

The Service Tax Statutory Provisions, 1994

February 26, 2013

1. EXTENT, COMMENCEMENT AND APPLICATION.

- (1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint [1st July,1994]
- (3) It shall apply to taxable services provided on or after the commencement of this Chapter.

2. DEFINITIONS.

- (1) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;
- (2) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;
- (3) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;
- (4) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);
- (5) "architect" means any person whose name is ,for time being, entered in register of architects maintained under Section 23 of Architect's Act, 1972, and also includes any commercial concern engaged in any manner ,whether directly or indirectly, in rendering services in the field of architecture;
- (6) "assessee" means a person liable to any the service tax and includes his agent;
- (7) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963(54 of 1963);
- (8) "body corporate" shall have the meaning assigned to it in or under clause (7) of section (2) of the Companies Act,1956;
- (9) "cab" means a motor cab or maxi cab;
- (10) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;
- (11) "Central Excise Officer" has the meaning assigned to it in clause (b) of section 2 of the Central Excise Act, 1944(1 of 1994);

(12) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(13) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(14) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(15) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in form of debt or otherwise , and includes credit rating of any financial obligation, instrument or security which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

(16) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act,1962);

(17) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalization) Act, 1972;

(18) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930; 1a]

(19)"insurer" means any person carrying on the general insurance business in India;

(20) "interior decorator" means any person engaged , whether directly or indirectly ,in the business providing by way of advice ,consultancy ,technical assistance or in any other manner services related to planning ,designing or beautification of spaces ,whether man-made or otherwise or includes a landscape designer;

(21) "management consultant" means any person who is engaged in providing any service ,either directly or indirectly in connection with the management of any organisation in any manner and includes any person who renders advice, consultancy, or technical assistance relating to conceptualizing ,devising, development, modification, rectification or upgrade ion of any working system of any organization;

(22) "man dap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882), and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;

(23) "man dap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;

(24) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(25) "market research agency" means any commercial concern engaged in providing any services ;

(26) "maxi cab" has a meaning assigned to it in clause (22) in section (2) of the Motor Vehicles Act ,1988;

(27) "mechanised slaughter house" means a commercial concern engaged in the business of slaughtering of animals with the aid of machine;

(28) "motor cab" has the meaning assigned to it in clause (2) of section 2 of the Motor Vehicles Act,1988;

(29) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(30) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938;

(31) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act. 1949, and includes any concern engaged in rendering services in the field of chartered accountancy;

(32) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act ,1959 and includes any concern engaged in rendering services in the field of cost accountancy;

(33) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of company secretary ship;

(34) "prescribed" means prescribed by rules made under this Chapter;

(35) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate, and includes a real estate consultant;

(36) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(37) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(38) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;

(39) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 ;

(40) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable or of any person, in any manner and includes the services of investigations, detection or verification of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(41) "service tax" means tax leviable under the provisions of this Chapter;

(42) "ship" means a sea-going vessel and includes a sailing vessel;

(43) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(44) "steamer agent" means any person who undertakes, either directly or indirectly,-

(a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(b) to book, advertise or canvass for cargo for or on behalf of a shipping line, or

(c) to provide container feeder services for or on behalf of a shipping line;

(45) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

(46) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

(47) "subscriber" means a person to whom a telephone connection or a pager has been provided by the telegraph authority;

(48) "taxable service" means any service provided-

(a) to an investor, by a stock-broker in connection with the sale or purchase, of securities listed on a recognised stock exchanges;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisements in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering,

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo including container feeder services;

(j) to a client by a clearing and forwarding agent in relation to clearing and forwarding operations in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a client, by a mandap keeper in relation to the use of a mandap in any manner including the facilities provided to the client in relation to such use and also in services, if any, rendered as a caterer;

(n) to any person by a tour operator in relation to a tour;

(o) to any person by a rent-a-cab scheme operator in relation to the renting of a cab;

(p) to a client, by an architect in his professional capacity in any manner;

(q) to a client, by an interior decorator in relation to planning design or beautification of spaces, whether man-made or otherwise, in any manner;

(r) to a client, by a management consultant in connection with the management of any organisation in any manner;

(s) to a client by a practising chartered accountant in his professional capacity in any manner;

(t) to a client, by a practising cost accountant in his professional capacity, in any manner;

(u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by real estate agent in relation to real estate,

(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity,

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client by a market research agency in relation to market research of any product service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting in any manner;

(za) to any person, by a mechanised slaughter house in relation to the slaughtering of bovine animals;

(49) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian, Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(50) "tour" means a journey from one place to another irrespective of the distance between such places;

(51) "tourist" vehicle has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988;

(52) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a tourist permit granted under the Motor Vehicle Act, 1988 or Rules made there under;

(53) "underwriter" has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(54) "underwriting" has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(55) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made there under, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise

3. CHARGE OF SERVICE TAX.

(1) On and from the date of commencement of this Chapter 1ba , there shall be levied a tax (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (a), (b) and (d) of clause (41) of section 65 collected in such a manner as may be prescribed.

(2) With effect from the date notified under 1bb section 85 of the Finance (No. 2) Act, 1996 (33 of 1996), there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (41) of section 65 collected in such a manner as may be prescribed.

(3) With effect from the date notified (T) under section 84 of the Finance Act, 1997, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) and (r) of clause (41) of section 65 collected in such a manner as may be prescribed.

(4) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998 1bd , there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (p), (q) and (r), (s), (t), (w), (x), (y) and (z) of clause (41) of section 65 collected in such a manner as may be prescribed.

(5) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998 , there shall be levied a service tax at the rate of one thousand per annum of the taxable services referred to in sub-clause (za) of clause (48) of section 65 collected in such a manner as may be prescribed. 1b.

4. VALUATION OF TAXABLE SERVICES FOR CHARGING SERVICE TAX.

For the purposes of this Chapter, the value of taxable services, –

(a) in relation to service provided by a stock-broker, shall be the aggregate of the commission or brokerage charged by him on the sale or purchase of securities from the investors and includes the commission or brokerage paid by the stock-broker to any sub-broker;

(b) in relation to telephone connections provided to the subscribers, shall be the gross total amount (including adjustments made by the telegraph authority from any deposits made by the subscribers at the time of applications for telephone connections) received by the telegraph authority from the subscribers.

Explanation : For the removal of doubts, it is hereby declared that the value of taxable service in this clause shall not include the initial deposits made by the subscribers at the time of applications for telephone connections;

(c) in relation to services of general insurance business provided to the policy holders, shall be the total amount of the premium received by the insurer from the policy holders.

Amendment of insertion clauses (d) and (e) not known – insert it.

(d) in relation to service provided by an advertising agency to a client shall be the gross amount charged by such agency from client for the services in relation to advertisement.

(e) in relation to service provided by an courier agency to a customer shall be the gross amount charged by such agency from customer the services in relation to door-to-door transportation of time sensitive ,documents ,goods and articles;

(f) in relation to service provided by a consulting engineer to a client, shall be the gross amount charged by such engineer from the client for advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(g) in relation to service provided by a custom house agent to a client, shall be the gross amount charged by such agent from the client for services rendered in any manner in relation to the entry or departure of conveyances or in relation to the import or export of goods;

(h) in relation to service provided by a steamer agent to a shipping line, shall be the gross amount charged by such agent from the shipping line for services in relation to a ship's husbandry or dispatch or any administrative work related thereto or in relation to the booking, advertising or canvassing of cargo, container feeder services, including the commission paid to such agent;

(i) in relation to service provided by a clearing and forwarding agent to a client, shall be the gross amount charged by such agent from the client for services of clearing and forwarding operations in any manner;

(j) in relation to service provided by a manpower recruitment agency to a client, shall be the gross amount charged by such agency from the client in relation to the recruitment of manpower in any manner;

(k) in relation to service provided by an air travel agent to a customer, shall be the gross amount charged by such agent from the customer for services in relation to the booking of passage for travel by air excluding the airfare but including the commission, if any, received from the airline in relation to such booking;

[1c (l) in relation to service provided by a mandap keeper to a client, shall be the gross amount charged by such keeper from the client for the use of mandap including the facilities provided to the client in relation to such use and also the charges for catering, if any;

(m) in relation to service provided by a tour operator to a client, shall be the gross amount charged by such operator from the client for services in relation to a tour and includes the charges for any accommodation, food or any other facilities provided in relation to such tour;

(n) in relation to the service provided by a rent a cab scheme operator to any person, shall be the gross amount charged by such operator from such person for services in relation to the renting of a cab and includes such rental.

(o) in relation to the service provided by an architect to a client, shall be the gross amount charged by such architect from the client for services rendered in professional capacity in any manner;

(p) in relation to the service provided by an interior decorator to a client, shall be the gross amount charged by such decorator from the client for services rendered in relation to planning, design or beautification of spaces in any manner;

(q) in relation to the service provided by a management consultant to a client, shall be the gross amount charged by such consultant from the client for services rendered in connection with the management of any organization in any manner;

(r) in relation to the service provided by a practising cost accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(s) in relation to the service provided by a practising cost accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(t) in relation to the service provided by a practising company secretary to a client, shall be the gross amount charged by such secretary from the client for services rendered in professional capacity in any manner;

(u) in relation to the service provided by a real estate agent to a client, shall be the gross amount charged by such agent from the client for services rendered in connection with the sale, purchase, leasing or renting of real estate including any advice, consultancy or technical assistance relating to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(v) in relation to the service provided by a security agency to a client, shall be the gross amount charged by such agency from the client for service rendered in connection with the security of any property or person, and includes services of investigation, detection or verification of any fact or activity including services of providing security personnel;

(w) in relation to the service provided by a credit rating agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with credit rating of any financial obligation, instrument or security in any manner;

(x) in relation to the service provided by a market research agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with market research of any product, service or utility in any manner;

(y) in relation to the service provided by an underwriter to a client, shall be the gross amount charged by such underwriter from the client for services rendered in relation to underwriting in any manner.

5. PAYMENT OF SERVICE TAX.

(1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), in respect of any taxable service notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service.

6. REGISTRATION.

Every person liable to pay the service tax under this Chapter or the rules made thereunder shall, within such time and in such manner and in such form as may be prescribed, make an application for registration to the Central Excise Officer.

7. FURNISHING OF RETURNS.

Every person liable to pay the service tax shall furnish or cause to be furnished to the Central Excise Officer, a return in such form and in such manner and at such frequency as may be prescribed.

8. ASSESSMENT.

(1) For the purpose of making an assessment under this Chapter, the Central Excise Officer may serve on any person who has furnished a return under section 70, a notice requiring him to produce within such period as may be specified therein, such accounts, documents or other evidence as he may deem necessary for such assessment.

(2) The Central Excise Officer, after considering such accounts, documents or other evidence, if any, obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the value of the taxable service and the amount of service tax payable on the basis of such assessment.

9. BEST JUDGMENT ASSESSMENT.

If – (a) any person fails to make the return under section 70, or”;

(b) any person having made a return fails to comply with all the terms of a notice issued under sub-section (1) of section 71, or

(c) the Central Excise Officer is not satisfied with the correctness or the completeness of the accounts of the assessee, the Central Excise Officer, after taking into account all the relevant material which he has gathered, shall, by an order in writing, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

10. VALUE OF TAXABLE SERVICES ESCAPING ASSESSMENT.

If – (a) the Central Excise Officer has reason to believe that by reason of omission or failure on the part of the assessee to make a return under section 70 for any quarter or to disclose wholly and truly all material facts necessary for his assessment for any quarter, the value of taxable service for that quarter has escaped assessment or has been under assessed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Central Excise Officer has, in consequence of information in his possession, reason to believe that the value of any taxable service assessable in any prescribed period has escaped assessment or has been under assessed, or

he may, in cases falling under clause (a), at any time within five years, and in cases falling under clause (b), at any time within six months from the date for filing the return, serve on the assessee a notice and proceed to assess or reassess the value of taxable service.

Explanation : Where the services for the notice is stayed by an order of a Court, the period of such stay shall be excluded in computing aforesaid period of five years or six months.

11. RECTIFICATION OF MISTAKE.

(1) With a view to rectifying any mistake apparent from the record, the Central Excise Officer who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.

(2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the Central Excise Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Central Excise Officer concerned –

(a) may make an amendment under sub-section (1) of his own motion; or

(b) shall make such amendment if any mistake is brought to his notice by the assessee or the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals).

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Central Excise Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Central Excise Officer concerned.

(6) Subject to the other provisions of this Chapter where any such amendment has the effect of reducing the assessment, the Central Excise Officer shall make any refund which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Central Excise Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

12. INTEREST ON DELAYED PAYMENT OF SERVICE TAX.

Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest at the rate of one and one-half per cent. for every month or part of the month by which such crediting of the tax or any part thereof is delayed.

13. PENALTY FOR FAILURE TO PAY SERVICE TAX.

Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, who fails to pay such tax shall pay in addition to paying such tax, and interest on that tax in accordance with the provisions of section 75, a penalty which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which such failure continues, so, however, that the penalty under this clause shall not exceed the amount of service tax that he failed to pay .

14. PENALTY FOR FAILURE TO FURNISH PRESCRIBED RETURN.

If a person fails to furnish in due time the return which he is required to furnish under section 70 or the rules made thereunder, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every week or part thereof during which such failure continues.

15. PENALTY FOR SUPPRESSING VALUE OF TAXABLE SERVICE.

If the Central Excise Officer in the course of any proceedings under this Chapter is satisfied that any person has, with intent to evade payment of service tax, suppressed or concealed the value of taxable service or has furnished inaccurate value of such taxable service, he may direct that such person shall pay by way of penalty, in addition to service tax and interest, if any, payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of service tax sought to be evaded by reason of suppression or concealment of the value of taxable service or the furnishing of inaccurate value of such taxable service :

Provided that if the value of taxable service (as determined by the Central Excise Officer on assessment) in respect of which value has been suppressed or concealed or inaccurate value has been furnished exceeds a sum of twenty-five thousand rupees, the Central Excise Officer shall not issue any direction for payment by way of penalty without the previous approval of the Commissioner Central Excise.

16. PENALTY FOR FAILURE TO COMPLY WITH NOTICE.

If the Central Excise Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section (1) of section 71, he may direct that such person shall pay, by way of penalty, in addition to any service tax and interest, if any, payable by him, a sum which shall not be less than ten per cent, but which shall not exceed fifty per cent, of the amount of the service tax, if any, which would have been avoided if the value of taxable service stated in the return by such person had been accepted as the correct value of taxable service.

17. PENALTY NOT TO BE IMPOSED IN CERTAIN CASES.

Notwithstanding anything contained in the provisions of section 76, section 77, section 78 or section 79, no penalty shall be imposable on the assessee for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure.

18. OFFENCES BY COMPANIES.

(1) Where an offence under this Chapter has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Chapter, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section, –

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

19. POWER TO SEARCH PREMISES.

(1) If the Commissioner of Central Excise has reason to believe that any documents or books or things which in his opinion will be useful for or relevant to any proceeding under this Chapter are secreted in any place, he may authorise any other Central Excise Officer to search or may himself search for such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code.

20. APPLICATION OF CERTAIN PROVISIONS OF ACT (1 OF 1944).

The provisions of the following sections of the Central Excises 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 :-

9C, 9D, 11, 11B, 11BB, 12A, 12B, 12C, 12D, 12E, 14, 15, 35F to 35O (both inclusive), 35Q, 36, 36A, 36B, 37A, 37B, 37C, 37D and 40.

21. REVISION OF ORDERS BY THE COMMISSIONER CENTRAL EXCISE.

(1) The Commissioner of Central Excise may call for the record of a proceeding under this Chapter which has been taken by the Central Excise Officer subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Chapter, pass such order thereon as he thinks fit.

(2) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.

(3) The Commissioner Central Excise shall communicate the order passed by him under sub-section (1) to the assessee, the Central Excise Officer and the Board.

(4) No order under this section shall be passed by the Commissioner of Central Excise in respect of any issue if an appeal against such issue is pending before the Commissioner of Central Excise (Appeals).

(5) No order under this section shall be passed after the expiry of two years from the date on which the order sought to be revised has been passed.

22. APPEALS TO THE COLLECTOR OF CENTRAL EXCISE (APPEALS).

(1) Any person aggrieved by any assessment order passed by the Central Excise Officer under section 71, section 72 or section 73, or denying his liability to be assessed under this Chapter, or by an order levying interest or penalty under this Chapter, may appeal to the Commissioner of Central Excise (Appeals) .

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within three months from the date of receipt of the decision or order of the Central Excise Officer, relating to service tax, interest or penalty under this Chapter :

Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(4) The Commissioner of Central Excise (Appeals) shall hear and determine the appeal and, subject to the provisions of this Chapter, pass such orders as he thinks fit and such orders may include an order enhancing the service tax, interest or penalty :

Provided that an order enhancing the service tax, interest or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Commissioner of Central Excise (Appeals) shall exercise the same powers and follow the same procedure as he exercises and follows in hearing the appeals and making orders under the Central Excises and Salt Act, 1944 (1 of 1944).

23. APPEALS TO APPELLATE TRIBUNAL.

(1) Any assessee aggrieved by an order passed by a Commissioner of Central Excise under section 84, or an order passed by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order.

(2) The Board may, if it objects to any order passed by the Commissioner of Central Excise under section 84, or the Commissioner of Central Excise may, if he objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct the Central Excise Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within three months of the date on which the order sought to be appealed against is received by the assessee, the Board or by the Commissioner of Central Excise, as the case may be.

(4) The Central Excise Officer or the assessee, as the case may be, on receipt of a 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) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within the period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of two hundred rupees.

(7) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing the appeals and making orders under the Central Excises and Salt Act, 1944 (1 of 1944).

24. WILLFUL ATTEMPT TO EVADE SERVICE TAX, ETC.

If a person willfully attempts in any manner whatsoever to evade collection or payment of any service tax, interest or penalty chargeable or imposable under this Chapter, or to suppress or conceal the total value of taxable services, he shall, without prejudice to any penalty that may be imposable on him under any other provisions of this Chapter, be punishable with imprisonment for a term which may extend to seven years and with fine.

Explanation. – For the purposes of this section, a willful attempt to evade payment of any service tax, interest or penalty chargeable or imposable under this Chapter shall include a case where any person –

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Chapter) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other document; or

(iii) willfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstances to exist which will have the effect of enabling such person to evade payment of any service tax, interest or penalty chargeable or imposable under this Chapter.

25. FAILURE TO FURNISH PRESCRIBED RETURNS.

If a person fails to furnish the return which he is required to furnish by a notice given under sub-section (2) of section 70, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Chapter, be punishable with imprisonment for a term which may extend to three years and with fine.

26. FALSE STATEMENT IN VERIFICATION, ETC.

If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

27. ABETMENT OF FALSE RETURN, ETC.

If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any taxable service which is false and which he either knows to be false or does not believe to be true or to commit an offence under section 87, he shall be punishable with imprisonment for a term which may extend to seven years and with fine.

28. CERTAIN OFFENCES TO BE NON-COGNIZABLE.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under section 87 or section 88 or section 89 or section 90 shall be deemed to be non-cognizable within the meaning of that Code.

29. INSTITUTION OF PROCEEDINGS.

A person shall not be proceeded against for any offence under section 87 or section 88 or section 89 or section 90 except with the previous sanction of the Principal Commissioner of Central Excise.

30. POWER TO GRANT EXEMPTION FROM SERVICE TAX.

(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order.

31. POWER TO MAKE RULES.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(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:

(a) collection and recovery of service tax under sections 66 and 68;

(b) the time and manner and the form in which application for registration shall be made under section 69;

(c) the form, manner and frequency of the returns to be furnished under section 70;

(d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;

(e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;

(f) any other matter which by this Chapter is to be or may be prescribed.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.

(4) Every rule made under this Chapter and every notification issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

32. POWER TO REMOVE DIFFICULTIES.

(1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

33. CONSEQUENTIAL AMENDMENT.

In the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), in the Schedule, after Entry 7 relating to the Central Excises and Salt Act, 1944 (1 of 1944), the following entry

shall be inserted, namely :

"7A. Chapter V of the Finance Act, 1994.

The Finance ministry has issued a Notification No 25/2012 Service tax dated June 20, 2012 exempting Advocates from Service Tax

This is what the Notification says :

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) **an individual as an advocate or a partnership firm of advocates 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 person represented on an arbitral tribunal to an arbitral tribunal