

- 4) The CENVAT Credit Rules, 2004 are being amended to bring in the following changes:
- (a) Sub-rule (4) of Rule 3 is being amended to provide that in case of National Calamity Contingent duty (NCCD) payable on mobile phones, credit of any duty of excise other than NCCD will not be utilized for payment of the said NCCD.
This change shall come into effect from 1st March, 2008.
 - (b) Rule 6 is being amended to provide following options to a manufacturer, using common inputs or input services for manufacture of dutiable as well as exempted goods and opting not to maintain separate accounts. Such manufacturers can,-
 - (i) either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used in the manufacture of exempted goods; or
 - (ii) pay 10% amount of the value (to be determined in accordance with the provision of section 4/4A of the Central Excise Act, 1944) of the exempted goods.This change shall come into effect from 1st April, 2008.
 - (c) A new rule 15A is being inserted to provide for general penalty upto Rs.5000/- in case of contravention of any of the provisions of the CENVAT Rules, 2004, for which no specific penal provision exists.
This change shall come into effect from 1st March, 2008.
- 5) The Central Excise (Determination of Retail Sale Price of Excisable Goods) Rules, 2008 are being issued under section 4A(4) of the Central Excise Act, 1944 to provide the manner of determination of retail sale price, where the same is not declared on the packages or tampered or altered or obliterated.
This change shall come into effect from 1st March, 2008.

SERVICE TAX

(I) FOLLOWING SERVICES ARE INDIVIDUALLY SPECIFIED AS TAXABLE SERVICE:

- (1) Services provided in relation to information technology software for use in the course, or furtherance, of business or commerce;
- (2) Services provided in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme;
- (3) Services provided by a recognised stock exchange in relation to securities;
- (4) Services provided by a recognised association or a registered association (commodity exchange) in relation to sale or purchase of any goods or forward contracts;
- (5) Services provided by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts;
- (6) Services provided in relation to supply of tangible goods, without transferring right of possession and effective control of the tangible goods;
- (7) Services provided in relation to internet telecommunication. Consequently, reference to services provided in relation to internet telephony, being covered as part of internet telecommunication, shall be omitted.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2008.

(II) SCOPE OF SPECIFIED TAXABLE SERVICES IS BEING AMENDED AS FOLLOWS:

- (1) To include,-
 - (i) purchase or sale of foreign currency, including money changing, by an authorized dealer or an authorized money changer, under banking and other financial service;
 - (ii) purchase or sale of foreign currency, including money changing, by an authorized dealer or authorized money changer, under foreign exchange broker services provided by individual;
 - (iii) packing together with transportation of cargo or goods, with or without one or more other services like loading, unloading, unpacking, under cargo handling service;
 - (iv) testing or analysis of information technology software under technical testing and analysis service;
 - (v) inspection, examination and certification of information technology software under technical inspection and certification service;
 - (vi) services provided in relation to a journey from one place to another in a contract carriage vehicle, under tour operator service. However, such services provided 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 shall be excluded. Services provided in relation to a journey from one place to another in a tourist vehicle is already leviable to service tax under tour operator service;
- (2) To omit,-
 - (i) from business auxiliary service, reference to information technology service consequent upon notifying information technology software service as a separate taxable service;
 - (ii) from consulting engineer service, exclusion of computer software engineering consultancy consequent upon notifying information technology software service as a separate taxable service;
 - (iii) from 39 specified taxable services, reference to service recipient as "client" or "customer" and replace with the words "any person";

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2008.

- (3) To clarify 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 consulting engineer service;
- (4) To clarify by way of removal of doubt that,-
 - (i) "service in relation to promotion or marketing of service provided by the client" under business auxiliary service includes any service provided in relation to promotion or marketing of games of chance, organized, conducted or promoted by the client;
 - (ii) renting of immovable property service includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the immovable property;
 - (iii) "properties" referred to in management, maintenance or repair service includes information technology software.

(III) EXEMPTION FROM SERVICE TAX:

- (1) The annual threshold limit of service tax exemption for small service providers is being increased from the present level of Rs.8 lakh to Rs.10 lakh;
- (2) Exemption from service tax is being provided to,-

- (i) the taxable service provided by a person located outside India for a customer located outside India, and received by a hotel located in India, in relation to booking of an accommodation in the said hotel located in India;
- (ii) 75% of the gross amount charged as freight for services provided in relation to transport of goods by road in a goods carriage by a goods transport agency (GTA), unconditionally. Consequently, 75% abatement provided under notification No.1/2006-Service tax, dated the 1st March, 2006 is withdrawn.

Exemption specified in,-

- (a) 2(i) and 2(ii) will come into effect from 1st March, 2008, and
- (b) (1) will come into effect from 1st April, 2008.

(IV) AMENDMENTS IN ACT AND RULES:

- (1) Finance Act, 1994 is being amended to: -
 - (i) specify the scope of seven individually specified taxable services and also certain other existing taxable services [section 65];
 - (ii) include seven services which are individually specified as taxable services in this year's Finance Bill in section 66 pertaining to "Charge of service tax";
 - (iii) include any amount credited or debited, as the case may be, to any account, in the books of account of a person liable to pay service tax under "gross amount charged" where the transaction of taxable service is with any associated enterprise [section 67];
 - (iv) insert section 71 so as to empower the Board to frame a Scheme by notification in the Official Gazette to enable preparation and filing of service tax returns through a person or class of persons known as Service Tax Return Preparer authorized to act for the said purpose;
 - (v) insert section 72 so as to authorize the Central Excise Officer to make assessment on the basis of best judgement after allowing assessee to represent his case where assessee has failed to make service tax returns or failed to assess the tax;
 - (vi) substitute section 77 so as to provide specific penalty for specific contraventions;
 - (vii) provide that where penalty for suppressing value of taxable service under section 78 is payable, penalty for failure to pay service tax under section 76 shall not apply [section 78];
 - (viii) provide that in case the Committee of Chief Commissioners of Central Excise differs in its opinion regarding the legality and propriety of the order of the Commissioner of Central Excise, it shall refer the matter to the Board [section 86(2)];
 - (ix) provide that in case the Committee of Commissioners differs in its opinion regarding the legality and propriety of the order of the Commissioner (Appeals), it shall refer the matter to the jurisdictional Chief Commissioner [section 86(2A)];
 - (x) provide that the rules for framing the Scheme for filing service tax returns through a Service Tax Return Preparer shall be laid before each House of Parliament [section 94];
 - (xi) empower the Central Government to issue orders for removal of difficulty in respect of implementing, classifying or assessing the value of any taxable service incorporated by the Finance Bill, 2008 upto one year from the date of enactment of the Finance Bill, 2008 [section 95].

Changes mentioned in,-

- (a) (1)(i) and (1)(ii) above will come into effect from a date to be notified after enactment of the Finance Bill, 2008, and
- (b) (1)(iii), (1)(iv), 1(v), 1(vi), 1(vii), 1(viii), 1(ix), 1(x) and 1(xi) will come into effect from the date of enactment of the Finance Bill, 2008.
- (2) Service Tax Rules, 1994, are being amended to:
 - (i) insert sub-rule (1A) in rule 6 to enable payment of an amount as service tax in advance to the credit of the Central Government and adjust such amount paid towards payment of service tax for the subsequent period;
 - (ii) increase the monetary limit from Rs.50,000/- to Rs.1,00,000/- for self-adjustment of excess service tax paid [Rule 6(4B)(iii)];
 - (iii) increase the time limit from 60 days to 90 days for rectification of mistakes and file revised return [Rule 7B];
 - (iv) empower the Central Excise Officer to reduce or waive the penalty for delayed filing of return, where the gross amount of service tax payable is nil [Rule 7C];

The above changes will come into effect from 1st March, 2008.

(3) CENVAT Credit Rules, 2004 are being amended to,—

- (a) exclude goods transport agency service from the scope of "output service" [Rule 2(p)];
This change will come into effect from 1st March, 2008.
- (b) allow removal of capital goods outside the premises of the provider of the output service without any time restriction, if the same is for providing output service [Rule 3];
This change shall come into effect from 1st April, 2008.
- (c) provide following options to a provider of output services, using common inputs or input services for providing taxable as well as exempted services and opting not to maintain separate accounts. Such provider of output services can,-
 - (i) either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used for providing exempted service; or

- (ii) pay 8% amount of the value (determined in terms of section 67 of the Finance Act, 1994) of the exempted services [Rule 6];

This change shall come into effect from 1st April, 2008.

- (d) Insert a new rule 7A to prescribe a procedure to enable the provider of output services to take credit on inputs and capital goods on the basis of an invoice/challan/bill issued by its other office.

This change shall come into effect from 1st April, 2008.

- (4) Export of Services Rules, 2005 are being amended so as to treat the following services provided remotely through internet or any electronic network including a computer network, or any means in relation to goods or material or any immovable property situated outside India at the time of provision of service as export of services, namely,-
 - (a) management, maintenance or repair;
 - (b) technical testing and analysis; and
 - (c) technical inspection and certification [Rule 3(1)(ii)].

The above change will come into effect from 1st March, 2008.

- (5) Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 are being amended so as to treat the following services provided remotely through internet or any electronic network including a computer network, or any means in relation to goods or material or any immovable property situated in India at the time of provision of service as import of services and leviable to service tax under reverse charge method, namely,-
 - (a) management, maintenance or repair;
 - (b) technical testing and analysis; and
 - (c) technical inspection and certification [Rule 3(ii)].

The above change will come into effect from 1st March, 2008.

- (6) Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 are being amended to enhance the rate prescribed for optional scheme for payment of service tax under works contract service from 2% of the total value of the contract to 4% of the total value of the contract [Rule 3(1)].

The above change will come into effect from 1st March, 2008.

- (v) A Scheme for resolution of dispute relating to service tax arrears pending as on 1.3.2008 and involving amount not exceeding Rupees twenty five thousand is being introduced (Service Tax Dispute Resolution Scheme, 2008). The scheme is valid during 1st July, 2008 to 30th September, 2008 (refer Chapter VI of the Finance Bill, 2008).