Act or the Rules made thereunder;
- ii. availment and utilisation of credit without actual receipt of taxable service or excisable goods either fully or partially in violation of the Act or Credit Rules;
- iii. maintenance of false books of account;
- iv. failure to supply information or supply of false information;
- v. failure to pay to the Government any amount collected as service tax beyond a period of six months from the date on which such payment became due;

The quantum of punishment imposable is detailed in the table below:

- i. In case of offence mentioned in clause (i) to (iv), Where amount exceeds 2 crore – 6 months to 3 years imprisonment, and in case of offence mentioned in clause (v), Where amount exceeds 2 crore - 6 months to 7 years
- ii. In case of any other offences (less than or equal to rupees 2 crores), up to 1 year imprisonment
  - a) First Offence – up to 1 year imprisonment
  - b) Subsequent offences for (i) to (iv) and (ii) above – up to 3 years imprisonment.

The punishment mentioned in Sl. Nos. (i) & (ii)(b) above, cannot in absence of 'special and adequate reasons' to be recorded in the judgment of the court be reduced below six months. Such special and adequate reasons would not include the following :

- a. conviction of the accused for the first time for an offence under the Act.
- b. payment of penalty or any other action taken for the same act which constitutes the offence.
- c. the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of the offence.
- d. the age of the accused.

The above prosecution provisions can be initiated only with the previous sanction of the Pr. Chief Commissioner of Central excise Or Chief Commissioner of Central excise.

# WEST BENGAL VAT ACT, 2003

## 1. REGISTRATION:

| SL. NO. | PARTICULARS                                 | DETAILS  |
|---------|---|--|
| 1.      | Registration of dealer                      | <ol style="list-style-type: none"> <li>1. Mandatory Registration A dealer must get himself registered if he becomes liable for payment of tax u/s 10,11 or 14. The quantum of turnover of taxable goods or contractual transfer price referred to in the above section is '5,00,000 subject to exemption for dealing in goods mentioned in Schedule A.</li> <li>2. Voluntary Registration A dealer who is not required to get himself registered, may also apply for voluntary registration under the WBVAT Act by filing an application.</li> </ol>   |
| 2.      | Procedure for Registration                  | <ol style="list-style-type: none"> <li>1. An application for registration has to be filed vide Form WBVAT-01 and thereafter a duly signed and verified printout of online application need to be deposited to the respective charge along with prescribed fees of Rs. 100. Moreover where application is made through digital signature and fee and security is paid online, the Requirement of deposit of manual application is not required.</li> <li>2. The commissioner may by order in writing, for good and sufficient reason to be recorded therein, demand from any dealer, casual dealer, or any other person including a transporter, a carrier or transporting agent, security for the purpose of registration.</li> <li>3. The security is accepted in cash, should not be less than Rs.25,000.</li> <li>4. Once the applicant is registered, he will be issued a Tax Identification Number (TIN), which should be quoted in all dealings with the department to enable correct and prompt processing of tax affairs.</li> <li>5. If the applicant is not registered within 30 days of filing the application, he will receive a notice from the commissioner, listing the reasons as to why his application is proposed to be rejected</li> <li>6. The applicant can respond to this notice within the time provided in the notice. If he does not respond to the Commissioner notice, his application for registration will be rejected automatically. If the commissioner is satisfied with the applicant's reply, he will register the latter and issue him a registration certificate vide Form3.</li> <li>7. Certificate granted vide Form 3 (Rule 6 and Rule 6B) after verification of application(single registration for dealer having more than one place of business in West Bengal)</li> <li>8. Dealer deemed to be registered from: a. Date of Order of Application or grating. Date of becoming liable to pay tax</li> <li>9. Certificate to be kept and displayed at principal office and certified copy at other place of business (if default pay penalty not exceeding '200 for each occasion).</li> <li>10. Duplicate can be obtained on payment of '50</li> <li>11. Every TIN Number starts with first two numeric number"19"</li> </ol> |
| 5.      | Circumstances for Amendment in Registration | <p>The prescribed Authority may from time to time amend any certificate of registration in accordance with the information furnished u/s 27A,27B,27C or otherwise received, after due notice to the dealer, and such amendment may be made with retrospective effect in such circumstances, and subject to restrictions on conditions as may be prescribed :</p> <ol style="list-style-type: none"> <li>1. If a dealer sells his business or any part of business or there is any change in the ownership of the business.</li> <li>2. If a dealer discontinues his business or changes place of business or opens a new place of business or closes the business.</li> <li>3. If a dealer changes the name, style, constitution or nature of business.</li> <li>4. If there is change in the particulars of persons having interest in the business.</li> <li>5. If there is change in,nature of goods ordinarily sold.</li> </ol> <p>If opens a new bank accounts or closes existing bank account. In all these cases, an amendment application is to be filed in the Prescribed Form 6 within 30 days of the Change.</p> <p>Amended certificate shall be issued to him within 45 days from the date of application. NoCourt fees is required(w.e.f 01-07-2014)</p> <p>Note: For any change in RC an application in Form 1 along with Annexures is to be filed electronically.(w.e.f. 14-03-2014). Print copy of the said e-application duly signed and verified need to be send to the appropriate assessing authority.</p>   |

## 2. DOCUMENTATION:

| Sl. No. | Particulars   | Details  |
|---------|---|--|
| 1.      | Preservation of Records                                 | <p>The accounts, books of accounts, registers, documents of the dealer including computerized or electronic accounts maintained on any computer or electronic media, way bills obtained by a dealer, documents, declarations obtained by, or issued to such dealer, counterfoils of declarations issued by such dealer, invoices including tax invoices, cash memos in respect of purchases, sales, delivery of goods by a dealer, or vouchers in respect of any year or part thereof shall be preserved by him.</p> <ul style="list-style-type: none"> <li>• For a period of not less than 6 years after the expiry of the year to which they relate, or.</li> <li>• Till such period as those may be required for final disposal of any appeal, review or revision or reference under the Act or for final disposal of any case pending before any Court or Tribunal or for ensuring full payment of any amount of tax, interest, penalty or late fee due under the Act in respect of such year or part thereof.</li> <li>• For a period of not less than 4 years after the expiry of the specified period mentioned in the certificate of eligibility if the dealer continues to enjoy deferment of tax under clause a of sub section 1 of section 118 whichever is later.</li> </ul>   |
| 2.      | Accounts Maintained by Dealers Electing for composition | <ol style="list-style-type: none"> <li>a. Every registered dealer, other than those enjoying composition scheme under different sub sections of section 16 or u/s 18(4) or a shipper of jute, may, in his input tax account, record tax paid or payable on purchases as referred to in Clause 18 of Section 2 and On which input tax credit as per the provisions Of section 22 is available.</li> <li>b. Every dealer, required to furnish return under sub section 1 of section 32 shall in his output tax account record- <ol style="list-style-type: none"> <li>1. Tax paid or payable on turnover of sales u/s16(2)</li> <li>2. Tax paid or payable on turnover of sales under different Sub sections of section 16.</li> <li>3. Tax paid or payable on taxable contractual transfer price as referred to u/s 18(1)</li> <li>4. Tax paid or payable on taxable contractual transfer price as referred to u/s 18(4)</li> <li>5. Purchase tax payable u/s 11 and 12</li> </ol> </li> <li>c. Every registered dealer to whom input tax credit is available shall for the purpose of determining net tax credit for a tax period, referred to in sub-section 17 of section 22, records the following in the input tax credit account:- <ol style="list-style-type: none"> <li>1. Input tax on which credit is available</li> <li>2. Outstanding input tax credit of the previous tax period</li> <li>3. Credit availed which has to be reversed</li> </ol> </li> <li>d. Every dealer required to furnish return u/s32(1) shall maintain way bills received and documents, vouchers, tax invoices may be required in support of any entry in his accounts , registers, documents including those in the form of electronic records, that is required to be maintained u/s 63.</li> <li>e. Every dealer required to furnish return u/s 32(1) shall maintain accounts relating to the quantity and value of goods purchased or manufactured or sold or used in execution of works contract or held in stock in accordance with the accepted principles, and which should be consistent with the method of system earlier followed by him. <ul style="list-style-type: none"> <li>• Accounts maintained by dealers generally: - <ol style="list-style-type: none"> <li>1. Monthly Accounts</li> <li>2. Inter State sale Transactions</li> <li>3. Details of Input Tax</li> <li>4. Details of Output Tax</li> <li>5. Purchase Records</li> <li>6. Sale Records</li> <li>7. Stock Records</li> <li>8. All Bank Records</li> <li>9. Order &amp; Delivery Records</li> <li>10. Cash Book, Day Book, Ledger</li> </ol> </li> </ul> </li> </ol> |

### 3. VAT RETURNS AND PAYMENT OF TAXES

|  |  | Tax period  | Due date of Filing  |
|--|--|---|---|
| Tax period of WBVAT Returns with due dates |  | Quarterly   | Within the next English calendar month from the date of expiry of each quarter. |
| FORM NO                                    | TYPE OF DEALER   | DUE DATE  |   |
| 14   | Dealers not enjoying deferment of tax holiday or reemission of tax u/s 118 and not paying the tax compounding rate under sub section 3,3A,3B,6 of Section 16 and subsection 4 of section 18. | Quarterly, within the next English Calendar month from the date of expiry of each quarter.  |   |
| 14D  | Dealers enjoying deferment or tax holiday or remission of tax under Section 118  | Quarterly, within the next English Calendar month from the date of expiry of each quarter.  |   |
| 15   | Dealers paying tax u/s 16(3)/ 16(3A)/ 16(3B)/ 16(6)/ 18(4)   | Quarterly, within the next English Calendar month from the date of expiry of each quarter.  |   |
| 15R  | Dealers paying tax under section 16(3)   | Annually, within the next English Calendar month from the date of expiry of each year.  |   |
| Revision of return                         |  | The revision of return can be done within 6 months from the due date of filling of quarterly return and the revised return can be submitted only once for each period.  |   |
| Due Date for Tax Payment                   |  | <ol style="list-style-type: none"> <li>21st of every succeeding month from the end of the month for the first two months of each quarter.</li> <li>Payable exceeds or third month of a quarter, within the last day of the month following the end of the said quarter.</li> </ol>  |   |
| Late Fees                                  |  | W.E.F 01.04.2010, the late fees is payable as follows: <ol style="list-style-type: none"> <li>Where the net tax proceeds '10,000; '1,000 for the first month or part thereof and '250 for every subsequent month or part thereof, of the delay.</li> <li>Where the net tax proceeds does not exceed '10,000, '300 for the first month or part thereof and '100 for every subsequent month or part thereof, of the delay.</li> </ol> |   |

**The return Under Section 14, 14D, 15, 15R shall be furnished electronically through such website**

- i) Digital Signature where such dealer happens to be a company, incorporated under the companies act 1956 or companies act 2013, or a dealer having turnover of sales or contractual transfer price or both, in excess of Rs. 50 Lakh in the immediate previous year.**
- ii) Either under digital signature or without digital signature where such dealer is not covered under clause(i).**

**Provided that a dealer furnishing return under digital signature as per clause (i) and (ii) shall neither be required to submit the return nor submit an acknowledgement to the appropriate assessing authority.**

**Provided that where a dealer has submitted the return electronically without using digital signature shall submit the acknowledgement in paper form within 15 days from the expiry of due date of furnishing the said return or such further time extended by the commissioner.**

### 4. INPUT TAX CREDIT :

INPUT TAX in relation to a tax period means the amount of tax paid or payable under the Act, other than tax paid on the purchase of raw jute, by a registered dealer (other than those enjoying the benefit of composition scheme), to a registered dealer, or a dealer who has filed an application for registration within 30 days from the date of incurring liability to pay tax, at the time of purchasing taxable goods, other than such taxable goods as may be prescribed, during the period.

TAX CREDIT is the amount of input tax for which you are allowed to claim a credit. It is also referred to as "INPUT TAX CREDIT", which means setting off the amount of input tax or part thereof, by a registered dealer against the amount of output tax payable by him.

NET TAX is the difference between your Output Tax and the Tax Credits you are allowed to claim during a

given tax period. It could be a positive or a negative amount. The negative amount represents tax credits in excess of output tax for a given period.

The original TAX INVOICE is the proof required to claim input tax credit. There is no need for a 'one to one' correlation between input tax credit and output tax. The operation of the input tax mechanism is very simple. The dealer will be eligible to take credit of the eligible input tax during a tax period as specified on the entire purchases.

### **What Input Tax Credit can you claim?**

The Input tax credit or input tax rebate shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods other than taxable goods specified in section 22 as negative list goods made in the state from a registered dealer when such goods are purchased for:

1. Sale or resale by him in West Bengal
2. Sale in the course of inter-state trade of commerce within the meaning of Section 3 of Central Sales Tax Act 1956.
3. Use as containers or materials as packing of taxable goods intended for sale, in the state or in the course of inter-state trade of commerce within the meaning of Section 3 or Section 5 of Central Sales Tax Act 1956.
4. Use as raw materials or capital goods required for the purpose of manufacture of taxable goods intended for sale in the state or in the course of inter-state trade of commerce within the meaning of Section 3 of Central Sales Tax Act 1956.
5. Use as containers or packing materials for the use in packing of goods so manufactured as referred to in clause (4) above.
6. Use in execution of Works contract
7. Use of raw materials and capital goods required for the purpose of manufacture of any goods to be sold in the course of export under Section 5 of Central Sales Tax Act 1956, and containers or packing materials for use in packing of goods so manufactured, or
8. Making zero rated sales other than those referred to in Clause(7) above, provided further that the burden of proof that such goods are meant for the purposes mentioned in Clause (1) to (2) shall lie on such dealer.

### **Carrying Over Of Credit**

If the tax credit exceeds the tax payable on sales in a month, the excess credit will be carried over to the end of next financial year. If there is any excess unadjusted input tax credit at the end of second year, then the same will be eligible for refund.

### **Inputs Procured From Other States**

The continuance of CST Act is posing a major problem in introducing a full fledged VAT in the country. Since the CST revenue goes to the respective State which collects it, other States are not willing to allow input tax credit of the same. Therefore tax paid on inputs procured from other States through inter-State sale is not eligible for credit. However a decision has been taken to duly phase out the Central Sales Tax (CST).

### **Input Tax Credit on Capital Goods**

Input tax credit in respect of capital goods as referred to under section 2(6), purchased by a registered dealer for manufacture of taxable goods for sale or for execution of works contract or for keeping the goods in saleable condition, as the case may be, is to be allowed in the manner laid down in rule 19.

Rule 19 states that where Capital goods, as referred to in clause 6 of section 2, have been purchased by a registered dealer for purpose for which input tax credit or input tax rebate u/s 22(4) is allowed on such capital goods, the input tax credit/rebate on such shall be available in one instalment only in the month in which such goods have been capitalized in the books of accounts of such dealer.



1. Provided that where the total amount of input tax credit or the input tax rebate in respect of capital goods value of which is above rupees one crore, has not been claimed by a registered dealer till coming into force of this provision, the remaining amount of input tax credit or input tax rebate in respect of such capital goods may be available in one instalment within three months of coming into force of this provision:
2. Provided further that input tax credit or input tax rebate in respect of capital goods acquired by a registered dealer on hire purchase or on instalment or on transfer of right to use, shall be available only on the amount of tax charged by the selling dealer during a tax period.

Clause 2A states that where Capital goods are purchased and capitalised for manufacturing both taxable and non-taxable goods, input tax credit that can be availed will depend on the expected sale of taxable good as a percentage of total sales and the input tax credit shall be available to the extent of :

| Serial | Percentage of no(1) expected taxable sales to total sales (2) | Input tax credit available(3) |
|--------|---|-------------------------------|
| 1      | Less than 25%   | 15%                           |
| 2      | 25% and above but less than 50%                               | 40%                           |
| 3      | 50% and above but less than 75%                               | 70%                           |
| 4      | 75% and above but less than 100%                              | 90%                           |
| 5      | 100%  | 100%                          |

3. Provided further that where a registered dealer has enjoyed input tax credit /rebate on capital goods in accordance with the provisions of this sub-rule and at the end of the period it is found that the registered has availed excess credit, then such excess credit would be reversed back to the extent of the amount for which he is ineligible in the first month following such period.

For the purpose of this sub rule 'period' means twelve consecutive months following the month of capitalization of the capital goods in the books of accounts of the registered dealer.

4. Where a non-taxable goods become taxable from a particular date after the appointed date and input tax credit or input tax rebate has not been availed on capital goods used in manufacturing such goods, then the amount of input tax credit or input tax rebate that will be available on such capital goods shall be calculated on the basis of the following formulae :

$$Y = A \times B / C$$

Where,

Y = Input tax credit or Input tax rebate available

A = Input tax credit paid at the time of purchase of the capital goods.

B = Written down value of the capital goods on the date from which goods become taxable.

C = Actual cost as capitalized of the Capital goods.

The expression 'Written down Value 'used in the formulae means the actual cost less the depreciation till the date prior to the date from which the goods became taxable.

5. Where a manufacturer of taxable goods manufactures capital goods required by him, for the process of such manufacture, he shall be entitled to avail of the input tax credit or input tax rebate in respect of purchase of such goods, required directly for the purpose of manufacture of such capital goods.

## 5. ROAD PERMIT & WAY BILL

|   |  |
|---|--|
| Applicability <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul> | YES<br>When a dealer or any person imports any taxable goods or raw jute from any place outside West Bengal, he is required to obtain a way bill vide Form 50, in respect of the transport of such goods, beyond the area notified for the purpose. In the case of certain consignments of goods prescribed under Rule 99(2), the same may be transported without the production of way bill. In the event of any attempt to transport goods in contravention of the above provisions, the goods are liable to be seized and a penalty may be imposed. In the case of transport by rail, or steamer station or an airport or post office, etc., the way bill is to be produced at the time of taking delivery of goods[section 73] |
| Form Number <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul>   | Form 50/50A<br>Form 51   |

|  |  |
|--|--|
| Procedure for issuing of way bill <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul>  | An eligible registered dealer has to file an application vide Form 52/53 for obtaining the way bills vide Form 50, by furnishing the necessary information in the said application and Submitting information vide Form 54/55 regarding the utilization of the way bills received. Where the authority is satisfied that the application is in order and the necessary information has been furnished, he shall issue the required number of way bills to such registered dealer.<br><br>When the applicant dealer has failed to file up to date returns showing payment of the amount due from him, the authority is empowered to give a smaller amount of such way bills than applied for. |
| Procedure for Self Printing of Way bill/ Road Permit, if applicable <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul>      | Way Bills are issued online to all registered dealers using his user id and password, and then generate a way bill by filing up the necessary details vide Form 50A. The waybill in Form 50A is being generated by First generating a key number by using user-id and password of registered dealer at the official website of commercial department. Then by using key number and Submitting required information online. The waybill in Form 50A can be generated. The key numbers are valid for one year and Form 50A is valid for 30 days from the date of generation.   |
| Government fees for issuance of Way Bill/ Road Permit <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul>                    | NOT APPLICABLE   |
| Ceiling Limit for Carrying the goods without form  | NIL  |
| Procedure for Collection of way bill/ road permit by the dealer <ul style="list-style-type: none"> <li>• First time</li> <li>• Subsequently</li> </ul> | Online utilization facility is available.<br><br>The waybill Form 50A generated electronically shall be utilized within 40 days from the date of generation.   |
| Validity of Road Permit/Way Bill   | Normally the way bills vide Form 50 Part I will remain valid for 12 months from the date of issue [See Commissioner Circular dated 07-08-2001], while Part 2 of the form remains valid for one month. However the appropriate authority, while issuing way bills vide Form 50 or Form 51 may specify any period therein for which the use of such forms shall be valid.  |
| Procedure for collection of Way Bill by an unregistered dealer <ul style="list-style-type: none"> <li>• Inward</li> <li>• Outward</li> </ul>           | Special Way bills are issued to the unregistered dealer from the chare office.   |

## 6. SELF-ASSESSMENT:

The VAT liability is self-assessed by the dealers themselves in terms of submission of returns upon setting-off the tax credit. There will no longer be compulsory assessment at the end of each year as was existing under the erstwhile sales tax laws. If no specific notice is issued, proposing departmental assessment of the books of the accounts within the specified time, the dealer will be deemed to have been self-assessed on the basis of the returns submitted by him.

## 7. AUDIT:

A certain percentage of dealers will be taken up for audit every year to ascertain the correctness of self-assessment. If evasion is detected on audit, the concerned dealer may be taken up for audit for previous periods up to last five years. More complying dealers will be audited less frequently. All dealers are expected to be audited at least once in five years.

wing will remain delinked from the tax collection and monitoring wing to remove any bias. Simultaneous restructuring and computerization is going on in the sales tax directorates. The audit team will conduct its work in a time bound manner and audit will be conducted within 6 months. The audit report will be transparently sent to the dealer also.

## 8. COMPOSITION SCHEME FOR RESELLERS:

The Small dealers with annual gross turnover not exceeding Rs.50 lacs, who are otherwise liable to pay VAT, however have been given the option for a composition scheme with payment of tax at the rate of 0.25% of gross turnover or a fixed amount. States have been given freedom to fix the turnover limit to opt for the composition scheme between the threshold limit of exemption and ` 50 lacs.

In West Bengal, A reseller, registered under the VAT Act and engaged in buying and selling goods within West Bengal, and having an annual turnover of sales not exceeding fifty lakh rupees in the preceding year will *under the provisions of Section 16(3) of the Act* have an option to pay tax at the compounded rate of 0.25 %

on the entire turnover of sales or a fixed amount. Dealers having gross sales not exceeding fifty lakh rupees in the year 2004-2005, under the West Bengal Sales Tax Act, 1994, could also opt for this scheme. However, dealers effecting inter-State sales of inter-State purchases are not eligible for this scheme. [Sec 16(3)]. *The dealer has to exercise his option in Form 16 within 90 days of the commencement of the year and for new dealers within 30 days of receiving the registration certificate.*

Once a dealer has exercised option for payment of tax at the compounded rate, it will be valid for one financial year.

*However once the dealer crosses the limit of Rs.50 lacs then the composition scheme on his subsequent sales will cease to operate from the month following the month in which the threshold limit of Rs.50 lacs is crossed and in case of dealer paying fixed amount has to apply for normal registration.*

It may be mentioned here that the dealers opting for payment of tax at compounded rate are not entitled to input tax credit and cannot issue tax invoices.

*With effect from 10/8/2006 yet liberal composition schemes for clubs and dealers engaged in earning their income from transferring the right to use any goods as mentioned in the definition of sales in section 2(39)(c) of the Act have been provided in Section 16(3A) and 16(3B) of the Act read with Rule 38A and Rule 38B of the Rules. The restriction relating to turnover of ` 50 lacs and inter-state transactions for clubs and dealers engaged in earning their income from transferring the right to use any goods is not applicable.*

Further, with effect from 01/04/2010 a similar composition scheme For Dealers engaged in making sales of cooked food, non-alcoholic drinks and beverages have been introduced by inserting sub section 6 to Section 16 of the Act with a turnover criteria of ` 15 lacs in this case. Rule 38C of the Act prescribes the conditions.

### **Composition Scheme For Works Contractor**

Works contractors registered under the VAT Act also have an option to opt for the composition scheme and pay tax at a compounded rate on the entire contractual transfer price. Different compounded rates have been fixed by different State Governments for works contractors. In West Bengal section 18 (4) provides for an option to works contractors in West Bengal to pay tax at a compounded rate of not less than 2% and not exceeding 5%. Accordingly the composition rate has been fixed by Rule 39(3) at 3% of the aggregate amount received or receivable in respect of such works contract. However the dealer should not be involved in execution of works contract in the course of inter-State trade or commerce nor with effect from 01/04/2007 the dealer should be involved in reselling goods in terms of clause(ba) inserted to sub section 4 of Section 18 of the Act.

The dealer opting for the composition scheme will not be entitled to input tax credit. Further he cannot issue tax invoice.

NB "Act" mentioned above refers to the West Bengal value Added Tax Act, 2003

"Rules" mentioned above refers to the West Bengal Value Added Tax Rules, 2005

## **9. MANDATORY SUBMISSION OF RETURN USING DIGITAL SIGNATURE**

All registered dealers filing return in Form 14/14D/15/15R having turnover of sales or contractual transfer price or both in the immediate previous year, i.e., 2015-16, in excess of rupees fifty lakhs or having registration under the Companies Act, 1956, or the Companies Act, 2013, shall have to furnish return using DIGITAL SIGNATURE mandatorily from quarter ending 30th June, 2016, in terms of amended rule 34A(3) of WBVAT Rules, 2005. These dealers need not submit any signed hard copy of the said return furnished on line or the acknowledgement thereof, at the Charge Office/ LTU/ Central Section, as the case may be.

# THE WEST BENGAL TAX ON ENTRY OF GOODS INTO LOCAL AREAS ACT, 2012

## 1.0 INTRODUCTION

The West Bengal Tax on Entry of Goods into Local Areas Act, 2012 was introduced in the State of West Bengal w.e.f. 01-04-2012. Thereafter, Entry Tax at the rate of 1% is leviable on entry of goods into local area for consumption, use or sale therein from outside the State [inter-state movement], within the State [intra-state movement] as well as from outside India [Import]. It is to be noted that entry tax is to be paid on both purchases as well as stock transfer of goods as the tax is on entry of goods.

Further, No set-off is available for payment of entry tax against VAT – Hence, the same becomes a COST;

## 2.0 GOODS ON WHICH ENTRY TAX IS PAYABLE:

The levy of Entry Tax is @ 1% on the import value on goods falling under Schedule C, CA & D of the WB VAT Act 2003.

Entry Tax is not payable on the following as the same is kept outside the purview of Entry Tax either by way of Exemption or by way of deduction from the 'taxable turnover of imports' [on which entry tax is leviable] –

- (a) Goods dispatched, directly to a place for immediate export of such goods out of the territory of India within the meaning of section 5(1) of the Central Sales Tax Act, 1956, from such place in the same form in which such goods have been entered into the local area;
- (b) Goods dispatched, directly to a place outside the State in the same form in which such goods have been entered into the local area;
- (c) Imports which have already been subjected to tax under this Act in the same form;
- (d) Goods purchased in the same form against a tax invoice, or invoice, or bill issued under the West Bengal VAT Act, or the West Bengal Sales Tax Act, by a dealer registered under the West Bengal VAT Act, or the West Bengal Sales Tax Act, as the case may be;
- (e) turnover of imports relating to entry of specified goods into a local area where it is proved to the satisfaction of the Commissioner that such goods have been transported from within West Bengal from another place of business of such dealer or importer other than a dealer, i.e. Intra State Stock Transfer;
- (f) Where a manufacturer or printer as the case may be, of newspaper organisation registered with the Registrar of Newspapers of India imports newsprint into a local area in West Bengal for the purpose of printing in West Bengal of newspaper only, no tax shall be levied under this Act subject to furnishing of a declaration appended to Rule 6A;
- (g) Where it is proved to the satisfaction of the appropriate assessing authority that any specified goods have been dispatched outside the State in the same form without making any consumption, use or sale thereof within three months from the date of entry of the very same goods into a local area of the State, the amount of tax paid under this Act by a registered dealer on entry of such specified goods in the same form into the local area shall be allowed to be deducted from or adjusted with the amount of tax payable by such registered dealer for the tax period in which such goods have been so dispatched. The registered dealer has to furnish satisfactory proof of payment of tax under this Act in respect of entry of those specified goods in the same form within a period of three months before the date of such dispatch to outside the State and complies with the provisions of section 6A of the Central Sales Tax Act, 1956 (74 of 1956), in respect of such dispatch.
- (h) the entry of specified goods by or on behalf of a registered dealer involves sales return within six months from the date of sale under the West Bengal Value Added Tax Act, 2003 or the West Bengal Sales Tax Act, 1994, by such dealer; Further, the import value of specified goods returned in the same form by a registered dealer within six months of entry of such goods into a local area to the consignor outside West Bengal, shall be allowed as deduction from the turnover of imports of the dealer if it is proved that tax was originally paid under the Act at the time of entry of such specified goods into the local area and where such dispatch outside the State relates to purchase return by such registered dealer or return out of the specified goods received on stock transfer from outside the State.

- (i) the entry by or on behalf of dealer or an importer other than a dealer relates to specified goods manufactured in another local area within the State using specified goods on which tax is paid or payable under this Act;
- (j) the entry or specified goods by or on behalf of a registered dealer involves sales return within six months from the date of sale under the Central Sales Tax Act, 1956, by such dealer;
- (k) such specified goods being entered by any person or on his account is his personal effects or for shifting of his residence;
- (l) such specified goods is consigned by defence group under the Ministry of Defence, Government of India;
- (m) such consignment of goods is for bond to bond transfer by customs group, where the Specified goods are moved under seal of Customs Department and supported by a declaration similar to the declaration mentioned in clause (e) of rule 99 of the West Bengal Value Added Tax Rules, 2005;
- (n) such specified goods is consigned to any diplomatic mission or to an officer of any such diplomatic mission or to any person of such diplomatic mission, or to any organisation of the United Nations, for their official use;
- (o) the import value in respect of entry of a consignment of specified goods into a local area from another local area within the State does not exceed twenty-five thousand rupees.

Further, Entry tax shall not be payable where goods are transported through West Bengal to other States or where the goods are meant for export out of the territory of India.

### **3.0 IMPORT VALUE ON WHICH ENTRY TAX IS PAYABLE:**

Import value in respect of a consignment of specified goods upon entry of such goods in a local area by or on behalf of a dealer or an importer other than a dealer, means—

- (a) the price or cost at which the dealer or importer other than a dealer has purchased or procured or acquired or obtained the specified goods, as shown in the original tax invoice, invoice or bill or stock transfer advice or document of like nature; or
- (b) where the tax invoice, invoice or bill or stock transfer advice or document of like nature is not available or is not produced, or where the price or cost of such specified goods is not separately mentioned therein, or where the tax invoice, invoice or bill or stock transfer advice or document of like nature produced is proved to be false or the information furnished therein is found to be incorrect, the prevailing market price of such specified goods in the local area;

In case of imports from outside India, entry tax is payable on value given in the invoice or bill multiplied by the currency exchange rate as accepted by Customs Authorities. No entry tax is payable on freight or customs duty, etc.

### **4.0 COMPLIANCES UNDER ENTRY TAX:**

|                      |  |
|----------------------|--|
| Registration         | Every Dealer registered under West Bengal VAT Act/ West Bengal Sales Tax Act, importing goods through waybill shall be deemed to be registered from the first date he generates or applies for waybill after 01.04.2012. Dealers applying for registration after 01.04.2012 under West Bengal VAT Act or West Bengal Sales Tax Act may opt for registration  |
| Furnishing Return    | Quarterly Return in Form ET-3 to be filed before the end of the succeeding calendar month following the end of the quarter   |
| Payment of Entry Tax | Within 21 days from end of the month. In case of delay in payment interest shall be payable @ 1% per month for the first 90 days and ;or 1.5% p.m for next 210(300-90) days and ;oe 2% per month for the days remaining after the first 300ndayst. Excess entry tax paid by a Registered Dealer in one month, can be adjusted in the next month provided it is within the same accounting year. But if, excess amount of entry tax in the month of March same cannot be adjusted in the month of April. Such excess payment will be refunded upon application and after making assessment. |

# CENTRAL SALES TAX ACT, 1956

## PURPOSE/SCOPE

- (i) This Act is applicable to sales/purchases taking place in course of inter state trade and commerce.
- (ii) The inter state nature of transaction is to be determined as defined in Section 3(a)/(b). If sale/ purchase occasions movement of goods from one State to another State, it is an interstate sale. A sale, effected by transfer of documents of title to goods when goods are in inter-state movement, is also an inter-state sale.
- (iii) Section 4 of the CST Act determines situs of sale: i.e. State in which the sale takes place. Accordingly the situs is to be decided on the location of the goods at the time of sale.
- (iv) Section 5 defines the sale/purchase-taking place in course of import/export and such transactions are immune from levy of any tax by State Government or Central Government. [(Sections 5(1), 5(2) and 5(3)].

The sale of goods to any exporter for the purpose of complying with the pre-existing order and covered by Section 5(3) is also exempt as deemed export. These sales are to be supported by Form H along with export order details and copy of bill of lading etc. as evidence of actual export.

## EXEMPTIONS

- (i) Section 6 is charging Section. As per Section 6(2) subsequent inter-state sale transaction taking place by transfer of documents of title to goods, when the goods are in course of movement, are exempt. For this purpose the claimant dealer has to obtain Form E-1 from his vendor (if such vendor is first seller otherwise, E-II) and Form 'C' from the buyer.
- (ii) Sale to notified foreign diplomat authorities is also exempt u/s. 6(3) against Form 'J'.
- (iii) The inter state sale to units situated in Special Economic Zone (SEZ) or developers of SEZ against Form 'I' are exempt as per Sections 8(6) read with Section 8(8).

## BRANCH/CONSIGNMENT TRANSFER

Under Section 6A, branch/consignment transfer is allowed only if Form 'F' is produced, else it will be deemed to be a sale. Form 'F' is required to be obtained from transferee branch/agent. One Form 'F' can cover transfers effected in one calendar month.

## RATES OF TAX

As per Section 8 of CST Act, the rates of taxes are to be decided as per rates under Local Act. The rates can be as under:

| Local Rate of Tax                                 | Rate of Tax under C.S.T. Act                   |                     |
|---|--|---------------------|
|   | Supported by 'C' Form<br>(Form D is abolished) | Without 'C'<br>Form |
| Declared goods                                    | 2%   | 5%                  |
| If the goods are generally exempt under Local Act | Exempt   | Exempt              |
| 1%  | 1%<br>(C form not required)                    | 1%                  |
| 5%  | 2%   | 5%                  |
| 14.5%   | 2%   | 14.5%               |

## REGISTRATION, FORM 'C' PURCHASES AND OTHER PROVISIONS

1. There is no threshold limit for registration under CST Act and hence even on the basis of single transaction a dealer will be liable for registration under Section 7(1). The dealer can also obtain registration voluntarily along with registration under VAT Act as per Section 7(2) of CST Act. Application for registration should be in Form A. Registration certificate will be in Form B.
2. As per Section 9(2), the interest/penalty/return/ assessment provisions applicable under Local Act are also applicable to CST Act. In addition there are provisions for levy of penalty u/s. 10 like contravention of the conditions of declaration forms, wrong issue of form etc.

3. Purchases to be effected against Form 'C' are subject to conditions. The compliance is to be checked before using Form 'C'. In nutshell, it can be mentioned that Form 'C' can be used for effecting purchases which are meant for :
  - a) Resale by him]
  - b) Use in manufacturing/processing of goods for sale
  - c) Use in mining
  - d) Use in generation/distribution of power
  - e) Use in packing of goods for sale/resale
  - f) Use in telecommunication network.
4. One 'C' form can be issued for one quarter of a financial year. Similarly EI/EII can also be issued on quarterly basis.
 

The Central Government has substituted second and third proviso to Rule 12(1) vide Notification No. 588(E) dated 16th September 2005. According to these provisos, with effect from 1st October 2005, Form C will have to be collected separately for each quarter of the year. Form D was required to be obtained transaction wise. However, Form D has been abolished with effect from 1st April 2007.

Central Government has also substituted sub rule (7) to rule 12 with effect from 1st October 2005. Form C or certificate in Form E-I or E-II will have to be submitted to sales tax department within three months from the end of the quarter in which sale is effected. In case of Form F, it is to be obtained on monthly basis and it is to be submitted to the sales tax department within three months from the end of the month in which goods are transferred to the interstate branch or agent.
5. From 11-5-2002 the six deemed transactions of sale, including works contracts and leases are taxable under the CST Act if they are effected in the course of inter-state trade.
6. Chapter VI-A provides for filing of appeals before Central Sales Tax Appellate Authority in case of disputes involving more than one state.

#### **IMPORTANT FORMS**

|                    |  |
|--------------------|--|
| Form - A           | Application for New Registration   |
| Form - I           | CST Return Form  |
| Form - 4VA         | Form of memorandum of appeal / application for revision/review under section 9(2) of the Central Sales Tax Act, 1956 read with section 84/ 86/ 87/88 of The West Bengal Value Added Tax Act, 2003 and/or section 79/81/82/83 of the West Bengal Sales Tax Act, 1994 and form of appeal under sub-section (3H) of section 7 of the Central Sales Tax Act, 1956. |
| Challan            | CST Challan  |
| Form – C           | For Inter State Purchase/sale of Goods at Confessional rates   |
| Form – E-I & E- II | For availing Exemption from CST in case of Subsequent sale in course of Interstate Sale  |
| Form – F           | For availing Exemption from CST in case of transfer of goods on consignment basis or in case of stock transfer to other branch of the concern.   |
| Form – G           | Indemnity Form – to be issued in case there is loss, destroy, theft of statutory forms   |
| Form – H           | For availing Exemption from CST in case of sale during course of Export.   |
| Form – I           | For availing Exemption from CST in case of transfer of goods to units situated in SEZs.  |

## IMPORTANT DATES

|  |   |
|--|---|
| Return filling                               | By the end of the succeeding month following the quarter                              |
| Tax Payment on 1st 2 months of every quarter | 21 days from the end of the month   |
| Tax Payment on 3rd month of every quarter    | By the end of the succeeding month following the quarter (i.e. Jun, Sep, Dec & March) |

## ADJUSTMENT WITH LOCAL VAT

The CST payable can be adjusted with local VAT if input tax credits under local VAT have excess credit balance. It cannot be adjusted against local VAT paid through challan.

Explanation 3 in Section 3(Added by Finance Act 2016)

Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another.”.

## Central Sales Tax Laws

As per section 104 of the west Bengal Sales tax Act, 1994 the governor has made the following amendments in the West Bengal Sales tax Rules 1995:-

| Sl. No. | Quarter in which Return is to be Furnished | Form of Return | Last Date of Payment Tax, Interest, if any | Last date of Transmission of Data electronically | Last date of Furnishing Paper Form of that Return |
|---------|--|----------------|--|--|---|
| 4.      | Q.E. 30.09.2013                            | 25E            | As specified in Rule 163                   | 30-11-2013                                       | 07-12-2013  |
| 5.      | Q.E. 31.12.2013                            | 25E            | As specified in Rule 163                   | 15-02-2013                                       | 22-02-2014  |
| 6.      | Q.E. 31.03.2014                            | 25E            | As specified in Rule 163                   | 20-05-2014                                       | 27-05-2014  |
| 7.      | Q.E. 30.06.2014                            | 25E            | As specified in Rule 163                   | 15-08-2014                                       | 22-08-2014  |
| 8.      | Q.E. 30.09.2014                            | 25E            | As specified in Rule 163                   | 30-11-2014                                       | 08-12-2014  |
| 9.      | Q.E. 31.12.2014                            | 25E            | As specified in Rule 163                   | 28-02-2015                                       | 10-03-2015  |
| 10.     | Q.E. 31.03.2015                            | 25E            | As specified in Rule 163                   | 15-05-2015                                       | 22-05-2015  |
| 11.     | Q.E. 30.06.2015                            | 25E            | As specified in Rule 163                   | 31-08-2015                                       | 07-09-2015  |
| 12.     | Q.E. 30.09.2015                            | 25E            | As specified in Rule 163                   | 16-11-2015                                       | 23-11-2015  |
| 13.     | Q.E. 31.12.2015                            | 25E            | As specified in Rule 163                   | 07-02-2016                                       | 22-02-2016  |
| 14.     | Q.E. 31.03.2016                            | 25E            | As specified in Rule 163                   | 16-05-2016                                       | 23-05-2016  |



# ASSAM ENTRY TAX ACT, 2008

## FREQUENTLY ASKED QUESTIONS (FAQs)

Prepared & Compiled by CA MANOJ NAHATA, GUWAHATI

### **Q :1 What is the governing law for levy of Entry Tax in the State of Assam?**

A:1 The Assam Entry Tax Act, 2008 and the Assam Entry Tax Rules 2008 are the governing laws for levy of Entry Tax in the State of Assam. It is administered by the Department of Taxation, Assam headed by the Commissioner of Taxes, Assam.

### **Q:2 What is the object and purpose of levy of Entry Tax in the State of Assam?**

A:2 The Act is framed to levy a tax on the entry of goods into any local area in Assam for consumption, use or sale therein for the purpose of providing the infrastructure and amenities to facilitate trade and commerce within the State of Assam and to validate certain taxes imposed on entry of goods into any local area in Assam for consumption, use or sale therein and for matters connected thereto or incidental thereto.

### **Q:3 What is the date from which the Assam Entry Tax Act, 2008 came into force?**

A:3 The Act received the assent of the Governor on 13.04.2008. But as per the provision of law it shall be deemed to have come into force on and from the first day of October, 2001, i.e. the date on which the Assam Entry Tax Act, 2001 originally came into force.

### **Q:4 Was there any earlier/old Act levying entry Tax in the State of Assam?**

A:4 Yes, Assam Entry Tax Act, 2001 was the earlier Act by virtue of which Entry Tax was originally levied in the State of Assam. But the said Act was struck down by the Hon'ble Gauhati High Court as it was declared as unconstitutional/ultravires. Thus to validate the old Act the Govt. of Assam came out with newer Act of 2008 curing the earlier constitutional defects. However the new Act was made effective from the year 2001 itself.

### **Q:5 What is the point of levy or taxable event under the Assam Entry Tax Act, 2008?**

A:5 The point of levy is the point of Entry of goods into local area. Therefore the taxable event under the statute is the entry of specified goods in a local area for consumption, use or sale therein.

### **Q:6 What is the definition of 'Local area' under the Entry Tax Act, 2008?**

A:6 "Local area" means any area of the State within the limits of any local authority including any area under—

- (i) Municipal Corporation of Guwahati, constituted under the Guwahati Municipal Corporation Act, 1969 (Assam Act I of 1973),
- (ii) Municipality or Town Committee constituted under the Assam Municipal Act, 1956 (Assam Act XV of 1957),
- (iii) Gaon Panchayat or an Anchalik Panchayat or a Zilla Parishad constituted under the Assam Panchayat Act, 1994 (Assam Act XVIII of 1994),
- (iv) North Cachar Hills Autonomous Council or Karbi Anglong Autonomous Council and Bodoland Territorial Council,
- (v) any other local authority, by whatever name called, constituted or continued under an Act of the Parliament or the State Legislature;

[Section 2(g)]

### **Q:7 What are the goods on which entry tax is applicable?**

A:7 Entry Tax is charged and levied on the entry of the specified goods as listed in the schedule appended to the Assam Entry Tax Act, 2008.

**Q:8 Who is liable to pay Entry Tax? Which is the charging section under Assam Entry Tax Act, 2008?**

A:8 Under the Act an importer, a dealer or otherwise, who brings the goods specified in the Schedule into a local area, has been made liable to pay entry tax on the import value of such goods. Section 3 (1) is the charging section under the Assam Entry Tax Act, 2008.

**Q:9 What is the meaning of the words “import value”?**

A:9 **“Import value”** means the value of goods specified in the Schedule as ascertained from the original invoice and includes the charges paid or payable for insurance, excise duty, freight charges and all other charges incidentally levied on the purchase of such goods:

Provided that where the import value is not ascertainable on account of non-production or non-availability of original invoice, or where invoice produced is proved to be false, or if such goods have been procured or obtained otherwise than by way of purchase, the import value shall be determined on the basis of fair market value of such goods;

Provided further that in the case of Specified Goods both old and new which are being imported into local area for use therein for a specified period and are taken back after completion of use, the “import value” shall be –

$$\frac{\text{Period of use of the Specified Goods in Years}}{\text{Life of the Specified Goods in years}} \times \text{Value of the Specified goods}$$

Explanation: Where the Specified Goods is new, the value of the Specified Goods shall be “import value” as defined above. In case of old Specified Goods, the value shall be determined as per depreciated value.

**[Section 2(f)]**

**Q:10 Is entry tax payable on import of specified goods for use on temporary basis?**

A:10 Yes, entry tax is payable even on import of specified goods for use on temporary basis. For example certain machine may be imported for use for a specific period into the State and thereafter it is returned back. In such case entry tax will be paid on proportionate basis as stated in section 2(f) mentioned here-in-above which is:

$$\frac{\text{Period of use of the Specified Goods in Years}}{\text{Life of the Specified Goods in years}} \times \text{Value of the Specified goods}$$

**Q:11 Does the Assam Entry Tax Act, 2008 make a distinction between locally produced goods or goods coming from outside the State?**

A:11 The Entry Tax under the Act is leviable on entry of goods into a local area irrespective of the fact whether such goods are brought in from any place outside the State or from any other local area within the State. The definition of ‘entry of goods into local area’ as contained in section 2(1) (b) makes it abundantly clear. Thus the Act does not discriminate between locally produced goods vis-à-vis goods coming from outside the State.

**Q:12 Is Entry Tax a multiple point Tax?**

A:12 Entry tax is a single point tax as it can be levied only at one stage. Once entry tax has been paid or liability incurred on the entry of the scheduled goods into a local area, entry tax is not leviable thereafter, though the goods are moved from that local area into another local area and so on successively.

**Q:13 Is Entry Tax similar to Octroi duty?**

A:13 No. The Octroi duty is collected at the time of entry of goods at the check post whereas the entry tax is an account based levy and similar to other taxation laws having separate assessment and collection procedure.

**Q:14 Can both Entry Tax and VAT be levied on same goods?**

A:14 If the goods are imported for re-sale, VAT is payable and exemption is given from entry tax on such resalable goods. But if the goods are brought in the form of raw materials and used in manufacturing of finished products which is subject to VAT then in such cases both entry tax ( on raw materials) and VAT ( on finished goods) can be levied.

**Q:15 Whether Entry Tax is vatable or whether entry tax payment can be allowed to set off with VAT liability?**

A:15 Entry tax paid or payable under the Assam Entry Tax Act, 2008 cannot be claimed as set off under the Assam VAT Act, 2003.

**Q:16 Are the works contractors liable to pay entry tax on the scheduled goods brought into local area for execution of works?**

A:16 If a contractor brings scheduled goods into a local area and then uses such goods in execution of works contract, the contractor is not liable to pay entry tax provided he is liable to pay VAT on deemed sales of such goods.

**Q:17 Whether items/goods exempted under VAT are also exempted from the levy of entry tax?**

A:17 No. The Assam VAT Act, 2003 and Assam Entry tax Act, 2008 has got separate tax rate schedules. So it is not always necessary that an item exempted under VAT is also exempted from entry tax. The importer is liable to pay entry tax irrespective of the fact whether such goods are brought into a local area for use or sale.

**Q:18 Is there any exemption on account of goods brought into local area and is further sent outside the State from levy of entry tax?**

A:18 The Act provides that entry tax shall not be payable on such portion of goods, which after its entry into local area inside the State, are sent outside the State by way of stock transfer, inter-state sales or sales in course of export. [Section 3(2)(ii)/3(3)]

**Q:19 Is entry tax payable on goods that enter into Assam for onward movement to other neighboring State i.e. using Assam as a corridor, but only after transshipment in a local area?**

A:19 No because the said goods are never consumed, used or sold in the State of Assam.

**Q:20 Whether entry tax is leviable on import of the scheduled/ specified goods from other country into a local area?**

A:20 Till 05.02.2015 no entry tax was leviable on import of goods into local area from outside the territory of India by virtue of express exemption provision of section 3(2) (iii). However w.e.f 06.02.2015 the Govt. vide gazette notification amended the definition of 'Entry of goods into a local area' and at the same time withdrawn the exemption as stated under clause (iii) of section 3(2) whereby import from other countries is also now subject to entry tax levy.

**Q:21 Is there any specific exemption granted under the Assam Entry Tax Act, 2008?**

A:21 Yes, under section 6 of the Act exemption from payment of entry tax has been granted if specified goods brought in any local area are (a) for exclusive use/consumption of the Defence Department of the Government of India or (b) the exclusive property of the Government of India, or (c) brought for the purpose of sale or use under the Assam Public Distribution of Articles order.

Further the State Govt. may in public interest subject to such conditions and restrictions as it may impose, exempt, any importer or class of importers, fully or partially from payment of entry tax on any specified goods.

**Q:22 Is separate registration under Entry Tax law necessary or whether VAT registration is suffice?**

A:22 Yes, the Entry Tax law envisages separate registration. So the VAT registration will not serve purpose.

**Q:23 Is way bill necessary for import of specified goods under the Assam Entry Tax Act, 2008?**

A:23 Yes, under rule 4 of the Assam Entry Tax Rules, 2008 it has been stated that Form-61- Delivery Note (applicable for VAT registered dealers) or Form-62 –Road Permit applicable for non-VAT registered dealers are the document necessary for import of specified goods.

**Q:24 What is the periodicity (monthly or quarterly) for payment of Entry tax and filing tax returns by an importer under the Act?**

A:24 It is monthly where the aggregate import value of specified goods exceeds Rs 10.00 Lakhs in a year. In other cases it is quarterly.

**Q:25 What is the due date of filing of monthly /quarterly tax return and payment of Entry tax? Which Form is used for filing tax return?**

A:25 The due date for filing of tax return is within 21 days of next succeeding month/quarter as may be applicable. Form ET-4 is the format of monthly /quarterly tax return under the Entry Tax Act.

**Q:26 Is there any requirement to file Annual return also?**

A:26 Yes, Annual return in Form ET-5 needs to be filed within 30th September of the next financial year (w.e.f.10.08.2016)

**Q:27 What is the interest rate applicable in case of delay in payment of tax?**

A:27 It is @ 1.5% p.m. w.e.f. 28.02.2011.

**Q:28 Are the provisions of Assam VAT Act, 2003 applicable to Entry tax law also?**

A:28 Yes, there are certain provisions of Assam VAT Act and VAT Rules are mutatis mutandis applicable to the Entry Tax Act, 2008/Rules 2008. (Refer section 9 and rule12 of Entry Tax)

**Q:29 Is there any exemption or benefit granted to the industrial unit from the levy of entry tax?**

A:29 The small scale industries and medium scale industries (excluding the industry established for production of goods, namely: coke tobacco, IMFL, country spirit & gutka ) were subject to concessional rate of tax @ .25% and 1% respectively on the import value of plant & machinery. However w.e.f.23.03.2015 all the eligible micro units , SSI, Medium and large scale industries including PSU under the Industrial and Investment Policy of Assam ,2014 is exempted from the levy of entry tax in respect of plants and machineries subject to conditions and restrictions as stipulated in the notification no:FTX.47/2013/19 dated:23.03.2015.

**Q:30 Is there any composition scheme framed under the Entry Tax Act, 2008?**

A:30 Though the Act has got specific provision for permission to pay tax by way of composition but till the date no such composition scheme is notified. So presently there is no composition scheme under the Entry Tax Act, 2008.

*Disclaimer: The above compilation has been prepared based upon the provisions of the law and amendments made therein upto 31.08.2016. Further utmost care has been taken to avoid errors or omission. In spite of this errors may creep in. It is requested to refer or cross check all the provisions with the original Government publication or notification. The compiler will not be responsible for any action taken solely based on this compilation.*

# ODISHA VAT ACT, 2004

## 1. REGISTRATION

| Sl. No. | PARTICULARS                         | DETAILS   |
|---------|-------------------------------------|---|
| 1.      | Registration of dealer              | <p><b>1. Mandatory Registration (Section 25)</b><br/>A dealer must get himself registered</p> <ol style="list-style-type: none"> <li>a. His turnover exceeds ` 10 lakhs during the consecutive preceding 12 months.</li> <li>b. He effects any purchase, sale or receipt under CST Act, 1956.</li> <li>c. He has a turnover of ` 50000 in case of Works Contract.</li> <li>d. He has a turnover of ` 10 lakhs in case of manufacture of goods.</li> </ol> <p>The application of registration has to be filled by a dealer within 30 days of his becoming liable to pay tax under this Act.</p> <p><b>2. Voluntary Registration(section 26)</b><br/>A dealer who has not attained the aforesaid limits may also apply for registration under the OVAT Act. When those intends</p> <ul style="list-style-type: none"> <li>-to manufacture goods having value exceeding Rs 1,00,000/-</li> <li>-to carry on business in respect of goods value exceeding Rs 3,00,000/-</li> </ul>  |
| 2.      | Procedure for Registration          | <ol style="list-style-type: none"> <li>1. An application for registration has to filed vide Form VAT 101 electronically along with scanned copies of self attested required documents.<br/>The detail procedure along with demo vedio is made available at <a href="https://odishatax.gov.in">https://odishatax.gov.in</a></li> <li>2. Form VAT 101 shall be accompanied with processing fee. The dealer is required to furnish receipt from Government treasure or e-challan.</li> <li>3. Once a dealer is registered, he will be issued a Tax Identification Number (TIN) or a Small Retailers Identification Number (SRIN) which should be quoted in all dealings with the Department to facilitate correct and prompt processing of tax affairs.</li> <li>4. In case the registration certificate is not issued, such pending applications shall be transferred within 15 days to the circle office under which the place of the business of the dealer is situated.</li> </ol>   |
| 3.      | Documents required for Registration | <p>A dealer applying for registration shall be required to upload the self-attested documents, namely:-</p> <p>In support of proof of residence for proprietor (any one of the following):</p> <ol style="list-style-type: none"> <li>(i) Voter identity card</li> <li>(ii) Passport;</li> <li>(iii) Driving license;</li> <li>(iv) Aadhaar Number/NPR (National Population Register)Number;</li> <li>(v) Holding tax payment receipt for current/previous year;</li> <li>(vi) Last paid electricity bill in the name of applicant or parents or spouse;</li> <li>(vii) Any other documents as may be notified by the Commissioner, from time to time;</li> </ol> <p>In support of proof of place of business (any one of the following):</p> <ol style="list-style-type: none"> <li>(i) Holding tax payment receipt for current/previous year;</li> <li>(ii) Record of right;</li> <li>(iii) Agreement or lease deed duly executed in case of rented premises;</li> <li>(iv) Certificate issued by the local authority in respect of shops and establishment;</li> </ol> <p>In support of proof of constitution of business:</p> <ul style="list-style-type: none"> <li>• For company: <ol style="list-style-type: none"> <li>(i) Certificate of incorporation issued by the Registrar of Companies;</li> <li>(ii) Memorandum of Association and Articles of Association;</li> </ol> </li> </ul> |

|    |   |   |
|----|---|---|
|    |   | <ul style="list-style-type: none"> <li>• For partnership firms including limited liability partnership firm: <ul style="list-style-type: none"> <li>(i) Partnership deed;</li> </ul> </li> <li>• For other concerns: <ul style="list-style-type: none"> <li>(i) Any document in support of their constitution / incorporation / registration;</li> </ul> </li> </ul> <p>Other documents:</p> <ul style="list-style-type: none"> <li>(i) Authorization, if any by the Company/Board Resolution and the like.</li> <li>(ii) VAT/CST Registration Certificate of other States (if the dealer is registered in other States or having a place of business in other States);</li> <li>(iii) License/Registration Certificates;</li> <li>(iv) Proof of payment of processing fee.</li> <li>(v) The applicant shall upload the recent passport size photograph of the proprietor / managing partner / managing director / karta / authorized signatory, as the case may be.</li> </ul> |
| 4. | Circumstances for Amendment in Registration | <p>In case of a need for amendment in the registration, an amendment application has to be filed vide Form VAT 108 electronically within 14 days of the change. There would be a need for amendment if:</p> <ul style="list-style-type: none"> <li>• A dealer sells his business or any part of his business or if there is any change in the ownership of the business.</li> <li>• A dealer discontinues his business or changes his place of business (other than principal place of business) or warehouse or opens a new place of business or</li> <li>• A dealer changes his name, style, constitution or nature of his business.</li> <li>• There is a change in the constitution or principal Place of business, or</li> <li>• There is a change in the nature of the goods dealt in or manufactured.</li> </ul>   |
| 5. | Rate of Taxes                               | <ol style="list-style-type: none"> <li>1. Schedule A- Exempted</li> <li>2. Schedule B Part I - 1%</li> <li>3. Schedule B Part II –5%</li> <li>4. Schedule B Part IIA- Other Rate</li> <li>5. Schedule B Part III- 14.5%</li> <li>6. Schedule C – 20% and 35%</li> <li>7. Schedule D – Ineligible Capital Goods</li> </ol>   |

## 2. DOCUMENTATION

| Documents to be maintained under OVAT ACT | Preservation of Records  |
|---|--|
|   | <p>The books of accounts including invoices shall be preserved for five years after the end of the year to which it relates. However in case any assessment, appeal or revision is pending, till completion of such.</p> <ul style="list-style-type: none"> <li>• Accounts maintained by dealers opting for Composition <ol style="list-style-type: none"> <li>a. Details of goods purchased and sold by the dealer; and</li> <li>b. Cash Book, day book, ledger, invoice/bill books and purchase vouchers.</li> </ol> </li> <li>• Accounts maintained by Other Dealers <ol style="list-style-type: none"> <li>a. Monthly accounts;</li> <li>b. Inter-state sale transactions;</li> <li>c. Details of Input tax;</li> <li>d. Purchase records;</li> <li>e. Sale records;</li> <li>f. Stock records;</li> <li>g. All annual records;</li> <li>h. All bank records;</li> <li>i. Order and delivery records;</li> <li>j. Cash book, day book and ledger;</li> </ol> </li> </ul> |

### 3. VAT RETURNS & DUE DATES

| Types of Dealers  | Tax Period  | Due date of Filing   |
|---|---|--|
| All registered Dealers  | Yearly(Annual Return)   | Within 6 months from the end of the year in form 201A  |
| Dealers categorized as works contractor with a quarterly tax period                                       | Quarterly   | 21 days from the end of the quarter  |
| Tax period of dealer categorized as monthly   | Monthly   | 21 days from the end of the Month  |
| Dealer whose annual Turnover is above Rs 100 lakhs (from Financial year 2014-15)                          | Annual VAT Audit Certificate by Chartered accountant or Cost accountant | Audit to be completed within 6 months from the end of the year and audit report to be furnished electronically by the auditor within further one month |
| N. B. the VAT audit certificate is the responsibility casted upon the auditor to upload electronically... |   |  |

|                            |   |  |
|----------------------------|---|--|
| Revision of Return         | If a dealer files a return and subsequently finds any error/omissions, he may file a revised return within 3 months from the tax period to which the original return relates.   |  |
| Filing of Annexure         | The Department of Commercial Taxes has introduced the facility of filing of returns with all annexure as part of the process filing of periodic returns by the dealer. Thereafter several new facilities like offline block for data entry and import of data in excel format have been introduced to facilitate filing of returns. |  |
| Due dates for Tax Payments | 1. Monthly<br>2. Quarterly  | 21 days from the end of the month<br>21 days from the end of the quarter |

### 4. CATEGORY OF RETURNS

| Sl. No. | TYPE OF RETURN  | TYPE OF DEALER   | FORM NO.                                     | DUE DATE  | DOCUMENTS TO BE ENCLOSED   |
|---------|---|--|--|---|--|
| 1       | Periodic return   | Every Registered dealer  | VAT 201                                      | 21st of the succeeding month or quarter   | Documents as specified in the return along with a copy of the challan              |
| 2       | Revised Return  | Every Dealer   | VAT 201 or as prescribed by the Commissioner | Within 3 months from the end of the tax period to which the original return relates | Documents as specified in the return   |
| 3       | Annual Return   | Every Registered Dealer  | VAT 201-A                                    | Within 6 months from the end of the year  | Documents as specified in the return   |
| 4       | Return when assigned with SRIN                                | Every Registered Dealer  | VAT 002                                      | Within 21 days from the end of the quarter  | Documents as specified in the return   |
| 5       | Return when business closes down or Registration is cancelled | Every Registered Dealer whose business has been closed down or whose registration has been cancelled | VAT 202                                      | Within 14 days from the date of closure of the business                             | Documents as specified in the return   |
| 7       | Return of Turnover by a casual dealer                         | Every Casual Dealer  | VAT 311                                      | On or before the last day on which the dealer intends to leave the place            | receipted treasury challan for the tax or taxes payable on the basis of the Return |
| 8       | TDS certificate   | contractee   | VAT 605                                      | Within 30 days of deduction of TDS on WCT   | Along with copy of chalan evidencing deposit of TDS                                |
| 9       | TDS Return  | Contractee   | VAT 605A                                     | Within 14 days from the end of the month  | Along with form VAT 605 and chalan   |

### 5. INPUT TAX CREDIT

|   |   |
|---|---|
| Input tax credit shall be allowed for purchases made within the State from a registered dealer holding a valid certificate of registration in | (i) sale or resale by him in the State;<br>(ii) use as inputs or as capital goods in the manufacturing of goods, other than those specified in schedule A and Schedule C and schedule D for sale; |
|---|---|

|  |  |
|--|--|
| respect of goods intended for the purpose of   | <ul style="list-style-type: none"> <li>(iii) sale of goods subject to levy of tax at zero rate under Section 18;</li> <li>(iv) for use as containers or materials for packing of goods, other than those exempt from tax under this act, for sale or resale ; or</li> <li>(v) transfer of stock of taxable goods other than by way of sale, to any place outside the state [Section 20(3)]</li> </ul>  |
| Input tax credit must be allowed to the extent provided as per the proviso to Section 20(3), Restriction | <ul style="list-style-type: none"> <li>(i) the input tax credit on purchases intended for the purpose of branch transfer to a place outside the State shall only be allowed in respect of the amount of tax paid or payable in excess of tax at the rate of four per centum;</li> <li>(ii) if goods purchased are used partially for the purposes specified in this sub-Section, input tax credit shall be allowed proportionately to the extent they are used for such purposes;</li> <li>(iii) where a registered dealer sells or despatches goods, both taxable and exempt under this Act, the input tax credit shall be allowed proportionately only in relation to the goods which are not so exempt.;</li> <li>(iv) the input tax credit on purchase when sold in course of interstate trade or commerce shall be allowed only to the extent of the Central Sales Tax payable under the Central Sales Tax Act, 1956[Section 20(3)];</li> <li>(v) No amount of input tax credit shall be allowed to a registered dealer on any purchase of goods in excess of the amount of such tax actually paid under this Act. ( alternatively Credit is allowed to the extent of tax is paid by the sailing dealer)</li> </ul>   |
| specific non entitlement of Input tax credit [Section 20(1a)]  | <ul style="list-style-type: none"> <li>(i) Coal when used for generation of electricity for sale and captive use.</li> <li>(ii) Furnace oil except when purchased for resale.</li> <li>(iii) Kerosene except when purchased for resale.</li> <li>(iv) All automobiles including commercial vehicle, two wheelers and three wheelers required to be registered under the Motor Vehicles Act, 1988 (Act 59 of 1988) except when purchased for resale and including tyres and tubes, spare parts and accessories for the repair and maintenance thereof.</li> <li>(v) Air conditioning units except when purchased for resale and except when used in plant and laboratory.</li> <li>(vi) Earth moving equipment such as dozers, loaders and excavators; and poclain, dumpers and tippers except when purchased for resale.</li> <li>(vii) Machinery and equipments including accessories and component parts thereof purchased for use in mining.</li> <li>(viii) Machinery and equipments including accessories and component parts thereof purchased for use in construction activities such as mixer, road roller, paver, vibrator.</li> <li>(ix) Fuels used for automobiles or used for captive power generation or used in power plants.</li> <li>(x) Natural gas except when purchased for resale.</li> </ul>  |
| 2. No input tax credit shall be claimed by or be allowed to a registered dealer                          | <p>A registered dealer cannot claim or be allowed any input tax credit in the following circumstances :</p> <ul style="list-style-type: none"> <li>(a) in respect of any taxable goods purchased by him from another registered dealer for resale but given away by way of free sample or gift;</li> <li>(b) who makes payment of turnover tax as provided in Section 16;</li> <li>(c) in respect of capital goods used for the purposes and in the circumstances as specified in Schedule 'D';</li> <li>(d) in respect of goods brought from outside the State against the tax paid in any other State;</li> <li>(e) in respect of stock of goods remaining unsold at the time of closure of business;</li> <li>(f) in respect of goods purchased on payment of tax, if such goods are not sold because of any theft, damage and destruction;</li> <li>(g) where the Tax Invoices are not available with the dealer or there is evidence that the same had not been issued by the selling registered dealer from whom the goods are purported to have been purchased;</li> </ul> <p>Provided that input tax credit on the stock of goods,—</p> <ul style="list-style-type: none"> <li>(i) held on the date of registration as admissible under sub-section (11); and</li> <li>(ii) held by a registered dealer on the date, he is liable to pay tax under section 11 in lieu of tax payable under section 16, shall be allowed without tax invoice subject to production of evidence that such goods have been purchased from a registered dealer inside the State on payment of tax under this Act, supported by a retail invoice, to the satisfaction of the assessing authority;</li> <li>(h) in respect of goods purchased from a dealer whose certificate of registration has been suspended;</li> </ul> |



|   |  |
|---|--|
|   | <p>(i) in respect of sale of goods specified in Schedule A;</p> <p>(j) in respect of sale of goods specified in Schedule C;</p> <p>(k) in respect of input or capital goods other than those covered under Schedules A, C and D used in manufacture of goods where the finished products are exempted from tax either in whole or in part under this Act or under the Central Sales Tax Act, 1956 (74 of 1956);</p> <p>(l) in relation to works contracts executed by him, where he has exercised option under sub-section (3) of Section 11 to pay tax by way of composition; and in any other case as the government may, by notification, specify</p>   |
| Reverse tax credit                              | <p>In the following cases if the goods were purchased and</p> <p>(a) are intended for any of the purposes specified under Section 20(3) [ vide Para 1.1(e) vide supra] but are subsequently used otherwise, or</p> <p>(b) are lost due to theft, damage or for any other reason, or</p> <p>(c) remain unsold at the time of closure of business,</p> <p>(d) are subsequently transferred to any place outside the State otherwise than by way of sale on which input tax credit has already been availed at the full rate; or</p> <p>(e) remain unutilized or unsold on the date on which the exercise of option for composition of tax under this Act, is allowed; or</p> <p>(f) remain unutilized or unsold on the date on which the liability of the dealer to pay tax under Section 11 is changed to Section 16; or</p> <p>(g) are utilized in manufacture of goods exempted from tax, on which input tax credit has been availed in a tax period prior to its utilization, by a dealer manufacturing both taxable goods and goods exempted from tax; or</p> <p>(h) are exempted from levy of tax subsequently; or</p> <p>(i) are returned to the selling dealer and necessary adjustment is made by revising the tax Invoice or Retail Invoice, or by issue of credit or debit notes in respect of such goods</p> |
| Accounting of credit and debit note             | <p>Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of Section 23, or where he returns or rejects goods purchased, as a consequence of which the input tax credit, availed by him for any period to which the purchase of goods relates, becomes less or more, he shall make due adjustment of the amount of such shortfall in credit or excess credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned, subject to conditions as may be prescribed. [Section 22].</p>  |
| 4. Refund or carry forward of excess tax credit | <p>(1) If the input tax credit of a registered dealer other than an exporter selling goods outside the territory of India determined under section 20 for any tax period exceeds the tax liability for that period, the excess input tax credit shall be set off against the tax payable under the provisions of the Central Sales Tax Act, 1956 (74 of 1956) for that period at the first instance and if any balance input tax credit is still available, the same shall be carried forward for being set off against the tax payable for subsequent tax period or periods by that dealer.</p> <p>(2) The excess input tax credit after adjustment under sub-section (1), shall be carried forward as an input tax credit, to the subsequent tax period or periods, till it is fully adjusted<br/> Provided that no excess input tax credit for a tax period shall be carried forward exceeding a period of twenty-four months from the close of the year to which that tax period relates.</p> <p>(3) Where input tax credit is so carried forward, a quarterly credit statement shall be forwarded to the concerned dealer and the claims reconciled accordingly.</p>  |

## 6. ROAD PERMITS & WAY BILLS

|  |  |
|--|--|
| <p>Applicability</p> <ul style="list-style-type: none"> <li>• Inward or outward</li> <li>• Transit pass</li> </ul> | <p>For a registered Dealer- FORM VAT 402 and For unregistered dealer – Inward vide FORM VAT 402A</p> <p>In case of vehicles pass through the geographical limits of state of Orissa however the source and destination of the goods are not meant for any location in Odisha a pass in form no 406 is being issued.</p> <p>At present all the way bills are web enabled and electronically communicated by PDF files and SMS. For details please visit <a href="https://odishatax.gov.in">https://odishatax.gov.in</a></p> |
|--|--|

## 7. SPECIFIC PROVISION FOR SPECIFIC ASSESSEE

|                          |   |
|--------------------------|---|
| Option to pay tax on MRP | <p>Proviso to Section 14 (1) provides that the Government may, by notification, specify registered dealer, of any particular class or category who may at his option can pay tax on the maximum retail price printed on label or packet of the goods or regulated price of the goods, if any.</p> |
|--------------------------|---|

|  | <ul style="list-style-type: none"> <li>The dealer paying tax on MRP shall separately indicate the MRP on the body of the tax Invoice and also super scribe on it the words 'Invoice for tax on MRP'.</li> <li>The dealer shall be entitled to collect output tax equal to the amount of input tax.</li> </ul>   |   |             |   |   |   |     |   |   |                   |
|--|---|---|-------------|---|---|---|-----|---|---|-------------------|
| Retailer and turnover tax- [Section 16 read with Rule 9] | <p>When a Retailer, as defined under section 2(41) who full fill all the following conditions can opt for the scheme of Turnover tax in lieu of paying VAT and get a SRIN No. The conditions to be satisfied are that the retailer-</p> <ul style="list-style-type: none"> <li>does not having gross turnover more than rupees Fifty Lakhs</li> <li>does not purchase or sell goods in course of inter-State trade or commerce;</li> <li>does not dispatch goods to or receive goods from, outside the state, otherwise than by way of sales or purchases, as the case may be;</li> <li>does not import goods from or export goods to, outside the territory of India;</li> <li>does not process or manufacture goods for sale; and</li> <li>does not execute any works contract.</li> </ul> <p>As notified the Dealer having SRIN will pay 1% tax on Taxable turn over (TTO)without any input tax credit.</p>  |   |             |   |   |   |     |   |   |                   |
| Purchase tax [Section 12]                                | <p>The rate of tax shall be the same as prescribed for their sale.</p> <p>Purchases Tax is payable when a dealer purchases or receives any taxable goods within the State from a registered dealer not liable to pay tax or from a person other than a registered dealer, if the goods are disposed in a manner other than the following.</p> <p>(a) sale in the State; or in the course of inter-State trade or commerce; or in course of export or</p> <p>(b) use for manufacture of taxable goods, or</p> <p>(c) consumption in the manufacture of taxable goods and the manufactured goods are disposed by sale within the State, or in course of inter-state trade or commerce, or in course of export out of the territory of India</p>   |   |             |   |   |   |     |   |   |                   |
| Works Contract   | <p><b>When the value of material as well as labour or like charges are individually ascertainable, verifiable</b></p> <p>Under section 11(2)(c) read with Rule 6(e) of the Odisha VAT Act and Odisha VAT Rules certain deductions are being specifically provided to arrive the sale value from the total value of the Contract. The deductions are as follows:-</p> <p>(a) Labor charges for execution of work.</p> <p>(b) Amount paid to a sub-contractor for labour and service.</p> <p>(c) Charges for planning, designing and architect's fees.</p> <p>(d) Charges for obtaining on hire or otherwise machinery and tools used for the execution of a works contract.</p> <p>(e) Cost of consumables such as water, electricity, fuel etc. used in the execution of the works contract, the property in which is not transferred in the course of execution of a works contract.</p> <p>(f) Cost of establishment of the contractor to the extent it is relatable to supply of labour and services.</p> <p>(g) Other similar expenses relatable to supply of labour and services.</p> <p>(h) Profit earned by the contractor to the extent it is relatable to supply of labour and services.</p> <p>(i) Amounts paid to a sub-contractor as consideration for the execution of works contract whether wholly or partly, in a case where the contractor proves to the satisfaction of the assessing authority that tax has been paid by the sub-contractor on the turnover of the goods involved in the course of execution of such works contract.[ this last clause(i) inserted since 01.10.2015]</p> <p><b>When the value of material as well as labour or like charges cannot be ascertainable, verifiable</b></p> <p>The proviso to section 11(2)(c) and proviso to Rule 6(e) also address to certain situation where the actual cost of labor, services or like charges could not be ascertained or verifiable. Value of Labour or like charges can be derived as a percentage of total value of the works contract at the rate provided in the following appendix.</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Particulars</th> <th>Labour &amp; service charges component as %</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Fabrication and installation/erection of-<br/>(a) Plant and machinery.<br/>(b) Structural including trusses and purlines.<br/>(c) Cranes and hoists.<br/>(d) Elevators, Lifts and escalators<br/>(e) Shutters and collapsible gates.</td> <td>15%</td> </tr> <tr> <td>2</td> <td>Supplying and fixing/installation of -<br/>(a) door, windows, grills including its frames &amp; furniture and fixtures.<br/>(b) Air-conditioning, equipments including deep freezer.<br/>(c) Air-conditioners and air-coolers.</td> <td>15%<br/>15%<br/>10%</td> </tr> </tbody> </table> | Sl. No.                                 | Particulars | Labour & service charges component as % | 1 | Fabrication and installation/erection of-<br>(a) Plant and machinery.<br>(b) Structural including trusses and purlines.<br>(c) Cranes and hoists.<br>(d) Elevators, Lifts and escalators<br>(e) Shutters and collapsible gates. | 15% | 2 | Supplying and fixing/installation of -<br>(a) door, windows, grills including its frames & furniture and fixtures.<br>(b) Air-conditioning, equipments including deep freezer.<br>(c) Air-conditioners and air-coolers. | 15%<br>15%<br>10% |
| Sl. No.  | Particulars   | Labour & service charges component as % |             |   |   |   |     |   |   |                   |
| 1  | Fabrication and installation/erection of-<br>(a) Plant and machinery.<br>(b) Structural including trusses and purlines.<br>(c) Cranes and hoists.<br>(d) Elevators, Lifts and escalators<br>(e) Shutters and collapsible gates.   | 15%                                     |             |   |   |   |     |   |   |                   |
| 2  | Supplying and fixing/installation of -<br>(a) door, windows, grills including its frames & furniture and fixtures.<br>(b) Air-conditioning, equipments including deep freezer.<br>(c) Air-conditioners and air-coolers.   | 15%<br>15%<br>10%                       |             |   |   |   |     |   |   |                   |

|    |   |     |
|----|---|-----|
|    | (d) Electrical goods  | 15% |
| 3  | Civil Works Like  |     |
|    | (a) Construction of buildings   | 30% |
|    | (b) Construction of bridges and culverts  | 25% |
|    | (c) Construction of roads   | 30% |
|    | (d) Supplying fixing and polishing of mosaic tiles  | 20% |
|    | (e) Supplying, fixing and polishing of marbles  | 15% |
|    | (f) Supplying fixing of stones other than those described in (d) and (e)  | 15% |
|    | (g) earth dam   | 50% |
|    | (h) Masonary dam  | 35% |
|    | (i) Concrete dam  | 45% |
|    | (j) Spillway  | 35% |
|    | (k) Canal lining  | 35% |
|    | (l) Other canal structure   | 40% |
|    | (m) Wooden/bamboo fair weather bridges  | 20% |
| 4  | Sanitary Fittings & plumbings   | 15% |
| 5  | Painting & Polishing  | 20% |
| 6  | Supplying & Laying Pipes  | 20% |
| 7  | Construction of bodies of Motor vehicle and Construction of Trailers  | 20% |
| 8  | Services and Maintenance of Instruments, quipments, appliances, plants & machinery  | 80% |
| 9  | Tyre Rethreading  | 30% |
| 10 | Processing and supplying of photographs and photo negatives   | 50% |
| 11 | Electroplating, electro-galvanising, anodizing and the like   | 30% |
| 12 | Lamination, rubberization, framing, coating & similar processes   | 30% |
| 13 | Printing and block making   | 30% |
| 14 | Supply and installing of weighing machine and weigh bridges   | 15% |
| 15 | Sculptural contract/contracts relating to arts  | 60% |
| 16 | Ship & boat building including construction of bridges, juries, tugs, trawlers and draggers   | 20% |
| 17 | Laying of railway sleeper   | 20% |
| 18 | Overhauling or repairing or dismasting on any motor vehicle, vessels of every description meant for plying on water or any other vessel propelled by mechanical means, any aircraft or any equipment or part of any of the aforesaid items. | 20% |
| 19 | Erection, installation and commissioning of wind turbine generator including power evacuation system  | 30% |
| 20 | Supply and laying of cables   | 20% |
| 21 | Construction of railway coaches or under-carriages supply by railways   | 30% |
| 22 | (a) Electrical contractors:   |     |
|    | (i) High Tension transmission lines   | 20% |
|    | (ii) Substation equipments  | 15% |
|    | (iii) Power house equipment and extensions  | 15% |
|    | (iv) 11 & 33 kV and light distribution lines  | 17% |
|    | (v) All other electrical contracts  | 25% |
|    | (vi) All structural contracts   | 35% |
| 23 | All other works contract excluding service contracts  | 20% |

### Composition scheme for works contract

The Odisha VAT Act also provides an option to all the dealers engaged in works contract and dealers undertaking the construction of flats, dwellings or buildings or premises and transferring them along with land or interest underlying the land to opt for a composition scheme notified under section 11(3). Government of Odisha have come out with two notifications dated 16.01.2016 made effective from 01.10.2015.

- Government of Odisha, department of finance dated 16/01/2016 no 1457/FIN-CT1-TAX-0035/2015- applicable to dealers transferring goods involved in the execution of works contract
- Government of Odisha, department of finance dated 16/01/2016 no 1461/FIN-CT1-TAX-0035/2015- applicable to dealers who undertakes the construction of flats, dwellings or buildings or premises and transfer of property along with land or interest underlying land to pay tax in lieu of VAT.

## **A. Composition Scheme for Works contractor**

- 1. Applicability-** the scheme would be available to a dealer who is liable to pay tax on the sales effected by way of transfer of property in goods (whether as goods or in some other form (involved in the execution of works contract.
- 2. Eligibility-**The dealer opting for composition under this notification-
  - a. Shall not claim any input tax credit under the Act;
  - b. Shall not claim any deduction with respect to labour and like charges provided under section 11(2);
  - c. Shall not issue any 'Tax Invoices'; and
  - d. Shall maintain accounts and records as required under section 61 of the Act.
- 3. Procedure to avail the scheme:-**
  - a. The dealer who opts for payment of tax by way of composition shall make an application electronically in form C-1 together with the details of work(s).
  - b. An option once exercised shall remain binding on the dealer until he opts to go out of the scheme by exercising option in Form C-2
  - c. Upon receipt on an application, the assessing authority may, grant permission to the dealer for payment of tax by way of composition from such date in Form C-1
- 4. Compliances-**Every dealer opting for composition under this scheme shall furnish return for each tax period in Form C-5 within twenty-one days from the date of expiry of such tax period.
- 5. TDS Provisions-** the TDS proviso will be applicable to the dealer as a contractor. In case the dealer furnish to the assessing authority, the details of the contractee in Form C-4, the assessing authority in form C-3 shall intimate to the contractee (deducting authority) to deduct tax at source at such rate and on such percentage of the gross value of the works, as specified in this notification.
- 6. Liability-** the liability on the works contractor would be in lieu of amount of tax payable by him under section 9 (a).
- 7. Types of Dealer** executing works contract- Type A and Type B
  - **Type A Dealer:-** registered dealer who opt to pay composition tax under this Scheme shall,-
    - 1) Shall not purchase or procure goods from any place outside Odisha at any time during the period for which he opts to avail this Scheme; and
    - 2) Shall not sell or supply goods to any place outside Odisha at any time during the period for which he opts to avail this Scheme.
    - 3) However, he may procure his own plant & Machinery and Equipments from outside Odisha, meant exclusively for use in execution of the works contract by him or by way of inward transfer of stocks from other States or by way of imports;;
  - **Type B Dealer:-** A registered dealer opting to pay composition tax under this Scheme shall be entitled to
    1. Make interstate purchases of goods required for the execution of the contract under this Scheme as a registered dealer.
    2. By way of inward transfer of stocks from other States or by way of imports from other countries solely for the purposes of utilizing the same in the execution of works contract in Odisha only.
    3. Provided the dealer shall use the material or goods imported or procured from outside Odisha strictly for use in execution of the works contract.

## 8. RATE OF TAX APPLICABLE

the following is the table where the rate of tax under composition is being given

| Category | Nature of Works Contract   | Composition tax rate<br>(As percentage of entire turn over in relation to works Contract in Odisha) |                                 |
|----------|--|---|---------------------------------|
|          |  | Under the Condition of Scheme-A   | Under the Condition of Scheme-B |
| (1)      | (2)  | (3)   | (4)                             |
| 1.       | <p>Every registered dealer engaged in execution of works contracts of the following categories and incidental or ancillary activities in connection with or thereto:</p> <p>(1) Civil Contracts, Such as,</p> <p>(a) Civil Construction, improvement, modification, repair and maintenance, electrification, sanitary fittings, flooring, plastering, finishing, white washing, painting, polishing, interior decoration, etc. of any immovable property, including a building or a complex- residential or commercial.</p> <p>(b) Water works and Sewerage works, including treatment plants, whether meant for individual houses/ buildings/ complexes or for the general public.</p> <p>(c) Fabrication &amp; fixing of shutters, doors, gates, windows, grills, furniture, fixtures, fitting outs and other similar contracts.</p> <p>(d) Procurement, erection, fabrication, installation commissioning of any plant, Machinery, equipment, transformers, lifts, elevators, escalators, weighing machines, air conditioners, air coolers, fire-fighting systems, audio-visual systems, security systems, computer systems, EPABX/ telecommunication system and other similar contracts.</p> <p>(e) Construction and maintenance of Civil works, such as—</p> <p>(i) Green houses and other similar structures.</p> <p>(ii) Swimming pools.</p> <p>(iii) Bridges, flyovers, dams, barriers, diversions, or other similar structures.</p> <p>(iv) Canal, spillways or other similar activities.</p> <p>(v) Roads, causeways, subways, or other similar contracts.</p> <p>(vi) Rail, railway over bridges or other similar activities.</p> <p>(f) Any other contract for civil construction and maintenance as may be specified by the Commissioner.</p> <p>(2) Repair &amp; Maintenance of any moveable property, including vehicles, annual maintenance contracts (AMCs) and other similar contracts.</p> <p>(3) All other types of works contracts, including those involving moveable goods, not specified elsewhere in this notification.</p> | 3%  | 6%                              |
| 2        | <p>Every registered dealer engaged in,-</p> <p>(i) Printing and/or book-binding.</p> <p>(ii) Textile processing such as dying, fabrication, tailoring, embroidery and other similar activities.</p> <p>(iii) Electro plating, electro galvanizing, anodizing, power coating and other similar activities.</p> <p>(iv) Re-treading of old tyres</p>   | 2%  | 4%                              |

## **B. Composition scheme for real estate developer, builder**

1. **Applicability to dealer**- the scheme would be available to a dealer who undertakes the construction of flats, dwellings or buildings or premises and transfer of property along-with land or interest underlying the land to pay tax, by way of composition, in lieu of VAT.
2. **Applicable to amount**- the scheme can only applicable to All the payments received on or after 01.10.2015 towards construction of flats dwellings or buildings or premises and transfer of property along-with land or interest underlying the land shall be covered under this composition scheme.
3. **Eligibility**-The dealer opting for composition under this notification-
  - a. Shall not claim any input tax credit under the Act;
  - b. Shall not claim any deduction with respect to labour and like changes provided under section11(2);
  - c. Shall not issue any 'Tax Invoices'; and
  - d. Shall maintain accounts and records as required under section 61 of the Act.
4. **Procedure to avail the scheme:-**
  - a. The dealer who opts for payment of tax by way of composition shall make an application electronically in form C-1 together with the details of work(s).
  - b. An option once exercised shall remain binding on the dealer until he opts to go out of the scheme by exercising option in Form C-2
  - c. Upon receipt on an application, the assessing authority may, grant permission to the dealer for payment of tax by way of composition from such date in Form C-1
5. **Compliances**-Every dealer opting for composition under this scheme shall furnish return for each tax period in Form C-5 within twenty-one days from the date of expiry of such tax period.
6. **Liability and valuation** - the liability on the dealer under the scheme would be in lieu of VAT on the aggregate amount. The aggregate amount would be the actual value of the contract or the value determined for stamp duty under the Odisha Stamp Rules, 1952, whichever is higher,
7. **Rate of Tax applicable**- The Applicable rate of tax would be 3.5% on the aggregate amount.

### **Tax Deducted at Source ( TDS)**

Under section 54 read with Rule 58 of the Odisha Vat Act and Odisha Vat Rules, tax need to be deducted by certain specified persons while paying to a dealer with respect to the works contract being executed by such dealer.

- However in case the TDS is being made on principal contractor, there will no requirement of TDS in case of all future subcontracts.
- Further the principal contractor would be able to transfer the tax credit proportionately to the subcontractor account electronically.
- The applicable rate of deduction is normally at 4% of the value of the works contract [section 54(1)].
- However in the case of a dealer obtained a certificate for no deduction or lower deduction the deduction rate will be applicable at such rate for such specific dealer only. [Section 54(5)]

If principal contractor avail no (/Lower rate deduction) deduction certificate for a works, the subsequent sub-contractors for the same project need not required any certificate further.

NB "Act" mentioned above refers to the ODHISA Value Added Tax Act, 2003

"Rules" mentioned above refers to the ODHISA Value Added Tax Rules, 2005

# VAT - ASSAM, ORISSA, WB COMPARED

## LIST OF GOODS EXEMPTED FROM VALUE ADDED TAX

| SL. NO. | DESCRIPTION OF GOODS   | ORISSA | WEST BENGAL | ASSAM |
|---------|--|--------|-------------|-------|
| 1       | All non power operated agricultural implements operated manually or by animals and component parts, spare parts and accessories thereof.   |        | N.A.        | N.A.  |
| 2       | Agricultural implements manually operated or animal driven.  | N.A.   |             |       |
| 3       | Aids and implements used by handicapped persons  |        |             |       |
| 4       | Aquatic feed, poultry feed and cattle feed including supplements, concentrates, additives, de-oiled cake, grass, hay, straw and husk of pulses, wheat and groundnut including chokad.  |        | N.A.        |       |
| 5       | Aquatic feed, poultry feed and cattle feed including grass, hay, straw, husk of pulses, de-oiled cake, de-oiled rice bran, wheat bran and supplements, concentrates and additives of such feed.  | N.A.   |             |       |
| 6       | Aquatic feed, poultry feed and cattle feed including grass, hay, straw, <u>husk and bran of cereals</u> and pulses, supplements, concentrates and additives of such feed and de-oiled cakes, but excluding - (i) other oil cakes and (ii) rice bran].  | N.A.   | N.A.        |       |
| 7       | Alluric Acid.  | N.A.   |             | N.A.  |
| 8       | Application forms  |        | N.A.        | N.A.  |
| 9       | Betel leaves   |        |             |       |
| 10      | Betel leaves and betel nuts (excluding supari and betel nuts for conversion into supari)   | N.A.   |             |       |
| 11      | Books, periodicals and journals including time table for passenger transport services and almanacs, but not including Exercise books, drawing books, accounts books, graph books, laboratory books, diaries, calendars, letter pads and publications which mainly publicise goods, services and articles for commercial purpose, and tender paper/ book. |        | N.A.        |       |
| 12      | Books, periodicals and journals excluding those specified elsewhere in this Schedule or any other Schedule, but including Braille books, maps, charts and globes.  | N.A.   |             |       |
| 13      | Books, periodicals and journals  | N.A.   | N.A.        |       |
| 14      | Brass and Bell metal wares manufactured in the State .   |        |             | N.A.  |
| 15      | Bangles made of any kind of materials, except those made of gold, silver and platinum  | N.A.   |             | N.A.  |
| 16      | Bed sheets, pillow covers, bed-spreads, bed-covers, towels, napkins, table cloth, duster, handkerchief, sataranchi and blankets.   | N.A.   |             | N.A.  |
| 17      | Balloon.   | N.A.   |             | N.A.  |
| 18      | Bio-fertilisers and micronutrients, plant growth promoters and regulators.   | N.A.   |             | N.A.  |
| 19      | Bread except pizza bread containing any type of fruit or vegetable   | N.A.   |             | N.A.  |
| 20      | Bullock cart   | N.A.   |             | N.A.  |
| 21      | Cart driven by animal  |        | N.A.        | N.A.  |
| 22      | Charkha, Ambar Charkha, handlooms and parts, components and accessories thereof, handloom fabrics including Khadi fabrics, Gandhi Topi, all kinds of khadi garments, khadi goods and khadi made ups.   |        | N.A.        | N.A.  |
| 23      | Charkha, Ambar Charkha, Gandhi Topi and handlooms and handloom fabrics, when they are manufactured or made in India.   | N.A.   |             | N.A.  |
| 24      | Charakha and Amber Charakha handlooms and handlooms fabrics and Gandhi Topi  | N.A.   | N.A.        |       |
| 25      | Charcoal   |        |             |       |
| 26      | Chakla and belan, dal-sirrer   |        | N.A.        | N.A.  |
| 27      | Camphor  |        | N.A.        | N.A.  |
| 28      | Coarse grains, that is to say, jower, ragi, bajra, kodon, suan and gurji.  |        | N.A.        | N.A.  |
| 29      | Coarse grains other than paddy, rice and wheat.  | N.A.   |             |       |
| 30      | Condoms and contraceptives   |        |             |       |
| 31      | Cotton and silk yarn in hank   |        |             |       |
| 32      | Curd, Lussi, Butter milk and separated milk  |        |             |       |
| 33      | Conch shell and conch shell products.  | N.A.   |             | N.A.  |
| 34      | Coconut fibre.   | N.A.   |             | N.A.  |
| 35      | Duty Entitlement Pass Book (D.E.P.B.).   | N.A.   |             | N.A.  |
| 36      | Dried flowers and other parts of dried plants, other than those specified elsewhere in this Schedule or in any other Schedule  | N.A.   |             | N.A.  |
| 37      | Earthen pot and wares but not including glazed earthen wares, ceramic pots and wares.  |        | N.A.        | N.A.  |

|    |  |      |      |      |
|----|--|------|------|------|
| 38 | Earthen pot but not including ceramic pot.   | N.A. |      | N.A. |
| 39 | Earthen pot and clay lamps   | N.A. | N.A. |      |
| 40 | Elastic fabric tape.   | N.A. |      | N.A. |
| 41 | Electrical energy  |      |      |      |
| 42 | Empty domestic Liquefied Petroleum Gas (LPG cylinder) (Inserted by West Bengal Act 2012 (II of 2012), 31-03-2012)  | N.A. |      | N.A. |
| 43 | Firewood except casuarina and eucalyptus timber.   |      |      | N.A. |
| 44 | Firewood   | N.A. | N.A. |      |
| 45 | Fishnet, Fishnet twines, fishnet fabrics and country boats.  |      | N.A. | N.A. |
| 46 | Fishnet, fishnet fabrics and seeds of fish, prawn and shrimp.  | N.A. |      | N.A. |
| 47 | Fishnet and Fishnet fabrics  | N.A. | N.A. |      |
| 48 | Fresh milk and pasteurized milk, but not including UHT milk, condensed milk and flavoured milk.  |      | N.A. | N.A. |
| 49 | Fresh milk and pasteurised milk.   | N.A. |      | N.A. |
| 50 | Fresh milk and pasteurized milk excluding UHT milk   | N.A. | N.A. |      |
| 51 | Fresh plants, saplings, fresh leaves other than beedi/kendu leaves and green tea leaves and fresh flowers, but not including Kewada, Kia, Ketaki and Mohua flowers.  |      | N.A. | N.A. |
| 52 | Fresh plants, saplings and fresh flowers.  | N.A. |      | N.A. |
| 53 | Fresh flowers, fresh plants, saplings and seedlings including aromatic and medicinal plants  | N.A. | N.A. |      |
| 54 | Fresh vegetables including potato, onion, lemon and fresh fruits but not including wet dates.  |      | N.A. | N.A. |
| 55 | Fresh vegetables & fruits.   | N.A. |      | N.A. |
| 56 | Fresh vegetable and fruits other than potato, onion, garlic and dried vegetables   | N.A. | N.A. |      |
| 57 | Fuel made from solid waste procured from any local self- government or from any person on its behalf   | N.A. |      | N.A. |
| 58 | Garlic and ginger  |      |      | N.A. |
| 59 | Glass chimney, hurricane lantern, and kerosene lamp and accessories and components thereof   | N.A. |      |      |
| 60 | Gur, jaggery and rub gur.  | N.A. |      | N.A. |
| 61 | Goods, except kerosene oil, sold through Public Distribution System (PDS).   | N.A. |      | N.A. |
| 62 | All kinds of Bangles except those made of precious metals.   |      | N.A. | N.A. |
| 63 | Goods taken under Customs bond for re-export after manufacturing or otherwise  |      |      | N.A. |
| 64 | (i) Garments, goods and made-ups, of khaddar or khadi as defined in the West Bengal Khadi and Village Industries Board Act, 1959 (West Ben. Act XIV of 1959), manufactured in a khadi production unit approved or certified by the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956). |      | N.A. | N.A. |
| 65 | (ii) Products like pit loom, frame loom, paddle driven semi-automatic loom, warping drum and bobbin, used in production of khaddar or khadi as defined in the West Bengal Khadi and Village Industries Board Act, 1959 (West Ben. Act XIV of 1959).  |      | N.A. | N.A. |
| 66 | (iii) Readymade garments of value, whether printed or otherwise, not exceeding rupees fifty per piece, when sold from a Hat  |      | N.A. | N.A. |
| 67 | Human blood and blood plasma   | N.A. |      |      |
| 68 | Human blood and all its components.  |      | N.A. | N.A. |
| 69 | Handicrafts including Jessore cheruni, household articles made of brass and bell metal, paintings, articles made of bamboo and cane.   | N.A. |      | N.A. |
| 70 | Hosiery yarn.  | N.A. |      | N.A. |
| 71 | Indigenous handmade musical instruments  |      | N.A. |      |
| 72 | Items covered by PDS (Public Distribution System)  |      | N.A. | N.A. |
| 73 | Idols, toy and doll made of clay   | N.A. |      |      |
| 74 | Incense sticks commonly known as agarbati, dhupkathi, dhupbati and hawan samagri including sombrani and lobhana.   | N.A. |      | N.A. |
| 75 | Handmade musical instruments, that is to say-  |      |      |      |
| 76 | (i) Tabla, khol, dhol, pckhwaj, mridanga, dhak, madal and dugdugi;   | N.A. |      | N.A. |
|    | (ii) Flute;  | N.A. |      | N.A. |
|    | (iia) Harmonium;   | N.A. |      | N.A. |
|    | (iii) Jaltaranga; and  | N.A. |      | N.A. |
|    | (iv) Ghungru.  | N.A. |      | N.A. |
| 77 | Indigenenou handmade nuggest, commonly knows as bori.  | N.A. |      | N.A. |
| 78 | Indigenous handmade soap.  | N.A. |      | N.A. |



|     |  |      |      |      |
|-----|--|------|------|------|
| 79  | Kumkum, bindi, alta and sindur   |      |      |      |
| 80  | Kerosene oil when sold through Public Distribution System (PDS)  | N.A. |      | N.A. |
| 81  | Kite & Kite Sticks (Notification No. 1244—F.T dt. 09.09.2013)  | N.A. |      | N.A. |
| 82  | Lac and Shellac.   | N.A. |      | N.A. |
| 83  | Liquified petroleum gas commonly known as LPG, for domestic use.   | N.A. |      | N.A. |
| 84  | Mat locally known as madur made wholly or principally of Cyperus Corymbosus known locally as gola methi, madur kathi, mutha, or Cyperus Malaccensis known locally as Chimati pati, other than mat made wholly of plastic.  | N.A. |      | N.A. |
| 85  | Matsticks and reed obtainable from Cyperus Corymbosus known locally as gola methi, madur kathi, mutha, or Cyperus Malaccensis known locally as Chimati pati.   | N.A. |      | N.A. |
| 86  | Meat, fish, prawn, and other aquatic products when not cured, or frozen, and dry fish commonly known as sutki mach; eggs and livestock and animal hair.  | N.A. |      | N.A. |
| 87  | Meat, fish, dry fish, prawn, fish seeds, fries and fingerlings, prawn/shrimp seeds and other aquatic products, eggs and livestock. <b>(Conditions for Exemptions:</b> Meat, fish, dry fish, prawn, and other aquatic products, when not cured or frozen shall be exempted) |      | N.A. | N.A. |
| 88  | Meat, fish (excluding dry fish), prawn and other aquatic products when not cured or frozen; eggs and livestock and animal hair   | N.A. | N.A. |      |
| 89  | National flag  |      |      |      |
| 90  | Newspaper.   | N.A. |      | N.A. |
| 91  | Organic manure   |      |      |      |
| 92  | Oil cake.  | N.A. |      | N.A. |
| 93  | Non-judicial stamp paper sold by Government Treasuries and authorised vendors, postal items like envelope, post card including greeting cards and stamps sold by Government; rupee note sold to the Reserve Bank of India and cheques, loose or in book form.              |      | N.A. |      |
| 94  | Non-judicial stamp paper sold by Government Treasures; postal items like envelope, postcard etc. sold by Government; rupee note, when sold to the Reserve Bank of India and cheques, loose or in book form but does not include first day cover, folder.                   | N.A. |      | N.A. |
| 95  | Pappad and handmade nuggets commonly known as badi   |      | N.A. | N.A. |
| 96  | Papad  | N.A. |      | N.A. |
| 97  | Paddy  | N.A. | N.A. |      |
| 98  | Paddy, rice, wheat, pulses, flour, atta, maida, suji, besan and sattu.   |      | N.A. | N.A. |
| 99  | Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as Khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki.   |      | N.A. |      |
| 100 | Rakhi.   | N.A. |      | N.A. |
| 101 | Raw wool and animal hair.  |      | N.A. | N.A. |
| 102 | Raw wool.  | N.A. |      |      |
| 103 | Raw jute.  | N.A. |      | N.A. |
| 104 | Strings for musical instruments  | N.A. |      | N.A. |
| 105 | Semen including frozen semen   |      |      |      |
| 106 | Silk worm laying, cocoon and raw silk  |      | N.A. |      |
| 107 | Silk worm laying, cocoon, and raw silk made or manufactured in India.  | N.A. |      | N.A. |
| 108 | Slate, slate pencils, chalk pencils, educational maps, globes and charts.  |      | N.A. | N.A. |
| 109 | Slate, slate pencils and chalk pencils   | N.A. | N.A. |      |
| 110 | Slate and slate pencils.   | N.A. |      | N.A. |
| 111 | Sabai grass and articles made thereof  | N.A. |      | N.A. |
| 112 | Sago and Tapioca globules.   | N.A. |      |      |
| 113 | Salt.  | N.A. |      |      |
| 114 | Salted cooked food made wholly or principally of flour, atta, suji or beson, that is to say, singara, nimki, kachuri, khasta kachuri, luchi, radhaballavi, and dalpuri.  | N.A. |      | N.A. |
| 115 | Slate and slate pencils.   | N.A. |      | N.A. |
| 116 | Sugar manufactured or made in India, misri and batasa.   | N.A. |      | N.A. |
| 117 | Seeds of all varieties other than those specified elsewhere in this Schedule or in any other Schedule.   | N.A. |      | N.A. |
| 118 | Sponge-wood commonly known as sola or solapith, and articles made thereof.   | N.A. |      | N.A. |
| 119 | Sweetmeat other than cake and pastry but including curd and khoa.  | N.A. |      | N.A. |
| 120 | Bread  | N.A. | N.A. |      |
| 121 | Bread (branded or otherwise)   | N.A. |      | N.A. |
| 122 | Common Salt (branded or otherwise)   | N.A. |      | N.A. |
| 123 | Tender green coconut   | N.A. | N.A. |      |

|     |  |      |      |      |
|-----|--|------|------|------|
| 124 | Tender green coconut commonly known as daab.   |      |      |      |
|     | (i) Textile fabrics made wholly or partly of cotton, rayon, flax, silk, artificial silk or wool manufactured or made in India, other than those specified elsewhere in any other Schedule,   | N.A. |      | N.A. |
|     | (ii) Cotton textile fabrics, coated, covered, impregnated or laminated with plastics, mosquito net fabrics, and mosquito nets commonly known as mashari, when such fabrics or nets are manufactured or made in India.  | N.A. |      | N.A. |
| 125 | Salt whether processed or unprocessed and whether branded or unbranded   | N.A. | N.A. |      |
| 126 | Biris, and unmanufactured tobacco including unmanufactured tobacco not stemmed, or partly or wholly stemmed or stripped for manufacture of biris, specified under heading 2401 of the Central Excise Tariff Act, 1985  | N.A. |      | N.A. |
|     | Explanation.- The expression "Tobacco" means any form of tobacco, whether cured or uncured and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.; | N.A. |      | N.A. |
| 127 | Toddy, Neera and Arak.   | N.A. |      |      |
| 128 | Sugar  | N.A. | N.A. |      |
| 129 | Textile fabric including endi and muga cloth but excluding textile made ups, i.e. fabric that has undergone a stitching process but excluding bleaching, dyeing, water/shrink proofing, organdie process   | N.A. | N.A. |      |
| 130 | Unprocessed green leaves of tea  | N.A. |      |      |
| 131 | Un-stitched salwar suits.  | N.A. |      | N.A. |
| 132 | Tile frame and brick frame   | N.A. |      | N.A. |
| 133 | Water other than-  | N.A. |      |      |
|     | (i) aerated, mineral, distilled, medicinal, ionic, battery, de-mineralised water, and  | N.A. |      |      |
|     | (ii) water sold in sealed container.   | N.A. |      |      |
| 134 | Zari and embroidery items, namely-imi, zari, kasab, salma, dabka, chumki, gata, sitara, naqsi, kora, glass bead, badla and gizai   | N.A. |      |      |
|     | Gamosha (Symbol of assamese Culture)   |      |      |      |
|     | Seeds of grass, vegetables and flowers   |      |      |      |
|     | Endi, muga, pat and silk yarn and endi, muga cocoons   |      |      |      |
|     | Indigenous Handicraft items manufactured in the state as may be notified by the government   |      |      |      |
|     | Bamboo matting and pati doi mat  |      |      |      |
|     | Audio cassettes in regional language of Assam  |      |      |      |
|     | Volleyball and football  |      |      |      |
|     | Vegetable oils, vanaspati or vegetable ghee and other edible oils including mustard oil and rapeseed oil When produced and sold in Assam by the Industrial units of STATEFED   |      |      |      |
|     | Indigenous Mekhela Chadar which are produced locally   |      |      |      |
|     | Wheat  |      |      |      |
|     | Garments, goods and made-ups, manufactured in a Khadi production unit approved or certified by the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956)  |      |      |      |
|     | Mosquito net.  |      |      |      |
|     | Anti-malaria drugs, namely, chloquine group, quinine group, primaquine, arteether, artemether, pyrimethamine and sulfadoxine group, artesunate group whether in solution or in powder or in table or in capsule form.  |      |      |      |
|     | Fly shuttle loom.  |      |      |      |
|     | Onion, garlic and other dried vegetables   |      |      |      |
|     | Potato   |      |      |      |
|     | Rice including broken rice   |      |      |      |
|     | Pulses   |      |      |      |
|     | Flour, atta, maida, suji and besan   |      |      |      |
|     | Fresh Turmeric   |      |      |      |
|     | Glass bangles  |      |      |      |
|     | Saree that has undergone stitching process and maximum retail price per piece of which does not exceed rupees five hundred   |      |      |      |
|     | Writing instrument including pencil, maximum retail price per piece of which does not exceed rupees ten  |      |      |      |
|     | School bag maximum retail price per piece of which does not exceed rupees two hundred fifty only   |      |      |      |
|     | HDPE Cocoon crate. HDPE Mountage with frame, HDPE Plastic Cocoon Harvesting box, HDPE Rearing Trays for silkworms  |      |      |      |

|  |   |  |  |  |
|--|---|--|--|--|
|  | Yarn Dernier Scale Weighing range –natural silk   |  |  |  |
|  | Medicinal oxygen and oxygen used in hospital  |  |  |  |
|  | Drugs for treatment of cancer, such as Amphotrocin-B Inj. Anastrozole Tab, Bicalutamide Tab, Interferon Alfa Inj., Capecitabine Tab, Calcium Folate Inj., Cyclophosphamide Tab, Cytarabine Inj., Dasatinib Tab, Erlotinib Tab, Fludarabine Phosphate Tab, Flutamide Tab, Gefitinib Tab, Letrozole Tab, Peg Filgrastim Inj, Methotrexate Tab, Mitoxantrone Inj., Tamoxifen Citrate Tab, Aprepitant Cap, Etoposide Cap, Etoposide Inj, Hydroxyurea Cap, Iamtinib Mesylate Tab, Lomustine Tab, Bevacizumab Inj, Temozolamide Cap, Thalidomide Tab, Bevacizumab Inj, Bleomycin Inj, Carboplatin Inj, Cisplatin Inj, Cyclophosphamide Inj, Dactinomycin Inj, Daunorubicin Hcl Inj, Docetaxel Inj, Doxorubicin Hcl Inj, Epirubicin Hcl Inj, Filgrastim Inj, Fludarabine Phosphate Inj, 5-Fu Inj., Gemcitabine Inj., Ifosfamide With Mesna Inj., Irinotecan Hcl Inj., L- Asparaginase Inj., Melaphalan Tab, Lyposomal Doxorubicin Inj., Methotrexate Inj., Mitomycin Inj., Mercaptopurine Tab, Oxaliplatin Inj., Paclitaxel Inj., Ibandronic Acid Inj., Dacarbazine Inj., Gosereline Inj., Filgrastim Inj., Vinorelbine Inj., Thalidomide Cap., Busulfan Tab, Mesna Inj., Bortezomib Inj., Lenalidomide Tab, Pemetrexed Inj., Trastuzumab Inj., Paclitaxel Inj., Rituximab Inj., Pazopanib Tab, Nimotuzumab Inj., Bendamustin Inj. And any other drugs that is critical and directly required for the treatment of cancer. |  |  |  |
|  | Candle  |  |  |  |
|  | Tamarind  |  |  |  |
|  | Khandsari   |  |  |  |

**LIST OF GOODS SUBJECT TO VALUE ADDED TAX ON TURNOVER OF SALES OR PURCHASES  
GOODS TAXABLE AT THE RATE OF 1%**

| SL.NO. | DESCRIPTION OF GOODS   | ORISSA | WEST BENGAL | ASSAM |
|--------|--|--------|-------------|-------|
| 1      | Bullion, that is to say gold, silver, platinum and other noble metal in mass and un-coined, pure and alloy.  |        | N.A.        | N.A.  |
| 2      | Jewellery and articles made of Gold, silver, platinum and other noble metals whether studded with precious or semiprecious stones or synthetic gem stones or other materials or not. |        | N.A.        | N.A.  |
| 3      | Precious stones including synthetic gems, semi-precious stones and pearls of all types.  |        | N.A.        | N.A.  |
|        | Gold ornaments excluding locally handmade gold jewellery   | N.A.   | N.A.        | N.A.  |
|        | Silver and silver items including silver bullion but excluding locally handmade silver jewellery   | N.A.   | N.A.        |       |
|        | Precious stones  | N.A.   | N.A.        |       |
|        | Gold Bullions  | N.A.   | N.A.        |       |
|        | Platinum whether as part of the jewellery or otherwise   | N.A.   | N.A.        |       |
|        | Gold, silver and platinum ornaments, whether set with stone or other materials or not, including gold, silver and platinum filigree and other gold, silver and platinum articles.    | N.A.   |             | N.A.  |
|        | Precious stones including semi-precious stones and pearls - real, artificial or cultured.  | N.A.   |             | N.A.  |
|        | Rhodium  | N.A.   |             | N.A.  |
|        | Tea sold under the auspices of any tea auction centre in West Bengal duly authorised by the Indian Tea Board.  | N.A.   |             | N.A.  |

**LIST OF GOODS AS PER THIRD SCHEDULE SUBJECT TO VALUE ADDED TAX ON TURNOVER OF SALES OR PURCHASES  
GOODS TAXABLE AT THE RATE OTHER THAN 1%**

| SL.NO. | DESCRIPTION OF GOODS  | ORISSA | WEST BENGAL | ASSAM (Rate of tax) |
|--------|---|--------|-------------|---------------------|
|        | Gold ornaments excluding locally handmade gold jewellery  |        |             | 2%                  |
|        | Gur, jiggery and edible variety of rub-gur  |        |             | 2%                  |
|        | Baby feeding bottles and nipples  |        |             | 2%                  |
|        | Kerosene stove and their parts  |        |             | 2%                  |
|        | Gold Bullion sold through Metals and Minerals Trading corporation of India (MMTC) Guwahati  |        |             | 0.75%               |
|        | Locally Handmade Gold and silver Jewellery  |        |             | 0.50%               |
|        | Declared goods as specified in Section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), other than those covered by First and Fourth Schedule. |        |             | 5%                  |

**GOODS TAXABLE AT THE RATE OF 5%**

| SL.NO. | NAME OF THE COMMODITY   | ORISSA | WEST BENGAL | ASSAM<br>(Rate taxable @ 6% w.e.f. 04.07.2016) |
|--------|---|--------|-------------|--|
| 1      | Agricultural implements not operated manually or not driven by animals, parts, component and accessories thereof  |        |             |  |
| 2      | Aluminium in all its forms, namely, aluminium ingots, slabs, bars, rods, wires, coils, sheets, plates, circles, sections, channels, angles, joists, extrusions, including aluminium scraps and aluminium foils.   | N.A.   |             | N.A.   |
| 3      | All processed or preserved fruits and vegetables including sauce, puree, fruit jams, jelly, pickles, fruit squash, paste, fruit drink and fruit juices whether in sealed containers or otherwise  |        | N.A.        | N.A.   |
| 4      | All equipments for communications including Private Branch Exchange (P.B.X) and Electronic Private Automatic Branch Exchange (E.P.A.B.X.), Teleprinter, Wireless equipments and parts thereof   |        |             | N.A.   |
| 5      | All intangible goods like copyright, patent, REP license, DEP, Exim Scrip, Special Import license (SIL), Value based Advance License (VAL), Export Quota  |        |             | N.A.   |
| 6      | All types of brooms including broom sticks, other than those specified elsewhere in schedules to this Act   |        | N.A.        | N.A.   |
| 7      | Asphaltic roofing   |        | N.A.        | N.A.   |
| 8      | All types of toys except those specified elsewhere in this Schedule or any other Schedule, and excluding electronic toys.   |        |             | N.A.   |
| 9      | All kinds of bricks including brickbats, jhama, fly ash bricks, refractory bricks and asphaltic roofing earthen tiles, and refractory monolithic and fly ash.   | N.A.   |             | N.A.   |
| 10     | All kinds of bricks including refractory bricks, refractory monolithic and earthen tiles other than ceramic and glazed tiles  |        | N.A.        | N.A.   |
| 11     | All knids of rope.  | N.A.   |             | N.A.   |
| 12     | All types of yarn including jute yarn and jute twine but excluding cotton and silk yarn in hank and sewing thread.  | N.A.   |             | N.A.   |
| 13     | Sewing thread and yarn of all types other than cotton and silk yarn in hank   |        | N.A.        | N.A.   |
| 14     | All kinds of utensils/ pressure cookers/ pans except utensils made of precious metals   |        |             | N.A.   |
| 15     | Aluminium in all its forms including all aluminium products other than those specified elsewhere in schedules to this Act.  |        | N.A.        |  |
| 16     | Aluminium conductors, All Aluminium Alloy Conductors (AAACs) and Aluminium conductors steel reinforced (ACSRs)  |        | N.A.        | N.A.   |
| 17     | Aluminium conductor steel reinforced (ACSR) all aluminium conductor (AAC) and all aluminium alloy conductor (AAAC).   | N.A.   |             | N.A.   |
| 18     | Arecanuts, betel nut and powder thereof   |        | N.A.        | N.A.   |
| 19     | Areca nut powder and betel nut.   | N.A.   |             |  |
| 20     | Articles made of rolledgold and imitation gold and all types of imitation jewellery including costume jewellery or fashion jewellery  | N.A.   |             | N.A.   |
| 21     | Ashes.  | N.A.   |             | N.A.   |
| 22     | Asphalt felt, roofing felt, waterproof felt, polymeric felt and plastic felt.   | N.A.   |             | N.A.   |
| 23     | Aviation Turbine Fuel (ATF) and Aviation Gas ( AV Gas)  |        | N.A.        | N.A.   |
|        | Explanation:- for the purpose of this entry, the goods "Aviation Turbine Fuel (ATF) and Aviation Gas (AV Gas)" shall be subject to levy of tax for a period of five years from the 1st December, 2013. Substituted by Notification No. 35833 -FIN-CT1-TAX-0055-2012 dated 30th November, 2013 |        |             |  |
| 24     | Bamboo including cut or split bamboo  |        | N.A.        | N.A.   |
| 25     | Bamboo including split bamboo and cut bamboo, and cane (Notification No. 1244—F.T dt. 09.09.2013)   | N.A.   |             | N.A.   |
| 26     | Bagasse.  | N.A.   |             | N.A.   |
| 27     | Bakery shortening and yeast   | N.A.   |             | N.A.   |
| 28     | Basic chromium sulphate, sodium bicarbonate and Bleach liquid.  | N.A.   |             | N.A.   |
| 29     | Barley  | N.A.   |             | N.A.   |
| 30     | Battery lead plate, lead ash and separator for storage battery  | N.A.   |             | N.A.   |
| 31     | Bearing including plummer blocks, housing for bearing, locate rings and covers, adppter withdrawal sleeves, lock nut, lock washers,clamps, casing of bearing and rolling elements.  | N.A.   |             | N.A.   |
| 32     | Bearings of all kinds   |        |             |  |

| SL.NO. | NAME OF THE COMMODITY   | ORISSA | WEST BENGAL | ASSAM<br>(Rate taxable @ 6% w.e.f. 04.07.2016) |
|--------|---|--------|-------------|--|
| 33     | Beedi/ Kendu leaves   |        |             | N.A.   |
| 34     | Beedi leaves.   | N.A.   |             |  |
| 35     | Beltings of all varieties and descriptions.   | N.A.   |             |  |
| 36     | Beltings, namely, transmission, conveyor or elevator belts or belting of vulcanised rubber whether combined with any textile materials or otherwise |        |             | N.A.   |
| 37     | Bleaching powder  |        |             | N.A.   |
| 38     | Bicycles, tricycles, cycle rickshaws ,components, parts and accessories thereof including tyres, tubes and flaps                                    |        |             |  |
| 39     | E-Bikes   |        |             | N.A.   |
| 40     | Biomass briquettes.   | N.A.   |             | N.A.   |
| 41     | Battery operated vehicle as defined in clause (u) of rule 2 of the Central Motor Vehicles Rules, 1989   | N.A.   |             | N.A.   |
| 42     | Biscuit other than biscuit manufactured in a factory as defined in the Factories Act, 1948 (63 of 1948).  | N.A.   |             | N.A.   |
| 43     | Bitumen.  | N.A.   |             | N.A.   |
| 44     | Boiler, furnace and parts thereof.  | N.A.   |             | N.A.   |
| 45     | Bleaching powder.   | N.A.   |             | N.A.   |
| 46     | Bitumen including Crumb Rubber Modified Bitumen (CRMB) and Polymer Modified Bitumen (PMB), Coal Tar and Road Tar                                    |        |             | N.A.   |
| 47     | Bio-mass briquettes, Bio-fertilisers, micronutrients, plant growth promoters, plant growth regulators and plant hormones                            |        |             | N.A.   |
| 48     | Boiler and parts thereof  |        |             | N.A.   |
| 49     | Bone meal   |        |             |  |
| 50     | Bulk drugs  |        |             |  |
| 51     | Buckets made of iron and steel, aluminium, plastic or other materials except precious materials   |        |             | N.A.   |
| 52     | Bunker Fuel (Furnace Oil) and Lubricants when sold to vessel on International Run only  |        |             | N.A.   |
| 53     | Board made from bagasse   |        |             | N.A.   |
| 54     | Spare parts, including blades, guards, sharks, arms and shafts, of an electric fan  | N.A.   |             | N.A.   |
| 55     | Machineries used in the manufacture of goods and parts thereof including moulds.  | N.A.   | N.A.        |  |
| 56     | Capital goods as defined in sub-section (8) of section 2 of the Orissa Value Added Tax Act, 2004  |        |             |  |
| 57     | Capital goods as notified under item (i) of clause (b) of sub section (2) of section 16.  | N.A.   |             | N.A.   |
| 58     | Candles   | N.A.   |             | N.A.   |
| 59     | Buttons   | N.A.   |             | N.A.   |
| 60     | Candles, wax, paraffin wax of all grade standards other than food grade standard including standard wax and match wax                               |        |             | N.A.   |
| 61     | Cashew kernel and Cashew-nut  | N.A.   |             | N.A.   |
| 62     | Clay including fire clay, fine china clay and ball clay   | N.A.   |             | N.A.   |
| 63     | Castings of all metals  | N.A.   |             |  |
| 64     | Castor oil  | N.A.   |             | N.A.   |
| 65     | Cast iron Castings other than those specified elsewhere in this schedule or in any other schedule.  | N.A.   |             | N.A.   |
| 66     | Castor oil.   | N.A.   |             | N.A.   |
| 67     | Caustic soda, caustic potash and soda ash.  | N.A.   |             | N.A.   |
| 68     | Motor, operated electrically or otherwise and centrifugal and monobloc and submersible pumps and spare parts, components and accessories thereof.   | N.A.   |             | N.A.   |
| 69     | Centrifugal, monobloc and submersible pumps and pump sets for handling water operated electrically or otherwise and parts and accessories thereof   |        |             |  |
| 70     | Crucibles   | N.A.   | N.A.        |  |
| 71     | Chemical fertilizers, pesticides, rodenticides, weedicides, insecticides, germicides, herbicides and fungicides                                     |        |             |  |
| 72     | Chickon Products  |        |             | N.A.   |
| 73     | Coal in all its forms, but excluding charcoal   |        |             |  |
| 74     | Coconut oil   |        |             | N.A.   |

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|--------|---|--------|-------------|--|
| 75     | Coke  |        |             | N.A.   |
| 76     | Coffee beans and seeds, cocoa pod, green tea leaf and chicory   |        |             |  |
| 77     | Combs   |        |             | N.A.   |
| 78     | Computer stationery   |        |             | N.A.   |
| 79     | Coir and Coir products excluding coir mattresses and hand made coir products  |        |             |  |
| 80     | Cottage cheese  |        |             | N.A.   |
| 81     | Cotton yarn, but not including cotton yarn waste  |        |             | N.A.   |
| 82     | Cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or un-ginned, baled, pressed or otherwise, but not including cotton waste  |        |             | N.A.   |
| 83     | Dry fruits  | N.A.   |             |  |
| 84     | Medical Diagnostic Kits.  | N.A.   |             |  |
| 85     | Digestive preparations, commonly known as aam pachak, amla, pachak, ajwain pachak and jal jeera   | N.A.   |             | N.A.   |
| 86     | Drugs and medicines, whether patent or proprietary, including vaccines, disposable hypodermic syringes, hypodermic needles, catguts, sutures, surgical dressings, medicated ointments produced under the licence issued under the Drugs and Cosmetics Act, 1940 (23 of 1940), and including Isabgul.  | N.A.   |             | N.A.   |
| 87     | Drugs and medicines, whether patent or proprietary including vaccines, disposable hypodermic syringes, hypodermic needles, catguts, sutures, surgical dressings, medicated ointments produced under the license issued under the Drugs and Cosmetics Act, 1940 (23 of 1940). Excluding all Pharmaceutical Oral Liquid Preparations other than Homoeopathic and Ayurvedic drugs containing absolute alcohol 20% v/v or more in the finished product. |        |             | N.A.   |
| 88     | Edible oils   |        |             | N.A.   |
| 89     | Edible oils other than coconut oil.   | N.A.   |             | N.A.   |
| 90     | Electrodes including welding electrodes and welding rods  |        |             | N.A.   |
| 91     | Excavator, back-hoe loader, bulldozer, all kinds of crane and wheel loader  |        |             | N.A.   |
| 92     | Exercise book, graph book, laboratory note book and drawing book  |        |             | N.A.   |
| 93     | Electrodes, electrical insulators.  | N.A.   |             | N.A.   |
| 94     | Embroidery making machine, whether computerized or not  | N.A.   |             | N.A.   |
| 95     | Exercise book, drawing book, graph book, account book and laboratory note book.   | N.A.   |             |  |
| 96     | Ferrous and non-ferrous metals and alloys and extrusions thereof  |        |             | N.A.   |
| 97     | Feeding bottles and nipples   |        |             | N.A.   |
| 98     | Fibres of all types and fibre waste   |        |             | N.A.   |
| 99     | Flour of cereals and pulses whether single or in a mixed form including atta, maida, suji, besan, dalia and rawa  |        |             | N.A.   |
| 100    | Fried and roasted grams   |        |             | N.A.   |
| 101    | Flush doors of wood   | N.A.   |             | N.A.   |
| 102    | Furnace oil.  | N.A.   |             | N.A.   |
| 103    | Footwears, other than those specified elsewhere in this Schedule, the maximum retail price of per pair of which does not exceed rupees seven hundred and fifty.   | N.A.   |             |  |
| 104    | Ghee.   | N.A.   |             |  |
| 105    | Goods as specified in section 14 of the Central Sales Tax Act, 1956.  | N.A.   |             | N.A.   |
| 106    | Goods, such as components, accessories and spare parts of firearms, weapons and an muniti as, sold to the Ordnance Factories, Government of India   | N.A.   |             | N.A.   |
| 107    | Gypsum of all forms and descriptions but excluding gypsum board and plaster of Paris.   | N.A.   |             | N.A.   |
| 108    | Gums and adhesives.   | N.A.   |             | N.A.   |
| 109    | Glucose, Glucon-C and Glucon-D  |        |             |  |
| 110    | Glass and Glass sheets  |        |             | N.A.   |
| 111    | Gur, jaggery and edible variety of rub gur  |        |             | N.A.   |
| 112    | Hand pumps and spare parts  |        |             |  |
| 113    | Hand pump, and its parts and fittings.  | N.A.   |             | N.A.   |
| 114    | Herb, bark, dry plant, dry root, commonly known as jari booti.  | N.A.   |             |  |
| 115    | Hollow polyester fibre.   | N.A.   |             | N.A.   |
| 116    | Herb, bark, dry plant, dry root, commonly known as jari booti and dry flower excluding mahua flower   |        |             | N.A.   |

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|--------|--|--------|-------------|--|
| 117    | Hides and skins, whether in raw or dressed state   |        |             | N.A.   |
| 118    | Hose pipes and fittings thereof  |        |             |  |
| 119    | Hosiery goods  |        |             |  |
| 120    | Hosiery goods of all varieties and descriptions.   | N.A.   |             | N.A.   |
| 121    | Honey  |        |             |  |
| 122    | Paddy bran and rice bran   |        |             |  |
| 123    | Plywood, laminates, particle board, hard board, block board, Medium Density Fibre (MDF) Board, veneer and insulated board  |        |             |  |
| 124    | Petromex and accessories and components thereof and gas mantles  | N.A.   |             | N.A.   |
| 125    | Ice  |        |             |  |
| 126    | Husk of cereals, and bran of cereals other than wheat bran.  | N.A.   |             | N.A.   |
| 127    | Industrial cables (High Voltage Cables for voltage exceeding 1000 volt, XLPE cables, PVC cable, jelly filled cables, optical fibres).  | N.A.   |             |  |
| 128    | Imitation jewellery, beads of glass, plastic or any metal other than precious metals, hair pins, hair clips and hair bands   |        |             | N.A.   |
| 129    | Incense sticks commonly known as, agarbatti, dhupkathi or dhupbati, havan samagri including camphor or karpoor, sambrani or lobhana  |        |             |  |
| 130    | Insulator  |        |             | N.A.   |
| 131    | Industrial cables (High voltage cables, XLPE Cables, PVC Cables, jelly filled cables, optical fibres)  |        |             | N.A.   |
| 132    | Industrial L.P.G.  | N.A.   |             | N.A.   |
| 133    | IT products as specified in PartII of this Schedule.   | N.A.   |             |  |
| 134    | Iron and steel , that is to say,-  |        | N.A.        | N.A.   |
|        | (i) pig Iron, Sponge Iron, and cast iron including ingot moulds bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap  |        |             |  |
|        | (ii) steel semis( ingots, slabs, blooms and billets of all qualities, shapes and sizes) ;  |        |             |  |
|        | (iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars;   |        |             |  |
|        | (iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);  |        |             |  |
|        | (v) steel structurals (angles, joists channels, tees, sheet piling sections, Z sections or any other rolled sections);   |        |             |  |
|        | (vi) sheets, hoops, strips and skelp, both black and galvanized, hot and cold rolled, plain and corrugated in all qualities, in straight lengths and in coil form as rolled and in revetted condition; |        |             |  |
|        | (vii) plates, both plain and chequered in all qualities;   |        |             |  |
|        | (viii) discs, rings, forging and steel castings;   |        |             |  |
|        | (ix) tool, alloy and special steels of any of the above categories;  |        |             |  |
|        | (x) steel melting scrap in all forms including steel skull, turnings and borings;  |        |             |  |
|        | (xi) steel tubes, both welded and seamless, of all diameters and lengths including tube fittings;  |        |             |  |
|        | (xii) tin-plates, both hot dipped and electrolytic and tinfree plates;   |        |             |  |
|        | (xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails - heavy and light crane rails;                     |        |             |  |
|        | (xiv) wheels, tyres, axles and wheel sets;   |        |             |  |
|        | (xv) wire rods and wire rolled, drawn, galvanized, aluminized, tinned or coated such as by copper, and barbed wire   |        |             |  |
|        | (xvi) defectives, rejects, cuttings or end pieces of any of the above categories.  |        |             |  |
|        | (xvii) fabricated iron and steel structural used for plants and machineries.   |        |             |  |
| 135    | Computer and its spare parts and accessories and IT products, i.e.   |        | N.A.        | N.A.   |
|        | (a) Cellular phones costing up to Rupees five thousands, parts and accessories thereof, C.Ds and DVDs  |        |             |  |
|        | (b) Word Processing Machines, Electronic Typewriters and Electronic Calculators  |        |             |  |
|        | (c) Computer Systems and Peripherals, Electronic Diaries   |        |             |  |
|        | (d) Parts and Accessories for items listed above   |        |             |  |
|        | (e) DC Micro motors/ Stepper of an output not exceeding 37.5 Watts   |        |             |  |
|        | (f) Parts of items listed above  |        |             |  |

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|--------|---|--------|-------------|--|
|        | (g) Uninterrupted Power Supplies (UPS) and their parts  |        |             |  |
|        | (h) Permanent magnets and articles intended to become permanent magnets (Ferrites)  |        |             |  |
|        | (i) Electrical Apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carries current line systems or for digital line systems, videophones  |        |             |  |
|        | (j) Microphones, Multimedia Speakers, Headphones, Earphones and Combines Microphone/ Speaker Sets and their parts excluding speakers used in TV/ Radio  |        |             |  |
|        | (k) Telephone answering machines  |        |             |  |
|        | (l) Parts of Telephone answering machines   |        |             |  |
|        | (m) Prepared unrecorded media for sound recording or similar recording of other phenomena   |        |             |  |
|        | (n) IT software on any media  |        |             |  |
|        | (o) Transmission apparatus other than apparatus for radio broadcasting or TV broadcasting, transmission apparatus incorporating reception apparatus   |        |             |  |
|        | (p) Radio communication receivers, Radio pagers.  |        |             |  |
|        | (q) Aerials, antennas and their parts of items at (o) and (p) listed above LCD Panels, LED Panels and parts thereof   |        |             |  |
|        | (s) Electrical capacitors, fixed, variable or adjustable (Pre-set) and parts thereof  |        |             |  |
|        | (t) Electrical resistors (including rheostats and potentiometers), other than heating resistors   |        |             |  |
|        | (u) Printed circuits  |        |             |  |
|        | (v) Switches, Connectors and Relays for upto 5 Amps voltage not exceeding 250 Volts, Electronic fuses   |        |             |  |
|        | (w) Data/Graphic Display tubes, other than TV Picture tubes and parts thereof   |        |             |  |
|        | (x) Diodes, transistors and similar semi-conductor device, Photosensitive semiconductor devices, including photo voltaic cells whether or not assembled in modules or made up into panels; Light emitting diodes; Mounted piezo-electric crystals   |        |             |  |
|        | (y) Electronic Integrated Circuits and Micro-assemblies.  |        |             |  |
|        | (z) Signal generators and parts thereof   |        |             |  |
| 136    | Jute, that is to say, the fibre extracted from plants belonging to the species (Corchorus Capsularis and Corchorus olitorius) and the fibre known as mesta or bimli extracted from plants of the species (Hibiscus Cannabinus and Hibiscus sabdarifa-Var altissima) and the fibre known as Sunn or sunnhemp extracted from plants of the species (Crotalaria juncea) whether baled or otherwise |        | N.A.        |  |
| 137    | Jute batching oil.  |        |             | N.A.   |
| 138    | Kerosene lamp/ lantern, petromax and glass chimney  |        |             | N.A.   |
| 139    | Kerosene oil when sold through Public Distribution System (PDS).  | N.A.   |             | N.A.   |
| 140    | Kerosene stove  | N.A.   |             | N.A.   |
| 141    | Khandsari   | N.A.   |             | N.A.   |
| 142    | Kattha (Catechu)  |        |             | N.A.   |
| 143    | Kites   |        |             | N.A.   |
| 144    | Knitting Wool   |        |             |  |
| 145    | Industrial inputs as may be notified by the State Government  |        |             | N.A.   |
| 146    | Industrial inputs and packing materials as specified in Part of this Schedule.  | N.A.   |             |  |
| 147    | Lac and Shellac   |        |             | N.A.   |
| 148    | Linear alkyl benzene, L.A.B. Sulphuric acid, Alra Olefin Sulphonate   |        |             |  |
| 149    | Leaf plates and cups.   | N.A.   |             |  |
| 150    | Lignite.  | N.A.   |             |  |
| 151    | Lime, limestone and dolomite.   | N.A.   |             |  |
| 152    | Lifesaving diving equipments  | N.A.   |             | N.A.   |
| 153    | Lozenges.   | N.A.   |             | N.A.   |
| 154    | Metal labels and metal stickers   | N.A.   |             | N.A.   |
| 155    | Maize starch, glucose, maize gluten, maize germ and oil.  | N.A.   |             | N.A.   |
| 156    | Mixed PVC stabiliser.   |        |             | N.A.   |
| 157    | Mat locally known as madur made wholly of plastic.  | N.A.   |             | N.A.   |
| 158    | Mat locally known as Masina/Sapa  |        |             | N.A.   |



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|--------|--|--------|-------------|--|
| 159    | Medical equipment/ devices and medical implants  |        |             |  |
| 160    | Mixture, bhujia, numkin, farshan and rusk, that is, hardended bread  |        |             | N.A.   |
| 161    | Medical equipments, devices and implants.  | N.A.   |             | N.A.   |
| 162    | Mosquito net fabrics other than those manufactured or made in India, and mosquito net commonly known as mashari other than those manufactured or made in India.  | N.A.   |             | N.A.   |
| 163    | Napa Slabs and Shahabad stones (Rough flooring stones)   |        |             | N.A.   |
| 164    | Newars   |        |             |  |
| 165    | Napa Slabs and Shahabad stones.  | N.A.   |             |  |
| 166    | Naptha.  | N.A.   |             | N.A.   |
| 167    | Nonferrous metals and alloys of ferrous and nonferrous metals, ferrous and nonferrous metal castings   | N.A.   |             | N.A.   |
| 168    | Nuts, bolts, washer, screws and fasteners.   | N.A.   |             | N.A.   |
| 169    | Ores and minerals other than those specified elsewhere in this Schedule.   | N.A.   |             |  |
| 170    | Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, for measuring or detecting alpha, beta, gamma, Xray, cosmic or other ionizing radiations. | N.A.   |             | N.A.   |
| 171    | Oil cake   |        |             | N.A.   |
| 172    | Oilseeds, that is to say, -  |        |             | N.A.   |
|        | (i) Groundnut or peanut ( <i>Arachis hypogaea</i> )  |        |             |  |
|        | (ii) Sesamum or Til ( <i>Sesamum orientale</i> )   |        |             |  |
|        | (iii) Cotton seed ( <i>Gossypium Spp.</i> )  |        |             |  |
|        | (iv) Soyabean ( <i>Glycine seja</i> )  |        |             |  |
|        | (v) Rapeseed and Mustard :   |        |             |  |
|        | 1. Toria ( <i>Brassica campestris var toria</i> )  |        |             |  |
|        | 2. Rai ( <i>Brassica juncea</i> )  |        |             |  |
|        | 3. Jamba-taramira ( <i>Eruca Satiya</i> )  |        |             |  |
|        | 4. Sarson, yellow or brown ( <i>Brassica campestris var sarson</i> )   |        |             |  |
|        | 5. Banarasi Rai or true Mustard ( <i>Brassica nigra</i> )  |        |             |  |
|        | (vi) Linseed ( <i>Linum usitatissimum</i> )  |        |             |  |
|        | (vii) Castor ( <i>Richinus communis</i> )  |        |             |  |
|        | (viii) Coconut (i.e copra excluding tender green coconuts) ( <i>cocos nucifera</i> )   |        |             |  |
|        | (ix) Sunflower ( <i>Helianthus annus</i> )   |        |             |  |
|        | (x) Niger seed ( <i>guizotia obyssinica</i> )  |        |             |  |
|        | (xi) Neem, vepa ( <i>Azadirachta indica</i> )  |        |             |  |
|        | (xii) Mahua, Illupai, Ippe ( <i>Madhuca indica, M.Latifolia, Bassia Latifolia and Madhuca longifolia syn. M. Longifolia</i> )  |        |             |  |
|        | (xiii) Karanja, Pongam, Honga ( <i>Pongamia pinnata syn, P. Glabra</i> )   |        |             |  |
|        | (xiv) Kusum ( <i>schleichera oleosa, Syn. S.Trijuga</i> )  |        |             |  |
|        | (xv) Punna, Undi ( <i>Calophyllum inophyllum</i> )   |        |             |  |
|        | (xvi) Kokum ( <i>Carcinia indica</i> )   |        |             |  |
|        | (xvii) Sal ( <i>Shorea robusta</i> )   |        |             |  |
|        | (xviii) Tung ( <i>Aleurites fordii and A Montana</i> )   |        |             |  |
|        | (xix) Red palm ( <i>Elaeis guinensis</i> )   |        |             |  |
|        | (xx) Safflower ( <i>Carthamus tinctorius</i> ), but excluding seeds of oil seeds as specified in Schedule A  |        |             |  |
| 173    | Plant and machinery, excluding generator of all types and diesel engine pump set that is to say,   | N.A.   |             | N.A.   |
|        | (i) Machinery for tea industry;  |        |             |  |
|        | (ii) Machinery for food and food processing industries including flour mill;   |        |             |  |
|        | (iii) Machinery for sugar mill;  |        |             |  |
|        | (iv)Machinery for beverages, tobacco and tobacco products industries;  |        |             |  |
|        | (v) Machinery for jute, hemp, mesta textiles industries;   |        |             |  |
|        | (vi) Machinery for textile industries including hosiery other than jute,   |        |             |  |
|        | (vii) Machinery for engineering industries;  |        |             |  |
|        | (viii)machinery for paint industry; ( <b>Substituted vide Notification No. No.435-L</b> )  |        |             |  |

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|--------|---|--------|-------------|--|
|        | <b>dated 24.03.2015)</b>  |        |             |  |
|        | (xx) Foundry machinery;   |        |             |  |
|        | (xxi) Agricultural machinery other than those mentioned elsewhere in any other Schedule;  |        |             |  |
|        | <b>(xxii) Waste treatment plant and pollution control equipment</b> (Amended vide Notification No.435-L dated 24th March 2015)  |        |             |  |
|        | (xxiii) Machinery for printing industry;  |        |             |  |
|        | (xxiv) Machinery for iron and steel industry;   |        |             |  |
|        | (xxv) Machinery for refrigeration, cooling towers and airconditioners;  |        |             |  |
|        | (xxvi) Cooling towers;  |        |             |  |
|        | (xxvii) Earth moving machinery;   |        |             |  |
|        | (xxviii) Omitted w.e.f. 01-04-2005;   |        |             |  |
|        | (xxix) Spare parts, accessories and components of the plant and machinery specified in items (i) to (xxvii) but excluding gearbox used as parts of motor vehicles.  |        |             |  |
|        | Spare parts, accessories and components of the plant and machinery mentioned in items (i) to (xxvii) in column (2) against serial No. 54B, and spare parts, accessories and components of an airconditioner.  |        |             |  |
| 174    | Chappals and sandals made exclusively of plastic or Ethyle Vinyl Acetate commonly known as EVA; hawai chappals; and sole and strap thereof.   |        |             | N.A.   |
| 175    | Plastic granules, plastic powder and master batches   |        |             |  |
| 176    | Poppy seeds.  | N.A.   |             | N.A.   |
| 177    | Preused motor car.  | N.A.   |             | N.A.   |
| 178    | Prerecorded cassette, audio compact disc (ACD), and video compact disc (VCD) and prerecorded digital versatile disc (DVD).  | N.A.   |             | N.A.   |
| 179    | Perforated metal jali, that is to say, perforated metal net   | N.A.   |             | N.A.   |
| 180    | Printed material including diary, calendar and letter pad   | N.A.   |             |  |
| 181    | Printing ink excluding Toner and cartridges.  | N.A.   |             |  |
| 182    | porridge, cottage cheese and paneer.  | N.A.   |             | N.A.   |
| 183    | Processed meat, poultry and fish  | N.A.   |             |  |
| 184    | processed and preserved vegetables and fruits, other than dry fruits, but including fruit jams, jelly, sauce, pickle, fruit squash, fruit paste, fruit drink and fruit juice, whether in a sealed container or not, and wet dates, but excluding those not containing any fruit or vegetables extract.    | N.A.   |             |  |
| 185    | Pulp of bamboo, wood and paper.   | N.A.   |             |  |
| 186    | Packing materials of all kinds including gunny bags, Hessian cloth, jute twines, but excluding storage tanks made up of any materials   |        |             | N.A.   |
| 187    | Pulses and dals of all kinds  |        |             | N.A.   |
| 188    | Paper of all kinds including paper board , straw board , card board, waste paper , paper for computer printing , photographic paper and newsprint   |        |             |  |
| 189    | Pipes of all varieties and fittings thereof   |        |             |  |
| 190    | Printed materials including diary, calendar, paper envelopes, race cards, catalogues, greeting cards, invitation cards, humor post cards, picture post cards, cards for special occasions, publications which publicise mainly goods, services and articles for commercial purpose and tender paper/ book |        |             |  |
| 191    | Rail coaches engines, wagons and freight containers and parts thereof, and railcoach fans.  | N.A.   |             |  |
| 192    | Raw silk other than those made or manufactured in India.  | N.A.   |             | N.A.   |
| 193    | Readymade garments other than hosiery goods but including necktie, bow and collar.  | N.A.   |             | N.A.   |
| 194    | Refrigerant in any form.  | N.A.   |             | N.A.   |
| 195    | Renewable energy devices and spare parts.   | N.A.   |             | N.A.   |
| 196    | Residual liquefied hydrogen gas and other gases used as fuel other than liquefied petroleum gas (L.P.G.).   | N.A.   |             | N.A.   |
| 197    | Gloves  | N.A.   |             | N.A.   |
| 198    | Rusk that is hardened bread.  | N.A.   |             | N.A.   |
| 199    | Rail wagons , engines , coaches and parts thereof   |        |             | N.A.   |
| 200    | Rakhi   |        |             | N.A.   |

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|--------|--|--------|-------------|--|
| 201    | Readymade garments   |        |             | N.A.   |
| 202    | Religious Pictures not for use as calendar   |        |             | N.A.   |
| 203    | Renewable energy devices and spare parts   |        |             | N.A.   |
| 204    | Safety matches.  |        |             |  |
| 205    | Seeds other than seeds of grass, vegetables and flowers.   | N.A.   | N.A.        |  |
| 206    | Scrap of old and condemned battery.  |        |             | N.A.   |
| 207    | Scaffolding pipes  | N.A.   |             | N.A.   |
| 208    | Spectacles including sunglasses and parts and components thereof, contact lens and lens cleaner.   | N.A.   |             | N.A.   |
| 209    | Sewing machines and its parts and accessories.   |        |             |  |
| 210    | Ship liable to be registered under the Merchants Shipping Act, 1958, all types of tugs, floating docks, floating cranes, dredgers, barges and other water vessels including nonmechanised boats  | N.A.   |             | N.A.   |
| 211    | Skimmed milk powder, dairy whitener and UHT milk.  | N.A.   |             | N.A.   |
| 212    | Sodium Silicate.   | N.A.   |             | N.A.   |
| 213    | Solvent oils.  | N.A.   |             | N.A.   |
| 214    | Soya nuggets, commonly known as soya bori.   | N.A.   |             | N.A.   |
| 215    | Spare parts of motor vehicles  | N.A.   |             | N.A.   |
| 216    | Spices of all varieties and forms including cumin seed, aniseed, turmeric and dry chillies and hing (asafoetida).  | N.A.   |             |  |
| 217    | Sand, soil, spalls, morrum, boulders, grit, chips, metal, bajuri and earth.  |        |             | N.A.   |
| 218    | Sanitary napkins and diapers (inserted vid no. 24738-Fin-CT1-TAX-0025-2012, dt 02-07-2012)   |        |             | N.A.   |
| 219    | Scraps of all kinds  |        |             | N.A.   |
| 220    | Ship and other water vessels   |        |             |  |
| 221    | Skimmed milk powder, khoa/ khoa, condensed milk, flavoured milk and UHT milk   |        |             | N.A.   |
| 222    | Silk fabrics excluding handloom silks  |        |             | N.A.   |
| 223    | Solvent oils other than organic solvent oil  |        |             | N.A.   |
| 224    | Spices of all varieties and forms including cumin seed, aniseed, hing (asafoetida), turmeric and dry chillies  |        |             |  |
| 225    | Sports goods excluding apparels and footwear   |        |             |  |
| 226    | Starch and sago  |        |             | N.A.   |
| 227    | Soya nuggets commonly known as soya badi   |        |             | N.A.   |
| 228    | Sugar  |        |             | N.A.   |
| 229    | Sugar not manufactured in India and Khandasari   |        |             | N.A.   |
| 230    | Sugar candy/Misri  |        |             | N.A.   |
| 231    | Spectacles, parts and components thereof, contact lens and lens cleaner  |        |             | N.A.   |
| 232    | Sweetmeats   |        |             | N.A.   |
| 233    | Stainless steel sheets.  |        |             |  |
| 234    | Starch and starch based glues.   |        |             | N.A.   |
| 235    | Tractors, power tillers, threshers, harvesters & attachments & parts thereof   | N.A.   | N.A.        |  |
| 236    | Tailoring items, that is to say, eyes and hooks, collar band pattis and butterfly collar stays.  | N.A.   |             | N.A.   |
| 237    | Tallow.  |        |             | N.A.   |
| 238    | Tamarind including tamarind seed powder.   |        |             | N.A.   |
| 239    | Tea.   |        |             | N.A.   |
| 240    | Tarpaulin and canvas.  | N.A.   |             |  |
| 241    | Tamarind, Tamarind seed, kernel and powder   |        |             | N.A.   |
| 242    | Tarpaulines of all varieties.  |        |             | N.A.   |
| 243    | Textile fabric and made up sarees  |        |             | N.A.   |
| 244    | Made up Textile articles such as articles of apparels of all sorts, clothing accessories including socks, stockings, gloves, shawls, scarves, mufflers, ties, bow-ties, blankets, travelling rugs, Bed linen, Bed sheets, Bed covers, divan covers, table linen, table cloth, toilet linen, table mat, table napkin, kitchen linen, kitchen napkin, handkerchiefs, curtains, pillow covers, cushion covers, towel, terry towel excluding tents, tarpaulins, durries, galicha and carpets |        |             | N.A.   |
| 245    | Textile fabrics of all varieties, other than those manufactured or made in India.  | N.A.   |             | N.A.   |

| SL.NO. | NAME OF THE COMMODITY  | ORISSA | WEST BENGAL | ASSAM<br>(Rate taxable @ 6% w.e.f. 04.07.2016) |
|--------|--|--------|-------------|--|
| 246    | Timber, that is to say,<br>(i) log;<br>(ii) plank, veneer and splint;<br>(iii) rafter;<br>(iv) sleeper;<br>(v) beam;<br>(vi) pillar; and<br>(vii) sawn or sized timber;<br>(viii) plywood, and block board of wood.<br>Torch.  |        |             | N.A.   |
|        | Tools, that is to say,<br>(a) Power Tools such as electric drills, tapping machines, hammers, sanders, planners, screw drivers, blowers, routers, winches, grinders, super abrasives, nonwoven abrasives, bonded abrasives other than stone for polishing floor, stone for sharpening carpenters' instruments, tile polishing blocks and rubbing bricks;<br>(b) Cutting Tools such as taps, milling cutters, reamers, segments, carbide tools, saws, high speed cutoff machines, shears, nibblers, compound miter saws, masonry cutters, diamond dresser cutter, gear hobbs and gear shaper cutters;<br>(c) Measuring Tools such as micrometers, vernier calipers, feeler gauges, height gauges, slip gauges, snap gauges, pressure gauges, dial thermometers, water meter and measuring steel tapes;<br>(d) Hydraulic Tools such as jacks, pipebenders, torque wrenches, breakers, cylinders and control valves;<br>(e) Pneumatic Tools such as impact wrenches, rammers, grinders, drills torque wrenches, filters, regulators and lubricant applicators;<br>(f) Hand Tools such as spanners, pliers, screw drivers, hammers, torque tools, cold chisels, drill bits and burrs, tool bits, hacksaws, hacksaw blades and frames, bandsaw rolls, dice, dienuts, tools for carpentry, tools for masons and steel files. |        |             |  |
| 247    | Nuts , Bolts , Screws and Fasteners  |        |             | N.A.   |
| 248    | Tractors, threshers, harvesters and attachments and parts thereof but excluding tyres and tubes.   | N.A.   |             | N.A.   |
| 249    | Toys   |        |             |  |
| 250    | Toys excluding electronic toys   |        |             | N.A.   |
| 251    | Tractors, Threshers, harvesters and attachments and parts thereof excluding tyres , tubes and flaps  |        |             |  |
| 252    | Transformers   |        |             |  |
| 253    | Transmission towers  |        |             |  |
| 254    | Tyre retreading materials including tread rubber   |        |             | N.A.   |
| 255    | Umbrella including garden umbrella, parts and components thereof   |        |             | N.A.   |
| 256    | Umbrella and spare parts and components thereof but excluding garden umbrella; rainwear (raincoat).  | N.A.   |             | N.A.   |
| 257    | Used car   |        |             | N.A.   |
| 258    | Vanaspati (Hydrogenated Vegetable Oil) and ghee  |        |             | N.A.   |
| 259    | Vegetable oil including gingili oil, bran oil  |        |             | N.A.   |
| 260    | Waste paper.   | N.A.   |             | N.A.   |
| 261    | Weighing machines and weighing scales and parts thereof, and weights of all kinds.   | N.A.   |             | N.A.   |
| 262    | Wire net, wire netting, stranded wire, wire mesh and expanded wire mesh.   | N.A.   |             | N.A.   |
| 263    | Wet dates  |        |             | N.A.   |
| 264    | Windmill for water pumping and for generation of electricity   |        |             | N.A.   |
| 265    | Wooden crates  |        |             | N.A.   |
| 266    | Writing instruments, writing ink, eraser, geometry box, dissection box , refills, scales, nibs,crayons and pencil sharpeners.  |        |             | N.A.   |
| 267    | Weighing machines and Weighing scales and Weights of all kinds   |        |             | N.A.   |
| 268    | XRay film and other diagnostic films.  | N.A.   |             | N.A.   |
| 269    | Zinc dross.  | N.A.   |             | N.A.   |
| 270    | Zipper and Zip fasteners and parts thereof   |        |             | N.A.   |

| SL.NO. | NAME OF THE COMMODITY   | ORISSA | WEST BENGAL | ASSAM<br>(Rate taxable @ 6% w.e.f. 04.07.2016) |
|--------|---|--------|-------------|--|
|        | All equipments for communications such as private Branch Exchange (P.B.X) and Electronic Private Automatic Branch Exchange (E.P.A.B.X)  |        |             |  |
|        | All intangible goods like copyright, patent, replenishment license  |        |             |  |
|        | All kinds of bricks including fly ash bricks, refractory bricks and asphaltic roofing, earthen tiles  |        |             |  |
|        | (i) All types of yarn other than cotton and silk yarn in hank, endi, muga and pat yarn<br>(ii) sewing thread.   |        |             |  |
|        | Aluminium, Steel, Brass and enamelled utensils including pressure cooker.   |        |             |  |
|        | Cotton and cotton waste   |        |             |  |
|        | (i) Edible oils *excluding coconut oil.   |        |             |  |
|        | (ii) Oil cake   |        |             |  |
|        | Electrodes  |        |             |  |
|        | (i) Ferrous and non-ferrous metals and alloys such as aluminum, copper, zinc and extrusions of those.<br>(ii) Non-metals.   |        |             |  |
|        | Fibres of all types and fibre waste   |        |             |  |
|        | Fried grams   |        |             |  |
|        | Readymade garments, the maximum retail price per piece of which does not exceed rupees five thousand  |        |             |  |
|        | Pure silk fabrics   |        |             |  |
|        | Skimmed milk powder and UHT milk  |        |             |  |
|        | Solvent oils other than organic solvent oil   |        |             |  |
|        | Starch  |        |             |  |
|        | Umbrella except garden umbrella   |        |             |  |
|        | Vanaspati (Hydrogenated Vegetable oil) Except when produced and sold in Assam by the Industrial units of STATEFED   |        |             |  |
|        | Vegetable oil including gingli oil and bran oil *excluding coconut oil Except when produced and sold in Assam by the Industrial units of STATEFED   |        |             |  |
|        | Writing instruments the maximum retail price per piece of which exceeds rupees ten rupees but does not exceed rupees one thousand   |        |             |  |
|        | Clay including fireclay   |        |             |  |
|        | Article made of rolled gold and imitation gold  |        |             |  |
|        | Parraffin Wax   |        |             |  |
|        | Papad   |        |             |  |
|        | (i) Textile made-ups, i.e., fabric that has under gone a stitching process but excluding bleaching, dyeing, water/shrink proofing, organdie process and<br>(ii) Saree that has undergone stitching process and maximum retail price per piece of which exceeds rupees five hundred.   |        |             |  |
|        | Cups, glasses, plates, forks and spoons of paper and plastics   |        |             |  |
|        | Indigenous hand made soap   |        |             |  |
|        | Sweets  |        |             |  |
|        | Tea Waste   |        |             |  |
|        | Cranes, bulldozers, dampers, road rollers, tipper, excavator, earth movers *and attachments parts thereof   |        |             |  |
|        | AAA conductors  |        |             |  |
|        | Unbranded soya nuggets  |        |             |  |
|        | Medical diagnostic kits, X-Ray films and other diagnostic films   |        |             |  |
|        | Spectacles and parts and component thereof, contact lens and lens cleaner but excluding sun glasses   |        |             |  |
|        | Stone crushing and screening machinery and parts thereof  |        |             |  |
|        | Drugs and medicines, whether patent or proprietary, including vaccines, disposable hypodermic syringes, hypodermic needles, catguts, sutures, surgical dressings, medicated ointments produced under the Drugs and Cosmetics Act, 1940 (23 of 1940), but excluding anti malaria drugs mentioned in entry at serial 65 of First Schedule and drugs for treatment of cancer mentioned in entry at serial number 83 of the First Schedule and also excluding medicated hair oil, medicated tooth paste, medicated soap & shampoo |        |             |  |
|        | Cooked food excluding processed and preserved cooked food packed in sealed  |        |             |  |

| SL.NO. | NAME OF THE COMMODITY  | ORISSA | WEST BENGAL | ASSAM<br>(Rate taxable @ 6% w.e.f. 04.07.2016) |
|--------|--|--------|-------------|--|
|        | container  |        |             |  |
|        | Paper envelope and paper tray  |        |             |  |
|        | (i) Globe, maps, geometry boxes, colour boxes, crayons, pencils, sharpeners and erasers.<br>(ii) Pencil maximum retail price per piece of which exceeds rupees ten |        |             |  |
|        | Coal Tar   |        |             |  |
|        | Extra Natural alcohol  |        |             |  |
|        | Textiles fabric including textiles made-ups, i.e., fabric that has undergone a stitching process   |        |             |  |
|        | Stone Chips and boulder  |        |             |  |
|        | Generator Set  |        |             |  |
|        | Sanitary napkin  |        |             |  |
|        | Fabricated items of iron and steel   |        |             |  |
|        | Renewable energy devices and its spare parts   |        |             |  |
|        | E-rickshaw   |        |             |  |
|        | Citronella oil   |        |             |  |
|        | Packed drinking water  |        |             |  |
|        | LED bulbs, LED tubes and their in built fixtures   |        |             |  |

**LIST OF GOODS TAXABLE AT SPECIAL RATE (OTHER THAN 1%, 5% OR 14.5%)**

| Serial No. | Description of goods  | West Bengal | Odisha | Assam |
|------------|---|-------------|--------|-------|
| 1          | Unmanufactured Tobacco, beedis and tobacco used in manufacture of beedis.   |             | 10     |       |
| 2          | Tobacco and its products other than unmanufactured tobacco, beedis and tobacco used in manufacture of beedis.   | N.A.        | 25     | N.A.  |
| 3          | All pharmaceutical oral Liquid Preparation other than Homoeopathic and Ayurvedic drugs containing absolute alcohol 20% v/v or more in the finished product.   | N.A.        | 50     | N.A.  |
| 4          | Pre-Owned commercial vehicles sold through RD.<br>Explanation:- The selling dealers shall not be entitled to any claim for ITC on the tax paid on the materials purchased for use in renovation or repair of the pre-owned commercial vehicles before resale. | N.A.        | 2      | N.A.  |
| 5          | Aero-Engines including component parts and spare parts.   | N.A.        | 2      | N.A.  |

**LIST OF GOODS TAXABLE AT 14.5% (GENERAL RATE)**

| Serial No. | Description of goods  | West Bengal | Odisha | Assam<br>(Rate of Tax as per Fifth Schedule) |
|------------|---|-------------|--------|--|
| 1          | All other goods not specified in Schedule A, Schedule B, Schedule C or Schedule D.      |             |        | 15% (w.e.f 10.08.2016)                       |
| 2          | Works Contract  | 14.50%      | N.A.   | 15% (w.e.f 10.08.2016)                       |
| 3          | Air conditioner with capacity above one ton.  | 14.5        | N.A.   | N.A.   |
| 4          | Motor car, price of which exceeds rupees ten lakh.                                      | 14.5        | N.A.   | N.A.   |
| 5          | Television of any type, maximum retail price of which exceeds rupees twenty thousand.   | 14.5        | N.A.   | N.A.   |
| 6          | Mobile phone of any type, maximum retail price of which exceeds rupees twenty thousand. | 14.5        | N.A.   | N.A.   |
| 7          | Watches, maximum retail price of which exceeds rupees fifteen thousand                  | 14.5        | N.A.   | N.A.   |
| 8          | Lease Transaction   |             |        | 6%<br>(w.e.f.10.08.16)                       |

**SCHEDULE C**  
**(SEE SECTION 14)**  
**LIST OF GOODS SUBJECT TO TAX AT A SINGLE POINT ON TURNOVER OF SALES OR**  
**PURCHASES**  
**ORISSA STATE**

| Sl. No | Description of goods  | Rate of tax as applicable |
|--------|---|---------------------------|
| 1      | Foreign liquor, whether made in India or not, including brandy, whisky, vodka gin, rum, liquor, cordials, bitters and wines, or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors. | 25%                       |
| 2      | Country liquor  | 20%                       |
| 3      | Light Diesel Oil (Substituted by Notification No. 35833 -FIN-CT1-TAX-0055-2012 dated 30th November, 2013)   | 20%                       |
| 3A.    | Motor Spirit including Petrol, High Speed Diesel  | 23%                       |
| 4      | Narcotics   | 20%                       |
| 5      | Omitted w.e.f. 02-07-2012   |                           |
| 6      | Omitted w.e.f. 02-07-2012   |                           |

**LIST OF GOODS TAXABLE AT THE POINT OF FIRST SALE IN ASSAM**  
**[SEE SECTION 10(1)(B)]**

| Sl. No. | Description of goods   | Rate of tax (paise in the rupee)                                  |
|---------|--|---|
|         |  | Assam   |
| 1       | Crude oil  | 5   |
| 2       | Petroleum coke   | 5   |
| 3       | Diesel   | 20 paise in the rupee or Rs.8.75 per litre, whichever is higher.  |
| 4       | Petrol other than Motor Spirits  | 29 paise in the rupee or Rs.14.00 per litre, whichever is higher. |
| 5       | i) Aviation Turbine Fuel sold to an aircraft with a maximum take off mass of less than forty thousand kilograms operated by scheduled airlines.<br>Explanation.- For the purposes of this clause, " scheduled airlines" means the airlines which have been permitted by the Central Government to operate any Scheduled air transport service.               | 5   |
|         | (ii) Aviation turbine fuel (ATF) not falling under item (i) above  | 22  |
| 6       | Natural gas  | 14.5  |
| 7       | (a) Liquefied petroleum gas for domestic use   | 4   |
|         | (b) Liquefied petroleum gas other than mentioned in (a)  | 9   |
| 8       | Bitumen and bitumen emulsion   | 6   |
| 9       | Polyester Staple Fiber (PSF) and Dimethyle Tetraphalate (DMT) acrylic fibre  | 5   |
| 10      | Foreign liquor, whether made in India or not, including brandy, whisky, vodka, gin, rum, liquor, cordials, bitters and wines, or a mixture containing any of these, as also beer, ale, porter, cider, Parry and other similar portable fermented liquors except rum sold to defence personnel in Defence Service Canteens strictly for personal consumption. | 30  |
| 11      | Country Spirit   | 30  |
| 12      | Molasses   | 22  |
| 13      | Lottery tickets  | 22  |
| 14      | Narcotics  | 22  |
| 15      | Omitted w.e.f 29th March, 2008   |   |
| 16      | Omitted w.e.f 29th March, 2008   |   |
| 17      | Omitted w.e.f 29th March, 2008   |   |
| 18      | Omitted w.e.f 29th March, 2008   |   |
| 19      | Omitted w.e.f 29th March, 2008   |   |

|         |   |                                |
|---------|---|--------------------------------|
| 20      | Tea   | 5                              |
| 21      | Omitted w.e.f 31st October, 2009  |                                |
| 22      | Omitted w.e.f 2nd February, 2008  | 4                              |
| 23      | (a) Pre-owned cars having engine capacity upto 1000 cc  | Rs. 6000 per car               |
|         | (b) Pre-owned cars having engine capacity above 1000 cc   | Rs. 10,000 per car             |
|         | Explanation 1.- Pre-owned cars under this entry means an used car registered under the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) and purchased by a dealer for re-sale.   |                                |
|         | Explanation 2.- For the purpose of this entry, the amount of tax as specified in column (3) is payable on per car basis in lieu of the paise in the rupee.  |                                |
|         | Explanation 3.-Where the liability to pay tax in respect of the sale of a pre-owned car arises under this Act and the transfer of ownership is required to be caused in the certificate of registration of such car or a new registration mark is required to be assigned to such car in the State under the Motor Vehicles Act, 1988 (Act No. 59 of 1988), no Registering Authority shall cause the transfer of ownership in the certificate of registration or assign a new registration mark to such pre-owned car unless the copy of the sale bill/invoice of the dealer registered under this Act showing charging of the amount of tax on the sale of such pre-owned car is produced before such Registering Authority or the proof of full payment of tax is produced in accordance with the Fourth Schedule appended to the Act in respect of the sale transaction of such vehicle. |                                |
| 24 (i)  | Kerosene sold through Public Distribution System (PDS).   | 2                              |
| 24 (ii) | Kerosene other than as mentioned in (i) above   | 12.5                           |
| 25      | Bamboo  | 5                              |
| 26      | Furnace Oil   | 6                              |
| 27      | (i) Cheroots, cigar, bidi and smoking mixture   | 30                             |
|         | (ii) Tobacco and tobacco products including excluding items mentioned in clause (i) and (iii)   | 20                             |
|         | iii) Cigarettes   |                                |
|         | (a) Filter cigarettes of length (including the length of the filter, the length of the filter being 11 mm or its actual length, whichever is more) exceeding 75 mm  | Rs. 1850.00 per thousand stick |
|         | (b) Filter cigarettes of length (including the length of the filter, the length of the filter being 11mm or its actual length, whichever is more) exceeding 70 mm but not exceeding 75 mm   | Rs.1,450 per thousand stick    |
|         | (c) Filter cigarettes of length (including the length of the filter, the length of the filter being 11mm or its actual length, whichever is more) exceeding 65mm but not exceeding 70 mm  | Rs.975 per thousand stick      |
|         | (d) Filter cigarettes of length (including the length of the filter, the length of the filter being 11mm or its actual length, whichever is more) exceeding 60mm but not exceeding 65 mm  | Rs.775 per thousand sticks     |
|         | (e) Other than filter cigarette not exceeding 65 mm   | Rs.750 per thousand sticks.    |
|         | (f) Cigarettes not falling in any of the above  | Rs.1,850 per thousand stick    |

**SCHEDULE-D**  
**(SEE SUB SECTION 2(8) AND SECTION 20(5))**  
**CAPITAL GOODS IS NOT ELIGIBLE FOR ITC**  
**ORISSA STATE**

| Sl. No | Description of goods   |
|--------|--|
| 1      | Capital goods purchased or paid prior to 01.04.2005  |
| 2      | Capital expenditure incurred prior to the date of registration under VAT.  |
| 3      | Capital goods not connected with the business of dealer.   |
| 4      | Capital goods used in manufacture of goods or providing services or trading activities which are not liable to tax under VAT |
| 5      | Capital goods used in energy/power, including captive power.   |
| 6      | Capital or other expenditure on land, civil structure or construction.   |
| 7      | Second hand purchase or subsequent purchase of capital goods.  |
| 8      | Vehicles for conveyance and transport.   |



# CUSTOMS ACT, 1962

## Amended Vide Finance Act, 2016

| Amended Sections:-                                  | EARLIER  | NOW  |
|---|--|--|
| 2(43)   |  |  |
| Definition of "Warehouse"                           | "Warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58.  | "Warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or special warehouse licensed u/s 58A.   |
| 2(45)   |  |  |
| Definition of "Warehousing Station"                 | "warehousing station" means a place declared as a warehousing station under section 9.   | Omitted  |
| 9   |  |  |
| Power to declare places to be warehousing stations. | The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.  | Omitted  |
| 25(4) & (5)   |  |  |
| Power to grant exemption from duty                  | <p>(4) Every notification issued under sub-section (1) or sub-section (2A) shall, -</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p> <p>(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.</p> <p>(5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.</p> | <p>4) Every notification issued under sub-section (1) or sub-section (2A) shall, -</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p> <p>(b) Omitted</p> <p>(5) Omitted</p>   |
| 28  |  |  |
| Change in Heading                                   | Recovery of duties not levied or short-levied or erroneously refunded.   | Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.   |
| Clause (1)  | Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,   | Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,   |
| Clause (1)(a)                                       | The proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;   | The proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice; (Note:- Period of limitation has not been extended in the matter of refund.) |

| Amended Sections:-                           | EARLIER  | NOW  |
|--|--|--|
| Clause (3)                                   | Where the proper officer is of the opinion that the amount paid under clause (b) of subsection (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (2).  | Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of Two years shall be computed from the date of receipt of information under sub-section (2).  |
| Clause (4)                                   | Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-<br>(a) collusion; or<br>(b) any wilful mis-statement; or<br>(c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice   | Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-<br>(a) collusion; or<br>(b) any wilful mis-statement; or<br>(c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice   |
| Clause (5)                                   | Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing. | Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing. |
| Clause (6)(ii)                               | That the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (5).  | That the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of Two years shall be computed from the date of receipt of information under sub-section (5).   |
| Clause (7)                                   | In computing the period of one year referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.   | In computing the period of Two years referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.  |
| 47 - Clearance of goods for home consumption |  |  |

| Amended Sections:-                               | EARLIER  | NOW  |
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| Clause (1)                                       | Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.   | Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.<br><br>Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.  |
| Clause (2)                                       | Where the importer fails to pay the import duty under sub- section (1) within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest at such rate, not below ten percent and not exceeding thirty six percent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such duty till the date of payment of the said duty : | Where the importer fails to pay the import duty, either in full or in part, within two days (excluding holidays)—<br>(a) from the date on which the bill of entry is returned to him for payment of duty; or<br>(b) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.<br><br>(Note:- Wordings of the provision has been changed to bring it in line with deferred payment provisions of Customs)." |
| 51 - Clearance of goods for exportation          |  |  |
| Clause (1)                                       | Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.   | Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.<br><br>Provided that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules   |
| Clause (2)                                       | .....  | Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.  |
| 53   |  |  |
| Transit of certain goods without payment of duty | Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty.  | Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit  |

| Amended Sections:-               | EARLIER   | NOW  |
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|                                  |   | without payment of duty, subject to such conditions, as may be prescribed.   |
| 57                               |   |  |
| Appointing of public warehouses. | At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may appoint public warehouses wherein dutiable goods may be deposited.  | The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a public warehouse wherein dutiable goods may be deposited.   |
| 58                               |   |  |
| Licensing of private warehouses. | <p>(1) At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.</p> <p>(2) The Assistant Commissioner of Customs or Deputy Commissioner of Customs may cancel a licence granted under sub-section (1) -</p> <p>(a) by giving one month's notice in writing to the licensee; or</p> <p>(b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence:</p> <p>Provided that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.</p> <p>(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may suspend the licence.</p> | <p>58. The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.</p> <p>58A. (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.</p> <p>(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).</p> <p>58B. (1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:</p> <p>Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.</p> <p>(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).</p> <p>(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:</p> <p>Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.</p> |

| Amended Sections:- | EARLIER   | NOW  |
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|                    |   | <p>(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export: Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.</p>   |
| 59                 |   |  |
| Warehousing Bond   | <p>(1) The importer of any goods specified in sub-section (1) of section 61, which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods-</p> <p>(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;</p> <p>(b) to pay on or before a date specified in a notice of demand, -</p> <p>(i) all duties, and interest, if any, payable under sub-section (2) of section 61;</p> <p>(ii) rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette; and</p> <p>(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to enter into a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:</p> <p>Provided that where the whole of the goods or any part thereof are transferred</p> | <p>(1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself -</p> <p>(a) to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods;</p> <p>(b) to pay, on or before the date specified in the notice of demand, all duties and interest payable under sub-section (2) of section 61; and</p> <p>(c) to pay all penalties and fines incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) The importer shall, in addition to the execution of a bond under sub-section (1) or sub-section (2), furnish such security as may be prescribed.</p> <p>(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.</p> <p>(5) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3).</p> |

| Amended Sections:-                                    | EARLIER  | NOW   |
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|   | <p>to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.</p>  |   |
| 60  |  |   |
| <p>Permission for deposit of goods in a warehouse</p> | <p>When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.</p>   | <p>(1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.</p> <p>(2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.</p>  |
| 61  |  |   |
| <p>Period for which goods may remain warehoused</p>   | <p>(1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, -</p> <p>(a) in the case of capital goods intended for use in any hundred per cent export oriented undertaking, till the expiry of five years;</p> <p>(aa) in the case of goods other than capital goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and</p> <p>(b) in the case of any other goods, till the expiry of one year,</p> <p>After the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse : Provided that -</p> <p>(i) in the case of any goods which are not likely to deteriorate, the period specified in clause (a) or clause (aa) or clause (b) may, on sufficient cause being shown, be extended</p> <p>(A) in the case of such goods intended for use in any hundred per cent. export-oriented undertaking, by the Commissioner of Customs, for such period as he may deem fit; and</p> <p>(B) in any other case, by the Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit;</p> <p>(ii) in the case of any goods referred to in clause (b), if they</p> | <p>(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed:</p> <p>(a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse;</p> <p>(b) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and</p> <p>(c) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60: Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time:</p> <p>Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.</p> <p>(2) Where any warehoused goods specified in clause (c) of sub-section (1) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (1) of section 60, interest shall be</p> |

| Amended Sections:- | EARLIER   | NOW   |
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|                    | <p>are likely to deteriorate, the aforesaid period of one year may be reduced by the Commissioner of Customs to such shorter period as he may deem fit:</p> <p>Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.</p> <p>(2) Where any warehoused goods -</p> <p>(i) specified in sub-clause (a) or sub-clause (aa) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;</p> <p>(ii) specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of ninety days, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:</p> <p>Provided that the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive the whole or part of any interest payable under this section in respect of any warehoused goods:</p> <p>Provided further that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.</p> <p>Explanation. - For the purposes of this section, ""hundred per cent export oriented undertaking"" has the same meaning as in section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).</p> | <p>payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods: Provided that if the Board considers it necessary so to do, in the public interest, it may,—</p> <p>(a) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;</p> <p>(b) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;</p> <p>(c) by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order under sub-section (1) of section 60.</p> <p>Explanation.— For the purposes of this section,—</p> <p>(i) ""electronic hardware technology park unit"" means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India;</p> <p>(ii) ""hundred per cent. export oriented undertaking"" has the same meaning as in clause (ii) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944; and</p> <p>(iii) ""software technology park unit"" means a unit established under the Software Technology Park Scheme notified by the Government of India.</p> |
| 62                 |   |   |

| Amended Sections:-  | EARLIER   | NOW  |
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| Control over warehoused goods   | <p>(1) All warehoused goods shall be subject to the control of the proper officer.</p> <p>(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.</p> <p>(3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.</p> <p>(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein</p>   | Omitted  |
| 63  |   |  |
| Payment of rent and warehouse charges                                 | <p>The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs.</p> <p>(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.</p>  | Omitted  |
| 64  |   |  |
| Owner's right to deal with warehoused goods.                          | <p>With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same -</p> <p>(a) inspect the goods;</p> <p>(b) separate damaged or deteriorated goods from the rest;</p> <p>(c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;</p> <p>(d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;</p> <p>(e) show the goods for sale; or</p> <p>(f) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.</p> | <p>The owner of any warehoused goods may, after warehousing the same:</p> <p>(a) inspect the goods;</p> <p>(b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;</p> <p>(c) sort the goods; or</p> <p>(d) show the goods for sale</p>               |
| 65(1)   |   |  |
| Manufacture and other operations in relation to goods in a warehouse. | <p>With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.</p>   | <p>With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.</p> |
| 68  |   |  |



| Amended Sections:-   | EARLIER  | NOW   |
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| Clearance of warehoused goods for home consumption                     | <p>The importer of any warehoused goods may clear them for home consumption, if -</p> <p>(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;</p> <p>(b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and</p> <p>(c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of rent, interest, other charges and penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> | <p>Any warehoused goods may be cleared from the warehouse for home consumption, if -</p> <p>(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;</p> <p>(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and;</p> <p>(c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p> |
| 69   |  |   |
| Clearance of warehoused goods for exportation                          | Clearance of warehoused goods for exportation.   | Clearance of warehoused goods for export.<br>(Note:- This is just a grammatical correction since exportation connote intention and export connote physical export)  |
| 69(b)  | the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and  | the export duty, fine and penalties payable in respect of such goods have been paid; and  |
| 69(c)  | an order for clearance of such goods for exportation has been made by the proper officer.  | an order for clearance of such goods for export has been made by the proper officer.  |
| 71   |  |   |
| Goods not to be taken out of warehouse except as provided by this Act. | No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act  | No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or export, or for removal to another warehouse, or as otherwise provided by this Act   |
| 71   |  |   |
| Goods improperly removed from warehouse, etc.                          | <p>(1) In any of the following cases, that is to say, -</p> <p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a</p>  | <p>(1) In any of the following cases, that is to say, -</p> <p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a</p>   |

| Amended Sections:-                          | EARLIER  | NOW   |
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|   | <p>warehouse;</p> <p>(c) where any warehoused goods have been taken under section 64 as samples without payment of duty;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods</p> | <p>warehouse;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable in respect of such goods</p> <p>(2) If any owner fails to pay any amount demanded under sub- section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may deem fit"</p> <p>(2) If any owner fails to pay any amount demanded under sub- section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.</p> |
| 73  |  |   |
| Cancellation and return of warehousing bond | When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.   | When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or transferred or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.   |
| 73A   |  |   |
| Custody and Removal of warehoused goods     | Newly inserted   | <p>73A. (1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.</p> <p>(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.</p> <p>(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.</p>   |

| Amended Sections:-          | EARLIER   | NOW   |
|-----------------------------|---|---|
| 156                         |   |   |
| General power to make rules | <p>(1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) Omitted</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;</p> <p>(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;</p> <p>(g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.</p> <p>(h) the amount to be paid for compounding and the manner of compounding</p> | <p>1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;</p> <p>(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;</p> <p>(g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.</p> <p>(h) the amount to be paid for compounding and the manner of compounding</p> |
| Retrospective Amendments    | Newly inserted  | Various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes are being amended retrospectively, to correct the reference to "section 8" in such notifications to "section 8B" so as to clearly provide that exemption from safeguard duty under section 8B of the Customs Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.  |

## Some of the other recent changes are:-

### 1) Removal of Levy of Safeguard Duty

Section 8C of Customs Tariff Act provides for levy of safeguard duty when the goods imported from China in increased quantities (threat to domestic industry). This levy has been removed from Statute. However, Safeguard Duty under Section 8B will be continuing.

### 2) New Baggage Rules have been introduced

The existing Baggage Rules 1998 are being substituted with the Baggage Rules 2016 so as to simplify and rationalize multiple slabs of duty free allowance for various categories of passengers. Some of the key changes are as below:-

- i) Duty free baggage allowance permitted worth Rs. 50,000 (to an Indian person) and Rs. 15,000 (to a tourist of foreign origin) arriving in India from a country other than Nepal, Bhutan or Myanmar, irrespective of the duration of stay of such person abroad.
- ii) Duty free baggage allowance permitted worth Rs. 15,000 to a person arriving in India from Nepal, Bhutan or Myanmar, irrespective of the duration of stay of such person abroad.
- iii) Allowances in the case of transfer of residence has also been amended.

Corresponding changes have also been done in the Customs Baggage Declaration Regulations 2013 so as to prescribe filing of Customs declarations only for those passengers who carry dutiable or prohibited goods.

### 3) Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016

The existing Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are being substituted with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 with a view to simplify the rules, including allowing duty exemptions to importer/ manufacturer based on self-declaration instead of obtaining permissions from the Central Excise authorities. Need for additional registration is also being done away with.

### 4) Indirect Tax Dispute Resolution Scheme, 2016

This scheme has been introduced from 1 June 2016 to bring down litigations pending at Commissioner (Appeal) level.

### 5) Exemption from customs duty on import of bona fide gifts by post or by air freight has been increased from INR 10,000 to INR 20,000.

### 6) BCD increased from 10 per cent to 15 per cent on imitation jewellery.

### 7) Interest rate on delayed payment of Customs duty under Section 28AA has been reduced to 15% from the current 18%.

### 8) Various BCD exemptions have been withdrawn. Some of them are:-

- i) on certain defense machinery and equipment required by the Indian manufacturers for supply of goods to Indian Navy or Coast Guard,
- ii) on import of aircrafts, parts, engines arms, ammunitions, radars, torpedoes and other related products imported by government undertakings or government authorized undertakings, etc.

### 9) BCD tariff rates of 211 specified tariff lines in Chapter 84, 85 and 90 have been changed from 7.5% to 10%. Out of this, the effective rate has increased from 7.5% to 10% for 96 tariff lines (e.g., boiler, hydraulic turbines and electric motors and generators.), whereas effective rate will remain same @ 7.5% for the remaining 115 tariff lines.

### 10) Populated PCBs of mobile phone or tablet computer have been excluded from the purview of Nil SAD exemption and 2% SAD has been imposed subject to fulfilment of specified condition. Also, SAD increased from nil to 4 per cent on populated PCBs used in the manufacturing of personal computers (laptop or desktop), including a tablet computer.

- 11) BCD increased from nil to 5 per cent on solar tempered glass/solar tempered (anti-reflective coated) glass used in the manufacture solar cells/modules/panels.
- 12) Concessional 5% BCD has been extended to cold chain including pre-cooling unit, packhouses, sorting and grading lines and ripening chambers. Corresponding changes have also been made to Project Imports Regulations 1986. Also, BCD on refrigerated containers reduced from 10 per cent to 5 percent.
- 13) Changes in the BCD rates on some key items are set out below: -

| Items   | Old Rate | New Rate |
|---|----------|----------|
| Denatured ethyl alcohol (ethanol) for use in manufacture of excisable goods   | 5        | 2.5      |
| Silica Sand   | 5        | 2.5      |
| Lignite, whether or not agglomerated, excluding jet   | 10       | 2.5      |
| Peat (including peat litter), whether or not agglomerated   | 10       | 2.5      |
| Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon (metallurgical coke already taxable @ 5%)   | 10       | 5        |
| Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons  | 10       | 5        |
| Aluminium oxide for use in manufacture of wash coat, for catalytic converters (actual user condition)   | 7.5      | 5        |
| Super absorbent polymer for manufacture of goods falling under heading 9619 (actual user condition) such as sanitary towels, diapers, tampons, napkins  | 7.5      | 5        |
| Wood in chips or particles for manufacture of paper, paperboard and news print  | 5        | Nil      |
| Pulp of wood or other fibrous cellulosic material (excluding rayon grade wood pulp) used for manufacture of goods falling under 9619 (actual user condition)  | 5        | 2.5      |
| Printed plans, drawings and designs   | Nil      | 10       |
| Specified fibres , filaments/yarns  | 5        | 2.5      |
| Solar tampered glass/solar tampered (anti-reflective coated) glass for use in manufacture of solar cells/modules/panels   | Nil      | 5        |
| Preform of silica for use in manufacture of telecommunication grade optical fibre/cables  | Nil      | 10       |
| Imitation jewellery   | 10       | 15       |
| Primary aluminum products (7601, 7603, 7604, 7605, 7606, 7607)  | 5        | 7.5      |
| Other aluminum products (7608 and 7609 00 00)   | 7.5      | 10       |
| Zinc alloys (7901 20)   | 5        | 7.5      |
| Industrial solar water heater   | 7.5      | 10       |
| Parts and components, including subparts, for manufacture of digital video recorder, network video recorder, close circuit camera/ internet protocol camera, lithium ion battery (other than those for mobile handsets) | 7.5/10   | Nil      |
| E readers   | Nil      | 7.5      |
| Parts and raw material for manufacture of E readers   | 10       | 5        |
| Refrigerated containers (8609 00 00)  | 10       | 5        |
| Golf cars (depending on condition of import)  | 10       | 10 - 60% |
| Natural latex rubber made balloons (9503 00 90, 9505 10 00, 9505 90 90)   | 10       | 20       |

# PROFESSIONAL TAX - CONSOLIDATED COMPARISON

| SL. NO. | CLASS OF PERSONS  | RATE OF TAX         |  |                   |
|---------|---|---------------------|--|-------------------|
|         |   | ASSAM               | ORISSA   | WEST BENGAL       |
| 1       | <b>Salary and wage earners such persons whose monthly salaries or wages are</b>   |                     |  |                   |
|         | <b>REVISED RATES W.E.F. 15.10.2014 ( Notification no:FTX.72/2012/33 dated:15.10.2014)</b>   |                     |  |                   |
|         | Salary and wage earners such persons whose monthly salaries or wages are  |                     |  |                   |
|         | (i) Upto Rs.10000/-   | NIL                 | -  |                   |
|         | (ii) More than Rs. 10000/- but less than Rs. 15000/-  | Rs. 150/- per month | -  |                   |
|         | (iii)Rs.15000/- or more but less than Rs.25000/-  | Rs.180/- per month  | -  |                   |
|         | (iii)Rs.25000/- or more   | Rs. 208/- per month | -  |                   |
|         | <b>Salary and Wage earners. Such persons including Ministers, Members of Legislative Assembly and Members of Parliament from the State of Orissa whose monthly salaries or wages :-</b> |                     |  |                   |
|         | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>   |                     |  |                   |
|         | (i) do not exceed Rs. 1,60,000/-  | -                   | Nil  |                   |
|         | (ii) exceed Rs. 1,60,000/- but do not exceed Rs. 3,00,000/-   | -                   | Rs. 125/- per month                                |                   |
|         | (iii) exceed Rs. 3,00,000/-   | -                   | Rs. 200/- per month and Rs.300/- in the 12th month |                   |
|         | <b>Employees earning monthly salary or wages—</b>   |                     |  |                   |
|         | (i) Not exceeding Rs.8,500  | -                   | -  | Nil               |
|         | (ii) Above Rs.8,500 but not exceeding Rs. 10,000  | -                   | -  | Rs. 90 per month  |
|         | (iii) Above Rs. 10,000 but not exceeding Rs. 15,000   | -                   | -  | Rs. 110 per month |
|         | (iv) Above Rs. 15,000 but not exceeding Rs. 25,000  | -                   | -  | Rs. 30 per month  |
|         | (v) Above Rs.25,000 but not exceeding Rs.40,000   | -                   | -  | Rs. 150 per month |
|         | (vi) Above Rs.40,000  | -                   | -  | Rs. 200 per month |
| 2       | (a) Legal practitioner including Solicitor and Notaries Public;   |                     |  |                   |
|         | (b) Medical practitioner including medical consultant and dentists;   |                     |  |                   |
|         | (c) Technical and professional consultants including Architects, Engineers, Chartered Accounts, Actuaries, Management consultants and Tax consultants;                                  |                     |  |                   |
|         | (d) Chief Agents, Principal Agents, Special agents and Surveyors or loss Assessors registered or licensed under Insurance act, 1938( 4 of 1938);  |                     |  |                   |
|         | (e) Any other person who is engaged in any profession, trade, calling or employment but not mentioned in any other entry of the Schedule;   |                     |  |                   |
|         | <b>REVISED RATES W.E.F. 15.10.2014 ( Notification no:FTX.72/2012/33 dated:15.10.2014)</b>   |                     |  |                   |

| SL. NO.  | CLASS OF PERSONS   | RATE OF TAX         |                       |             |
|----------|--|---------------------|-----------------------|-------------|
|          |  | ASSAM               | ORISSA                | WEST BENGAL |
|          | Where the annual gross Income in the profession of any of the persons mentioned above is   |                     |                       |             |
|          | (i) Upto Rs. 1,20,000/-  | Nil                 | -                     | -           |
|          | (ii) More than Rs. 1,20,000, but less than Rs. 1,80,000/-  | Rs.1800/- per annum | -                     | -           |
|          | (iii) Rs.1,80,000/- or more, but less than Rs.3,00,000/-   | Rs.2160/- per annum | -                     | -           |
|          | (iv) Rs.3,00,000/-or more  | Rs.2500/- per annum | -                     | -           |
|          | Provided that any person, who is the recipient of any cultural, literary or sports pension, shall not be required to pay any tax under this Act even if such person is engaged in any other profession, trade, callings or employment:   |                     |                       |             |
|          | Provided further that the societies providing education to the physically and mentally challenged persons shall not be required to pay any tax under this Act.   |                     |                       |             |
|          | <b>Legal practitioners including Solicitors and Notaries Public whose standing in the profession :-</b>  |                     |                       |             |
|          | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>  |                     |                       |             |
|          | (i) do not exceed Rs. 1,60,000/-   | -                   | Nil                   | -           |
|          | (ii) exceed Rs. 1,60,000/- but do not exceed Rs. 3,00,000/-  | -                   | Rs. 1,500/- per annum | -           |
|          | (iii) exceed Rs. 3,00,000/-  | -                   | Rs. 2,500/- per annum | -           |
| <b>3</b> | <b>Medical practitioners including Medical Consultants (other than practitioners of Ayurvedic, Homoeopathic and Unani Systems of Medicines), Dentists, Radiologists, Pathologists and persons engaged in other similar professions or callings of a paramedical nature (not covered under Serial No. 1 above) whose standing in profession -</b> |                     |                       |             |
|          | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>  |                     |                       |             |
|          | (i) do not exceed Rs. 1,60,000/-   | -                   | Nil                   | -           |
|          | (ii) exceed Rs. 1,60,000/- but do not exceed Rs. 3,00,000/-  | -                   | Rs. 1,500/- per annum | -           |
|          | (iii) exceed Rs. 3,00,000/-  | -                   | Rs. 2,500/- per annum | -           |
| <b>4</b> | <b>Postal Agents under National Saving Scheme or Chief Agents, Principal Agents, Special Agents, Insurance Agents and Surveyors or Loss Assessors registered or licensed under the Insurance Act, 1938 (4 of 1938), whose annual gross income -</b>  |                     |                       |             |
|          | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>  |                     |                       |             |
|          | (i) do not exceed Rs. 1,60,000/-   | -                   | Nil                   | -           |
|          | (ii) exceed Rs. 1,60,000/- but do not exceed Rs. 3,00,000/-  | -                   | Rs. 1,500/- per annum | -           |
|          | (iii) exceed Rs. 3,00,000/-  | -                   | Rs. 2,500/- per annum | -           |
|          | <b>Technical and Professional Consultants, Tax Consultants, Chartered Accountants and Cost Accountants whose standing in the profession is -</b>   |                     |                       |             |
|          | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>  |                     |                       |             |
|          | (i) do not exceed Rs. 1,60,000/-   | -                   | Nil                   | -           |

| SL. NO.  | CLASS OF PERSONS   | RATE OF TAX        |                       |                      |
|----------|--|--------------------|-----------------------|----------------------|
|          |  | ASSAM              | ORISSA                | WEST BENGAL          |
|          | (ii) exceed Rs. 1,60,000/- but do not exceed Rs. 3,00,000/-  | -                  | Rs. 1,500/- per annum | -                    |
|          | (iii) exceed Rs. 3,00,000/-  | -                  | Rs. 2,500/- per annum | -                    |
|          | <b>Persons being individuals engaged in any profession or calling (but not engaged as an employee) being—</b>  |                    |                       |                      |
|          | (a) Legal practitioners including solicitors and notaries public;  |                    |                       |                      |
|          | (b) Medical Practitioners including medical consultants and dentists;  |                    |                       |                      |
|          | (c) Directors (other than those nominated by Government) of companies registered under the Companies Act,1956 (1 of 1956) or under the Companies Act, 2013 (18 of 2013);   |                    |                       |                      |
|          | (d) Technical or professional consultants other than those mentioned elsewhere ; in the Schedule   |                    |                       |                      |
|          | (e) Members of Associations recognised under the Forward Contracts (Regulation) Act, 1952 (74 of 1952);  |                    |                       |                      |
|          | (f) Members of Stock Exchanges recognised under the Securities Contracts (Regulation) Act, 1956 (42 of 1956);  |                    |                       |                      |
|          | (g) Remisiers recognised by a Stock Exchange;  |                    |                       |                      |
|          | (h) Holders of permits granted or issued under the Motor Vehicles Act, 1988 (59 of 1988), for transports vehicles, which are adapted to be used for hire or reward, like auto-rickshaws, three- wheeler goods vehicles, taxi including luxury taxi, trucks, trailers or buses; |                    |                       |                      |
|          | (i) Postal agents, chief agents, principal agents, special agents, insurance agents, surveyors and loss assessors;   |                    |                       |                      |
|          | (j) Jockeys licensed by any Turf Club in the State;  |                    |                       |                      |
|          | <b>where the annual gross income in the preceding year or part thereof of any such person mentioned above is—</b>  |                    |                       |                      |
|          | (i) Not more than Rs. 60,000   | -                  | -                     | Nil                  |
|          | (ii) Above Rs. 60,000 but not exceeding Rs. 72,000   | -                  | -                     | Rs. 480 per annum    |
|          | (iii) Above Rs. 72,000 but not exceeding Rs. 84,000  | -                  | -                     | Rs. 540 per annum    |
|          | (iv) Above Rs. 84,000 but not exceeding Rs. 96,000   | -                  | -                     | Rs. 600 per annum    |
|          | (v) Above Rs. 96,000 but not exceeding Rs. 1,08,000  | -                  | -                     | Rs. 1080 per annum   |
|          | (vi) Above Rs. 1,08,000 but not exceeding Rs. 1,80,000   | -                  | -                     | Rs. 1320 per annum   |
|          | (vii) Above Rs. 1,80,000 but not exceeding Rs. 3,00,000  | -                  | -                     | Rs. 1560 per annum   |
|          | (viii) Above Rs. 3,00,000 but not exceeding Rs. 5,00,000   | -                  | -                     | Rs. 2000 per annum   |
|          | (ix) Above Rs. 5,00,000  | -                  | -                     | Rs. 2500 per annum   |
| <b>3</b> | (a) Members of Associations recognised under the Forward Contracts (Regulations) Act, 1956 (42 of 1956)  | Rs.2500/ per annum | -                     | -                    |
|          | (b) (i) Members of Stock Exchange recognised under the Securities Contracts (Regulations) Act,1956 (42 of 1956)  | Rs.2500/ per annum | -                     | -                    |
|          | (ii) Remisiers recognised by a stock exchange  | Rs.1800/ per annum | -                     | -                    |
| <b>4</b> | Estate agents or brokers or building contractors commission agents, delcredere agents or mercantile agents.  | Rs.2500/ per annum | Rs. 1000/- per annum  | Rs. 2500/- per annum |
|          | <b>(b)Contractor, of any description engaged in any work, whose gross</b>  |                    |                       |                      |



| SL. NO. | CLASS OF PERSONS  | RATE OF TAX          |                       |                      |
|---------|---|----------------------|-----------------------|----------------------|
|         |   | ASSAM                | ORISSA                | WEST BENGAL          |
|         | <b>business in the immediately preceding year-</b>  |                      |                       |                      |
|         | (i) does not exceed Rs. 5,00,000  | -                    | Nil                   | -                    |
|         | (ii) exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000/-   | -                    | Rs. 1,500/- per annum | -                    |
|         | (iii) exceeds Rs. 10,00,000/-   | -                    | Rs. 2500/- per annum  | -                    |
|         | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>   |                      |                       |                      |
| 5       | Directors(other than those nominated by Government) or Companies Registered under the Companies Act,1956 ( 1 of 1956)   | Rs. 2500/- per annum | -                     | -                    |
| 6       | Dealers including owners of any mills/industry within the meaning of a sales tax law in Assam such dealers whose annual gross turnover of all sales is                            |                      |                       |                      |
|         | (i) Less than Rs.1,00,000/-   | Nil                  | -                     | -                    |
|         | (ii) Rs.1,00,000/- or more but less than Rs.3,00,000/-  | Rs.1000/- per annum  | -                     | -                    |
|         | (iii) Above Rs.3,00,000/-   | Rs.2500/ per annum   | -                     | -                    |
| 7       | Occupiers of factories as defined in the Factories Act, 1948( 63 of 1948) who are not dealers covered by entry 6: such occupiers of factories-                                    |                      |                       |                      |
|         | (a) Where not more than five workers are working  | Rs.350/- per annum   | -                     | -                    |
|         | (b) Where the number of workers is five or more but less than fifteen   | Rs.2000/ per annum   | -                     | -                    |
|         | (c) Where the number of workers is more than fifteen  | Rs.2500/ per annum   | -                     | -                    |
| 8       | Employers of shops and establishments within the meaning of the Assam Shops and Establishment Act,1971 who are not dealers, covered by entry 6: such employer's of establishment- |                      |                       |                      |
|         | (a) Where there are no employess  | Nil                  | -                     | -                    |
|         | (b) Where not more than five people are employed  | Rs.300/-             | -                     | -                    |
|         | (c ) Where more than five, but not more than ten peoples are employed   | Rs.1500/- per annum  | -                     | -                    |
|         | (d) Where more than ten peoples are employed  | Rs.2500/- per annum  | -                     | -                    |
| 9       | Owners of lessees of Petrol/Diesel filling stations and service stations and agents or distributors thereof including retail dealers of liquified petroleum gas                   | Rs.2500/- per annum  | -                     | Rs. 2500/- per annum |
| 10      | (a) Licensed foreign liquor vendors and employers of residential hotels   | Rs.2500/- per annum  | -                     | Rs. 2500/- per annum |
|         | (b) Proprietors of cinema houses and theatres   | Rs.2500/- per annum  | -                     | -                    |
| 11      | Holders of permits for transport vehicles, granted under the Motor Vehicles Act,1988 (59 of 1988), which are used or adopted to be used for hire or reward:                       |                      |                       |                      |
|         | (a) in respect of each taxi owner and four wheelers small-goods vehicles ( for carrying either goods or passenger)  | Rs.500/- per annum   | -                     | -                    |
|         | (b) in respect of each truck or bus   | Rs.2500/- per annum  | -                     | -                    |
|         | Provided that the total amount payable by the same holder shall not exceed Rs.2500/-  |                      |                       |                      |
| 12      | Licensed money lenders under the Assam Money Lenders Act,1934 ; under the Bengal Money Lender Act, 1940 (Ben. Act X of 1940);   | Rs.2500/-            | -                     | Rs. 2500/- per annum |
| 13      | Individuals or Institutions conducting Chit Funds   | Rs.2500/-            | -                     | Rs. 2500/-           |

| SL. NO.   | CLASS OF PERSONS   | RATE OF TAX         |                       |                      |
|-----------|--|---------------------|-----------------------|----------------------|
|           |  | ASSAM               | ORISSA                | WEST BENGAL          |
|           |  |                     |                       | per annum            |
| <b>14</b> | Banking Companies as defined in the Banking Regulation Act,1949(10 of 1949)  |                     |                       |                      |
|           | (i) Scheduled Banks  | Rs.2500/- per annum | -                     | Rs. 2500/- per annum |
|           | (ii) Other Banks   | Rs.2500/- per annum | -                     |                      |
| <b>15</b> | Companies registered under the Companies Act, 1956 (1 of 1956) and engaged in any profession, trade or calling or the Companies Act, 2013 (18 of 2013);  | Rs.2500/-           | -                     | Rs. 2500/- per annum |
| <b>16</b> | Firms registered under the Indian Partnership Act, 1932 (9 of 1932) and engaged in any profession, trade or calling  | Rs.2500/-           | -                     | -                    |
| <b>17</b> | Owners of nursing homes, X-Ray Clinics, Pathological testing laboratories and Hospitals  | Rs.2500/-           | -                     | Rs. 2500/- per annum |
| <b>18</b> | Dry Cleaners, Interior decorators and owner of beauty parlours   | Rs.2500/-           | -                     | -                    |
| <b>19</b> | Film distributors and Travel agents  | Rs.2000/-           | -                     | -                    |
| <b>20</b> | (A) Self employed person in the motion picture industry  |                     |                       |                      |
|           | (i) Directors, Actors and Actress( excluding junior artists) Play back singers, Cameraman, Recordist, Editors and still Photographers.   | Rs.2000/-           | -                     | -                    |
|           | (ii) Junior Artist, Production managers, Assistant directors, Assistant cameraman,Assistant recordist, Assistant editors, Musicians and Dancers  | Rs.700/-            | -                     | -                    |
|           | (B) Self employed person in the mobile theatre group   | Nil                 | -                     | -                    |
| <b>21</b> | <b>Dealers whose gross turnover in the immediately preceding year -</b>  |                     |                       |                      |
|           | (i) does not exceed Rs. 5,00,000   | -                   | Nil                   | -                    |
|           | (ii) exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000/-  | -                   | Rs. 1,500/- per annum | -                    |
|           | (iii) exceeds Rs. 10,00,000/-  | -                   | Rs. 2500/- per annum  | -                    |
|           | <b>REVISED W.E.F. 21.07.2010 ( Notification No. 31801-CTA 43/10F DTD. 21.07.2010)</b>  |                     |                       |                      |
| <b>22</b> | Stevedores, clearing agents, customs agents, licensed shipping brokers or boat suppliers   | -                   | Rs.2500/- per annum   | Rs.2500/- per annum  |
| <b>23</b> | <b>Owners or Lessees of -</b>  |                     |                       |                      |
|           | (a) Beauty parlours (Non-A/c)  | -                   | Rs. 1000/- per annum  | -                    |
|           | (b) Beauty parlours (A/c)  | -                   | Rs. 2500/- per annum  | Rs. 2500/- per annum |
|           | (c) Health resorts or sliming centres  | -                   | Rs. 2500/- per annum  | Rs. 2500/- per annum |
|           | (d) Air conditioned hair dressing saloon   | -                   | Rs. 2500/- per annum  | Rs. 2500/- per annum |
|           | (e) Air conditioned restaurants  | -                   | Rs. 2500/- per annum  | Rs. 2500/- per annum |
| <b>24</b> | <b>Persons engaged in any profession or trade involving supply of goods or services</b>  |                     |                       |                      |
|           | <b>or both, being—</b>   |                     |                       |                      |
|           | (a) Dealers as defined under the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) or the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003) or the Central Sales Tax Act, 1956 (74 of 1956), whether or not liable to pay tax under the aforesaid Acts, but excluding departments of the Central or the State Governments; |                     |                       |                      |

| SL. NO.   | CLASS OF PERSONS  | RATE OF TAX |        |                    |
|-----------|---|-------------|--------|--------------------|
|           |   | ASSAM       | ORISSA | WEST BENGAL        |
|           | (b) Employers and/or Shopkeepers as defined in the West Bengal Shops and Establishments Act, 1963 (West Ben. Act XIII of 1963), whether or not their establishments or shops are situated within an area to which the aforesaid Act applies and also whether registered or not registered under that Act; |             |        |                    |
|           | (c) Co-operative societies registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983 (West Ben .Act XLV of 1983) and other registered societies;   |             |        |                    |
|           | (d) Cable operator, signal provider including M.S.O. and cable hirer in cable television network and their agents;  |             |        |                    |
|           | (e) Contractors of all descriptions engaged in any work;  |             |        |                    |
|           | (f) Owners or occupiers or licencees or lessees of factories as defined in the Factories Act, 1948 (63 of 1948);  |             |        |                    |
|           | (g) Owners, occupiers, licencees or lessees of internet cafe;   |             |        |                    |
|           | (h) Owners, occupiers, licencees or lessees of weighbridge;   |             |        |                    |
|           | (i) Owners of Subscribers Trunk Dialling (STD) or International Subscriber Dialling (ISD) booths;   |             |        |                    |
|           | (j) Owners or occupiers of cold storages;   |             |        |                    |
|           | (k) Owners or occupiers or licencees or lessees of tutorial homes and training institutes of any description;   |             |        |                    |
|           | (l) Owners or occupiers or licencees or lessees of residential hotels including guest houses, lodges, holiday homes or any other similar property let out on rent or against user fee;  |             |        |                    |
|           | (m) Owners or occupiers or licencees or lessees of cinema houses and theatres including multiplexes, video parlours, video halls, video rental libraries;   |             |        |                    |
|           | (n) Licensed vendors of country liquor, opium, bhang,pachwai or toddy;  |             |        |                    |
|           | (o) Owners, occupiers, licencees or lessees of non-air conditioned beauty parlours or spa or hair dressing saloons;   |             |        |                    |
|           | (p) Persons providing courier services;   |             |        |                    |
|           | (q) Partnership firms constituted under Indian Partnership Act, 1932 (9 of 1932) and limited liability partnership firms established under Limited Liability Partnership Firms Act, 2008 (6 of 2009);   |             |        |                    |
|           | <b>where the annual gross turnover or annual gross receipt in the preceding year or part thereof of any such person mentioned above is—</b>   |             |        |                    |
|           | (i) Not more than Rs. 5,00,000;   | -           | -      | Nil                |
|           | (ii) Above Rs. 5,00,000 but not exceeding Rs.7,50,000;  | -           | -      | Rs. 300 per annum  |
|           | (iii) Above Rs. 7,50,000 but not exceeding Rs.25,00,000;  | -           | -      | Rs. 600 per annum  |
|           | (iv) Above Rs. 25,00,000 but not exceeding Rs. 50,00,000;   | -           | -      | Rs. 1200 per annum |
|           | (v) Above Rs. 50,00,000;  | -           | -      | Rs. 2500 per annum |
| <b>25</b> | <b>Persons who are engaged in any profession, trade, or calling</b>   |             |        |                    |
|           | <b>in West Bengal, being—</b>   |             |        |                    |
|           | (a) Occupier of a jute mill, or shipper of jute, as defined in the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) or the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003);  | -           | -      | Rs. 2500 per annum |
|           | (b) Occupiers, owners, lessees or licensees of rice mills;  | -           | -      | Rs. 2500 per annum |
|           | (c) Owners or occupiers of distilleries, breweries and bottling plants;   | -           | -      | Rs. 2500 per       |

| SL. NO. | CLASS OF PERSONS   | RATE OF TAX |  |                    |
|---------|--|-------------|--|--------------------|
|         |  | ASSAM       | ORISSA   | WEST BENGAL        |
|         |  |             |  | annum              |
|         | (d) Owners, licencees or lessees of premises let out for social functions;   | -           | -  | Rs. 2500 per annum |
|         | (e) Persons providing services in relation to the security of any property or person, by providing security personnel or otherwise and including the provision of services in relation to investigation, detection or verification of any fact or activity;  | -           | -  | Rs. 2500 per annum |
|         | (f) Bookmakers and trainers licensed by Royal Calcutta Turf Club or any other Turf Club in the State;  | -           | -  | Rs. 2500 per annum |
|         | (g) Individuals or institutions conducting lotteries and authorised stockists of lottery tickets;  | -           | -  | Rs. 2500 per annum |
| 26      | Owners, Licensees or Lessees, as the case may be, of Tutorial Institutes and Training Institutes of any description including Computer Training Institutes of any description including Computer Training Institute when engaged in any profession, trade or calling other than the purpose of cultural, social or welfare activities. |             | Rs. 2,500/- per annum  |                    |
| 27      | Owners, Licensees, as the case may be, of-<br>(i) Nursing Homes, Medicals clinics, Pathologicals Laboratories, Diagnostic, X-Ray and Scanning centres.<br>(ii) Video Parlours, Video Halls and Video Cassettes/Compact Disks rental libraries  |             | Rs. 2,500/- per annum<br>Rs. 500/- per annum                                     |                    |
| 28      | Owners, Licensees or Lessees, as the case may be, of Premises/Mandaps /Halls let out for any social ceremonies including marriage ceremonies.  |             | Rs. 2,500/- per annum  |                    |
| 29      | Owners, Licensees or Lessees of Subscribers Trunk Dialing (STD) or International Subscribers Dialing (ISD) or Local Call Booths and Photocopier machines used for commercial purposes.   |             | Rs. 600/- per annum  |                    |
| 30      | Singal Provider and Cable Operators, Cable television network and their agents.  |             | Rs. 1,500/- per annum  |                    |
| 31      | Persons engaged in providing Courier Services  |             | Rs. 600/- per annum  |                    |
| 32      | Transport Contractors/Agents including Clearing and Forwarding Agencies.   |             |  |                    |
| 33      | Advertising Firms/ Agencies and Travel Agents  |             | Rs. 2,500/- per annum  |                    |
| 34      | Film Distributors except those engaged exclusively in the distribution of Oriya Film.  |             | Rs. 2,500/- per annum  |                    |
| 35      | Persons engaged in providing interior decoration services  |             | Rs. 1,500/- per annum  |                    |
| 36      | Members, Brokers, Sub-brokers and authorised Assistants of Stock Exchanges recognized under the Securities Contract (Regulation) Act, 1956 (42 of 1956)  |             | Rs. 600/- per annum  |                    |
| 37      | Other persons engaged in professions, trades, callings and employment not specified above and whose gross annual income<br>(i) does not exceed Rs. 1,60,000/-<br>(ii) exceeds Rs. 1,60,000/- but does exceed Rs. 3,00,000/-<br>(iii) exceeds Rs. 3,00,000/-  |             | Rs. 1,200/- per annum .<br>Nil<br>Rs. 1,500/- per annum<br>Rs. 2,500/- per annum |                    |

**NOTES:**

ASSAM - Revised rate for small Dealers: W.E.F. 1st April, 2008 vide notification no.FTX.21/2008/2, professional tax payable by the Dealers within the meaning of a sales tax law in Assam whose annual gross turnover of all sales within the following range:

| SLAB  | AMOUNT      |
|---|-------------|
| (i) up to Rs.4,00,000/-                             | Nil         |
| (ii) More than Rs.4,00,000/- and upto Rs.7,00,000   | Rs.1000p.a. |
| (iii) More than Rs.7,00,000/- and upto Rs.10,00,000 | Rs.1500p.a. |
| (iv) More than Rs.10,00,000 and above               | Rs.2500p.a. |

**EXEMPTION TO SENIOR CITIZEN:**

W.E.F. 1st April,2006 vide notification no.FTX/76/2006/2, declares exemption to any person above the age of 60 years from payment of tax if gross income does not exceed Rs.5.00 lakhs in a financial year.