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Finance Act 1994

Chapter 5 - Service Tax

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(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.

(3) It shall apply to taxable services provided on or after the commencement of this Chapter.

Section 65 - Definitions

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65 . [1][Definitions.--

In this Chapter, unless the context other wise requires,--

(1) "actuary" has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938);

(2) "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;

(3) "advertising agency" means any [55][person] engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

[2][(3a) "aircraft" has the meaning assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);

[38][(3b) "aircraft operator" means any person who provides the service of transport of goods or passengers by aircraft;]

(3c) "airport" has the meaning assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994(55 of 1994);

(3d) "airports authority" means the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994(55 of 1994) and also includes any person having the charge of management of an airport or a civil enclave;]

(4) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air

(5) "Appellate Tribunal" means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);

(6) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972), and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

(7) "assessee" means a person liable to pay the service tax and includes hi s agent;

[39][(7a) "auction of property" includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property;]

[71][(7b) associated enterprise has the meaning assigned to it in section 92A of the Income-tax Act, 1961(43 of 1961);]

(8) "authorised dealer of foreign exchange" has the meaning assigned to "authorised person" in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(9) "authorised service station" means any service station, or centre, authorised by any motor vehicle manufacturer, to carry out any [80][service, repair, reconditioning or restoration] of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;

[39][(9a) "automated teller machine" means an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions;

(9b) "automated teller machine operations, maintenance or management service" means any service provided in

relation to automated teller machines and includes site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value-added services;

(9c) "banker to an issue" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934(2 of 1934), carrying on the activities relating to an issue including acceptance of application, application money, allotment money and call money, refund of application money, payment of dividend and interest warrants;]

(10) "banking" has the meaning assigned to it in clause (b) of section 5 of the B anking Regulation Act, 1949 (10 of 1949);

(11) "banking company" has the meaning assigned to it in clause (a) of section 45 A of the Reserve Bank of India Act, 1934 (2 of 1934);

[3][(12) "banking and other financial services" means--

(a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate [57][or commercial concern], namely:--

(i) financial leasing services including equipment leasing and hire-purchase;

[58][Explanation.--For the purposes of this item, "financial leasing" means a lease transaction where--

(i) contract for lease is entered into between two parties for leasing of a specific asset;

(ii) such contract is for use and occupation of the asset by the lessee;

(iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and

(iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;]

[40][***]

(iii) merchant banking services;

(iv) securities and foreign exchange (forex) broking;

(v) asset management including portfolio management, all forms of fund management, pension fund management, [59][custodial, depository and trust services];

[72][(iv) securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing;]

(vii) provision and transfer of information and data processing; and

[41][(viii) banker to an issue services; and

(ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange, transfer of money including telegraphic transfer, mail transfer and electronic transfer, providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults, operation of bank accounts;]

[73][(b) foreign exchange broking and purchase or sale of foreign currency, including money changing provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer, other than those covered under sub-clause (a);]

(13) " Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(14) "body corporate" has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);

(15) "broadcasting" has the meaning assigned to it in clause (c) of section 2 of the Prasar Bharti (Broadcasting Corp oration of India) Act, 1990 (25 of 1990) and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or [4][collecting the

broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multi system operator or any other person on behalf of the said agency] or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner;

(16) "broadcasting agency or organisation" means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or [4][collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multi system operator or any other person on behalf of the said agency] or organisation;

[5]['(17) "beauty treatment" includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services;';]

(18) "beauty parlour" means any establishment providing beauty treatment services;

[6][(19) "business auxiliary service" means any service in relation to,--

(i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(ii) promotion or marketing of service provided by the client; or

[94][***]

(iii) any customer care service provided on behalf of the client; or

(iv) procurement of goods or services, which are inputs for the client; or

[7]['Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this

sub-clause, "inputs" means all goods or services intended for use by the client,;]

[7][(v) production or processing of goods for, or on behalf of, the client;]

(vi) provision of service on behalf of the client; or

(vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision, and includes services as a commission agent, [88][but does not include any activity that amounts to manufacture of excisable goods].

[9][Explanation.--For the removal of doubts, it is hereby, declared that for the purposes of this clause,--

(a) "commission agent" means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person--

(i) deals with goods or services or documents of title to such goods or services; or

(ii) collects payment of sale price of such goods or services; or

(iii) guarantees for collection or payment for such goods or services; or

(iv) undertakes any activities relating to such sale or purchase of such goods or services;

[89][(b) excisable goods has the meaning assigned to it in clause (d) of section 2 of the Central Excise Act, 1944 (1 of 1944);

(c) manufacture has the meaning assigned to it in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944);]

(19a) "business exhibition" means an exhibition,--

(a) to market; or

(b) to promote; or

(c) to advertise; or

(d) to showcase,

any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be;]

[95][(19b) business entity includes an association of persons, body of individuals, company or firm but does not include an individual;]

[60][(20) "cab" means--

(i) a motorcab, or

(ii) a maxicab, or

(iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

Provided that the maxi cab referred to in sub-clause (ii) or motor vehicle referred to in sub-clause (iii) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab;]

(21) "cable operator" has the meaning assigned to it in clause (aa) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995);

(22) "cable service" has the meaning assigned to it in clause (b) of section 2 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995);

[76][(23) cargo handling service means loading, unloading, packing or unpacking of cargo and includes,--

(a) cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service incidental to freight; and

(b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking, but does not include, handling of export cargo or passenger baggage or mere transportation of goods;]

(24) "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 ac coutrements for any purpose or occasion;

[2][(24a) "civil enclave" has the meaning assigned to it in clause (i) of section 2 of the Airports Authority

of India Act, 1994(55 of 1944);]

[7][(24b) "cleaning activity" means cleaning, including specialised cleaning services such as disinfecting,

exterminating or sterilising of objects or premises, of--

(i) commercial or industrial buildings and premises thereof; or

(ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof,

but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying;]

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

[7][(25a) "club or association" means any person or body of persons providing services, facilities or

advantages, for a subscription or any other amount, to its members, but does not include--

(i) any body established or constituted by or under any law for the time being in force; or

(ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or

(iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(iv) any person or body of persons associated with press or media;

(25b) [96]["commercial or industrial construction"] means--

(a) construction of a new building or a civil structure or a part thereof; or

(b) construction of pipeline or conduit; or

(c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or

(d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is--

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams;]

(26) "commercial training or coaching" means any training or coaching provided by a commercial training or coaching centre;

(27) "commercial training or coaching centre" means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;

(28) [10][***]

(29) "commissioning and installation agency" means any agency providing service [11][in relation to

erection, commissioning or installation;]

(30) "computer network" has the meaning assigned to it in clause (j) of sub -section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

[12][(30a) "construction of complex" means--

(a) construction of a new residential complex or a part thereof; or

(b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;]

(31) "consulting engineer" means any professionally qualified engineer or [43][any body corporate or any

other firm] who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner [77][to any person] in one or more disciplines of engineering;

(32) "convention" means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation;

(33) "courier agency" means a [55][any person] 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;

[39][(33a) "credit card, debit card, charge card or other payment card service" includes any service provided,--

(i) by a banking company, financial institution including non-banking financial company or any other person (hereinafter referred to as the issuing bank), issuing such card to a card holder;

(ii) by any person to an issuing bank in relation to such card business, including receipt and processing of application, transfer of embossing data to issuing bank's personalisation agency, automated teller machine personal identification number generation, renewal or replacement of card, change of address, enhancement of credit limit, payment updation and statement generation;

(iii) by any person, including an issuing bank and an acquiring bank, to any other person in relation to settlement of any amount transacted through such card.

Explanation.--For the purposes of this sub-clause, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card;

(iv) in relation to joint promotional cards or affinity cards or co-branded cards;

(v) in relation to promotion and marketing of goods and services through such card;

(vi) by a person, to an issuing bank or the holder of such card, for making use of automated teller machines of such person; and

(vii) by the owner of trade marks or brand name to the issuing bank under an agreement, for use of the trade mark or brand name and other services in relation to such card, whether or not such owner is a club or association and the issuing bank is a member of such club or association.

Explanation.--For the purposes of this sub-clause, an issuing bank and the owner of trade marks or brand name shall be treated as separate persons;]

(34) "credit rating agency" means any [55][person] engaged in the business of credit rating of any debt o

bligation or of any project or programme requiring finance, whether in the form of debt or other wise, 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;

(35) "custom house agent" means a person licensed, temporarily or other wise, under the regulations made under sub -section (2) of section 146 of the Customs Act, 1962 (52 of 1962);

[39][(35a) "customs airport" means an airport appointed as such under clause (a) of subsection (1) of

section 7 of the Customs Act, 1962(52 of 1962);]

(36) "data" has the meaning assigned to it in clause (o) of sub -section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

[7][(36a) "dredging" includes removal of material including, silt, sediments, rocks, sand, refuse, debris,

plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary;]

[58][(36b) "design services" includes services provided in relation to designing of furniture, consumer

products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models;

(36c) "development and supply of content" includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films;]

(37) "dry cleaning" includes dry cleaning of apparels, garments or other textile, fur or leather articles;

(38) "dry cleaner" means any [55][person] providing service in relation to dr y cleaning;

(39) "electronic form" has the meaning assigned to it in clause (r) of sub -section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

[13][(39a) "erection, commissioning or installation" means any service provided by a commissioning and installation agency, in relation to,--

(i) erection, commissioning or installation of plant, [44][machinery, equipment or structures, whether pre-fabricated or otherwise]; or

(ii) installation of--

(a) electrical and electronic devices, including wirings or fittings therefore; or

(b) plumbing, drain laying or other installations for transport of fluids; or

(c) heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work; or

(d) thermal insulation, sound insulation, fire proofing or water proofing; or

(e) lift and escalator, fire escape staircases or travelators; or

(f) such other similar services;]

(40) "event management" means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, [61][sports, marriage or any other event] and includes any consultation provided in this regard;

(41) "event manager" means any person who is engaged in providing any service in relation to event management in any manner;

(42) "facsimile (FAX)" means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;

(43) "fashion designing" includes any activity relating to conceptualising, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto;

(44) "fashion designer" means any person engaged in providing service in relation to fashion designing;

(45) "financial institution" has the meaning assigned to it in clause (c) of section 45 -I of the Reserve B ank of India Act, 1934 (2 of 1934);

(46) "foreign exchange broker" includes any authorised dealer of foreign exchange;

[2][(46a) "forward contract" has the meaning assigned to it in clause (c) of section 2 of the Forward Contracts (Regulation) Act, 1952(74 of 1952);]

[14][(47) "franchise" means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;

(48) "franchisor" means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on hi s behalf and the term "franchisee" shall be construed accordingly;

(49) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

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

[2][(50a) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988(59 of 1988);

(50b) "goods transport agency" means any [45][person who] provides service in relation to transport of

goods by road and issues consignment note, by whatever name called;]

(51) "health and fitness service" means service for physical well being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service;

(52) "health club and fitness centre" means any establishment, including a hotel or a resort, providing health and fitness service;

(53) "information" has the meaning assigned to it in clause (v) of sub -section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

[71][(53a) information technology software means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment;]

(54) "insurance agent" has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);

(55) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;

[2][(55a) "intellectual property right" means any right to intangible property, namely, trade marks, designs,

patents or any other similar intangible property, under any law for the time being in force, but does not include copyright;

(55b) "intellectual property service" means,--

(a) transferring, [15][temporarily]; or

(b) permitting the use or enjoyment of,

any intellectual property right;]

(56) "intermediary or insurance intermediary" has the meaning assigned to it in clause (f) of sub -section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

[39][(56a) "international journey", in relation to a passenger, means his journey from any customs airport on board any aircraft to a place outside India;

(56b) "internet" means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancements or upgradations and is able to support communications using the Transmission Control Protocol or Internet Protocol suite or its subsequent enhancements or upgradations and all other Internet Protocol compatible protocols;]

(57) "internet cafe" means a commercial establishment providing facility for accessing internet;

[78][(57a) internet telecommunication service includes,--

(i) internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider,

(ii) internet access services, including provision of a direct connection to the internet and space for the customers web page,

(iii) provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet;]

(58) "insurer" means any person carrying on the general insurance business or life insurance business [46][and includes a re-insurer];

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

[39][(59a) "issue" means an offer of sale or purchase of securities to, or from, the public or the holder of securities;]

[62][***]

(61) "life insurance business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

(62) "light motor vehicle" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver;

(63) "magnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;

[7][(63a) "mailing list compilation and mailing" means any service in relation to--

(i) compiling and providing list of name, address and any other information from any source; or

(ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing,

for, or on behalf of, the client;]

[47][(64) "management, maintenance or repair" means any service provided by--

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him,

in relation to,--

(a) management of properties, whether immovable or not;

(b) maintenance or repair of properties, whether immovable or not; or

(c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle;]

[79][Explanation.-- For the removal of doubts, it is hereby declared that for the purposes of this clause,--

(a) goods includes computer software;

(b) properties includes information technology software;]

[63][(65) "management or business consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management;]

(66) "mandap" 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 a consideration for organising any official, social or business function;

[58][Explanation.--For the purposes of this clause, "social function" includes marriage;]

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

[58][Explanation.--For the purposes of this clause, "social function" includes marriage;]

[17][(68) "manpower recruitment or supply agency" means any [55][person] engaged in providing any

service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, [77][to any other person];]

(69) "market research agency" means any [55][person] engaged in conducting market research in any

manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(70) "maxicab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(71) "motorcab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(72) "motor car" has the meaning assigned to it in clause (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(73) "motor vehicle" has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(74) "non-banking financial company" has the meaning assigned to it in clause (f) of section 45 -I of the Reserve Bank of India Act, 1934 (2 of 1934);

(75) "on-line information and database access or retrieval" means providing data or information, retrievable or other wise, [80][to any person], in electronic form through a computer network;

[2][(75a) "opinion poll" means any service designed to secure information on public opinion regarding social, economic, political or other issues;

(75b) "opinion poll agency" means any person engaged in providing any service in relation to opinion poll;]

(76) "other port" has the meaning assigned to "port" in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908), but does not include the port defined in clause (80);

[2][(76a) "outdoor caterer" means a caterer engaged in providing services in connection with catering at a place other than his own [7][but including a place provided by way of tenancy or otherwise by the person receiving such services];]

[7][(76b) "packaging activity" means packaging of goods including pouch filling, bottling, labelling or

imprinting of the package, but does not include any packaging activity that amounts to 'manufacture' within the meaning of clause (f) of section 2 of the Central Excise Act, 1944(1 of 1944);]

(77) "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;

[2][(77a) "pandal or shamiana" means a place specially prepared or arranged for organising an official, social or business function;

[58][Explanation.--For the purposes of this clause, "social function" includes marriage;]

(77b) "pandal or shamiana contractor" means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein;]

[39][[108][(77c) "passenger" means any person boarding an aircraft in India for performing domestic journey or international journey';]]

(78) "photography" includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography;

(79) "photography studio or agency" means any professional photographer or [49][any person] engaged in

the business of rendering service relating to photography;

(80) "policyholder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);

(81) "port" has the meaning assigned to it in clause (q) of section 2 of the Maj or Port Trusts Act, 1963 (38 of 1963);

(82)[97][port service means any service rendered within a port or other port, in any manner;]

(83) "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 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;

(84) "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 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;

(85) "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 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;

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

[2][(86a) "programme" means any audio or visual matter, live or recorded, which is intended to be

disseminated by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations;

(86b) "programme producer" means [50][any person who] produces a programme on behalf of another person;]

[39][(86c) "public relations" includes strategic counselling based on industry, media and perception

research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotions, events and communications and crisis communications;]

[71][(86d) processing and clearing house means any person including the clearing corporation authorised or assigned by a recognised stock exchange, recognised association or a registered association to perform the duties and functions of a clearing house in relation to,--

(i) the periodical settlement of contracts for, or relating to, the sale or purchase of securities, goods or forward contracts and differences thereunder;

(ii) the delivery of, and payment for, securities, goods or forward contracts;

(iii) any other matter incidental to, or connected with, securities, goods and forward contracts;]

(87) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;

(88) "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;

(89) "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;

[2][(89a) "recognised association" has the meaning assigned to it in clause (j) of section 2 of the Forward Contracts (Regulation) Act, 1952(74 of 1952);

(89b) "registered association" has the meaning assigned to it in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952(74 of 1952);]

[39][(89c) "registrar to an issue" means any person carrying on the activities in relation to an issue including collecting application forms from investors, keeping a record of applications and money received from investors or paid to the seller of securities, assisting in determining the basis of allotment of securities, finalising the list of persons entitled to allotment of securities and processing and dispatching allotment letters, refund orders or certificates and other related documents;]

(90) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

[58][(90a) "renting of immovable property" includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include --

(i) renting of immovable property by a religious body or to a religious body; or

(ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

Explanation [81][1]--For the purposes of this clause, "for use in the course or furtherance of business or commerce" includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings;]

[71][Explanation 2.-- For the removal of doubts, it is hereby declared that for the purposes of this clause renting

of immovable property includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property;]

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

[7][(91a) "residential complex" means any complex comprising of--

(i) a building or buildings, having more than twelve residential units;

(ii) a common area; and

(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by any authority under law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this clause,--

(a) "personal use" includes permitting the complex for use as residence by another person on rent or without consideration;

(b) "residential unit" means a single house or a single apartment intended for use as a place of residence;]

(92) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, [77][to any person], in one or more disciplines of science or technology;

(93) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(94) "security agency" means any [55][person] 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 investigation, detection or verification, of any fact or activity, whether of a personal nature or other wise, including the services of providing security personnel;

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

[39][(95a) "share transfer agent" means any person who maintains the record of holders of securities and

deals with all matters connected with the transfer or redemption of securities or activities incidental thereto;]

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

[39][(96a) "ship management service" includes,--

(i) the supervision of the maintenance, survey and repair of ship;

(ii) engagement or providing of crews;

(iii) receiving the hire or freight charges on behalf of the owner;

(iv) arrangements for loading and unloading;

(v) providing for victualling or storing of ship;

(vi) negotiating contracts for bunker fuel and lubricating oil;

(vii) payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;

(viii) the entry of ship in a protection or indemnity association;

(ix) dealing with insurance, salvage and other claims; and

(x) arranging of insurance in relation to ship;]

(97) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or

manages the business of shipping;

[7][(97a) "site formation and clearance, excavation and earthmoving and demolition" includes,--

(i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or

(ii) soil stabilization; or

(iii) horizontal drilling for the passage of cables or drain pipes; or

(iv) land reclamation work; or

(v) contaminated top soil stripping work; or

(vi) demolition and wrecking of building, structure or road,

but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies;]

[18][(98) "sound recording" means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity;]

(99) "sound recording studio or agency" means any [55][person] engaged in the business of rendering any service relating to sound recording;

[39][(99a) "sponsorship" includes naming an event after the sponsor, displaying the sponsor's company logo or trading name, giving the sponsor exclusive or priority booking rights, sponsoring prizes or trophies for competition; but does not include any financial or other support in the form of donations or gifts, given by the donors subject to the condition that the service provider is under no obligation to provide anything in return to such donors;]

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

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

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

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

[19][(101) "stock-broker" means a person, who has either made an application for registration or is registered as a stock-broker [90][***], in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;]

(102) "storage and warehousing" includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;

(103) [20][***]

[64][***]

[42][(104a) "survey and exploration of mineral" means geological, geophysical or other prospecting, surface or sub-surface surveying or map making service, in relation to location or exploration of deposits of mineral, oil or gas;]

[7][(104b) "survey and map-making" means geological, geophysical or any other prospecting, surface, sub- surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral;]

[39][(104c) "support services of business or commerce" means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfillment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation.--For the purposes of this clause, the expression "infrastructural support services" includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security;]

(105) "taxable service" means any [21][service provided or to be provided],--

(a) [22][to any person], by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

[65][***]

(d) to a [51][policy holder or any person], by an [52][insurer, including re-insurer] carrying on general insurance business in relation to general insurance business;

(e) [77][to any person], by an advertising agency in relation to advertisement, in any manner;

(f) [80][to any person], by a courier agency in relation to door-to-door transportation of time sensitive documents, goods or articles;

[82][(g) to any person, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering including the discipline of computer hardware engineering.

Explanation.-- For the purposes of this sub-clause, it is hereby declared that services provided by a consulting engineer in relation to advice, consultancy or technical assistance in the disciplines of both computer hardware engineering and computer software engineering shall also be classifiable under this sub-clause;]

engineering but excluding the discipline of computer software engineering];

(h) [77][to any person], 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) [77][to any person], by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;

[23][(k) [77][to any person], by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner;]

[58][Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this sub-

clause, recruitment or supply of manpower includes services in relation to pre-recruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate;]

(l) [80][to any person], by an air travel agent in relation to the booking of passage for travel by air;

(m) to [83][any person], by a mandap keeper in relation to the use of mandap in any manner including the facilities [24][provided or to be provided to [83][such person] in relation to such use and also the services, if

any, provided or to be provided 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) [77][to any person], by an architect in hi s professional capacity, in any manner;

(q) [77][to any person], by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or other wise, in any manner;

[67][(r) [77][to any person], by a management or business consultant in connection with the management of

any organisation or business, in any manner;]

(s) [77][to any person], by a practising chartered accountant in hi s professional capacity, in any manner;

(t) [77][to any person], by a practising cost accountant in hi s professional capacity, in any manner;

(u) [77][to any person], by a practising company secretary in hi s professional capacity, in any manner;

(v) [77][to any person], by a real estate agent in relation to real estate;

(w) [77][to any person], by a security agency in relation to the security of any property or person, by providing security personnel or other wise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) [77][to any person], by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) [77][to any person], by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) [77][to any person], by an underwriter in relation to underwriting, in any manner;

(za) [77][to any person], by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(zb) [80][to any person], by a photography studio or agency in relation to photography, in any manner;

(zc) [77][to any person], by any [55][person] in relation to holding of a convention, in any manner;

[68][***]

(zh) [80][to any person], by [49][any person], , in relation to on-line information and database access or

retrieval or both in electronic form through computer network, in any manner;

(zi) [77][to any person], by a video production agency in relation to video-tape production, in any manner;

(zj) [77][to any person], by a sound recording studio or agency in relation to any kind of sound recording;

(zk) to [83][any person], by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or [25][collecting the broadcasting charges or permitting the rights to

receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multi system operator or any other person on behalf of the said agency] .

Explanation.-- For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of signals or beaming thereof through the satellite might have taken place outside India;

(zl) to a [51][policy holder or any person] or [52][insurer, including re-insurer], by an actuary, or

intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;

[27][(zm) [80][to any person], by a banking company or a financial institution including a non-banking financial company, or any other body corporate [69][or commercial concern], in relation to banking and other financial services;]

(zn)[98][to any person, by any other person, in relation to port services in a port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port]

(zo) [80][to any person], by an authorised service station, in relation to any service [27][, repair,

reconditioning or restoration of motor cars; light motor vehicles] or two wheeled motor vehicles, in any manner;

(zp) [28][***]

(zq) [80][to any person], by a beauty parlour in relation to beauty treatment;

(zr) to any person, by a cargo handling agency in relation to cargo handling services;

(zs) [29][to any person, by a cable operator, including a multi system operator,] in relation to cable services;

(zt) [80][to any person], by a dry cleaner in relation to dry cleaning;

(zu) [77][to any person], by an event manager in relation to event manage men t;

(zv) to any person, by a fashion designer in relation to fashion designing;

(zw) to any person, by a health club and fitness centre in relation to health and fitness services;

(zx) to a [51][policy holder or any person] by an [52][insurer, including re-insurer] carrying on life insurance business [30][in relation to the risk cover in life insurance];

(zy) to a [51][policy holder or any person] or [52][insurer, including re-insurer] by an actuary, or

intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;

(zz) [80][to any person], by a rail travel agent in relation to booking of passage for travel by rail;

(zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;

(zzb) to [83][any person], by [49][any person], in relation to business auxiliary service;

(zzc) to any person, by a commercial training or coaching centre in relation to commercial training or coaching;

[99][Explanation.--For the removal of doubts, it is hereby declared that the expression commercial training or coaching centre occurring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression commercial training or coaching shall be construed accordingly]

(zzd) [80][to any person], by a commissioning and installation agency in relation to [31][erection, commissioning or installation];

(zze) to a franchisee, by the franchisor in relation to franchise;

(zzf) to any person, by an internet cafe in relation to access of internet;

(zzg) [80][to any person], by [49][any other person] in relation to [53][management, maintenance or repair];

(zzh) to any person, by a technical testing and analysis agency, in relation to technical testing and analysis;

(zzi) to any person, by a technical inspection and certification agency, in relation to technical inspection and certification;

(zzj) [32][***]

[84][(zzk) to any person, by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorised money changer, other than a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm);]

[100][(zzl) to any person, by any other person, in relation to port services in other port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within other port;

(zzm) to any person, by airports authority or by any other person, in any airport or a civil enclave:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the airport or civil enclave;]

(zzn) to any person, by an aircraft operator, in relation to transport of goods by aircraft;

(zzo) to an exhibitor, by the organiser of a business exhibition, in relation to business exhibition;

(zzp) [80][to any person], by a goods transport agency, in relation to transport of goods by road in a goods carriage;

(zzq) to any person, by [49][any other person], in relation to [34][commercial or industrial construction [101][***]];

[102][Explanation.--For the purposes of this sub-clause, the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the *authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;]

(zzr) to any person, by the holder of intellectual property right, in relation to intellectual property service;

(zzs) to any person, by an opinion poll agency, in relation to opinion poll;

(zzt) [77][to any person], by an outdoor caterer;

(zzu) to any person, by a programme producer, in relation to a programme;

(zzv) [80][to any person], by any person, in relation to survey and exploration of mineral;

(zzw) [77][to any person], by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, [35][provided or to be provided] as a caterer;

(zzx) [80][to any person], by a travel agent, in relation to the booking of passage for travel;

(zzy) to any person, by a member of a recognised association or a registered association, in relation to a forward contract;]

[7]["(zzz) to any person by any other person, in relation to transport of goods other than water, through pipeline or other conduit;

(zzza) to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities;

(zzzb) to any person, by any other person, in relation to dredging;

(zzzc) to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making;

(zzzd) to any person, by any other person, in relation to cleaning activity;

(zzze) to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount;

(zzzf) to any person, by any other person, in relation to packaging activity;

(zzzg) to any person, by any other person, in relation to mailing list compilation and mailing;

(zzzh) to any person, by any other person, in relation to construction of complex;]

[102][Explanation.--For the purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder before the grant of completion certificate by the *authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;]

[39][(zzzi) to any person, by a registrar to an issue, in relation to sale or purchase of securities;

(zzzj) to any person, by a share transfer agent, in relation to securities;

(zzzk) to any person, by any other person, in relation to automated teller machine operations, maintenance or

management service, in any manner;

(zzzl) to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner;

(zzzm) to any person, by any other person, in relation to sale of space or time for advertisement, in any manner; but does not include sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organisation.

Explanation 1.--For the purposes of this sub-clause, "sale of space or time for advertisement" includes,--

(i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet;

(ii) selling of time slots on radio or television by a person, other than a broadcasting agency or organisation; and

(iii) aerial advertising.

[70][Explanation 2.--For the purposes of this sub-clause, "print media" means,--

(i) "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867(25 of 1867);

(ii) "book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867(25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;]

[103][(zzzn) to any person, by any other person receiving sponsorship, in relation to such sponsorship, in any manner;

(zzzo) to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey;]

Explanation 1.--For the purposes of this sub-clause, economy class in an aircraft meant for scheduled air transport of passengers means,--

(i) where there is more than one class of travel, the class attracting the lowest standard fare; or

(ii) where there is only one class of travel, that class.

Explanation 2.--For the purposes of this sub-clause, in an aircraft meant for non-scheduled air transport of passengers, no class of travel shall be treated as economy class;

[91][(zzzp) to any person, by any other person, in relation to transport of goods by rail, in any manner;]

(zzzq) to any person, by any other person, in relation to support services of business or commerce, in any manner;

(zzzr) to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government;

[102][Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, auction by the Government means the Government property being auctioned by any person acting as auctioneer;]

(zzzs) to any person, by any other person, in relation to managing the public relations of such person, in any manner;

(zzzt) to any person, under a contract or an agreement, by any other person, in relation to ship management service;

(zzzu) to any person, by any other person, in relation to [85][internet telecommunication service];

(zzzv) to any person, by any other person, in relation to transport of such person embarking from any port or other port in India, by a cruise ship.

Explanation.--For the purposes of this sub-clause, "cruise ship" means a ship or vessel used for providing recreational or pleasure trips, but does not include a ship or vessel used for private purposes or a ship or vessel of,

or less than, fifteen net tonnage;

(zzzw) to any person, by any other person, in relation to credit card, debit card, charge card or other payment card service, in any manner;]

[54][***]

and the term "service provider" shall he construed accordingly;

[58][(zzzx) to any person, by the telegraph authority in relation to telecommunication service;

(zzzy) to any person, by any other person in relation to mining of mineral, oil or gas;

(zzzz) [104][to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course of or, for furtherance of, business or commerce]

Explanation 1.--For the purposes of this sub-clause, "immovable property" includes--

(i) building and part of a building, and the land appurtenant thereto;

(ii) land incidental to the use of such building or part of a building;

(iii) the common or shared areas and facilities relating thereto; and

(iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate, but does not include--

(a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;

(b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;

(c) land used for educational, sports, circus, entertainment and parking purposes; and

(d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

[102][(v) vacant land, given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce;]

Explanation 2.--For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce;

(zzzza) to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

Explanation.--For the purposes of this sub-clause, "works contract" means a contract wherein,--

(i) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and

(ii) such contract is for the purposes of carrying out,--

(a) erection, commissioning or installation of plant, machinery, equipment or structures, whether prefabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or

(b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or

(c) construction of a new residential complex or a part thereof; or

(d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or

(e) turnkey projects including engineering, procurement and construction or commissioning (EPC) projects;

(zzzzb) to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services;

(zzzzc) to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm), in relation to asset management including portfolio management and all forms of fund management;

(zzzzd) to any person, by any other person in relation to design services, but does not include service provided by--

(i) an interior decorator referred to in sub-clause (q); and

(ii) a fashion designer in relation to fashion designing referred to in sub-clause (zv);]

[71][(zzzze) to any person, by any other person in relation to information technology software [105][***], including,--

(i) development of information technology software,

(ii) study, analysis, design and programming of information technology software,

(iii) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,

(iv) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the startup phase of a new system, specifications to secure a database, advice on proprietary information technology software,

(v) [92][providing] the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,

(vi) [92][providing] the right to use information technology software supplied electronically;

(zzzzf) to a policy holder, by an insurer carrying on life insurance business, in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme.

Explanation.-- For the purposes of this sub-clause,--

(i) management of segregated fund of unit linked insurance business by the insurer shall be deemed to be the service provided by the insurer to the policy holder in relation to management of investment under unit linked insurance business; and

[106][(ii) the gross amount charged by the insurer from the policy holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999(41 of 1999), as fund management charges for unit linked insurance plan or the actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher;]

(zzzzg) to any person, by a recognised stock exchange in relation to assisting, regulating or controlling the business of buying, selling or dealing in securities and includes services provided in relation to trading, processing, clearing and settlement of transactions in securities;

(zzzzh) to any person, by a recognised association or a registered association in relation to assisting, regulating or controlling the business of the sale or purchase of any goods or forward contracts and includes services provided in relation to trading, processing, clearing and settlement of transactions in goods or forward contracts;

(zzzzi) to any person, by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts including any other matter incidental to, or connected with, such securities, goods and forward contracts;

(zzzzj) to any person, by any other person in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances;]

[93][(zzzzk) to any person, by any other person, in relation to cosmetic surgery or plastic surgery, but does not include any surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma;

(zzzzl) to any person, by any other person, in relation to transport of --

(i) coastal goods;

(ii) goods through national waterway; or

(iii) goods through inland water.

Explanation.-- For the purposes of this sub-clause,--

(a) coastal goods has the meaning assigned to it in clause (7) of section 2 of the Customs Act, 1962 (52 of 1962);

(b) national waterway has the meaning assigned to it in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985);

(c) inland water has the meaning assigned to it in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);

(zzzzm) to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner:

Provided that any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

[107][***]]

[102][(zzzzn) to any person, by any other person, for promotion, marketing, organising or in any other manner assisting in organising games of chance, including lottery, Bingo or Lotto in whatever form or by whatever name called, whether or not conducted through internet or other electronic networks;

(zzzzo) by any hospital, nursing home or multi-specialty clinic,--

(i) to an employee of any business entity, in relation to health check-up or preventive care, where the payment for such check-up or preventive care is made by such business entity directly to such hospital, nursing home or multi-specialty clinic; or

(ii) to a person covered by health insurance scheme, for any health check-up or treatment, where the payment for such health check-up or treatment is made by the insurance company directly to such hospital, nursing home or multi-specialty clinic;

(zzzzp) to any business entity, by any other person, in relation to storing, keeping or maintaining of medical records of employees of a business entity;

(zzzzq) to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event.

Explanation.--For the purposes of this sub-clause, brand includes symbol, monogram, label, signature or invented words which indicate connection with the said goods, service, event or business entity;

(zzzzr) to any person, by any other person, by granting the right or by permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person;

(zzzzs) to any person, by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003(36 of 2003), in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contract;

(zzzzt) to any person, by any other person, for--

(a) transferring temporarily; or

(b) permitting the use or enjoyment of,

any copyright defined in the Copyright Act, 1957(14 of 1957), except the rights covered under sub-clause (a) of clause (1) of section 13 of the said Act;;

(zzzzu) to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but does not include services covered under sub-clauses (zzg), (zzq), (zzzh) and in relation to parking place.

Explanation.--For the purposes of this sub-clause, preferential location means any location having extra advantage which attracts extra payment over and above the basic sale price;]

(106) "technical testing and analysis" means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or [71][information technology software or] any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;

[39][Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this clause, "technical testing and analysis" includes testing and analysis undertaken for the purpose of clinical testing of drugs and formulations; but does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals;]

(107) "technical testing and analysis agency" means any agency or person engaged in providing service in relation to technical testing and analysis;

(108) "technical inspection and certification" means inspection or examination of goods or [86][process or material or information technology software] or any immovable property to certify that such goods or [86][process or material or information technology software] or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels;

(109) "technical inspection and certification agency" means any agency or person engaged in providing service in r elation to technical inspection and certification;

[58][(109a) "telecommunication service" means service of any description provided by means of any

transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885(13 of 1885) and includes--

(i) voice mail, data services, audio tex services, video tex services, radio paging;

(ii) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;

(iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;

(iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

(v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic callback, call answer, voice mail, voice menus and video conferencing;

(vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of [83][such person];

(vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and

(viii) communication through facsimile, pager, telegraph and telex,

but does not include service provided by--

(a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105);

(b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and

(c) any person in relation to [85][internet telecommunication service] referred to in sub-clause (zzzu) of clause (105);]

(110) "telegraph" has the meaning assigned to it in clause (1) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(111) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 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;

(112) "telex" means a typed communication by using teleprinters through telex exchanges;

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

(114) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

[87][(115) "tour operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by a permit, other than a stage carriage permit, granted under the Motor Vehicles Act, 1988(59 of 1988) or the rules made thereunder.

Explanation.-- For the purposes of this clause, the expression tour does not include a journey organised or arranged for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field;]

(115a) "travel agent" means any person engaged in providing any service connected with booking of passage for travel, but does not include air travel agent and rail travel agent;]

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

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

(118) "vessel" has the meaning assigned to it in clause (z) of section 2 of the Maj or Port Trusts Act, 1963 (38 of 1963);

(119) "video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production;

[37][(120) "video-tape production" means the process of any recording of any programme, event or

function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner;']

(121) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.

[39][Explanation.--For the purposes of this section, taxable service includes any taxable service provided

or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.]

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1. Substituted by the Finance Act, 2003 , w.e.f . 14 - 5 - 2003 . Prior to its substitution, section 65 , as amended by the

Finance (No. 2) Act, 1996 and later on substituted by the Finance Act, 1997 , Finance (No. 2) Act, 1998 , w .e. f. 16 - 10 - 1998 , Finance Act, 2001 , w.e.f . 16 - 7 - 2001 and Finance Act, 2002 , w.e.f . 16 - 8 - 2002 , read as under :

'65 . Definitions.-

(1) In this Chapter, unless the context other wise requires,--

(1) "actuary" has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938);

(2) "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;

(3) "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;

(45) "insurance agent" has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);

(46) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;

(47) "intermediary or insurance intermediary" has the meaning assigned to it in sub -clause (f) of clause (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

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

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

(50) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the sub scriber and includes a speech circuit, a data circuit or a telegraph circuit;

(51) "life insurance business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

(52) "magnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;

(53) "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 any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;

(54) "mandap" 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 a consideration for organising any official, social or business function;

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

(56) "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;

(57) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(58) "maxi cab" has the me ning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(59) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(60) "non-banking financial company" has the meaning assigned to it in clause (f) of section 45 -I of the Reserve B ank of India Act, 1934 (2 of 1934);

(61) "on-line information and database access or retrieval" means providing data or information, retrievable or

other wise, to a customer, in electronic form through a computer network;

(62) "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;

(63) "photography" includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography;

(64) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

(65) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);

(66) "port" has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(67) "port services" means any service rendered by a port or any person authorised by the port, in any manner, in relation to a vessel or goods;

(68) "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 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;

(69) "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 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;

(70) "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 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;

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

(72) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;

(73) "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;

(74) "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;

(75) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

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

(77) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;

(78) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(79) "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 investigation, detection or verification, of any fact or activity, whether of a personal nature or other wise, including the services of providing security personnel;

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

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

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

(83) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;

(84) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;

(85) "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;

(86) "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 (15 of 1992);

(87) "storage and warehousing" includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;

(88) "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 (15 of 1992);

(89) "subscriber" means a person to whom any service of a telephone connection or a facsimile or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;

(90) "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 exchange;

(45) "insurance agent" has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);

(46) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;

(47) "intermediary or insurance intermediary" has the meaning assigned to it in sub -clause (f) of clause (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

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

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

(50) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the sub scriber and includes a speech circuit, a data circuit or a telegraph circuit;

(51) "life insurance business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

(52) "magnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;

(53) "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 any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;

(54) "mandap" 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 a consideration for organising any official, social or business function;

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

(56) "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;

(57) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(58) "maxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(59) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(60) "non-banking financial company" has the meaning assigned to it in clause (f) of section 45 -I of the Reserve Bank of India Act, 1934 (2 of 1934);

(61) "on-line information and database access or retrieval" means providing data or information, retrievable or other wise, to a customer, in electronic form through a computer network;

(62) "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;

(63) "photography" includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography;

(64) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

(65) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);

(66) "port" has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(67) "port services" means any service rendered by a port or any person authorised by the port, in any manner, in relation to a vessel or goods;

(68) "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 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;

(69) "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 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;

(70) "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 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;

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

(72) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;

(73) "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;

(74) "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;

(75) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

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

(77) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;

(78) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(79) "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 investigation, detection or verification, of any fact or activity, whether of a personal nature or other wise, including the services of providing security personnel;

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

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

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

(83) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;

(84) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;

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

(a) to perform any service in connection with the sh ip'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 sh ipping line; or

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

(86) "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 B oard of India Act, 1992 (15 of 1992);

(87) "storage and warehousing" includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;

(88) "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 (15 of 1992);

(89) "subscriber" means a person to whom any service of a telephone connection or a facsimile or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;

(90) "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 exchange;

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

(c) to a sub scriber, 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 advertisement, 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 sh ipping line, by a steamer agent in relation to a sh ip'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 mandap in any manner including the facilities provided to the client in relation to such use and also the 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 hi s 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 other wise, 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 hi s professional capacity, in any manner;

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

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

(v) to a client, by a 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 other wise 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 a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(zb) to a customer, by a photography studio or agency in relation to photography, in any manner;

(zc) to a client, by any commercial concern in relation to holding of a convention, in any manner;

(zd) to a sub scriber, by the telegraph authority in relation to a leased circuit;

(ze) to a sub scriber, by the telegraph authority in relation to a communication through telegraph;

(zf) to a sub scriber, by the telegraph authority in relation to a communication through telex;

(zg) to a sub scriber, by the telegraph authority in relation to a facsimile communication;

(zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;

(zi) to a client, by a video production agency in relation to video-tape production, in any manner;

(zj) to a client, by a sound recording studio or agency in relation to any kind of sound recording;

(zk) to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the

case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting broadcasting charges on behalf of the said agency or organisation.

Explanation.-- For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service sh all be a taxable service in relation to broadcasting, even if the encryption of the signals or beaming thereof through the satellite might have taken place outside India;

(zl) to a policy holder or insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;

(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;

(zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles, in any manner;

(zp) to a customer, by a body corporate other than the body corporate referred to in sub -clause (zm), in relation to banking and other financial services;

(zq) to a customer, by a beauty parlour in relation to beauty treatment;

(zr) to any person, by a cargo handling agency in relation to cargo handling services;

(zs) to a customer, by a cable operator in relation to cable services;

(zt) to a customer, by a dry cleaner in relation to dry cleaning;

(zu) to a client, by an event manager in relation to event management;

(zv) to any person, by a fashion designer in relation to fashion designing;

(zw) to any person, by a health club and fitness centre in relation to health and fitness services;

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

(zy) to a policy holder or insurer by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;

(zz) to a customer, by a rail travel agent in relation to booking of passage for travel by rail;

(zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;

and the term "service provider" shall be construed accordingly; (91) "telegraph" has the meaning assigned to it in clause (7) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(92) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 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;

(93) "telex" means a typed communication by using teleprinters through telex exchanges;

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

(95) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(96) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder;

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

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

(99) "vessel" has the meaning assigned to it in clause (z) of section 2 of the Maj or Port Trusts Act, 1963 (38 of 1963);

(100) "video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to videotape production;

(101) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape and includes editing thereof, in any manner;

(102) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, sh all apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise."

2. Inserted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

3. Substituted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 for the following clause:-

"(12) "banking and other financial service" means--

(a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corp orate, namely:--

(i) financial leasing services including equipment leasing and hi re-purchase by a body corp orate;

(ii) credit card services;

(iii) merchant banking services;

(iv) securities and foreign exchange (forex) broking;

(v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services, but does not include cash management;

(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on me rgers and acquisitions and advice on corporate restructuring and strategy; and

(vii) provision and transfer of information and data processing;

(b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause (a);"

4. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "collecting the broadcasting charges on behalf of the said agency".

5. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(17) "beauty treatment" means face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up;"

6. Substituted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 for the following clause:-

"(19) "business auxiliary Service" means any service in relation to,--

(i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(ii) promotion or marketing of service provided by the client; or

(iii) any customer care service provided on behalf of the client; or

(iv) any incidental or auxiliary support service such as billing, collection or recovery of cheques, accounts and remittance, evaluation of prospective customer and public relation services,

and includes services as a commission agent, but does not include any information technology service.

Explanation.-- For the removal of doubts, it is hereby declared that for the purposes of this clause "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerized data processing or system networking, or any other service primarily in relation to operation of computer systems;"

7. Inserted by the Finance Act, 2005 w.e.f. 16.06.2005.

8. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(v) production of goods on behalf of the client; or"

9. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this clause, "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerised data processing or system networking, or any other service primarily in relation to operation of computer systems;"

10. Omitted by Finance (No. 2) Act, 2004w.e.f. 10.09.2004 . Prior to omission it read as under:-

"(28) "commissioning or installation" means any service provided by a commissioning and installation agency in relation to commissioning or installation of plant, machinery or equipment;"

11. Substituted for the words "in relation to commissioning or installation" by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 .

12. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"[(30a) "construction service" means,--

(a) construction of new building or civil structure or a part thereof; or

(b) repair, alteration or restoration of, or similar services in relation to, building or civil structure, which is--

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include road, airport, railway, transport terminal, bridge, tunnel, long distance pipeline and dam;] "

13. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"[(39a) "erection, commissioning or installation" means any service provided by a commissioning and installation agency in relation to erection, commissioning or installation of plant, machinery or equipment;]"

14. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(47) "franchise" means an agreement by which--

(i) franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;

(ii) the franchisor provides concepts of business operation to franchisee, including know-how, me thod of operation, managerial expertise, marketing technique or training and standards of quality control except passing on the ownership of all know-how to franchisee;

(iii) the franchisee is required to pay to the franchisor, directly or indirectly, a fee; and

(iv) the franchisee is under an obligation not to engage in selling or providing similar goods or services or process, identified with any other person;"

15. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "whether permanently or otherwise".

16. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(64) "maintenance or repair" means any service provided by--

(i) any person under a maintenance contract or agreement; or

(ii) a manufacturer or any person authorised by hi m,

in relation to maintenance or repair or servicing of any goods or equipment, excluding motor vehicle;

17. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 or the following :-

"(68) "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;"

18. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(98) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;"

19. Substituted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 for the following clause:-

"(101) "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 B oard of India Act, 1992 (15 of 1992);"

20. Omitted by Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 . Prior to omission it read as under:-

"(103) "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 B oard of India Act, 1992 (15 of 1992);"

21. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "service provided".

22. Substituted for the words "to an investor" by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 .

23. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

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

24. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "provided to the client in relation to such use and also the services, if any, rendered as a caterer;"

25. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "collecting the broadcasting charges on behalf of the said agency or organisation".

26. Substituted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 for the following clause:-

"(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;"

27. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "or repair of motor cars".

28. Omitted by the Finance (No. 2) Act, 2004w.e.f. 10.09.2004 . Prior to omission it read as under:-

"(zp) to a customer, by a body corporate other than the body corporate referred to in sub -clause (zm), in relation to banking and other financial services;"

29. Substituted for the words "to a customer, by a cable operator" by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 .

30. Substituted for the words "in relation to life insurance business" by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 .

31. Substituted for the words "commissioning or installation" by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 .

32. Omitted by the Finance Act, 2005 w.e.f. 16.06.2005. Prior to omission it was as under :-

"(zzj) to a customer, by an authorised service station, in relation to any service or repair of any light motor vehicle"

33. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words " sub-clauses (zm) and (zp)".

34. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "construction service"

35. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the word "rendered".

36. Substituted by Finance (No. 2) Act, 2004 w.e.f 10.09.2004 for the following clause:-

"(115) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder;"

37. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the following :-

"(120) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape and includes editing thereof, in any manner;"

38. Substituted by the Finance Act, 2006. Prior to substitution, it read as under:

"(3b) "aircraft operator" means any commercial concern which provides the service of transport of goods by aircraft;"

39.Inserted by the Finance Act, 2006.

40.Omitted by the Finance Act, 2006. Prior to omission, it read as under:

"(ii) credit card services;"

41. Substituted by the Finance Act, 2006. Prior to substitution, it read as under:

"(viii) other financial services, namely, lending ; issue of pay order, demand draft, cheque, letter of credit and bill of exchange; providing bank guarantee, over draft facility, bill discounting facility, safe deposit locker, safe vaults; operation of bank accounts;"

42.Substituted for the words "developing or maintaining of computer software, or computerised data processing" by the Finance Act, 2006.

43.Substituted for the words "an engineering firm" by the Finance Act, 2006.

44.Substituted for the words "machinery or equipment" by the Finance Act, 2006.

45.Substituted for the words "commercial concern which" by the Finance Act, 2006.

46.Substituted for the words "in India" by the Finance Act, 2006.

47.Substituted by the Finance Act, 2006. Prior to substitution, it read as under:

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him,

in relation to,--

(a) maintenance or repair including reconditioning or restoration, or servicing of any goods or equipment, excluding motor vehicle; or

(b) maintenance or management of immovable property;"

48.Substituted by the Finance Act, 2006, Prior to substitution, it read as under:

"relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation"

49.Substituted for the words "a commercial concern" by the Finance Act, 2006.

50.Substituted for the words " a commercial concern which" by the Finance Act, 2006.

51.Substituted for the words "policy holder" by the Finance Act, 2006.

52.Substituted for the words "insurer" by the Finance Act, 2006.

53.Substituted for the words "maintenance or repair" by the Finance Act, 2006.

54.Omitted by the Finance Act, 2006. Prior to omission, it read as under:

"Explanation.-For the removal of doubts, it is hereby declared that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India such service shall be deemed to be taxable service for the purposes of this clause;"

55.Substituted by the Finance Act, 2006 for the words "commercial concern".

56.Substituted by the Finance Act, 2006 for the words "commercial concern".

57. Substituted for " or [55][any other person]" by the Finance Act, 2007, w.e.f. 01.06.2007.

58. Inserted by the Finance Act, 2007, w.e.f. 01.06.2007.

59. Substituted for " custodial, depository and trust services, but does not include cash management" by the Finance Act, 2007, w.e.f. 01.06.2007.

60. Substituted for "(20) "cab" means a motorcab or maxicab;" by the Finance Act, 2007, w.e.f. 01.06.2007.

61. Substituted for " sports or any other event" by the Finance Act, 2007, w.e.f. 01.06.2007.

62. Omitted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to omission, it read as under:-

> "(60) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the sub scriber and includes a speech circuit, a data circuit or a telegraph circuit;"

63. Substituted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to substitution, it read as under:-

> "(65) "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 any advice, consultancy or technical assistance, [48][in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management];"

64. Omitted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to omission, it read as under:-

> "(104) "subscriber" means a person to whom any service of a telephone connection or a facsimile (FAX) or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;"

65. Omitted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to omission, it read as under:-

> "(b) to a sub scriber, by the telegraph authority in relation to a telephone connection;
>
> (c) to a sub scriber, by the telegraph authority in relation to a pager;"

66. Substituted for "[2]but not in the discipline of computer hardware engineering or computer software engineering" by the Finance Act, 2007, w.e.f. 01.06.2007.

67. Substituted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to substitution, it read as under:-

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

68. Omitted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to omission, it read as under:-

> "(zd) to a sub scriber, by the telegraph authority in relation to a leased circuit;
>
> (ze) to a sub scriber, by the telegraph authority in relation to a communication through telegraph;
>
> (zf) to a sub scriber, by the telegraph authority in relation to a communication through telex;
>
> (zg) to a sub scriber, by the telegraph authority in relation to a facsimile (FAX) communication;"

69. Substituted for " or [56][any other person]" by the Finance Act, 2007, w.e.f. 01.06.2007.

70. Substituted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to substitution, it read as under:-

> "Explanation 2.--For the purposes of this sub-clause, "print media" means "book" and "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867(25 of 1867);"

71. Inserted by the Finance Act, 2008.

72. Substituted by the Finance Act, 2008 for the following :-

> "(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy;"

73. Substituted by the Finance Act, 2008 for the following :-

> "[(b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause]"

74. Omitted by the Finance Act, 2008 for the words any information technology service and.

75. Omitted by the Finance Act, 2008 for the following :-

"(b) "information technology service" means any "service in relation to designing, [42][or developing of computer software] or system networking, or any other service primarily in relation to operation of computer systems;';]"

76. Substituted by the Finance Act, 2008 for the following :-

""cargo handling service" means loading, unloading, packing or unpacking of cargo and includes cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport and cargo handling service incidental to freight, but does not include handling of export cargo or passenger baggage or mere transportation of goods;"

77. Substituted by the Finance Act, 2008 for the words to a client.

78. Substituted by the Finance Act, 2008 for the following :-

"[39][(57a) "internet telephony" means telecommunication service through internet and includes fax, audio

conferencing and video conferencing."

79. Substituted by the Finance Act, 2008 for the following:-

"[58][Explanation.--For the removal of doubts, it is hereby declared that for the purposes of this clause,

"goods" includes computer software;]"

80. Substituted by the Finance Act, 2008 for the words :-

to a customer

81. Numbered as Explanation 1 by the Finance Act, 2008.

82. Substituted by the Finance Act, 2008 for the following:-

"(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 [66][including the discipline of computer hardware

engineering but excluding the discipline of computer software engineering]"

83. Substituted by the Finance Act, 2008 for the words a client and the client.

84. Substituted by the Finance Act, 2008 for the following:-

"(zzk) to a customer, by a foreign exchange broker other than those brokers in relation to banking and other financial services referred to in [33][sub-clause (zm)] ;"

85. Substituted by the Finance Act, 2008 for the words internet telephony.

86. Substituted by the Finance Act, 2008 for the words process or material.

87. Substituted by the Finance Act, 2008 for the following:-

"[36](115) "tour operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988(59 of 1988) or the rules made thereunder;"

88. Substituted by the Finance (No. 2) Act, 2009 for the following : -

"but does not include [74][***] any activity that amounts to "manufacture" within the meaning of clause (f) of section 2 of the Central Excise Act, 1944(1 of 1944)"

89. Inserted and Substituted by the Finance (No. 2) Act, 2009 :"for the following :- "(b) [75][***]"

90. Omitted by the Finance (No. 2) Act, 2009 for the words : -

"or sub-broker, as the case may be"

91. Substituted by the Finance (No. 2) Act, 2009 for the following : -

"(zzzp) to any person, by any other person other than Government railway as defined in clause (20) of section 2 of the Railways Act, 1989(24 of 1989), in relation to transport of goods in containers by rail, in any manner;"

92. Substituted by the Finance (No. 2) Act, 2009 w.e.f. 16th May 2008 for the following : -

"acquiring"

93. Inserted by the Finance (No. 2) Act, 2009.

94. Omitted by the Finance Act, 2010 w.e.f. 01.06.2007. Prior text was "[71][Explanation.-- For the purposes of this clause, it is hereby declared that purchase or sale of foreign currency, including money changing includes purchase or sale of foreign currency, whether or not the consideration for such purchase or sale, as the case may be, is specified separately;]"

95. Inserted by the Finance Act, 2010 w.e.f. 01.06.2007.

96. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "commercial or industrial construction service".

97. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "port service" means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods".

98. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "to any person, by a port or any person authorised by the port, in relation to port services, in any manner;".

99. Inserted by the Finance Act, 2010 w.e.f. 01.07.2003.

100. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "(zzl) to any person, by other port or any person authorised by that port in relation to port services, in any manner,

2[(zzm) to any person, by airports authority or any person authorised by it, in an airport or a civil enclave;"

101. Omitted by the Finance Act, 2010 w.e.f. 01.06.2007. Prior text was : "service".

102. Inserted by the Finance Act, 2010 w.e.f. 01.06.2007.

103. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "(zzzn) to any body corporate or firm, by any person receiving sponsorship, in relation to such sponsorship, in any manner, but does not include services in relation to sponsorship of sports events;

(zzzo) to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for international journey, in any class other than economy class."

104. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "to any person, by any other person in relation to renting of immovable property for use in the course or furtherance of business or commerce."

105. Omitted by the Finance Act, 2010 w.e.f. 01.06.2007. Prior text was "for use in the course, or furtherance, of business or commerce".

106. Substituted by the Finance Act, 2010 w.e.f. 01.06.2007 for the following: "(ii) the gross amount charged by the insurer from the policy holder for the said services provided or to be provided shall be equivalent to the difference between,--

(a) premium paid by the policy holder for the Unit Linked Insurance Plan policy; and

(b) the sum of premium paid for or attributable to risk cover, whether for life, health or other specified purposes, and the amount segregated for actual investment.

Illustration

Total premium paid for the Unit Linked Insurance Plan policy = Rs. 100

Risk premium = Rs. 10

Amount actually invested = Rs. 85

Gross amount charged for the service provided = Rs. 5 [100-(10+85)];

(iii) in addition to the amount referred to in clause (ii), the gross amount charged shall include any amount charged subsequently, whether or not periodically, by the insurer from the policy holder in relation to management of investment under unit linked insurance business;"

107. Omitted by the Finance Act, 2010 w.e.f. 01.06.2007. Prior text was "Explanation.--For the purposes of this sub-clause, business entity includes an association of persons, body of individuals, company or firm, but does not include an individual;"

108. Substituted by Finance Act, 2010 w.e.f. 01.06.2007 for the following : "(77c) "passenger" means any person boarding, at any customs airport, an aircraft for performing an international journey, but does not include--

(i) a person who has arrived at such customs airport from a place outside India and is in transit through India, provided that he does not pass through immigration and does not leave customs area and continues his journey to a place outside India; and

(ii) a person employed or engaged by the aircraft operator in any capacity on board the aircraft."

* "authority competent" includes besides any Government authority (i) architect registered with the Council of Architecture constituted under the Architects Act, 1972(20 of 1972); or (ii) chartered engineer registered with the Institution of Engineers (India); or (iii) licensed surveyor of the respective local body of the city or town or village or development or planning authority; who is authorised under any law for the time being in force, to issue a completion certificate in respect of residential or commercial or industrial complex, as a precondition for its occupation vide Service Tax (Removal of Difficulty) Order, 2010 w.e.f. 01.07.2010.

Section 65A - Classification of taxable services

65A.[1] [Classificationof taxable services

(1)For the purposes of this Chapter, classification of taxable services shall bedetermined according to the terms of the sub-clauses ofclause (105)of section 65.

(2)When for any reason, a taxable service is, prima facie, classifiable under twoor more sub-clauses of clause (105) of section 65,classification shall be effected as follows:--

(a)the sub-clause which provides the most specific description shall be preferred to sub-clausesproviding a more general description;

(b)composite services consisting of a combination of different services whichcannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives themtheir essential character, insofar as this criterion is applicable;

(c)when a service cannot be classified in the manner specified in clause (a) orclause (b), it shallbe classified under the sub-clause which occurs first among the sub-clauseswhich equally merit consideration.]

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1. Inserted by the Finance Act, 2003, w.e.f. 14-5-2003.

Section 66 - Charge of Service Tax

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[1]**[66. Charge of Service Tax**

[6][There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent. of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zh), (zi), (zj), (zk), (zl), (zm), (Zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzk), (zzl), (zzm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx), (zzy), (zzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg), (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzzza), (zzzzb), (zzzzc), [7][(zzzzd), (zzzze), (zzzzf), (zzzzg), (zzzzh), (zzzzi) [8][(zzzzj), (zzzzk), (zzzzl) and [9][,(zzzzm), (zzzzn), (zzzzo), (zzzzp), (zzzzq), (zzzzr), (zzzzs), (zzzzt) and (zzzzu)]]] of clause (105) of

section 65 and collected in such manner as may be prescribed.]

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1. Substituted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004. Prior to its substitution, section 66, as substituted by the Finance (No. 2) Act, 1996, Finance Act, 1997, Finance (No. 2) Act, 1998, w.e.f. 16-10-1998, Finance Act, 2001, w.e.f. 16-7-2001, Finance Act, 2002, w.e.f. 16-8-2002 and Finance Act, 2003, w.e.f. 14-5-2003 read as under:

"66. [Charge of service tax.--

(1) There shall be levied a tax (hereinafter referred to as the service tax) at the rate of eight per cent of the value of the taxable services referred to in sub-clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw)t (zx), (zy), (zz) and (zza) of clause (105) of section 65 and collected in such manner as may be prescribed.

(2) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied a service tax at the rate of eight per cent of the value of the taxable services referred to in sub-clauses (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzj), (zzk) and (zzl) of clause (105) of section 65 and collected in such manner as may be prescribed."

2. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "(zzj), (zzk)".

3. Substituted by the Finance Act, 2005 w.e.f. 16.06.2005 for the words "and (zzy)".

4. Substituted for the words "ten per cent." by the Finance Act, 2006.

5. Substituted for the words "and (zzzh)" by the Finance Act, 2006

6. Substituted by the Finance Act, 2007, w.e.f. 01.06.2007. Prior to substitution, it read as under:-

"There shall be levied a tax (hereinafter referred to as the service tax) at the rate of [4][twelve per cent]. of the value of the taxable services referred to in sub-clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), [2][(zzk)], (zzl), (zzm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx) , [3][(zzy), (zzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg) [5][(zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv) and (zzzw)]]of clause (105) of section 65 and collected in such manner as may be prescribed.]"

7. Substituted by the Finance Act, 2008 for the words "and (zzzzd).

8. Substituted by the Finance (No. 2) Act, 2009 for the words : - "and (zzzzj)"

9. Substituted by the Finance Act, 2010 w.e.f. 01.07.2010 for the following: "and (zzzzm)"

Section 66A - Charge of service tax on services received from outside India

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[1][Section 66A - Charge of service tax on services received from outside India

(1) Where any service specified in clause (105) of section 65 is,--

(a) provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and

(b) received by a person (hereinafter referred to as the recipient) who has his place of business, fixed establishment, permanent address or usual place of residence, in India, such service shall, for the purposes of this section, be taxable service, and such taxable service shall be treated as if the recipient had himself provided the service in India, and accordingly all the provisions of this Chapter shall apply:

Provided that where the recipient of the service is an individual and such service received by him is otherwise than for the purpose of use in any business or commerce, the provisions of this sub-section shall not apply:

Provided further that where the provider of the service has his business establishment both in that country and elsewhere, the country, where the establishment of the provider of service directly concerned with the provision of service is located, shall be treated as the country from which the service is provided or to be provided.

(2) Where a person is carrying on a business through a permanent establishment in India and through another permanent establishment in a country other than India, such permanent establishments shall be treated as separate persons for the purposes of this section.

Explanation 1.--A person carrying on a business through a branch or agency in any country shall be treated as having a business establishment in that country.

Explanation 2.--Usual place of residence, in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.;

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 67 - Valuation of taxable services for charging service tax

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67.[1][Valuation of taxable services for charging service tax

(1) Subject to the provisions of this Chapter, service tax chargeable on any taxable service with reference to its value shall,--

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

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

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

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of

service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

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

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

Explanation.--For the purposes of this section,--

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

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

(c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and [2][book adjustment, and any amount credited or debited, as the case may be, to any account, whether called Suspense account or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.]]

1.Substituted by the Finance Act, 2006.

2. Substituted by the Finance Act, 2008 for the words book adjustment..

Section 68 - Payment of service tax

68.[1][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 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.]

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1. Substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998. Earlier section 68 was amended by the Finance (No. 2) Act, 1996 and later on substituted by the Finance Act, 1997.

Section 69 - Registration

69.[1] [Registration

[2] [(1)]Everyperson liable to pay the service tax under this Chapter or the rules madethereundershall, within suchtime and in such manner and in such form as may be prescribed, make anapplication for registration to the [3] [Superintendentof Central Excise].

[4] ["(2) The CentralGovernment may, by notification in the Official Gazette, specify such otherperson or class of persons, who shall make an application for registrationwithin such time and in such manner and in such form as may be prescribed.]

1.Sections69 to 71 substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.

2.Section 69 re numbered as sub-section (1) thereof by the Finance Act, 2005 w.e.f.13.05.2005.

3. Substituted for "Central Excise Officer" bythe Finance Act, 2001, w.e.f. 16-7-2001.

4. Inserted by the Finance Act, 2005 w.e.f. 16.06.2005.

Section 70 - Furnishing of returns

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70. [1][Furnishing of returns

[2][(1)] Every person liable to pay the service tax shall himself assess the tax due on the services provided by

him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency [4][and with such late fee not exceeding two thousand rupees, for delayed furnishing of

return, as may be prescribed].

[3][(2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the

Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.]

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1. Sections 70 and 71 substituted, by the Finance Act, 2001, w.e.f. 16-7-2001, w.e.f. 16-7-2001. Prior to their substitution, section 70, as substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998, and section 71, as substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998 and later on amended by the Finance Act, 1999, w.e.f. 11-5-1999, read as under :

"70. 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.

71. 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, after obtaining a written permission from the Commissioner of Central Excise, 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."

2. Section 70 re numbered as sub-section (1) thereof by the Finance Act, 2005 w.e.f. 13.05.2005.

3. Inserted by the Finance Act, 2005 w.e.f. 16.06.2005.

4. Substituted for "as may be prescribed" by the Finance Act, 2007.

Section 71 - Scheme for submission of Returns through Service Tax Preparers

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[2]**[71. Scheme for submission of Returns through Service Tax Preparers.-**

(1) Without prejudice to the provisions of section 70, the Board may, by notification in the Official Gazette, frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70, and authorise a Service Tax Return Preparer to act as such under the Scheme.

(2) A Service Tax Return Preparer shall assist the person or class of persons to prepare and furnish the return in such manner as may be specified in the Scheme framed under this section.

(3) For the purposes of this section,--

(a) Service Tax Return Preparer means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;

(b) person or class of persons means such person, as may be specified in the Scheme, who is required to furnish a return required to be filed under section 70.

(4) The Scheme framed by the Board under this section may provide for the following, namely:--

(a) the manner in which and the period for which the Service Tax Return Preparer shall be authorised under sub-section (1);

(b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Service Tax Return Preparer;

(c) the code of conduct for the Service Tax Return Preparer;

(d) the duties and obligations of the Service Tax Return Preparer;

(e) the circumstances under which the authorisation given to a Service Tax Return Preparer may be withdrawn;

(f) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.]

---

1. Omitted by Finance (No. 2) Act, 2004 w.e.f 10.09.2004. Prior to omission it read as under:-

"71. Verification of tax assessed by the assessee, etc.--

(1) The Superintendent of Central Excise may, on the basis of information contained in the return filed by the assessee under section 70, verify the correctness of the tax assessed by the assessee on the services provided.

(2) The Superintendent of Central Excise may require the assessee to produce any accounts, documents or other evidence as he may deem necessary for such verification as and when required.

(3) If on verification under sub-section (2), the Superintendent of Central Excise is of the opinion that service tax on any service provided has escaped assessment or has been under-assessed, he may refer the matter to the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, who may pass such order of assessment as he thinks fit.]]

72. 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 the provisions of section 71,] or

(c) the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise] is not satisfied with the correctness or the completeness of the accounts of the assessee,

the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise], 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."

2. Inserted by the Finance Act, 2008 after omitted in 2004 "[1] **[***]**".

Section 72 - Best Judgment Assessment

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[2]**[72. Best judgment assessment.**

If any person, liable to pay service tax,--

(a) fails to furnish the return under section 70;

(b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder, the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, 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.]

---

1. Omitted by Finance (No.2) Act, 2004 w.e.f 10.09.2004. Prior to omission it read as under:-

"71. Verification of tax assessed by the assessee, etc.--

(1) The Superintendent of Central Excise may, on the basis of information contained in the return filed by the assessee under section 70, verify the correctness of the tax assessed by the assessee on the services provided.

(2) The Superintendent of Central Excise may require the assessee to produce any accounts, documents or other evidence as he may deem necessary for such verification as and when required.

(3) If on verification under sub-section (2), the Superintendent of Central Excise is of the opinion that service tax on any service provided has escaped assessment or has been under-assessed, he may refer the matter to the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, who may pass such order of assessment as he thinks fit.]]

72. Best judgment assessment.--

If--

[10] [(a) any person fails to make the return under section 70, or]

(b) any person having made a return fails[11] [to comply with the provisions of section 71,] or

(c) the[12] [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise] is not satisfied with the correctness or the completeness of the accounts of the assessee,

the[12] [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise], 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."

2. Inserted by the Finance Act, 2008 after omission in 2004 "[1] **[***]**".

Section 73 - Recovery of Service Tax Not Levied or Paid or Short lived or Short-paid or Erroneously Refunded

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[1] **[73. Recovery of Service Tax Not Levied or Paid or Short lived or Short-paid or Erroneously Refunded.**

(1) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the [2] [Central Excise Officer] may, within one year from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Provided that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of--

(a) fraud; or

(b) collusion; or

(c) wilful misstatement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words "one year", the words "five years" had been substituted.

Explanation.--Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of one year or five years, as the case may be.

[3] [(1A) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Chapter or the rules made thereunder, with intent to evade payment of service tax, by such person or his agent, to whom a notice is served under the proviso to sub-section (1) by the Central Excise Officer, such person or agent may pay service tax in full or in part as may be accepted by him, and the interest payable thereon under section 75 and penalty equal to twenty-five per cent. of the service tax specified in the notice or the service tax so accepted by such person within thirty days of the receipt of the notice.];

(2) The [2] [Central Excise Officer] shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

[3] [Provided that where such person has paid the service tax in full together with interest and penalty under sub-section (1A), the proceedings in respect of such person and other persons to whom notices are served under sub-section (1) shall be deemed to be concluded:

Provided further that where such person has paid service tax in part along with interest and penalty under sub-section (1A), the Central Excise Officer shall determine the amount of service tax or interest not being in excess of the amount partly due from such person.];

(3) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of such service tax, and inform the [2] [Central Excise Officer] of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the amount so paid:

Provided that the [2] [Central Excise Officer] may determine the amount of short payment of service tax or erroneously refunded service tax, if any, which in his opinion has not been paid by such person and, then, the [2] [Central Excise Officer] shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation [4][1].--For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the [2] [Central Excise Officer], but for this sub-section.

[4][Explanation 2.--For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service-tax under this sub-section and interest thereon.]

(4) Nothing contained in sub-section (3) shall apply to a case where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of--

(a) fraud; or

(b) collusion; or

(c) wilful misstatement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax.

(5) The provisions of sub-section (3) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003.

(6) For the purposes of this section, "relevant date" means,--

(i) in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid--

(a) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;

(b) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;

(c) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;

(ii) in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof;

(iii) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.]

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1. Substituted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004 for the following section :-

"73. Value of taxable services escaping assessment..--

[(1)] If-

[(a) the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise 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 prescribed period or to disclose wholly or truly all material facts required for verification of the assessment under section 71, the value of taxable service has escaped assessment or has been under-assessed [or service tax has not been paid or has been short paid] or any sum has erroneously been refunded, or]

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise 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 service tax has not been paid or has been short paid] or any sum has erroneously been refunded],

[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 one year, from the relevant date, serve notice on the person chargeable with the service tax which has escaped assessment or has been under-assessed or has not been paid or has been short-paid, or to whom any sum has been erroneously refunded, requiring him to show cause why he should not pay the amount specified in the notice.]

[Explanation.--Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of five years or [one year], as the case may be.]

[(2) The Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of service tax due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

[(2A) Where any service tax has escaped assessment or has been under assessed or service tax has not been paid or has been short paid or erroneously refunded, the person chargeable with the service tax, may pay the amount of tax on the basis of his own ascertainment of such tax or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of service tax, and inform the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of service tax so paid:

Provided that the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may determine the amount of short payment of service tax, if any, which in his opinion has not been paid by such person and, then, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation 1.--Nothing contained in this sub-section shall apply to cases falling under clause (a) of sub-section (1).

Explanation 2.--For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax, if any, as may be determined by the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, but for this sub-section.

(2B) The provisions of sub-section (2A) shall not apply to any case where the service tax had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.]

(3) For the purposes of this section, "relevant date" means,--

(i) in the case of taxable service in respect of which service tax has escaped assessment or has been under-assessed or has not been paid or has been short-paid--

(a) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid

during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;

(b) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;

(c) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;

(ii) in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof;

(iii) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.]"

2. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise".

3. Inserted by Finance Act, 2006.

4. Inserted by the Finance Act, 2010.

Section 73A - Service tax collected from any person to be deposited with Central Government

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[1][Section 73A - Service tax collected from any person to be deposited with Central Government

(1) Any person who is liable to pay service tax under the provisions of this Chapter or the rules made thereunder, and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service under the provisions of this Chapter or the rules made thereunder from the recipient of taxable service in any manner as representing service tax, shall forthwith pay the amount so collected to the credit of the Central Government.

(2) Where any person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, such person shall forthwith pay the amount so collected to the credit of the Central Government.

(3) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) or sub-section (2) and the same has not been so paid, the Central Excise Officer shall serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.

(4) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (3), determine the amount due from such person, not being in excess of the amount specified in the notice, and thereupon such person shall pay the amount so determined.

(5) The amount paid to the credit of the Central Government under sub-section (1) or sub-section (2) or sub-section (4), shall be adjusted against the service tax payable by the person on finalisation of assessment or any other proceeding for determination of service tax relating to the taxable service referred to in sub-section (1).

(6) Where any surplus amount is left after the adjustment under sub-section (5), such amount shall either be credited to the Consumer Welfare Fund referred to in section 12C of the Central Excise Act, 1944(1 of 1944) or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 11B of the said Act and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Central Excise Officer for the refund of such surplus amount.].

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 73B - Interest on amount collected in excess

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[1][Section 73B - Interest on amount collected in excess

Where an amount has been collected in excess of the tax assessed or determined and paid for any taxable service under this Chapter or the rules made thereunder from the recipient of such service, the person who is liable to pay such amount as determined under sub-section (4) of section 73A, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent. and not exceeding twenty-four per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Chapter, but for the provisions contained in sub-section (4) of section 73A, till the date of payment of such amount:

Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B of the Central Excise Act, 1944(1 of 1944), and such amount payable is voluntarily paid in

full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases, the interest shall be payable on the whole amount, including the amount already paid.

Explanation 1.--Where the amount determined under sub-section (4) of section 73A is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under this section shall be on such reduced amount.

Explanation 2.--Where the amount determined under sub-section (4) of section 73A is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under this section shall be on such increased amount.].

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 73C - Provisional attachment to protect revenue in certain cases

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[1][Section 73C - Provisional attachment to protect revenue in certain cases

(1) Where, during the pendency of any proceeding under section 73 or section 73A, the Central Excise Officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Central Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 73 or sub-section (3) of section 73A, as the case may be, in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Chief Commissioner of Central Excise may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.]

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 73D - Publication of Information in respect of persons in certain cases

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[1][Section 73D - Publication of Information in respect of persons in certain cases

(1) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings under this Chapter in respect of such person, it may cause to be published such names and particulars in such manner as may be prescribed.

(2) No publication under this section shall be made in relation to any penalty imposed under this Chapter until the time for presenting an appeal to the Commissioner (Appeals) under section 85 or the Appellate Tribunal under section 86, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.--In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, shall also be published if, in the opinion of the Central Government, circumstances of the case justify it.];

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 74 - Rectification of mistake

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(1) With a view to rectifying any mistake apparent from the record, the[1][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[1][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[1][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[2][the liability of the assessee or reducing a refund], shall not be made under this section unless the[1][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[1][Central Excise Officer] concerned.

(6) Subject to the other provisions of this Chapter where any such amendment has the effect of reducing the[3][liability of an assessee or increasing the refund], the[1][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[3][liability of an assessee or increasing the refund], or reducing the refund already made, the[1][Central Excise Officer] shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

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1. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"[Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise]"

2. Substituted for the words "an assessment or reducing a refund or otherwise increasing the liability of the assessee" by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

3. Substituted for the words "assessment" by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

Section 75 - Interest on delayed payment of service tax

75.[1][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[2][at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette,] for the period by which such crediting of the tax or any part thereof is delayed.

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1. Sections 75 to 77 substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998. Earlier section 76 was amended by the Finance Act, 1997.

2. Substituted for the words "[at the rate of [fifteen] per cent per annum" by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

Section 75A - [Omitted]

75A. [1][***]

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1. Omitted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004. Prior to omission it read as under:-

"75A. [Penalty for failure of registration.--

Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, fails to make an application for registration under section 69, shall pay, by way of penalty, a sum of five hundred rupees.]"

Section 76 - Penalty for failure to pay service tax

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[1][Section 76 - 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 under this Chapter, who fails to pay such tax, shall pay, in addition to such tax and the interest on that tax amount in accordance with the provisions of section 75, a penalty which shall not be less than two hundred rupees for every day during which such failure continues or at the rate of two per cent. of such tax, per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax:

Provided that the total amount of the penalty payable in terms of this section shall not exceed the service tax payable.

Illustration

X, an assessee, fails to pay service tax of Rs. 10 lakhs payable by 5th March. X pays the amount on 15th March. The default has continued for 10 days. The penalty payable by X is computed as follows:--

2% of the amount of default for 10 days = 2 x 10, 00, 000 x 10/31 = Rs. 6,451.61

Penalty calculated @ Rs. 200 per day for 10 days =Rs. 2,000

Penalty liable to be paid is Rs. 6,452.00.];

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1. Substituted by the Finance Act, 2006.

Section 77 - Penalty for contravention of rules and provisions of Act for which no penalty is specified elsewhere

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[1]**[77. Penalty for contravention of rules and provisions of Act for which no penalty is specified elsewhere-**

(1) Any person,--

(a) who is liable to pay service tax, or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to pay a penalty which may extend to five thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;

(b) who fails to keep, maintain or retain books of account and other documents as required in accordance with the provisions of this Chapter or the rules made thereunder, shall be liable to a penalty which may extend to five thousand rupees;

(c) who fails to--

(i) furnish information called by an officer in accordance with the provisions of this Chapter or rules made thereunder; or

(ii) produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder; or

(iii) appear before the Central Excise Officer, when issued with a summon for appearance to give evidence or to produce a document in an inquiry, shall be liable to a penalty which may extend to five thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;

(d) who is required to pay tax electronically, through internet banking, fails to pay the tax electronically, shall be liable to a penalty which may extend to five thousand rupees;

(e) who issues invoice in accordance with the provisions of the Act or rules made thereunder, with incorrect or incomplete details or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to five thousand rupees.

(2) Any person, who contravenes any of the provisions of this Chapter or any rules made thereunder for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to five thousand rupees.]

1.Substituted by the Finance Act, 2008.

Section 78 - Penalty for suppressing value of taxable service

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[1] [Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by

reason of--

(a) fraud; or

(b) collusion; or

(c) willful mis-statement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

the person, liable to pay such service tax or erroneous refund, as determined under sub-section (2) of section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him, which shall not be less than, but which shall not exceed twice, the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded:]

[2] [Provided that where such service tax as determined under sub-section (2) of section 73, and the

interest payable thereon under section 75, is paid within thirty days from the date of communication of order of the [3] [Central Excise Officer] determining such service tax, the amount of penalty liable to be

paid by such person under this section shall be twenty-five per cent of the service tax so determined :

Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the service tax determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent of the consequential increase of penalty have also been paid within thirty days of communication of the order by which such increase in service tax takes effect.

[4][Provided also that if the penalty is payable under this section, the provisions of section 76 shall not apply.]

Explanation.--For the removal of doubts, it is hereby declared that--

(1) the provisions of this section shall also apply to cases in which the order determining the service tax under sub-section (2) of section 73 relates to notices issued prior to the day on which the Finance Bill, 2003 receives the assent of the President;

(2) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

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1. Substituted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004 for the following:-

"If the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise] 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:"

2. Substituted by the Finance Act, 2003, w.e.f. 14-5-2003. Prior to its substitution, it was amended by Finance Act, 2001, w.e.f. 16-7-2001 and Finance Act, 2002, w.e.f. 16-8-2002, read as under:

"Provided that if the value of taxable service (as determined by the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise on assessment) in respect of which value has been suppressed or concealed or inaccurate value has been furnished exceeds a sum of two lakhs rupees, the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise shall not issue any direction for payment by way of penalty without the previous approval of the Commissioner of Central Excise."

3. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise"

4. Inserted by the Finance Act, 2008.

Section 79 - Penalty for Failure to Comply with Notice

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79. [1][***]

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1. Omitted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004. Prior to omission it read as under:-

" 79. Penalty for failure to comply with notice .--

[If the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with the provisions 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."

Section 80 - Penalty not to be imposed in certain cases

Notwithstanding anything contained in the provisions of[1][section 77 or section 78], no penalty sh all be imposable on the assessee for any failure referred to in the said provisions, if the asses see proves that there was reasonable cause for the said failure.

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1 . Substituted for the words "section 76, section 77, section 78 or section 79" by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

Section 81 - Offences by Companies

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81. [1][***]

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1. Omitted by Finance (No. 2) Act, 2004 w.e.f 10.09.2004. Prior to omission it read as under:-

"81. 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 to 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."

Section 82 - Power to search premises

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(1) If the [1] [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 [2] [***] [3] [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise] [4] [to search for and seize or may himself search for and seize, 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.

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1. Substituted for "Central Excise Officer" by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.

2. Word "other" omitted by the Finance Act, 2002, w.e.f. 16-8-2002.

3. Substituted for "Central Excise Officer" by the Finance Act, 2001, w.e.f. 16-7-2001.

4. Substituted for "to search or may himself search for such documents or books or things" by the Finance Act, 2002, w.e.f. 16-8-2002.

Section 83 - Application of certain provisions of Act 1 of 1944

The provisions of the following sections of the Central Excise Act, 1944 (1 of 1944), as in force from time to time, sh all apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise:--

9C, 9D,[4][***] , 11B ,[1][11BB ,[2][11C, [4][***] 12 ,] 12A,] 12B , 12C, 12D, 12E, 14, [5][14AA,"] [3][15, 33A, 35F,] [6][35FF] to 35-O (both inclusive), 35Q, 36 , 36A, 36B , 37A, 37B , 37C, 37D[5][, 38A] and 40 .

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1. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.

2. Substituted for "11D," by the Finance Act, 2003, w.e.f. 14-5-2003. Earlier, it was amended by the Finance Act, 2002, w.e.f. 16-8-2002.

3. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words " 15, 35F".

4. The words "11" and "11D" omitted by Finance Act, 2006.

5. Inserted by the Finance Act, 2007.

6. Inserted by the Finance Act, 2008.

Section 83A - Power of adjudication

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[1] **[83A.Power of adjudication**

Where under this Chapteror the rules made thereunder any person is liable to a penalty, such penalty maybe adjudged by the Central Excise Officer conferred with such power as theCentral Board of Excise and Customs constituted under the Central Boards ofRevenue Act, 1963(54 of 1963), may, by notification in the Official Gazette,specify.]

1.Inserted by theFinance Act, 2005 w.e.f. 16.06.2005.

Section 84 - Appeals to Commissioner of Central Excise (Appeals)

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[3][(1) The Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Commissioner of Central Excise in his order.

(2) Every order under sub-section (1) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

(3) Where in pursuance of an order under sub-section (1), the adjudicating authority or any other officer authorised in this behalf makes an application to the Commissioner of Central Excise (Appeals) within a period of one month from the date of communication of the order under sub-section (1) to the adjudicating authority, such application shall be heard by the Commissioner of Central Excise (Appeals), as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Chapter regarding appeals shall apply to such application.

Explanation.--For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the Commissioner of Central Excise immediately before the commencement of clause (C) of section 112 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Commissioner of Central Excise as if this section had not been substituted.]

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1. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"which has been taken by the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise]"

2. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"[Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise]"

3. Substituted by the Finance (No. 2) Act, 2009 for the following : -

"(1) The Commissioner of Central Excise may call for the record of a proceeding under this Chapter1[in which an adjudicating authority subordinate to him has passed any decision or order] and may make such inquiry or cause such inquiry to be made and, sub ject to the provisions of this Chapter, pass such ord er thereon as he thinks fit.

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

(3) The Commissioner of Central Excise sh all communicate the ord er passed by hi m under sub -section (1) to the assessee, the[2][such adjudicating authority] and the B oard.

(4) No ord er under this section sh all 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 ord er under this section sh all be passed after the expiry of two years from the date on which the ord er sought to be revised has been passed."

Section 85 - Appeals to the Commissioner of Central Excise (Appeals)

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[1] ["(1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Commissioner of Central Excise 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 [2] [such adjudicating authority], 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 order 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 Excise Act, 1944 (1 of 1944).

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1. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"(1) Any person aggrieved by any assessment order passed by the [Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise] under [***] section 73, or denying his liability to be assessed under this Chapter, or by an order levying interest or [penalty or denying any refund of service tax under this Chapter], may appeal to the Commissioner of Central Excise (Appeals)."

2. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"[Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise]"

Section 86 - Appeals to Appellate Tribunal

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(1) Any assessee aggrieved by an order passed by a Commissioner of Central Excise under [1][section 73 or section 83A [13][***]], or an order passed by a Commissioner of Central Excise (Appeals) under section 85 , may appeal to the Appellate Tribunal against such order.

[8][(1A) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.]

[2][(2) The [9][Committee of Chief Commissioners of Central Excise] may, if it objects to any order passed by the Commissioner of Central Excise under[1][section 73 or section 83A [13][***]], direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

[12][Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion against the order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.]

[10][(2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise

(Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order.]

[12][Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order.

Explanation.-- For the purposes of this sub-section, jurisdictional Chief Commissioner means the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter.]

(3) Every appeal under sub -section (1) [4][or sub -section (2) or sub -section (2A)] shall be filed within three months of the date on which the order sought to be appealed against is received by the assessee, the [11][Committee of Chief Commissioners or the Committee of Commissioners] , as the case may be.

[5][(4) The Commissioner of Central Excise or [6][any Central Excise Officer subordinate to him] 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) or sub -section (2A)] 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 me morandum 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 me morandum 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 that period.

[7][(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,--

(a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(c) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2) or sub-section (2A) or a memorandum of cross-objections referred to in sub-section (4).

(6A) Every application made before the Appellate Tribunal,--

(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees.

Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, under this sub-section]

(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 Excise Act, 1944 (1 of 1944).

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1. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words "section 84".

2. Sub-sections (2) and (2A) substituted for sub-section (2) by the Finance Act, 2001, w.e.f. 16-7-2001. Prior to its substitution, sub-section (2) read as under :

"(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. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to appeal"

4. Substituted for "or sub-section (2)" by the Finance Act, 2001, w.e.f. 16-7-2001.

5. Substituted for the portion beginning with the words "The Central Excise Officer" and ending with the words "or sub-section (2)", the Finance Act, 2001, w.e.f. 16-7-2001, w.e.f. 16-7-2001. Prior to its substitution, the quoted portion road as under :

"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)"

6. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the following:-

"Assistant Commissioner of Central-Excise or Deputy Commissioner of Central Excise".

7. Substituted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004 for the following sub section:-

"(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 sub-section (2A)] or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of two hundred rupees."

8. Inserted by the Finance Act, 2007.

9. Substituted for "Board" by the Finance Act, 2007.

10. Substituted by the Finance Act, 2007. Prior to substitution, it read as under:-

"(2 A) The Commissioner of Central Excise may, if he objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85 , direct [3][any Central Excise Officer to appeal on his behalf] to the Appellate Tribunal against the order.]"

11. Substituted for " Board or by the Commissioner of Central Excise" by the Finance Act, 2007.

12. Inserted by the Finance Act, 2008.

13. Omitted by the Finance (No. 2) Act, 2009 for the following : -

"or section 84"

Section 87 - Recovery of any amount due to Central Government.

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[1][Section 87 - Recovery of any amount due to Central Government.

Where any amount payable by a person to the credit of the Central Government under any of the provisions of this Chapter or of the rules made thereunder is not paid, the Central Excise Officer shall proceed to recover the amount by one or more of the modes mentioned below:--

(a) the Central Excise Officer may deduct or may require any other Central Excise Officer or any officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the said Central Excise Officer or any officer of customs;

(b) (i) the Central Excise Officer may, by notice in writing, require any other person from whom money is due or may become due to such person, or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held or at or within the time specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be

necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in a case where the person to whom a notice under this section is sent, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and all the consequences of this Chapter shall follow;

(c) the Central Excise Officer may, on an authorisation by the Commissioner of Central Excise, in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(d) the Central Excise Officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.]

1.Inserted by the Finance Act, 2006, which was earlier Omitted by the Finance (No. 2) Act, 1998 , w .e.f . 16 - 10 - 1998.

Section 88 - Failure to furnish prescribed returns

[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.]

Section 89 - False statement in verification, etc.

[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.]

Section 90 - Abetment of false return, etc.

[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.]

Section 91 - Certain offences to be non-cognizable

[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.]

Section 92 - Institution of proceedings

[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.]

Section 93 - Power to grant exemption from service tax

93.[1][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 sub ject 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 ord er 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 ord er.]

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1. Substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.

Section 93A - 93A

[1][Section 93A

Where any goods or services are exported, the Central Government may grant rebate of service tax paid on taxable services which are used as input services for the manufacturing or processing of such goods or for providing any taxable services and such rebate shall be subject to such extent and manner as may be prescribed:

Provided that where any rebate has been allowed on any goods or services under this section and the sale proceeds in respect of such goods or consideration in respect of such services are not received by or on behalf of the exporter in India within the time allowed by the Reserve Bank of India under section 8 of the Foreign Exchange Management Act, 1999, such rebate shall be deemed never to have been allowed and the Central Government may recover or adjust the amount of such rebate in such manner as may be prescribed.];'.

1.Inserted by Finance Act, 2006 (21 of 2006).

Section 94 - Power to make rules

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

[1][(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;

[7][(aa) the determination of amount and value of taxable service under section 67;];

(b) the time and manner and the form in which application for registration shall be made [2] [under sub-sections (1) and (2) of section 69];

[8][(c) the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70;]

[7][(cc) the manner of provisional attachment of property under sub-section (1) of section 73C;

(ccc) publication of name of any person and particulars relating to any proceeding under sub-section (1) of section 73D;];

(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;

[4][(ee) the credit of service tax paid on the services consumed for providing a taxable service in case where the services consumed and the service provided fall in the same category of taxable service;]

[5][(eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service;]

[7][(eeee) the manner of recovery of any amount due to the Central Government under section 87;];

[6][(f) provisions for determining export of taxable services;

(g) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;

(h) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India;

[7][(hh) rebate of service tax paid or payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India under section 93A;];

[10][(hhh) the date for determination of rate of service tax and the place of provision of taxable service;]

(i) 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 [9][Chapter, Scheme framed under section 71 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.

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1. Substituted by the Finance (No. 2) Act, 1998, w.e.f. 16-10-1998.

2. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words "under section 69".

3. Substituted by the Finance Act, 2005 w.e.f 13.05.2005 for the words "under section 70"

4. Inserted by the Finance Act, 2002, w.e.f. 16-8-2002.

5. Inserted by the Finance Act, 2003, w.e.f. 14-5-2003.

6. Substituted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004 for the following clause :-

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

7. Inserted by Finance Act, 2006.

8. Substituted by the Finance Act, 2007. Prior to substitution, it read as under:-

"(c) the form, manner and frequency of the returns to be furnished [3] [under sub-sections (1) and (2) of section 70];"

9. Substituted by the Finance Act, 2008 for the words Chapter and every notification.

10. Inserted by the Finance (No. 2) Act, 2009.

Section 95 - Power to remove difficulties

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95. [1][Power to remove difficulties

(1) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2002 , the Central Government may, by order published in the Official Gazette, which is 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 the Finance Act, 2002 incorporating such taxable services in this Chapter come into force.

[2][(1A) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2003 , 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 the Finance Act, 2003 incorporating such taxable services in this Chapter come into force.]

[3][(1B) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance (No. 2) Act, 2004, 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 Finance (No. 2) Bill, 2004 receives the assent of the President.]

[4][(1C) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2006, 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 one year from the date on which the

Finance Bill, 2006 receives the assent of the President.];

[5][(1D) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2007, 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 one year from the date on which the Finance Bill, 2007 receives the assent of the President.]

[6][(1E) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2008, 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 one year from the date on which the Finance Bill, 2008 receives the assent of the President.]

[7][(1F) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance (No.2) Act, 2009, 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 one year from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President.]

[8][(1G) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2010, 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 one year from the date on which the Finance Bill, 2010 receives the assent of the President.]

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

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1. Substituted by the Finance Act, 2002, w.e.f. 16-8-2002. Prior to its substitution, section 95 read as under:

"95. 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 Gezette, 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.'

2. Inserted by the Finance Act, 2003, w.e.f. 14-5-2003.

3. Inserted by the Finance (No. 2) Act, 2004 w.e.f 10.09.2004.

4. Inserted by the Finance (No. 21) Act, 2006.

5. Inserted by the Finance Act, 2007.

6. Inserted by the Finance Act, 2008.

7. Inserted by the Finance (No. 2) Act, 2009.

8. Inserted by the Finance Act, 2010 w.e.f. 01.07.2010.

Section 96 - Consequential amendment

In the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), in the Schedule, after entry 7 relating to the Central Excise Act, 1944 (1 of 1944), the following entry shall be inserted, namely :--

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