

Service Tax Perspective of Finance Bill, 2012



Here, service tax perspectives of the Finance Bill, 2012, as the title suggests, have been presented and discussed. Service tax provisions have been in force since 1994, and up to the enactment of the Finance Bill, 2012, taxation especially with respect to service tax has been dealt with positively. The Bill has adopted a different approach, where any activity undertaken by a person for another for consideration will fall within the ambit of service tax. The services specified in the negative list of services as well as those exempted by virtue of an exemption notification, will not attract any service tax. By taking this single step, the scope of services which attract service tax has increased manifold. Many other changes regarding service tax have either been effected or are proposed to be effected in the Bill. Here, the author has attempted to deal with significant changes either effected or proposed to be introduced in the arena of service tax.

Introduction

Service tax provisions have been in force since 01.07.1994. Since then up to the enactment of the Finance Bill, 2012, the Central Government has followed the positive policy of taxation in respect of service tax. It means that in order to levy service tax on any service it must fall within the specified list of taxable services. However, the Finance Bill, 2012 has adopted an altogether different approach. According to a new approach, any activity undertaken by a person for another for consideration will fall within the ambit of service tax. However, those services which have been specified in the negative list of services as well as those services which are exempted by virtue of an exemption notification will not attract any service tax. Hence, by taking this single step, the scope of services which will attract service tax has increased manifold. Further, many other changes have either been effected or are proposed to be effected by the Finance Bill, 2012 in respect of service tax.

Definition of "Service"-Section 65B (44) w.e.f. from Enactment of Finance Bill, 2012

The term *service* has not been statutorily defined in the Finance Act, 1994 [hereinafter abbreviated as "Act"]



CA. Ashok Batra

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

right from the inception to enactment of the Finance Act, 2011. However, now the Central Government has defined the term *service*:

“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) 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.

Further, *three Explanations* have also been appended to the above definition of term “service”. According to first Explanation nothing contained in this clause shall apply to:

- (A) The functions performed by the Members of Parliament, Members of the State Legislature, 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.

In addition, the second explanation provides that an unincorporated association or body of persons and a member thereof shall be treated as distinct persons. Moreover, an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishment of distinct persons. The third explanation provides that a person carrying on business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

Change in Charging Section-Section 66B to be Inserted on Enactment of Finance Bill, 2012

It is worth highlighting that once the above definition of term *service* becomes effective, there will be change in charging section also. Thus, section 66B reads:

“There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent, on

the value of all services, other than those services **specified in the negative list**, provided or **agreed** to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.”

Declared Services- Section 66E w.e.f. the date of enactment of Finance Bill, 2012

Since, the term *service* includes a declared service, it becomes essential to understand the meaning and philosophy of the term *declared service*. If any of following activities is undertaken by a person for another consideration, it would tantamount to provision of service. It is worth appreciating that most of the following activities are already subject to levy of service tax. The purpose of bringing these services within the ambit of term *declared services* is to remove any kind of uncertainty for ensuring the uniform application of service tax law throughout the country.

| S.No. | Brief Description |
|-------|--|
| (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; |
| (c) | Temporary transfer or permitting the use or enjoyment of any intellectual property right; |
| (d) | Development, design, programming, customization, 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. |

Since, the term *service* includes a declared service, it becomes essential to understand the meaning and philosophy of the term *declared service*. If any of following activities is undertaken by a person for another consideration, it would tantamount to provision of service. It is worth appreciating that most of the following activities are already subject to levy of service tax. ☺



Negative List of Services-Section 66D w.e.f. Date of Enactment of Finance Bill, 2012

A careful perusal of new charging Section 66B reveals that service tax will be applicable on all services other those services which are specified in the negative list. The list of services falling within the ambit of negative list has been given in Section 66D of the Bill. Here, it is sufficient to indicate that negative list in all covers 17 services, e.g. services provided by Government or a local authority, RBI, foreign diplomatic missions located in India, etc.

Significant Amendments in Service Tax Rules, 1994

Increase in Rate of Tax w.e.f. 01.04.2012

At present, service tax is levied at the rate of 10.3% on all taxable services. The said rate of tax will be increased to 12.36% with effect from 01.04.2012 by virtue of Notification no. 2/2012 dated 17.03.2012. Changes have also been made in respect of rate of tax in Service Tax Rules 1994 and Works Contract (Composition Scheme of Payment of Service Tax) Rules 2007.

| Taxable Service | Special Rate of Tax w.e.f. 01.04.2012 |
|--|--|
| Services In Execution of Works Contract | 4.8% |
| Money Changer Services[Falling under Rule 6(7B) of Service Tax Rules, 1994] | |
| Up to ₹1,00,000/- | 0.12% of the gross amount of currency exchanged, subject to minimum amount of ₹30/- |
| An amount exceeding ₹1,00,000/- and up to ₹10,00,000 | 120/- [calculated @ 0.12% on first ₹1,00,000] plus 0.06% [on the remaining balance] of the gross amount of currency exchanged |
| An amount exceeding ₹10,00,000/- | ₹660 [calculated on first ₹10,00,000 as per above second slab] plus 0.012% [on the remaining balance] of the gross amount of currency exchanged, subject to maximum amount of ₹6,000/- |
| Distributor or Selling Agent of Lotteries[Falling under Rule 6(7C) of Service Tax Rules, 1994] | |
| If the lottery or lottery scheme is one where guaranteed prize payout is more than 80% | ₹7,000/- on every ₹10 lakh (or part of ₹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 guaranteed prize payout is less than 80% | ₹11,000/- on every ₹10 lakh (or part of ₹10 Lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw |

The special rate of tax payable in respect of life insurance business services (falling under Rule 6(7A) of Service Tax Rules, 1994) has also been increased from 1.5 % to 3 % in respect of first year premium charged from policy holders. However, in all subsequent years, the rate of service tax has been retained at 1.5% of the amount of premium.

Exemption of 60% to Transport of Passengers by Air Services w.e.f. 01.04.2012

Exemption of 60% has been provided in respect to

services provided by an aircraft in relation to scheduled or non-scheduled air transport vide Notification no. 06/2012 dated 17.03.2012.

Extension of Time limit for Issuance of Invoice (Rule 4A)

In terms of Rule 4A of STR, 1994 prevailing up to 31-03-2012 a service provider is required to issue an invoice either within 14 days from the date of completion of service or receipt of any payment received against such taxable service, whichever is earlier. However, with effect from 01.04.2012, the above-mentioned time limit of 14 days stands revised:

| | |
|--|--|
| A service provider providing any service other than Banking & other financial services | 30 days from the date of completion of relevant taxable service. |
| A service provider providing engaged in providing Banking & other financial services | 45 days from the date of completion of these taxable services |

No Need to Issue Supplementary Invoice in Specific Situation (Sixth Proviso to Rule 4A)

With effect from 01.04.2012 where taxable service provider receives an amount up to ₹1000/- in excess of the amount as indicated in the invoice, no supplementary invoice is required to be issued provided that service provider has opted to determine the point of taxation based on the option given in Point of Taxation Rules, 2011 [hereinafter abbreviated as POT Rules, 2011]. In simple words, in the above situation, an exception has been carved out where a service provider need not comply with the POT Rules, 2011. This relaxation will benefit all service providers, particularly service providers engaged in providing telecommunication services and providing credit card, debit card and charge card services.

Payment of Service Tax (Rule 6) w.e.f. 01.04.2012

Two new provisos will be inserted to Rule 6(1) of Service Tax Rules 1994 with effect from 01.04.2012. The two new provisos stipulate:

- a) According to newly inserted third proviso taxable services covered under Rule 3(1) of Service Tax Rules, this sub-Rule shall not apply if the payment is received within the period specified by the R.B.I. including such extended period as may be allowed from time to time. In simple words, the special dispensation allowed to Exporters of Services under Rule 7(a) of the POT Rules, 2011 has been shifted to Service Tax Rules with a view to ensure certainty in the application of rate of tax

while retaining the benefit of payment of tax until payment is received.

- b) According to newly inserted fourth proviso in case of individuals and partnership firms whose aggregate value of taxable services provided from all the premises does not exceed ₹50 lakh in the preceding financial year, the service provider shall have an option to pay tax on taxable services provided or to be provided by him up to ₹50 lakh in the current financial year, by the dates specified in this sub-rule with respect to the month or quarter, in which payment is received. It is worth highlighting that earlier only eight categories of service providers (including practicing CAs) were entitled to deposit service tax on receipt basis. However, with effect from 01.04.2012, all service providers have been given the benefit of depositing tax on receipt basis if their aggregate value of taxable services does not exceed ₹50 lakh in the preceding financial year.

Certain Relaxations for Self-Adjustment of Excess Tax Paid (Rule 6(4B) of STR, 1994 w.e.f. 01.04.2012

The upper ceiling of ₹2,00,000/- of self-adjustment of service tax has been removed with effect from 01.04.2012. Further, the details and reasons for such self-adjustment need not be intimated to the Superintendent of Central Excise with effect from 01.04.2012.

Amnesty from Penalty in r/o Renting of Immovable Property Services- Insertion of Section 80(2)

If tax on renting of immovable services as due on 06.03.2012 is fully deposited along with interest within six months from the date on which the Finance Bill, 2012 receives the assent of the President, no penalty will be levied.

Important Changes in Point of Taxation Rules w.e.f. 01.04.2012

Amendment in definition of "Continuous Supply of Service":

Notification no. 4/2012 dated 17.03.2012 has amended the definition of Continuous Supply of Service. As per current position, the term "Continuously" is generally

The special rate of tax payable in respect of life insurance business services (falling under Rule 6(7A) of Service Tax Rules, 1994) has also been increased from 1.5 % to 3 % in respect of first year premium charged from policy holders. However, in all subsequent years, the rate of service tax has been retained at 1.5% of the amount of premium. ☺

A ccording to newly inserted third proviso taxable services covered under Rule 3(1) of Service Tax Rules, this sub-Rule shall not apply if the payment is received within the period specified by the R.B.I. including such extended period as may be allowed from time to time. ”



misunderstood as the service which takes more than three months for completion. However, with the insertion of the words **or on recurrent basis**, it has been clarified that even if same service is provided repeatedly under the contract for a period exceeding three months in such a case same will be considered as “Continuous Supply of Service”.

Insertion of New Rule regarding Date of Payment:

After Rule 2 of Point of Taxation Rules, 2011, Rule 2A has been inserted which defines the **Date of Payment**. The Department has, inter alia, clarified vide D.O.F. No. 334/1/2012-TRU dated 16.03.2012 that a new rule has been created keeping in view impending change in rate effective from April 1, 2012 and introduction of Negative List at a later date. In normal circumstances this date shall be earlier of the dates of entry into books of accounts or actual credit in the bank account (when applicable). However, when there is change in effective rate of tax or a new levy between the said two dates, the date of payment shall be date of actual credit in the bank account, if the amount is credited through a banking instrument more than four working days after the date of such change.

Amendment in Determination of Point of Taxation (Rule 3):

Following provisos are being inserted in the Rule 3 after Clause (b):

- (i) In case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service

- provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service;
- (ii) Wherever the provider of taxable service receives a payment up to rupees one thousand in excess of the amount indicated in the invoice, the point of taxation to the extent of such excess amount, at the option of the provider of taxable service, shall be determined in accordance with the provisions of Clause (a).

The first proviso is nothing but is the explanation which was firstly appended to the Rule 6 of POT Rules, 2011. There is no difference in the Rule 3 and the Rule 6 of POT Rules, 2011 except this explanation. Now, this explanation has been incorporated in the Rule 3 itself by way of proviso. *Consequently, Rule 6 of Point of Taxation Rules, 2011 has been omitted.*

The second proviso has been newly inserted in the Rule 3 of POT Rules, 2011. As per this proviso, if a service provider receives payment up to ₹1,000 in excess of the amount specified in the invoice, in that case service provider has an option to pay tax as per the provisions of Clause (a) of the said Rule. This amendment has been made in order to make the relevant amendment in Rule 4A (by inserting sixth proviso) of STR, 1994 workable.

Amendment in respect to Payment of Tax in Cases of New Services (Rule 5) Current Position:

Presently Rule 5 reads as under:

“5. Payment of tax in cases of new services.-

Where a service, **not being a service covered by rule 6**, is taxed for the first time, then, –

- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been **issued within the period referred to in Rule 4A of the Service Tax Rules, 1994**”.

Now, Rule 5 has been substituted with the following new Rule:

“5. Payment of tax in case of new services.—

Where a service is taxed for the first time, then,—

- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued **within fourteen days of the date when the service is taxed for the first time.**”.

It is apparently clear from the aforesaid provisions

that there are two major differences in the both new Rule 5 and Rule 5 which is to be substituted. These have been discussed as under:

- (1) *Omission of words "not being a service covered by rule 6"*: Since, Rule 6 itself has been omitted; these words are of no significance in this Rule.
- (2) Substitution of words "*issued within the period referred to in rule 4A of the Service Tax Rules, 1994*" with "*issued within **fourteen** days of the date when the service is taxed for the first time*"

Rule 7 regarding Specified Services or Persons Amended:

A new Rule 7 has been substituted in place of the old Rule 7. As per the current Rule, notwithstanding anything contained in the POT Rules, 2011, the point of taxation in respect of following Services is the *date on which payment is received or made*:

- (a) The services covered by *sub-Rule (1) of Rule 3* of Export of Services Rules, 2005;
- (b) The persons required to pay tax as recipients under the rules made in this regard in respect of services notified under *sub-Section (2) of Section 68* of the Finance Act, 1994;
- (c) Individuals or proprietary firms or partnership firms providing following taxable services (i) Consulting Engineer's Service [65 (105)(g)]
(ii) Architect's Services [65 (105)(p)]
(iii) Interior Decorator's Service [65 (105)(q)]
(iv) Chartered Accountant Service [65 (105)(s)]
(v) Cost Accountant Service [65 (105)(t)]
(vi) Company Secretary Service [65 (105)(u)]
(vii) Scientific and Technical consultancy [65 (105)(za)]
(viii) Legal Service [65 (105)(zzzzm)]

However, as per the substituted Rule 7 with effect from 01.04.2012, point of taxation in respect of the persons required to pay tax as recipient of service shall be the date on which payment is made, provided payment should be made within six months of the date of invoice. Further, as per substituted second proviso to Rule 7 in case of *associated enterprises*, where the person providing the service is located outside India, the point of taxation shall be the *date of debit (under the erstwhile second proviso it was date of credit)* in the books of account of the person receiving the service or date of making the payment whichever is earlier.

On the other hand, in case of export of services & above-mentioned eight specified services, the point of taxation is the date of payment. The special dispensation has been shifted from the POT Rules to Service Tax Rules with a view to provide certainty in the application of rate of tax.

Determination of Point of Taxation on the basis of Best Judgment:

A new Rule 8A has been inserted by which power has been granted to Central Excise Officer to determine Point of Taxation by way of Best Judgment where the tax-payer is unable to furnish the necessary details i.e. date of payment or date of invoice or both for determining the Point of Taxation.

Exemption to Small Service Providers w.e.f. 01.04.2012:

Amendment has been made in the meaning of term "aggregate value" [vide notification 5/2012 dated 17.03.2012] keeping in view the fact that first clearances up to ₹10 lac will be constituted in terms of invoices and not payments received.

Deferring tax on Transport of Goods by Rail Services:

Following three notifications has been issued for **extending** the exemptions/ provisions governing taxability of "Transport of Goods by Rail" to 01.07.2012:

| Notification No | Purpose |
|-------------------------|--|
| 7/2012 dated 17.03.2012 | Exemption to goods transported by rail |
| 8/2012 dated 17.03.2012 | Exemption to specified goods |
| 9/2012 dated 17.03.2012 | Abatement of 70% |

Provisions Applicable w.e.f Date on which Proposed Section 66B is Made Applicable

Amendment in Service Tax (Determination of Value) Rules, 2006:

Notification No. 11/2012 dated 17.3.2012 amended Service Tax (Determination of Value) Rules, 2006. The amendment Rules shall come in to force on the date



However, as per the substituted Rule 7 with effect from 01.04.2012, point of taxation in respect of the persons required to pay tax as recipient of service shall be the date on which payment is made, provided payment should be made within six months of the date of invoice. ”

on which section 66B of the Finance Act, 1994 comes in to effect.

Determination of Value in respect to Services in Execution of Works Contract (Rule 2A):

Rule 2A of the Rules has been substituted by new Clause 2A. New Rule 2A uses the words *in Clause (8) of the Section 66E of the Act in place of in sub-Clause (zzzza) of Clause (105) of Section 65 of the Act* used in erstwhile Rule 2A. Similarly, words or sales tax as the case may be have been deleted from the erstwhile Rule 2A(ii) and the same has been reframed as "Clause (c)" under the explanation to Rule 2A(i) in new amended Rules. New Rule 2A(ii) has been inserted stating that where value has not been determined under Clause (i), the person liable to pay tax on the taxable service involved in the execution of the works contract shall determine in the manner prescribed there.

As per Rule 2A(ii), where value has not been determined under Rule 2A(i) same may be determined:

- (A) If work contract has been entered into for execution of *original works* then tax shall be payable on 40% of *total amount* charged for the work contract. It is also provided that where gross amount charged for execution of work contract includes the value of land tax shall be payable on 25% of the total amount including such gross amount
- (B) In case of other works contract including completion



After Rule 2 of Point of Taxation Rules, 2011, Rule 2A has been inserted which defines the *Date of Payment*. The Department has, inter alia, clarified vide D.O.F. No. 334/1/2012-TRU dated 16.03.2012 that a new rule has been created keeping in view impending change in rate effective from April 1, 2012 and introduction of Negative List at a later date.☺☺

and finishing services not covered under Clause (A) service tax shall be payable on 60% of the total amount charged for the works contract.

Terms *original works* and *total amount* have been explained in the explanation to Clause (B). *Original works* means all new construction and all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable. Similarly, *total amount* means sum total of gross amount and the value of all goods (excluding the VAT tax paid, if any) and services supplied free of cost for use in or in relation to the execution of works contract, under the same contract or any other contract. For a situation, where value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of fair market value of the goods or services that have closely available resemblance.

Determination of Value of Taxable Service involved in Supply of Food and Drinks in a Restaurant or as Outdoor Catering:

New Rule 2C has been inserted after Rule 2B. New Rule 2C deals with determination of value of taxable service involved in supply of food and drinks in a restaurant or as outdoor catering. Rule 2C states that, subject to Section 67 of the Finance Act, 1994, value of taxable service involved in the supply of food or drinks for consumption in a restaurant shall be 40% of the total amount and if provided as an outdoor caterer shall be 60% of the total amount. For the purpose of Rule 2C "total amount" has been defined in explanation 1 to Rule 2C. "total amount" means the sum total of gross amount and the value of all goods (excluding the VAT tax paid, if any) and services supplied free of cost for use in or in relation to supply of food or any other article of human consumption or any drink, under the same contract or any other contract. It is also provided that where value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of fair market value of the goods or services that have closely available resemblance. Explanation 2 to Rule 2C states that any goods mentioned under chapter 1 to 22 of the CETA, 1985 [which deals with food and beverages] mean for human consumption shall not be considered as "input" for service portion in an activity wherein goods, being food or any other article of human consumption or drink is supplied in any manner as part of activity.

Inclusions & exclusions in the Value of Taxable Service (Rule 6):

Under Rule 6 of the erstwhile Rules, under sub-rule (i)

Terms *original works* and *total amount* have been explained in the explanation to Clause (B). *Original works* means all new construction and all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable.☺☺



words "in any manner; and" in clause (viii) has been substituted by words "in any manner". A new inclusion in the value of taxable service namely "*the amount realized as demurrage or by any other name whatever called for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service*" has been added to the list of inclusions.

Further, in sub-Rule (2) (which deals with exclusions) for Clause (iv) (which used to read *Interest on loans*), the following clause shall be substituted:

1. Interest on-
 - (a) deposits; and
 - (b) delayed payment of any consideration for the provision of services or sale of goods; and
- After clause (v), the following clause shall be inserted:
- (vi) Accidental damages due to unforeseen actions not relatable to the provision of service.

Rule 7 of the erstwhile Rules has also been omitted altogether by amendment Rules 2012.

Exemption Notification:

Notification no 12/2012 dated 17.03.2012 has granted exemption to specified services and specified service providers/recipients.

Abatements in respect of Certain Services w.e.f. Date on which Section 66B Comes into Effect

The following table briefly exhibits the comparative position of taxability after availing benefit of abatements in respect of specified services:

| Sl. No. | Name of Taxable Service | Existing Taxable Portion | Proposed Taxable Portion | CENVAT Credit |
|---------|---|--------------------------|--------------------------|--|
| 1. | Convention center or mandap with catering | 60% | 70% | All credit except on inputs, of Chapter 1 to 22 of CETA, 1985 will now be available. |
| 2. | Pandal or Shamiana with catering | 70% | 70% | |
| 3. | Costal Shipping | 75% | 50% | No Credit as at present |
| 4. | Accommodation in hotel etc. | 50% | 60% | Credits on input services allowed |
| 5. | Railways: goods | 30% | 30% | All credits will be allowed |
| 6. | Railways: Passengers | New Levy | 30% | All credits will be allowed |

It is clarified that above list is illustrative only.

Service Tax Liability under Reverse Charge

Normally a service provider is liable to discharge/deposit Service Tax to the credit of Central Government. However in order to safeguard the revenue in certain situations the liability for discharging Service Tax liability has been shifted to service recipients which is popularly known as 'Reverse charge Mechanism'.

Position prior to enactment of Finance Bill 2012

The services used to fall within the ambit of Section 68(2) read with Rule 2(1)(d) of Service Tax Rules, 1994 are goods transport agency, general insurance business, insurance auxiliary service by an insurance agent, service provided by a person from a country

other than india, business auxiliary service of mutual fund distributor and sponsorship service.

Position after Enactment of Finance Bill 2012

The scope of Reverse charge mechanism has been enlarged by including within its ambit 10 services in total. Besides, it is also worth mentioning that for the first time in respect of certain taxable services liability for payment of service tax has been shifted to be discharged both by the relevant service provider as well as the service receiver.

The services in relation to which both service recipients as well as the service providers are required to discharge service tax liability in a specified proportion are:

This mechanism of distribution of service tax liability between the service provider and service recipient shall only be applicable if such services are provided by any individual, Hindu undivided family, proprietary firm, partnership firm whether registered including association of persons, located in the taxable territory to any body corporate.

In addition to the services specified in the table above, the following services have also been added vide Notification No. 15/2012 wherein service tax is payable by the recipient of service:

- a) Services provided or agreed to be provided by an Arbitral Tribunal



Normally a service provider is liable to discharge/ deposit Service Tax to the credit of Central Government. However in order to safeguard the revenue in certain situations the liability for discharging Service Tax liability has been shifted to service recipients which is popularly known as 'reverse charge mechanism'.

- b) Services provided or agreed to be provided by an Individual Advocate
c) Services provided or agreed to be provided by way of support service by Government or local body.

Significant Changes in CENVAT Credit Rules, 2004 w.e.f. 01.04.2012 unless otherwise Specified

Various changes have been effected in CENVAT Credit Rules, 2004 by Notification No. 18/2012-Central Excise (N.T.) dated 17.03.2012. However, here only the most important changes have been given:

A. Substitution of Rule 5 w.e.f. 01.04.2012:

This Rule deals with refund of CENVAT credit. The substituted Rule 5 does not require any kind of correlation between exports and input services used in such exports. In other words, duties or taxes paid on any goods or services which qualify as inputs or input services will be entitled to be refunded in the ratio of export turnover to the total turnover.

B. Change in Rule 6(3) w.e.f. 01.04.2012:

Consequent upon increase in rate of service tax from 10% to 12%, the service tax rate for CENVAT reversal in respect of exempt services has also been increased from 5% to 6% of the exempted services.

C. Enlargement of Scope of Duty Paying Documents Specified under Rule 9(1) w.e.f. 01.04.2012:

Rule 9(1)(e) has been substituted with a view to allow availment of credit on the basis of a challan evidencing payment of service tax by the service recipient as the person liable to pay service tax.

D. Amendment in Rule 14 w.e.f. 17.03.2012:

Rule 14 deals with recovery of CENVAT credit wrongly taken or erroneously refunded. The words *taken or utilised wrongly* have been substituted with the words *taken and utilised wrongly*. The effect of aforementioned substitution is that interest does not become recoverable in a situation where the assessee by mistake takes the CENVAT credit but reverses the same before its utilization.

Conclusion

The Finance Bill, 2012 proposes to make multi-dimensional changes in the scope of service tax. In order to properly understand these changes, thorough reading of the relevant Act, rules and notifications, circulars and departmental clarifications is required. Finally, these changes have also enlarged the scope for professional services provided by chartered accountants. ■