

Bimal Jain

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Dear Professional Colleague,

Union Budget 2016: Important changes in Service Tax and Credit Rules effective from April 1, 2016

Affirming that the economy is right on track, the Hon'ble Finance Minister Shri. Arun Jaitley presented the Union Budget for 2016-17 on February 29, 2016. Although, Shri. Arun Jaitley in his 'Make in India' Budget speech laid more emphasis on agriculture, farmers welfare, infrastructure, social sector etc., but there are slew of changes in Indirect Taxes also, requiring attention of the Trade & Industry.

Some of the changes were made effective from March 01, 2016 itself like withdrawal of exemption on services to monorail or metro, exemption to specified services provided by the IIM, retrospective Service tax exemption allowed on certain contracts etc., flurry of changes are yet to make their advent from April 1, 2016 and many others will come into force from the date of enactment of the Finance Bill, 2016.

We are summarizing herewith the changes in Service Tax and Cenvat Credit Rules, 2004 that are effective from April 1, 2016 for easy digest:

A: Service Tax leviable under Reverse Charge on any services provided by Government or Local Authority to a Business Entity w.e.f April 1, 2016

Effective from April 1, 2016, under clause (iv) of Section 66D(a) of the Finance Act, 1994 ("**the Finance Act**"), the words 'support services' will be substituted by the words 'any service' thereby, to exclude from the Negative List, any services provided by the Government or Local authority to a Business Entity [Section 109(1) of the Finance Act, 2015 read with Notification No. 06/2016-ST dated February 18, 2016]. However, the services provided by Government or Local authority to a Business Entity having turnover upto Rs. 10 lakh in the preceding Financial Year would remain exempt [New entry inserted vide after Entry No. 47 in the Mega Exemption Notification No. 25/2012- ST dated June 20, 2012 ("**the Mega Exemption Notification**") amended vide Notification No. 07/2016-ST dated February 18, 2016].

Amendment in the Reverse Charge Notification: The Union Budget, 2016 vide **Notification No. 18/2016-ST dated March 1, 2016**, has amended Reverse Charge Notification No. 30/2012-ST dated June 20, 2012 ("**the Reverse Charge Notification**"), to delete the words "by way of support services" appearing at Sl. No. 6 of the Table in the said notification with effect from April 1, 2016.

Corresponding changes in the Service Tax Rules, 1994 ("**the Service Tax Rules**") & the Finance Act: Corresponding changes have also been made in Rule 2(1)(d)(i)(E) of the Service

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Tax Rules and Section 65B(49) of the Finance Act containing definition of the term 'support services' is also proposed to be deleted.

Thus, the liability to pay Service tax on any service provided by Government or a Local Authority to Business Entities shall be on the service recipient w.e.f. April 1, 2016 except (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of Section 66D of the Finance Act.

Immediate clarification required: Given that the definition of the term 'service' under Section 65B(44) of the Finance Act is wide enough to cover any activity carried out by a person for another for consideration, it appears that effective from April 1, 2016, all Governmental services (sovereign, regulatory fees, statutory charges etc.) would be exigible to Service tax – Immediate clarification is required from the Board to provide exclusion list of the Governmental services covered under the Service tax net.

Amendment in Section 66E of the Finance Act to be effective from date of enactment of the Finance Bill, 2016 ("FB, 2016") – Mismatch in taxability for interim period: In the Union Budget, 2016, under Section 66E of the Finance Act, after clause (i), clause (j) is proposed inserted to include "assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof" under the list of Declared services. Meaning thereby, assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a 'service' leviable to Service tax and not sale of intangible goods and the liability to pay Service tax will be on the Business Entity under Reverse Charge. But such changes shall be effective from the date of enactment of FB, 2016, leading to dispute for taxability for the interim period i.e. from April 1, 2016 to date of enactment of FB, 2016.

B: Changes in the Mega Exemption List of Services Vide Notification No. 9/2016-ST dated March 1, 2016 amending Notification No. 25/2012-ST dated June 20, 2012

Relevant Entry	Status of Exemption
Exemption Withdrawn	
Entry No. 6(b) & (c)	<ul style="list-style-type: none">• Services provided by a <u>senior advocate</u> to an advocate or partnership firm of advocates and to a business entity;• Services provided by a person represented on an <u>arbitral tribunal</u> to an arbitral tribunal <p>Service tax in the above instances would be levied under <u>forward charge</u>. However, legal services provided by a firm of advocates or an advocate other than senior advocate is being continued under Reverse Charge [Read with Notification No. 18/2016 – ST dated March 1, 2016, amending the Reverse Charge Notification]</p>
Entry No. 23(c)	Exemption to services for transport of passengers, with or without

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	accompanied belongings, by <u>ropeway, cable car or aerial tramway</u>
Exemption Amended	
Entry 16	The threshold exemption limit of consideration charged for services provided by a <u>performing artist</u> in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, has been <u>extended from Rs. 1 lakh to Rs. 1.5 Lakhs per performance</u> (except brand ambassador).
New Exemptions	
Entry 9C	Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme
Entry 9D	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training
Entry No. 26(q)	Services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 (44 of 1999)
Entry No. 26C	Services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory And Development Authority Act, 2013 (23 of 2013)
Entry No. 49	Services provided by Employees' Provident Fund Organisation (EPFO) to persons governed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)
Entry No. 50	Services provided by Insurance Regulatory and Development Authority of India (IRDA) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999)
Entry No. 51	Services provided by Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market
Entry No. 52	Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination

C: Changes in Abatement Vide Notification No. 8/2016-ST dated March 1, 2016 amending Notification No. 26/2012-ST dated June 20, 2012

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Relevant S. No.	Status of Abatement
Present Abatement(s) amended	
S. No. 2	<u>Transport of goods by rail (other than “transport of goods in containers by rail by any person other than Indian Railway”)</u> - Cenvat credit of input services available: Abatement of 70% presently available is continued but with Cenvat credit of input services being made available
S. No. 3	<u>Transport of passengers by rail</u> - Cenvat credit of input services available: Abatement of 70% presently available is continued but with Cenvat credit of input services being made available
S. No. 10	<u>Transport of passengers by vessel</u> - Cenvat credit of input services available: Abatement of 70% presently available is continued but with Cenvat credit of input services being made available
S. No.7	<u>Services of GTA in relation to transportation of goods other than used household goods:</u> Abatement for “services of goods transport agency in relation to transportation of goods” is now substituted by term “services of goods transport agency in relation to transportation of goods other than used household goods” with same abatement of 70% presently available.
S. No. 11	<u>Tour Operator services:</u> <ul style="list-style-type: none"> • In cases where the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour, abatement of 90% is available with specified conditions; • This abatement of 90% cannot be claimed in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation. There is no change in the rate of abatement or the conditions required to be fulfilled for claiming the said abatement; • Abatement rates in respect of services by a tour operator in relation to a tour other than the above, is being rationalised from 75% and 60% to 70%. Consequently, the definition of “package tour” as provided under clause ‘b’ in Paragraph 2, is being omitted.
S. No. 12	<u>Construction of complex, building, civil structure, or a part thereof - Uniform abatement of 70%:</u> Present abatements of 75% (in case of a residential unit having carpet area of less than 2000 square feet and costing less than Rs. 1 crore) and 70% (in other cases) is amended to provide a uniform abatement at the rate of 70%, subject to fulfilment of the existing conditions.
New Insertions	

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S. No. 2A	<u>Transport of goods in containers by rail by any person other than Indian Railway</u> : Reduced abatement rate of <u>60%</u> with Cenvat credit of input services
S. No. 7A	<u>Transport of used household goods by a GTA</u> : Abatement at <u>60%</u> without availment of Cenvat credit on inputs, input services and capital goods by the service provider (as against abatement of 70% allowed on transport of other goods by GTA)
S. No. 8	<u>Services provided by foreman to a chit fund under the Chit Funds Act, 1982</u> : Abatement of <u>30%</u> subject to the condition that Cenvat credit of inputs, input services and capital goods has not been availed
Explanation 'BA' after paragraph B	<u>Renting of motor-cab services</u> : It is being made clear that <u>cost of fuel should be included</u> in the consideration charged for providing renting of motor-cab services for availing the abatement of 60% with no Cenvat credit on inputs, capital goods and input services (subject to specified conditions)

D: Changes in Reverse Charge Mechanism Vide Notification No. 18/2016-ST dated March 1, 2016 amending Notification No. 30/2012-ST dated June 20, 2012

Relevant clause/sub-clause	Particulars
Paragraph I, in clause (A), sub-clause (ib)	Omitted to provide that services provided by <u>mutual fund agents/distributor</u> to a mutual fund or asset management company are being put under <u>forward charge</u>
In Paragraph I, in clause (A), sub-clause (iv), item (B)	Substituted to provide that legal services provided by a <u>senior advocate</u> shall be under <u>forward charge</u>
In Paragraph I sub clause (iv) in Item C	Term 'support' has been omitted for services provided or agreed to be provided by Government or Local authority to a Business Entity (supra) [Refer Notification No. 16/2016-ST dated March 1, 2016]
Corresponding changes have also been made in Table contained under Paragraph II.	

E: Changes in Service Tax Rules Vide Notification No. 19/2016-ST dated March 1, 2016

Relevant Rule	Particulars
Rule 2	<ul style="list-style-type: none"> Legal services provided by a senior advocate shall be on forward charge [Rule 2(1)(d)(i)(D)(II)]

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	<ul style="list-style-type: none"> • Services provided by mutual fund agents/distributor to a mutual fund or asset management company put under forward charge [Rule 2(1)(d)(EEA)] • Liability to pay Service tax on any service provided by Government or local authorities to business entities shall be on the service recipient under reverse charge [Rule 2(1)(d)(i)(E) read with Notification No. 17/2016 – ST dated March 1, 2016]
Rule 6	<ul style="list-style-type: none"> • <u>Rule 6(1)</u>: Following benefits presently available to individual or proprietary firm or partnership firm, are being extended to One Person Company (OPC) whose aggregate value of taxable services provided from one or more premises is up to Rs. 50 lakhs in the previous financial year: <ul style="list-style-type: none"> ✓ Quarterly payment of Service tax and ✓ Payment of Service tax on receipt basis Further, the benefit of quarterly payment of Service tax is also being extended to HUF. • <u>Rule 6(7A)</u>: The Service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate Service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service
Rule 7	<ul style="list-style-type: none"> • <u>Annual Return</u>: Service tax assessee above a certain threshold limit shall also submit an annual return for the financial year, in such form and manner as may be specified by the CBEC, by the 30th day of November of the succeeding financial year

F: Changes in Cenvat Credit Rules, 2004 (“the Credit Rules”) vide Notification No. 13/2016-Central Excise (N.T) dated March 1, 2016

Relevant Rule	Particulars
Rule 2(a)	Definition of ‘capital goods’: <ul style="list-style-type: none"> • Wagons of Sub Heading 8606 92 of the CETA and equipment and appliance used in an office located within a factory are being included in the definition of capital goods; • Cenvat credit on inputs and capital goods used for pumping of water, for captive use in the factory, is being allowed even where such capital goods are installed outside the factory.
Rule 2(e)	Definition of ‘exempted service’:

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	<ul style="list-style-type: none">• Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of “exempted service”. This would allow domestic shipping lines to take credit on inputs and input services used in providing the said services.
Rule 2(k)	Definition of ‘inputs’ <ul style="list-style-type: none">• All capital goods having value up to Rs. 10,000 per piece are being included in the definition of inputs. This would allow an assessee to take whole credit on such capital goods in the same year in which they are received.
Rule 4	<ul style="list-style-type: none">• <u>Rule 4(5)(b)</u>: Manufacturer of final products is being allowed to take Cenvat credit on tools of Chapter 82 of the CETA in addition to credit on jigs, fixtures, moulds & dies, when intended to be used in the premises of job-worker or another manufacturer, who manufactures the goods as per specification of manufacturer of final products. It is also being provided that a manufacturer can send these goods directly to such other manufacturer or job-worker without bringing the same to his premises;• <u>Rule 4(6)</u>: The validity of permission given by an Assistant Commissioner or Deputy Commissioner to a manufacturer of the final products for <u>sending inputs or partially processed inputs outside his factory to a job-worker</u> and clearance there from on payment of duty is extended from a financial year to <u>3 financial years</u>;• <u>Rule 4(7)</u>: Cenvat credit of Service tax paid on amount charged for assignment by Government or any other person of a natural resource such as radio-frequency spectrum, mines etc. shall be spread over the period of time for which the rights have been assigned.
Rule 6	<p>Revamp changes in Rule 6 of Credit Rules providing for reversal of Cenvat credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, on following broad principles :</p> <ul style="list-style-type: none">• Option 1 - The assessee can pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services. This amount will be capped at a maximum of the total credit taken with the assessee at the end of the period to which the payment relates;• Option 2 – Pay an amount as determined under Rule 6(3A) Formula. Cenvat credit on common inputs/input services is to be identified and the same is to be apportioned based on the exempted/dutiable

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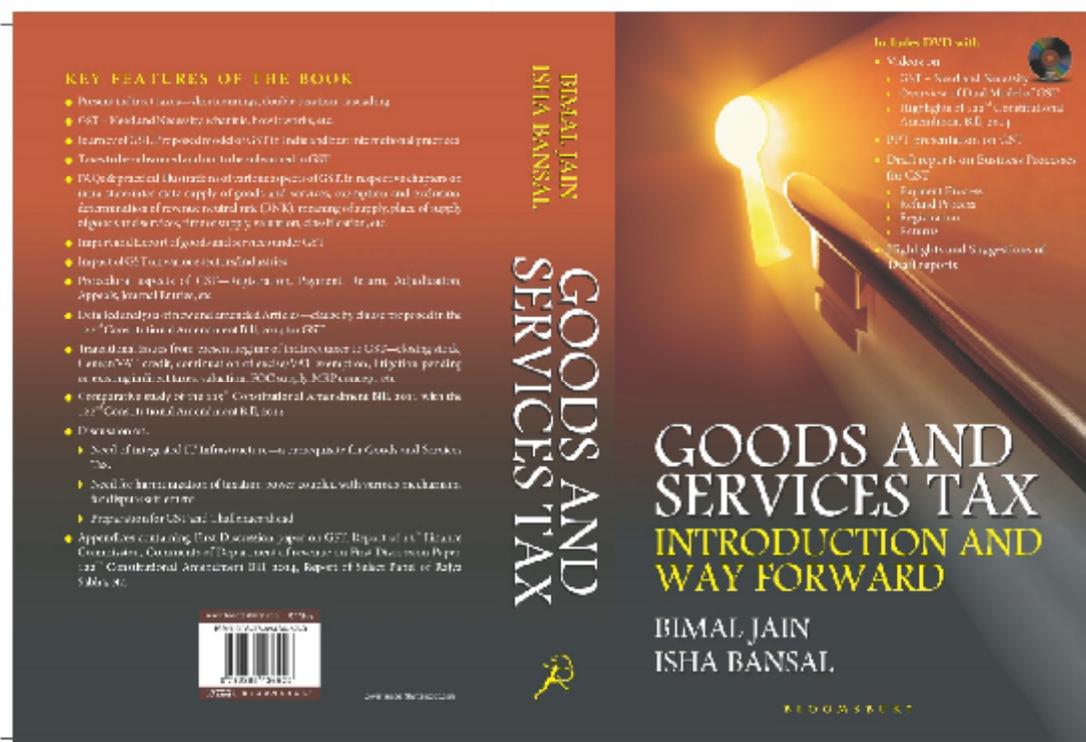
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	<p>turnover as only proportionate Cenvat credit on common inputs/input services will be allowed;</p> <ul style="list-style-type: none"> ✓ No Cenvat credit will be allowed on inputs/input services used exclusively in the manufacture of exempted goods / services; ✓ Full credit is allowed on the inputs/input services used exclusively in the manufacture of dutiable goods / taxable service; ✓ Credit left thereafter is common credit and shall be attributed towards exempted goods and exempted services by multiplying the common credit with the ratio of value of exempted goods manufactured or exempted services provided to the total turnover of exempted and non-exempted goods and exempted and non-exempted services in the previous financial year; ✓ Final reconciliation and adjustments are provided for after close of financial year by 30th June of the succeeding financial year, as provided in the existing Credit Rules <ul style="list-style-type: none"> • No Cenvat credit on capital goods used for the manufacture of exempted goods or provision of exempted service for 2 years from the date of commencement of commercial production/date of installation or provision of service. • Explanation 3 to substituted Rule 6(1) of the Credit Rules provides that for the purpose of Rule 6 of the Credit Rules, 'exempted services' as defined in Rule 2(e) of the Credit Rules shall include an activity, which is not a 'service' as defined in Section 65B(44) of the Finance Act.
Rule 7	<p>Distribution of Cenvat credit by Input Service Distributor ("ISD")</p> <ul style="list-style-type: none"> • Credit can be distributed to outsourced manufacturing unit - Outsourced manufacturing unit means job-worker paying duty under 10A of Central Excise Valuation (Determination of Price Of Excisable Goods) Rules, 2000 or contract manufacturer paying under Section 4A of the Central Excise Act, 1944; • Credit common to more than one unit to be distributed to respective unit; • Credit common to all units to be distributed to all the units; • Credit on services with ISD upto March 31, 2016 not to be distributed to outsourced manufacturing unit
Rule 9(a)(i)	<p>Invoice issued by a service provider for clearance of inputs or capitals goods shall also be a valid document for availing Cenvat credit</p>
Rule 9A	<p>Annual return by a manufacturer of final products or provider of output services for each financial year to be filed by the 30th day of November</p>

of the succeeding year in the form as specified by a notification by the Board

Rule 14(2)

FIFO method for determining whether a particular credit has been utilized is being omitted. Now, whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit.



Bimal Jain

FCA, FCS, LLB, B.Com (Hons)

Tax and Law Practitioners

Delhi:

Flat No. 34B, Ground Floor,

Pocket – 1, MayurVihar Phase-1

Delhi – 110091 (India)

Tel: +91 11 22757595/ 42427056

Allahabad:

B2-3/4-31 Sarojani Apartments

Sarojani Naidu Marg

Allahabad - 211001

Chandigarh:

H. No. 908, Sector 12-A,

Panchkula, Haryana - 134115

Kolkata:

Ist Floor, 10 R G Kar Road

Shyambazar, Kolkata – 700 004

Email: bimaljain@hotmail.com

Web: www.a2ztaxcorp.com

LinkedIn: <https://in.linkedin.com/pub/bimal-jain/14/601/4b4>

Face book: [facebook.com/bimal.jain.90](https://www.facebook.com/bimal.jain.90)

Twitter: <https://twitter.com/JainTax>

YouTube: <https://www.youtube.com/channel/UCp0tT5ShjB4KHJRSIPc3t5w>

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