

Finance Act, 2002

Section 149 - AMENDMENT OF ACT 32 OF 1994 -In the Finance Act, 1994, with effect from such date as the Central Government may, by

a) for Section 65-, the following section shall be substituted, namely:- '65. Definitions.- (1) In this Chapter, unless the context otherwise 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; (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 Gold (Control) 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 his agent; (8) "authorised service station" means any service station, or centre, authorised by any motor vehicle manufacturer, to carry out any service or repair of any motor car or two wheeled motor vehicle manufactured by such manufacturer; (9) "banking" shall have the meaning assigned to it in clause (b) of Section 5 of the Banking Regulation Act, 1949-(10 of 1949); (10) "banking company" shall have the meaning assigned to it in clause (a) of Section 45-A of the Reserve Bank of India Act, 1934-(2 of 1934); (11) "banking and other financial services" means the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate, namely:- (i) financial leasing services including equipment leasing and hire- purchase by a body corporate; (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 mergers and acquisitions and advice on corporate restructuring and strategy; and (vii) provision and transfer of information and data processing; (12) "Board" means the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 (54 of 1963); (13) "body corporate" shall have the meaning assigned to it in clause (7) of Section 2 of the Companies Act, 1956-(1 of 1956); (14) "broadcasting" has the meaning assigned to it in clause (c) of Section 2 of the Prasar Bharati (Broadcasting Corporation 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 collecting the broadcasting charges 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; (15) "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 collecting broadcasting charges on behalf of the said agency or organisation; (16) "beauty treatment" means face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up; (17) "beauty parlour" means any establishment providing beauty treatment services; (18) "cab" means a motor cab or maxi cab;

(19) "cable operator" shall have the meaning assigned to it in clause (aa) of Section 2 of the Cable Television Networks (Regulation) Act, 1995 -(7 of 1995); (20) "cable service" shall have the meaning assigned to it in clause (b) of Section 2 of the Cable Television Networks (Regulation) Act, 1995 -(7 of 1995); (21) "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 services incidental to freight, but does not include handling of export cargo or passenger baggage or mere transportation of goods; (22) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion; (23) "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; (24) "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); (25) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering; (26) "convention" means a formal meeting or assembly which is not open to the general public, and does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation; (27) "courier agency" means a commercial concern engaged in the door- to -door transportation of timesensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles; (28) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal; (29) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of Section 146 of the Customs Act, 1962-(52 of 1962); (30) "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); (31) "dry cleaning" includes dry cleaning of apparels, garments or other textile, fur or leather articles; (32) "dry cleaner" means any commercial concern providing service in relation to dry cleaning; (33) "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); (34) "event management" means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports or any other event and includes any consultation provided in this regard; (35) "event manager" means any person who is engaged in providing any service in relation to event management in any manner; (36) "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; (37) "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; (38) "fashion designer" means any person engaged in providing service in relation to fashion designing; (39) "financial institution" has the meaning assigned to it in clause (c) of Section 45-I of the Reserve Bank of India Act, 1934-(2 of 1934); (40) "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); (41) "goods" has the meaning assigned to it in clause (7) of Section 2 of the Sale of Goods Act, 1930-(3 of 1930); (42) "health and fitness service" means service for physical well -being such as, sauna and steam bath, Turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service; (43) "health club and fitness centre" means any establishment, including a hotel or resort, providing health and fitness service; (44) "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); (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 otherwise and includes a landscape designer; (50) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the subscriber 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 otherwise, 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 alphanumeric 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 otherwise, 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; (b) to a subscriber, by the telegraph authority in relation to a telephone connection; (c) to a subscriber, by the telegraph authority in relation to a pager; (d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business; (e) to a client, by an advertising agency in relation to 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 shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services; (j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner; (k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner; (l) to a customer, by an air travel agent in relation to the booking of passage for travel by air; (m) to a client, by a mandap keeper in relation to the use of 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 his professional capacity, in any manner; (q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner; (r) to a client, by a management consultant in connection with the management of any organisation, in any manner; (s) to a client; by a practising chartered accountant in his professional capacity, in any manner; (t) to a client, by a practising cost accountant in his professional capacity, in any manner; (u) to a client, by a practising company secretary in his professional capacity, in any manner; (v) to a client, by 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 otherwise and includes the provision of services of investigation, detection or verification of any

fact or activity; (x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security; (y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner; (z) to a client, by an underwriter in relation to underwriting, in any manner; (za) to 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 subscriber, by the telegraph authority in relation to a leased circuit; (ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph; (zf) to a subscriber, by the telegraph authority in relation to a communication through telex; (zg) to a subscriber, by the telegraph authority in relation to a facsimile communication; (zh) to a customer, by a commercial concern, in relation to online 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 videotape 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 shall 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 (zw), 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 (1) 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 Major 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 video-tape 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, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise.'; (b) for Section 66, the following section shall be substituted, namely: - "66. Charge of service tax.- (1) On and from the date of commencement of this Chapter, there shall be levied a tax (hereinafter referred to as the service tax), at the rate of five per cent of the value of the taxable services referred to in sub-clauses (a), (b) and (d) of clause (90) of Section 65 and collected in such manner as may be prescribed. (2) With effect from the date notified under Section 85 of the Finance (No. 2) Act, 1996 (33 of 1996), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (90) of Section 65 and collected in such manner as may be prescribed. (3) With effect from the date notified under Section 88 of the Finance Act, 1997 (26 of 1997), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n) and (o) of clause (90) of Section 65 and collected in such manner as may be prescribed. (4) With effect from the date notified under Section 116 of the Finance (No. 2) Act, 1998 (21 of 1998), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) and (z) of clause (90) of Section 65 and collected in such manner as may be prescribed. (5) With effect from the date notified under Section 137 of the Finance Act, 2001 (14 of 2001), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (za), (zfc), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn) and (zo) of clause (90) of Section 65 and collected in such manner as may be prescribed. (6) With effect from the date notified under Section 149 of the Finance Act, 2002, there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz) and (zza) of clause (90) of Section 65 and collected in such manner as may be prescribed."; (c) in Section 67, in the Explanation,- (i) in clause (e), the word "and" shall be omitted; (ii) in clause (f), for the words "by such manufacturer," the words "by such manufacturer; and" shall be substituted; (iii) after clause (f), the following clause shall be inserted, namely: - "(g) the commission or any amount received by the rail travel agent from the Railways or the customer,"; (iv) in the portion beginning with the brackets, letter and words "(b) the cost of and ending with the words "providing the service; and", the word "and" shall be omitted; (v) after the portion beginning with the brackets, letter and words "(c) the cost of parts" and ending with the words "two wheeled motor vehicles", the following shall be inserted, namely:- "(d) the air fare collected by air travel agent in respect of service provided by him; and (e) the rail fare collected by rail travel agent in respect of service provided by him."; (d) in Section 73 - (a) Section 73 shall be numbered as sub-section (1) thereof, and in sub-section (1) as so numbered,- (i) in clauses (a) and (b), for the words "has been under-assessed", occurring in both the clauses, the words "has been under-assessed or service tax has not been paid or has been short-paid" shall respectively be substituted; (ii) for the portion beginning with the words "he may, in case falling" and ending with the words "of the taxable service", the following shall be substituted, namely:- "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."; (b) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:- (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. (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.'; (e) in Section 75, for the words "twenty-four per cent", the words "fifteen per cent" shall be substituted; (f) in Section 78, in the proviso, for the words "twenty-five thousand rupees", the words "two lakh rupees" shall be substituted; (g) in Section 82, in sub-section (1),- (i) for the words "any other", the word "any" shall be substituted; (ii) for the words "to search or may himself search for such documents or books or things", the words "to search for and seize or may himself search for and seize, such documents or books or things" shall be substituted; (h) in Section 83, after the figures and letters "11-BB,", the figures and letter "11- D," shall be inserted; (i) in Section 94, in sub-section (2), after clause (e), the following clause shall be inserted, namely:- "(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;"; (j) for Section 95, the following section shall be substituted, namely:- "95. 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) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the Parliament."

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com