

Decoding the Changes in Service Tax [Except Amendments in CENVAT Credit Rules, 2004] by the Finance Bill, 2016



There are several changes in the service tax legislation which are expected to impact various assessees. Reduction in the rate of interest for delay in making payment of service tax to 15 percent per annum under Section 75, increase in monetary limit for filing complaints for punishable offences from ₹50 lakh to ₹2 crore under Section 89 and restricting the power of arrest only to those situations where the tax payer has collected tax of more than ₹ 2 crore but has not paid it to the Government under Section 91 are some of the changes to be welcomed by the assessees. However, increase in limitation period under Section 73 for recovery of service tax from 18 months to 30 months may prove detrimental to the interests of the assessees.



CA. Ashok Batra

(The author is a member of the Institute. He may be reached at caashokbatra@gmail.com)

Introduction

After listening to our Hon'ble Finance Minister's Budget speech on 29th February 2016, no professional can estimate the amazingly large number of changes made or proposed in service tax by the Finance Bill, 2016.

For the purpose of ease of understanding, various changes have been divided and further sub-divided under suitable heads and sub-heads in this article.

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A. Changes Applicable With Effect From 01.03.2016

(I) Changes in Mega Exemption Notification No. 25/2012-ST, Dated 20.06.2012 *vide* Notification No. 09/2016-ST w.e.f. 01.03.2016

1. Exemption to specified services by Indian Institutes of Management (IIMs) - Entry 9B inserted

Services provided by IIMs, as per the guidelines of the Central Government, to their students, by way of the following educational programs [except executive development program] have been exempted:

- (a) Two year full time residential post graduate programs in management for the post graduate diploma in management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by the Indian Institute of Management;
- (b) Fellow program in management;
- (c) Five year integrated program in management.

Exemption to above educational programs is *clarificatory* in nature because post-graduate programs in management and fellowship programs are equivalent to the MBA and Ph.D. degrees, respectively, which get covered under education as a part of a curriculum for obtaining a qualification recognised by law. Consequently, there shall be no liability to pay service tax in respect of said programs for the past period also.

2. Retrospective exemption in certain cases relating to construction of canal, dam, etc. consequent upon amendment in the definition of term 'governmental authority' from the date of enactment of the Finance Bill, 2016

Definition of the term 'governmental authority' was amended w.e.f. 30.01.2014 with a view to exempt services provided by way of construction, erection, maintenance or alteration, etc. of canal, dam or other irrigations works provided to entities set up by the Government, but not necessarily by an Act of Parliament or a State Legislature. However, services provided to such bodies prior to 31.01.2014 remained taxable. Thus, by virtue of proposed *Section 101* of the Finance Act, 1994, no service tax shall be levied or collected in respect of the aforesaid services for the period 01.07.2012 to 29.01.2014. Refund of service tax paid on the said services for the period 01.07.2012 to 29.01.2014 shall also be allowed subject to the principle of unjust

Exemption has been provided to service in relation to information technology software when such software is recorded on a media under Chapter 85 of the First Schedule to the Central Excise Tariff Act, 1985 on which retail sale price is declared. In order to claim the aforesaid exemption, all three conditions specified in the aforesaid notification are required to be satisfied cumulatively.

enrichment. It is also worth highlighting here that in terms of proposed *Section 101(3)*, an application for the claim of refund of service tax shall be made within a period of six months from the date of enactment of the Finance Bill, 2016.

3. Restoration of exemption in respect of services provided to the Government, a Local Authority or a Governmental Authority by way of construction, repair, maintenance, etc. of specified structures or specified residential complex- Entry 12A inserted

Exemption in respect of above taxable services was withdrawn with effect from 01.04.2015. However, with a view to end disputes with regard to *ongoing contracts*, Entry 12A has been inserted. The said exemption has been restored for the services provided under a contract which had been entered into prior to 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date. It is to be noted carefully that as per the *proviso* to *Entry 12A*, above exemption shall be applicable till 31.03.2020. Thus, if such contracts do not get completed by 31.03.2020, then service tax shall become applicable on such contracts.

Retrospective exemption to services for the period 01.04.2015 to 29.02.2016 from the date of enactment of the Finance Bill, 2016: In terms of proposed *Section 102(1)* of the Finance Act, 1994, the services provided during the period from 01.04.2015 to 29.02.2016 under such contracts shall also be exempted from service tax.

Refund of service tax already paid and time limit for filing refund application: In terms of proposed *Section 102(2)*, if any assessee has already paid service tax in respect of above services provided for the period 01.04.2015 to 29.02.2016, then it shall be entitled to refund of service tax paid on the said services in accordance with the law subject to the principle of unjust enrichment. It is also worth

highlighting here that in terms of proposed Section 102 (3), an application for the claim of refund of service tax shall be made within a period of six months from the date of enactment of the Finance Bill, 2016.

4. **Exemption to services by way of construction- Entry 13 amended**

Exemption has been extended to the services provided by way of construction, erection, commissioning, installation, etc. under the following specified schemes:

- i. 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 [Entry 13(ba) inserted]**
- ii. 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 Yojana [**Entry 13(bb) inserted**]

5. **Withdrawal of exemption in respect of services by way of construction, etc. of original works pertaining to monorail and metro-reduction in scope of Entry 14(a)**

Thus w.e.f. 01.03.2016, exemption shall be available only when these services are provided to the railways.

6. **Exemption to services provided by way of construction, etc. of low cost houses under specified schemes- Insertion of Entry 14(ca)**

Exemption has been extended to services by way of construction, erection, commissioning, or installation of original works pertaining to low cost houses up to a carpet area of 60 square meters per house in a housing project approved by the competent authority under the following schemes:

- i. The "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana;
- ii. Any housing scheme of a State Government.

7. **Restoration of exemption on services to an airport, port- Entry 14A inserted**

According to *Entry 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 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date, shall be exempt from service tax. However, in terms of **first proviso to Entry 14A** in order to claim the said exemption, it shall be necessary to obtain a certificate from the Ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, to the effect that contract had been entered into before 01.03.2015. Further, in terms of **second proviso to Entry 14A**, the benefit of the said exemption shall not be available on or after 01.04.2020.

Retrospective exemption to services for the period 01.04.2015 to 29.02.2016 from the date of enactment of the Finance Bill, 2016: In terms of proposed Section 103(1) of the Finance Act, 1994, the services provided during the period from 01.04.2015 to 29.02.2016 under such contracts shall also be exempted from service tax.

Refund of service tax already paid and time limit for filing refund application: In terms of proposed *Section 103(2)*, if any assessee has already paid service tax in respect of above services provided for the period 01.04.2015 to 29.02.2016, then it shall be entitled to refund of service tax paid on the said services in accordance with the law subject to the principle of unjust enrichment. It is also worth highlighting here that in terms of proposed **Section 103 (3)**, an application for the claim of refund of service tax shall be made within a period of six months from the date of enactment of the Finance Bill, 2016.

(II) **Amendment in time limit for filing the refund application in case of services exported- Amendment in Rule 5 of the CCR, 2004 vide Notification No. 14/2016-CE(NT) w.e.f. 01.03.2016**

Time limit for filing refund application by a service provider under Rule 5 of the CENVAT Credit Rules, 2004 shall be as under:

One year from the date of –

- a) Receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
- b) Issue of invoice, where payment for the service has been received in advance i.e. prior to the date of issue of the invoice.

(III) **Exemption to service in relation to information technology software recorded**

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on a media bearing retail sale price, provided central excise duty has been paid- Notification No. 11/2016 –ST w.e.f. 01.03.2016

Exemption has been provided to service in relation to information technology software when such software is recorded on a media under Chapter 85 of the First Schedule to the Central Excise Tariff Act, 1985 on which retail sale price is declared. In order to claim the aforesaid exemption, all three conditions specified in the aforesaid notification are required to be satisfied cumulatively.

(IV) Exemption to central excise duty on media with recorded information technology software on so much value as is equivalent to the value of information technology software recorded on the said media which is leviable to service tax - Notification No. 11/2016 –CE w.e.f. 01.03.2016

In the cases where information technology software (recorded on media) is supplied domestically or imported and *does not bear the retail sale price*, difficulties have been experienced in the assessment of central excise duty/CVD in respect of such media, thus, giving rise to the issue of double taxation i.e. levy of central excise duty/CVD as well as service tax. In order to resolve the issue, media with recorded information technology software which is not required to bear RSP, is being exempted from so much of the central excise duty/CVD as is equivalent to the duty payable on the portion of the value of such information technology software recorded on the said media, which is leviable to service tax. In such cases, manufacturer/importer would, therefore, be required to pay central excise duty/CVD only on that portion of value representing the value of the medium on which it is recorded along with freight and insurance. The exemption is subject to the fulfillment of conditions specified in the above notification.

B. Changes Applicable With Effect From 01.04.2016

(I) Changes in Mega Exemption Notification No. 25/2012-ST and Notification No. 32/2012-ST w.e.f. 01.04.2016

Following changes have been made in Mega Exemption Notification No. 25/2012-ST, Dated 20.06.2012 *vide* Notification No. 09/2016-ST:

It is also pertinent to highlight here that w.e.f. 01.04.2016, legal services provided by a senior advocate have been brought under forward charge i.e. service tax shall be payable by the concerned senior advocate [Rule 2(1)(d)(i)(D)(II) of the STR, 1994 amended].



1. Exemption has been withdrawn in respect of the following services:
 - i. Legal services provided by a senior advocate to an advocate or partnership firm of advocates,
 - ii. Legal services provided by a senior advocate to a business entity with a turnover upto rupees ten lakh in the preceding financial year,
 - iii. A person represented on an arbitral Tribunal to an arbitral Tribunal –**Entry 6 amended.**

It is also pertinent to highlight here that w.e.f. 01.04.2016, legal services provided by a senior advocate have been brought under forward charge i.e. service tax shall be payable by the concerned senior advocate [Rule 2(1)(d)(i)(D)(II) of the STR, 1994 amended].

2. Exemption has been provided to services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme- **Entry 9C inserted.**
3. Exemption has been provided to services provided by training providers (project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council for Vocational Training- **Entry 9D inserted.**
4. The threshold exemption limit for the services provided by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre performance has been raised from ₹ 1,00,000 to ₹ 1,50,000- **Entry 16 amended.**
5. Exemption in respect of services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway has been withdrawn - **Entry 23(c) omitted.**

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6. Services of general insurance business provided under Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 have been exempted- **Entry 26 amended.**
 7. Services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory and Development Authority Act, 2013 have been exempted- **Entry 26C inserted.**
 8. Services provided by the Employees' Provident Fund Organisation (EPFO) to persons governed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 have been exempted- **Entry 49 inserted.**
 9. Services provided by the Insurance Regulatory and Development Authority of India (IRDA) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 have been exempted.
 10. Services provided by the Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market have been exempted- **Entry 51 inserted.**
 11. Services provided by the National Centre for Cold Chain Development (NCCCD) under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination have been exempted- **Entry 52 inserted.**
 12. Services provided by bio-incubators recognised by Biotechnology Industry Research Assistance Council (BIRAC) under the Department of Biotechnology, Government of India have been exempted from service tax- **Amendment in Notification No. 32/2012-ST, Dated 20.06.2012 vide Notification No. 12/2016-ST.**
- (II) Amendment in Service Tax Rules, 1994 vide Notification No. 19/2016-ST w.e.f. 01.04.2016**
1. The services provided by mutual fund agent/distributor to a mutual fund or asset management company, have been brought outside the ambit of reverse charge mechanism. Thus, aforesaid services have been brought under the forward charge. The small sub-agents down the distribution chain shall be eligible to avail threshold exemption limit of ₹10 lakh [**Rule 2(1)(d)(EEA) omitted along with consequential changes in reverse charge/partial reverse charge Notification No. 30/2012-ST**].
 2. The benefit of quarterly payment of service tax has been extended to 'One Person Company' and HUF [**First proviso to Rule 6(1) amended**]. In terms of Section 2(62) of the Companies Act, 2013, 'One Person Company' means a company which has only one person as a member.
 3. The facility of payment of service tax on receipt basis has been extended to 'One Person Company' [**Third proviso to Rule 6(1) amended**].
 4. The service tax liability on single premium annuity policies has been rationalised and the effective alternate service tax rate shall be 1.4% on the total premium charged, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service [**Rule 6(7A)(ia) inserted**].
 5. Every assessee shall *submit an annual return* for the financial year to which the return relates, in such form and manner as may be prescribed by the CBEC, by 30th November of succeeding financial year. Further, Central Government may specify by notification an assessee or class of assessee who may not be required to submit the aforesaid annual return [**Insertion of Rule 7(3A) and Rule 7(3B)**].
 6. An assessee who has filed annual return may submit a *revised return* within a period of one month from the date of submission of annual return [**Rule 7B renumbered and Rule 7B(2) inserted**].
 7. Where an assessee files its annual return after the due date, then it shall pay to the credit of the


Specified educational services given in the negative list of services vide Section 66D(i) are proposed to be omitted. However, the said educational services shall continue to be exempt from service tax because they have been incorporated in Mega Exemption Notification No. 25/2012-ST vide substituted paragraph 2(ia).


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Central Government, **lower** of the following two amounts:

- 1) ₹100/- per day for the period of delay in filing of annual return; or
- 2) ₹20,000/- [Rule 7C renumbered and Rule 7C (2) inserted].

(III) Amendments in Abatement Notification No. 26/2012-ST, Dated 20.06.2012 *vide* Notification No. 08/2016-ST w.e.f. 01.04.2016

1. CENVAT credit of input services has been allowed on services of *transport of goods by rail* (other than service specified at Sl. No. 2A below) at the existing rate of abatement of 70%. [Entry at Sl. No. 2 substituted]
2. Entry at Sl. No. 2A has been inserted with a view to provide reduced abatement of 60% in respect of services of *transport of goods in containers by rail* by any person *other than Indian Railways*. However, CENVAT credit of input services has been allowed in respect of aforesaid services.
3. CENVAT credit of input services has been allowed on services of *transport of passengers*, with or without accompanied belongings, by rail at the existing rate of abatement of 70%. [Entry at Sl. No. 3 amended]
4. Abatement in respect of services of goods transport agency [GTA] has been sub-divided as under:

Description of taxable services	Abatement	Availability of CENVAT credit	Relevant Entry of Notification No. 30/2012-ST
Services of goods transport agency in relation to transportation of goods other than used household goods	70%	No CENVAT credit on inputs, input services and capital goods	Entry at Sl. No. 7 amended
Services of goods transport agency in relation to transportation of used household goods	60%		Entry at Sl. No. 7A inserted

Section 73 is proposed to be amended so as to increase the limitation period from 18 months to 30 months for recovery of service tax. It may be pertinent to add here that rate of interest on failure to make payment of excess amount of service tax collected under Section 73A shall be reduced from 18% p.a. to 15% p.a. *vide* Notification No. 08/2006-ST, Dated 19.04.2006 *las* amended *vide* Notification No. 14/2016-ST, Dated 01.03.2016.

5. The abatement of 30% on services provided by a foreman to a chit fund in relation to chit has been restored without CENVAT credit on inputs, input services and capital goods. It is worth highlighting here that for the period 01.04.2015 to 31.03.2016, the foregoing services were taxable at the full rate. Consequently, during the aforesaid period:
 - (a) No abatement was available.
 - (b) CENVAT credit in respect of inputs, input services and capital goods was available. [Entry at Sl. No. 8 re-inserted]
6. Insertion of condition requiring inclusion of cost of fuel in the consideration charged for providing services of renting of motor-cab for availing the abatement of 60%. [Insertion of Explanation 'BA' in the Notification No. 26/2012-ST]
7. Credit of input services has been allowed on services of *transport of goods in a vessel* at the existing rate of abatement of 70%. [Entry at Sl. No. 10 amended]
8. The two abatement rates in respect of services by a tour operator in relation to packaged tour [75%] and other than packaged tour [60%] have been merged into unified abatement rate of 70%. Resultantly, the definition of "package tour" as given in paragraph 2(b) of abatement Notification No. 26/2012-ST has been omitted. [Entry at Sl. No. 11 substituted]
9. The abatement rate in respect of services of *construction of a complex, building, civil structure*, or a part thereof, has been rationalised at 70% by merging the two existing abatement rates i.e. 70% for high end flats and 75% for low end flats, subject to fulfillment of the existing conditions. [Entry at Sl. No. 12 substituted]

Indirect Tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is proposed to be introduced.

(IV) Clarifications

1. In order to reduce litigation, it has also been clarified that services provided by the Indian Railways to Container Train Operators (CTOs) of haulage of their container train (rake of wagons with containers) is a service of 'Transport of Goods by Rail' and tax treatment accordingly, that is, for abatement @ 70% with credit of input services-- **No 334/8/2016-TRU, Dated 29.02.2016.**
2. It has been clarified that incentives received by Air Travel Agents [ATAs] from companies providing computer reservation system [CCRS] are subject to service tax because the service provided by the ATAs to CCRS is neither covered in the negative list of services nor exempt by a notification- **F. No 334/8/2016-TRU, Dated 29.02.2016.**
3. Services provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent are already subject to reverse charge mechanism. However, *Explanation 2 to Section 65B(44)* is proposed to be amended to clarify that activity carried out by a lottery distributor or selling agents of the State Government under the provisions of the Lotteries (Regulation) Act, 1998, is leviable to service tax. With a view to bring more clarity, consequent amendment has also been made in Notification No. 30/2012-ST by substituting **column (2) of Entry 1C in Paragraph (II).**



(V) Changes in reverse charge/partial reverse charge Notification No. 30/2012-ST vide Notification No. 18/2016-ST w.e.f. 01.04.2016

In addition to changes that have been discussed hereinbefore, following changes have also been made in provisions relating to reverse charge:

1. Services provided or agreed to be provided by a mutual fund agent or distributor to a mutual fund or asset management company brought under forward charge.
2. **Omission of the words 'by way of support services'**: Column 2 of Sl. No. 6 of the table given in Notification No. 30/2012-ST has been amended *vide* Notification No. 18/2016-ST so as to *omit the words 'by way of support services'*. Thus, any service 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 provided by Government or a local authority to business entities shall be covered under reverse charge mechanism. Besides, the definition of term 'support services' [given under Section 65B (49)] has been omitted *vide* Notification No. 15/2016-ST w.e.f. 01.04.2016.

C. Proposed Changes Applicable From The Date Of The Enactment Of The Finance Bill, 2016

(I) Changes in Chapter V of the Finance Act, 1994 from the date of enactment of the Finance Bill, 2016

1. As mentioned hereinbefore, **Explanation 2 to Section 65B(44)** is proposed to be amended so as to clarify that any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998, is leviable to service tax.
2. **Specified educational services** given in the negative list of services *vide* Section 66D(l) are proposed to be omitted. However, the said educational services shall continue to be exempt from service tax because they have been incorporated in Mega Exemption Notification No. 25/2012-ST *vide* substituted paragraph 2(oa).

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Likewise, the definition of term 'approved vocational education course' given *vide* Section 65B (11) is proposed to be omitted. However, the aforesaid definition has been incorporated in Mega Exemption Notification No. 25/2012-ST *vide* paragraph 2(oa).

3. 'Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof' is proposed to be declared as a service *vide* Section 66E(j) so as to make it clear that assignment of right to use the spectrum is a service leviable to service tax and not sale of intangible goods under Article 366(29A) (d) of the Constitution of India.
4. **Section 67A(2)** is proposed to be inserted so to provide that the point in time when service has been provided or agreed to be provided shall be determined by rules made in this regard. Accordingly, in terms of *Explanation 1 to Rule 5* of the Point of Taxation Rules, 2011 [inserted w.e.f. 01.03.2016 *vide* Notification No. 10/2016-ST], this rule shall apply in case of new levy on services. Further, according to *Explanation 2 to aforesaid Rule 5* [inserted w.e.f. 01.03.2016 *vide* Notification No. 10/2016-ST], new levy or tax shall be payable on all the cases other than those given in Rule 5. Consequently, new levy on services [like Swachh Bharat Cess, Krishi Kalyan Cess] shall apply in all cases except given below:
 - a) When the invoice has been issued and the payment has been received against such invoice before such levy became applicable;
 - b) When the payment has been received before such levy becomes applicable and invoice has been issued within *fourteen days* of the date when the new levy becomes applicable for the first time.
5. **Section 73** is proposed to be amended so as to increase the limitation period from 18 months to 30 months for recovery of service tax. It may be pertinent to add here that rate of interest on failure to make payment of excess amount of service tax collected under Section 73A shall be reduced from 18% p.a. to 15% p.a. *vide* Notification No. 08/2006-ST, Dated 19.04.2006 [as amended *vide* Notification No. 14/2016-ST, Dated 01.03.2016].
6. **Section 75** is proposed to be amended by *substituting first proviso* so that in case of a



- person who collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government on or before the date on which such payment is due, the Central Government may, by Notification in the Official Gazette, specify such *other rate of interest [higher rate of interest]* as may deem necessary. In pursuance of foregoing power, Central Government has specified simple interest @ 24% p.a. *vide* **Notification No. 13/2016-ST, Dated 01.03.2016** w.e.f. from the date of enactment of the Finance Bill, 2016. However, in other situations, rate of simple interest shall be 15% p.a. in terms of aforesaid Notification No. 13/2016-ST.
7. An explanation is proposed to be inserted in Section 78A so as to provide that penalty proceedings under Section 78A [i.e. penalty for offences by director, *etc.* of a company] shall be deemed to be closed in case where the main demand and penalty proceedings have been closed under Section 76 or Section 78.
 8. The monetary limit for filing complaints for punishable offences is proposed to be increased from ₹50 lakh to ₹2 crore by amending **Section 89(1)**.
 9. **Section 90 and 91** are proposed to be amended with a view to restrict the power of arrest only in those situations where the tax payer has collected the tax but has not deposited it to the credit of the Central Government and amount of such tax collected but not paid exceeds ₹ 2 crore.
 10. **Section 93A** is proposed to be amended so as to provide that *extent and manner* of grant of rebate of service tax may be such as may be prescribed or *specified by notification in the Official Gazette*.

D. Changes Applicable With Effect From 01.06.2016

(I) Levy of Krishi Kalyan Cess w.e.f. 01.06.2016

Krishi Kalyan Cess (KKC) shall be levied and collected, as service tax @0.5% on the value of all or any of the taxable services for the purposes of financing and promoting initiatives to improve agriculture or any other purpose relating thereto. However, unlike SBC, CENVAT credit shall be available in respect of KKC- **Chapter VI [clause 158] of the Finance Bill, 2016.**

(II) Indirect Tax Dispute Resolution Scheme, 2016 applicable w.e.f. 01.06.2016

Indirect Tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is proposed to be introduced. In such cases, the proceedings against the assessee will be closed and it will also get immunity from prosecution. However, the said scheme shall not apply in the following cases:

- Cases where prosecution has already been launched;
- Cases involving narcotics and psychotropic substances;
- Cases involving detention under Conservation of Foreign Exchange & Prevention of Smuggling Activities, 1974 [COFEPOSA] --Clause 209 to 215 of the Finance Bill, 2016.

(III) Changes in Negative List of Services , Mega Exemption Notification No 25/2012-ST and Abatement Notification No 26/2012-ST w.e.f. 01.06.2016

- Services of *transportation of passengers*, with or without accompanied belongings, by a stage carriage are proposed to be omitted from **Section 66D(o)(i)**. Consequently, aforesaid services shall become taxable w.e.f. 01.06.2016. However, aforesaid services by a *non-air-conditioned stage carriage* shall continue to be exempted by way of Mega Exemption Notification No. 25/2012-ST by insertion of Entry 23(bb). Further, an abatement of 60% shall be available in respect of services of transport of passengers, with or without accompanied belongings, *by a stage carriage* by virtue of amended Entry 9A of abatement Notification No. 26/2012-ST.



- Services by way of transportation of goods by *an aircraft or a vessel* from a place outside India up to the customs station of clearance in India are proposed to be omitted from **Section 66D(p)(ii)**. However, such services by an aircraft shall continue to be exempted by way of Mega Exemption Notification No. 25/2012-ST by insertion of Entry 53.

E. Retrospective Amendments

In addition to the retrospective amendments that have been discussed hereinabove at the respective places, following retrospective amendment has also been made:

- Notification No. 41/2012- ST, Dated 29.06.2012 was amended *vide* Notification No. 01/2016-ST, Dated 03.02.2016 so as to, *inter alia*, allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods. This amendment has been made effective retrospectively w.e.f. 01.07.2012. Refund of service paid on the said services for the period 01.07.2012 to 02.02.2016 shall also be allowed subject to the principle of unjust enrichment. It is also worth highlighting here that application for refund shall be made within a period of *one month* from the date of enactment of the Finance Bill, 2016 [**Clause 157 of the Finance Bill, 2016**].

Conclusion

After going through the above-mentioned changes in service tax law, it becomes quite clear that the NDA Government has fulfilled the following promises to a great extent:

- No retrospective amendments,
- Stable tax regime,
- Simplification and rationalisation of tax structure. ■