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**Contents**



**From Editor's Desk**



**Understanding Service Tax Law**



**Legislative Round-up**



**Obligations under Service Tax**



**Literature**



**Tip for the Month**



**Humour of The Week**



**GST Update**



**News Room**



**From the Government**



**Problems in Service Tax**



**Events**



**Quote of the Week**



**Announcements**



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## *FROM EDITOR'S DESK*



**Dear Readers,**

The Indian economy is in revival mode. Economic indicators are improving the Government hopes for improved collections. Even the Ministry of Finance hopes for better second half of the fiscal. Services have grown at the faster pace in last six months. Both, manufacturing and services together account for 80 percent of our economy. Given this fact, service tax collections and excise collections could see an upsurge in March 2012. CBEC is hopeful of achieving the budget estimates of Rs. 3.94 lakh crore for all indirect taxes and it has already achieved 72% of the target. Moreover, Finance Minister is understood to be exerting more pressure on revenue officials to improve tax collection.

**Date: 4<sup>th</sup> February, 2012**

**Dr. Sanjiv Agarwal**



## *GST UPDATE*



***No update this week***



## *Understanding Service Tax Law*



### **Registration for paying service tax- Documents to be submitted**

The following documents are required to be submitted by the person who has made an application for registration under Rules 4(1) of the Service Tax Rules ibid:

- (a) Copy of Permanent Account Number (PAN)
- (b) Proof of Residence
- (c) Constitution of the Applicant
- (d) Power of Attorney in respect of authorized person (s).

The above documents must be submitted to the concerned authority within a period of 15 days from the date of filing of the application for registration. Failure to do so would lead to rejection of the registration application.

That the time limit of seven days from date of receipt of application or intimation under Rule 4(5A), within which the registration is to be granted by the Superintendent of Central Excise or Service Tax, as referred to in Rule 4(5) shall be reckoned from the date the application for registration is complete in all respects.



**NEWS ROOM**  
(News on Service Tax which matters)



**Excise, Service Rates may go up as RBI Makes it Precondition to Monetary Easing**

Policymakers have begun talks on raising indirect taxes and withdrawing the last remnants of the 2008 stimulus, as the government comes under fire for not tackling the rising fiscal deficit.

There is a thinking within some sections in the finance ministry as well as other senior policymakers that the budget needs to send strong signals on fiscal prudence.... hikes in excise duty and service tax rates are under consideration. Two percentage point increase in both excise duty and service tax, which would take the Cenvat and service tax rates to 12%, was being considered though a final decision would be taken at the highest political level.

The Government had cut excise duties and service tax rates in 2008 as part of a stimulus package to tackle the global economic slowdown. While some of these cuts were partially rolled back in last year's budget, the ballooning subsidy bill and lower-than-expected revenue collections have resulted in government overshooting its deficit target for 2011-12 by a wide margin.

The Reserve Bank of India has made fiscal consolidation a pre-condition for monetary easing and the head of the Prime minister's economic advisory panel has also called for indirect taxes to be restored to their 2008 levels.

But some experts question the wisdom of hiking excise and services tax rates at a time when growth has slowed down again, and say the government should focus on reducing its expenditure. Signal is required on expenditure side as industry is only beginning to recover...What they need is a credible fiscal consolidation plan.

The fiscal stimulus measures had pushed the deficit to a 16-year high of 6.8% in 2009-10. The government managed to bring it down to 4.7% in 2010-11, following the over Rs. 1 lakh crore bonanza from 3G and broadband auctions. But the government will miss its 4.6% fiscal deficit target in 2011-12, and with the food security bill and large social sector schemes on the anvil, the next financial year, too, will pose challenges for the government's fiscal managers.

The government had cut the Cenvat rate, or the median excise duty rate levied on nearly 90% of goods manufactured, to 10% from 14% in December 2008 and by another 2 percentage points to 8% in the interim budget in February 2009. The service tax rate was cut to 10% from 12%. In the 2010-11, the Cenvat rate was raised to 10%, but the rates were left unchanged in last year's budget.

*(Source : The Economic Times dated 1.2.2012)*

### **Excise duty, service tax may be hiked in Budget**

Get ready to pay more for goods and services, as general excise duty and service tax may be hiked to the 2008-level in the Budget. Also, the fiscal deficit target for 2012-13 expected to be kept around 5 per cent.

The blueprint for the Budget is being prepared with the aim of fiscal consolidation. This could result in bringing the general excise duty and service tax rate to pre-crisis or 2008 level. The words 'fiscal consolidation' are in focus especially after the Reserve Bank of India Governor talked about it earlier this month.

On December 7, 2008, the Government had brought down excise duty from 14 per cent to 10 per cent to mitigate the impact of the global financial crisis. The duty was further cut to 8 per cent on February 24, 2009. On February 26, 2010, the Finance Minister, Mr. Pranab Mukherjee, rolled back the cut partially.

The service tax rate was also lowered from 12 per cent to 10 per cent on February 24, 2009. Both the cuts resulted in a loss to the exchequer. Since this is the last opportunity for the Government to take a hard decision, so there is a thinking that the entire cut be rolled back.

But, there is a feeling that when industry is down and demand is depressed, raising duties may further hurt growth. But, more money after the cash reserve ratio cut and possible lowering of interest rate may help to sustain demand. This, in turn, will fuel growth, it is felt.

Another senior official said the fiscal deficit may be revised for 2011-12 from 4.6 per cent to 5.6 per cent. Expenditure cannot be brought down further while the revenue situation is very tight, so there is no option but to revise the deficit by 100 basis points, he added.

The fiscal deficit has already reached 92 per cent of the budgeted target in nine months (April-December) of the current fiscal.

*(Source: Business Line dated 1.2.2012)*

## **Economists Seek a 'Policy' Budget**

Concerned over slow economic growth and waning confidence of both domestic and international investors, economists in their pre-budget meeting with the Finance Minister urged to make this budget a policy budget rather than only a statement of account.

They said that budget should be used as an instrument for restoring the confidence of the investors, said a finance ministry official. Finance Minister Pranab Mukherjee said that the government is hopeful that by the end of March, the head on inflation would be between 6 and 7% while the growth rate may be around 7% plus.

The current year was a challenging year as it had to face the problem of inflation, fiscal deficit and maintenance of sustainable and inclusive growth. Among other reform measures, economist suggested were to put on fast track mega infrastructure projects, and expenditure on populist measures be reduced and the leakage of funds in implementing them be curbed.

Other suggestions included decontrol of diesel, higher excise duty on diesel cars and use of cash transfer system to distribute subsidies directly to the beneficiaries among others.

Other suggestions to improve growth and restore confidence included abolishment of Security Transaction Tax, reforms in tax administration system, and giving infrastructure status to aviation sector and township housing among others.

*(Source : Economic Times dated 2.2.2012)*

## **FM exerting pressure to improve tax revenues**

Faced with yawning fiscal gap in the wake of economic slowdown, the Finance Minister, admitted that he was exerting more pressure on his revenue officials to improve revenue realisations.

"I am putting pressure on my colleagues in the CBEC, CBDT... and on my behalf the Secretary (revenue) is continuously breathing (down) their neck to improve revenue because our demand and requirement is much more," Mr. Mukherjee said in his address at an event to mark the 50th year of enactment of the Customs Act, 1962.

While the Centre is on course to achieve the Budget estimates of indirect tax collections, it has lowered its aim for direct tax mop up this fiscal.

The global uncertainty and high domestic interest rates have cast a shadow on the investments, both from domestic and foreign investors. All eyes are now on the Budget, which is expected to help restore

investor confidence in the Indian economy. Meanwhile, the Revenue Secretary, Mr. R.S. Gujral, said that the Finance Ministry was in the process of expediting the cadre review of Customs Department and the entire process may be completed in a month's time.

### **Hopeful of achieving Budget estimate, says CBEC chief**

The Central Board of Excise and Customs (CBEC) is hopeful of achieving the Budget estimate of Rs 3.94 lakh crore for indirect taxes this fiscal, its Chairman, Mr. S.K. Goel, said here on Thursday.

Till December-end last year, the Centre had already achieved 72 per cent of the Budget estimate, he told reporters on the sidelines of an event to mark 50 years of the Customs Act.

He said CBEC would achieve the Budget estimates even after giving away Rs 36,000 crore toward petroleum duties in July last.

When the estimate for 2011-12 was decided last year, the possibility of petroleum duty cuts in July was not there. Despite our foregoing such huge revenues, we are confident of meeting the estimate.

*(Source : Business Line dated 03.02.2012)*



## **LEGISLATIVE ROUNDUP**

(Brief commentary on recently reported cases)



### **Penalties**

Gujarat High Court in *CCE & C V Gujarat Intelligence Security (India) (2012) 34 STT 82 (Gujarat)*, confirmed the Tribunal order of deleting penalties imposed u/s 76 and 78 non payment of Service Tax on the ground that in view of various courts, question whether Service Tax is payable at all or not was a pure question of interpretation of law and further figure of payments were reflected in balance sheet and therefore, no malafides could be attributed to the assessee.



## **FROM THE GOVERNMENT**



**OFFICE OF THE COMMISSIONER OF SERVICE TAX-I: MUMBAI**

**5th Floor, Central Excise Building, 115, M. K. Road, Churchgate Mumbai – 400 020.**

## TENDER NOTICE

### **Subject: - Calling of Tender for Digitization of Manually filed Service Tax Returns pertaining to Service Tax-I, Mumbai Commissionerate**

The Service Tax-I, Mumbai Commissionerate is inviting quotations from experienced Service Providers/Contractors having vast experience in the field of data management for capturing below mentioned fields from the manually filed ST-3/ST-3A Returns in Excel format. The data will be submitted to the department in CD.

- a) Sr.No
- b) Name of the assessee
- c) STC code No
- d) Return for the period
- e) Date of filing
- f) Services
- g) Taxable Value
- h) Notification claimed
- i) Value of exemption notification
- j) Service Tax Payable/Edu Cess/ S&H.Edu. Cess
- k) Service Tax paid through money/GAR-7/Edu Cess/ S&H.Edu. Cess
- l) Service Tax paid through CENVAT/Edu Cess/ S&H.Edu. Cess
- m) Total service tax paid/Edu Cess/ S&H.Edu. Cess
- n) Difference in duty
- o) Other amount paid
- p) Total Cenvat credit availed
- q) Total Cenvat credit utilized

2. Rate per Service Tax Return should be quoted for above mentioned work. Number of returns that will be data entered in a month is to be specified. Work order would be given subject to rate per return and number of return a firm can capture in a given period i.e. a month. Approx, 30,000 returns have to be capture. Tender may be given to multiple service providers on the basis of location and workload.

3. The ST3/ST-3A Returns would be handed over to approved service provider and the feeding work is to be executed in divisional office only. Returns cannot be taken out of office premises. Service provider will arrange for his own Laptops, Computers, CDs etc. In no circumstances the data captured or any other data of the return is to be shared with any other individual or concern which will be otherwise treated as breach of trust. The space would be provided for installation of computers and capturing ST-3 return. Verification of data entered would be done by a person of service provider, other than who has captured the data.

4. The sealed tenders shall be addressed to "office of the Commissioner of Service Tax-I, Mumbai, 5th floor, Central Excise Building, 115, M.K. Road, Churchgate, Mumbai-400 020.

5. The bidders are required to submit two bids i.e. Technical and Financial. In the Technical bid, the bidder will provide data as per Annexure 'A' and they shall also undertake to follow the conditions mentioned therein. In the Financial bid he will submit the quotation for his charges. It should be written boldly on top of both the envelopes as ' TECHNICAL BID' AND 'FINANCIAL BID'. Both the envelopes should be submitted in a single sealed cover duly addressed and superimposed with words 'QUOTATIONS FOR TENDER FOR DIGITIZATION OF SERVICE TAX RETURN' on top. The service provider will be short listed on the basis of their technical competency and amongst them; bid with lowest quotation will be normally approved. As the number of returns are quite large, if necessary more than one bidder may be approved for the task.

6. The payment would be released, subject to successful completion of the works as above only.

7. THE LAST DATE FOR RECEIPT OF SEALED TENDER IS 08-02-2012 TILL 12.00 hrs. Bids received later than the stipulated date and time will not be considered under any circumstances. This office reserves the rights to reject any tender, even the lowest one, without assigning any reasons thereof.

8. The tender offers will be opened on 08-02-2012 at 15.00 hrs. in the presence of the purchase Committee.

9. The tender details are also available on [www.servicetaxmumbai.gov.in](http://www.servicetaxmumbai.gov.in)

**Sd/-18.01.2012**  
**(SUSHIL SOLANKI)**  
**COMMISSIONER**  
**SERVICE TAX-I, MUMBAI**  
**F. No.I/ST-1/HQ/ACES/CFC/2011**  
**Mumbai, the January 2012**  
**ANNEXURE- 'A'**  
**(Technical Bid)**

Information (Individual/Company) :-

- 1 Name of the Individual/Company
- 2 Date of formation of Company/ Firm
- 3 Nature of Company-Proprietorship/Partnership etc.
- 4 PAN Number (copy enclosed)
- 5 No. of Qualified staff
- 6 Facilities like number of Computers, Laptops etc
- 7 No of persons that will be deployed for work
- 8 Number of Returns that will be data entered in a month

**Undertaking :-**

1 I/We would maintain an inventory/register of the manual filed ST3/ST3A return collected from field office, data entered and ST3 /ST3A returned back, Division wise.

2 I/We undertake the responsibility for correct entry of the data as per the manual return on excel sheet.

3 I/We would be responsible for collecting the manual ST3 returns from the nominated groups in the Division under proper listing and receipt thereof. After data entry of the said ST3, we would return back the ST3 returns to the concerned group. Work will be undertaken in respective divisional office and return will not be taken out of office premises

4 I/We undertake that information contained in the ST-3 would not be shared/copied and used for any other purpose

5 I/We undertake that in case of wrong feeding of ST3 return, penalty upto 5 times of the rate quoted would be deducted from the total amount due

**(Financial Bid)**

Sr. No	Service	Rate/Charges per Return
1	Data entry of Manually filed ST3/ST3A Return	

I agree with all terms and conditions given in the Technical Bid

**Place**

**Name**

**Signature**

**Name of Company/individual**



## OBLIGATIONS FOR THE WEEK



- Monthly payment of Service Tax for assesseees other than individual, Proprietorship Firm and Partnership Firm (6th in case of electronic payment through internet banking) – G.A.R.-7 Challan Rule 6 dated 5.2.2012.
- Monthly payment of Central Excise Duties for the previous month - For non SSI Units (6th in case of electronic payment through internet banking) - G.A.R.-7 Challan Rule 8 (1) dated 5.2.2012.
- Monthly Return - Last Date for filing of Return of Central Excise and Cenvat Credit for the previous month for non SSI Units ER -1 Rule 12(1) dated 10.02.2012.
- Monthly Return - Last Date for filing of Return of Central Excise and Cenvat Credit for the previous month for EOU units ER – 2 Rule 17(3) dated 10.02.2012.
- Monthly - Details of receipt and consumption of principal inputs and finished excisable goods - Declarations under central excise to be filed by a unit paying total duty (Cenvat Credit + Cash) of more than 1 crore ER-6 Rule 9A(3) dated 10.02.2012.



## PROBLEMS IN SERVICE TAX



### Query            Air Cargo Service Value

At times, air transport operators charge certain charges / levies other than freight. Whether all charges would be liable to Service Tax?

### Reply

Value of taxable services shall be gross amount charged. The gross amount would include all charges charged by the aircraft operator including air freight, other charges, handling charges, storage charges, demurrage, loading/unloading charges etc. in relation to air transportation of cargo but would exclude any statutory levy and insurance charges.

In the event of aircraft operator undertaking the service for himself or without any consideration, the value of taxable service will be nil. Similarly, in-house transportation conducted through own aircraft will have no taxable value.

*Do you have any doubt or query on Service Tax? Why not seek an expert reply from STC.  
Email your query to [asandco@gmail.com](mailto:asandco@gmail.com).*



## LITERATURE



- Taxes, Duties and Cesses (Part-I) – Daya Sagar, Excise Law Times, Vol. 275 : Part 4 dated 23.01.2012.
- Credit on structures for support of capital goods available as capital goods after 7.7.2009 and after 1.4.2011 – Keshav Maloo, Excise Law Times, Vol. 275 : Part 5 dated 30.01.2012.
- Scope of Services under Management, Maintenance or Repair service – Dr. Sanjiv Agarwal, [www.taxmanagementindia.com](http://www.taxmanagementindia.com), dated 31.01.2012.
- Taxability of Site Formation and Clearance Services – Dr. Sanjiv Agarwal, [www.taxmanagementindia.com](http://www.taxmanagementindia.com), dated 01.02.2012.



## EVENTS



Programme : Seminar on Issues in Service Tax  
 Topics : CENVAT Credit for Service providers  
 Dates : Saturday 18th February, 2012  
 Venue : J. S. Lodha Auditorium, ICAI Bhawan, Cuffe Parade, Mumbai  
 Time : 10.00 a.m. to 6.00 p.m.  
 Organized by : The Institute of Chartered Accountants of India



## TIP FOR THE MONTH



*February is a budget month. It is the time to ascertain your gross turn over, if you are availing small service provider's exemption scheme.*



## QUOTE OF THE WEEK



In life and business, there are two cardinal sins. The first is to act precipitously without thought and the second is to not act at all.

**- Carl Icahn**



# Humour of the Week



## Court Marriage

### Two friends chatting –

- First one - Hey ! I am very happy today!! And sad too!!
- Second - Oh ! what happened ! that's surprising
- First - My friend got married last week - - - it was a court marriage.
- Second - That's great! But what makes you said?
- First one - There was a call from service tax department to the court. They want to tax it as mandap keeper service.



## Announcements



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**Treatise on Service Tax**  
Revised Edition, May, 2011  
(in a set of three volumes)

By  
**Dr. Sanjiv Agarwal**, Chartered Accountant

**ABOUT THE BOOK**

This Book is an attempt to provide a comprehensive commentary to the vast and fast changing subject of service tax law and procedures in a easy to understand form without missing out on important provisions, rules and relevant judicial pronouncements.

The Book is a unique combination of Ready Reckoner and explanatory commentary on service tax law and procedures duly supported by important notifications, circulars and departmental views, besides author's interpretation.

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**Salient Features:**

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Revised & Recast  
9<sup>th</sup> Edition  
May, 2011

2011-12

Treatise on Service Tax

VOLUME I

DR. SANJIV AGARWAL  
FCA, FCS, ACIS (UK)  
Practising Chartered Accountant, India

SWP

Revised & Recast  
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May, 2011

**2011-12**

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AS AMENDED BY THE FINANCE(No.8) ACT, 2011  
(Including New Services w.e.f. 1<sup>st</sup> May, 2011)

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RELEASE OF 9<sup>TH</sup> EDITION (MAY 2011)  
OF  
DR. SANJIV AGARWAL  
TREATISE OF SERVICE TAX  
(IN A SET OF 2 VOLUMES )**

***PUBLISHED BY***  
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