

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
NO.1 WILLIAMS ROAD, CANTONMENT, TRICHIRAPPALLI-620 001.

Trade Notice No.15/2005 S. Tax

Dated : 9 -6-2005.

Subject: Service Tax-Communication of Ministry's Notification
Nos.15/2005 to 28/2005 ST dtd 7-6-05-Regarding.

Ministry's Notification Nos.15/2005 to 28/2005 ST issued under F.No.B1/6/2005-TRU all dtd 7-6-2005 regarding enactment of Finance Bill 2005 and certain amendments in the earlier notifications are communicated for information, guidance and necessary action.

The contents of this Trade Notice may be brought to the knowledge of all constituent members of the Trade Associations and Chamber of Commerce.

(Issued from C.No.IV/16/905/2005 S.Tax)

Attested

SUPERINTENDENT,
SERVICE TAX CELL (HQ).

Sd/-
(PAPPU ELANGO)
ADDITIONAL COMMISSIONER (T).

To
The Mailing list I / II / III

Copies of Ministry's Notification No.15/2005 ST dtd 7-6-05 to 28/05 ST dtd
7-6-05 issued under F.No.B1/6/2005-TRU

7th June, 2005

Notification No. 15/2005-Service Tax

In exercise of the powers conferred by clause (a) and clause (b) of section 88 of the Finance Act, 2005 (18 of 2005), the Central Government hereby appoints the 16th day of June, 2005 as the date on which the provisions of the said clauses of the said Act shall come into force.

F. No. B1/6/2005-TRU

Ajay
Under Secretary to the Government of India

7th June, 2005

Notification No. 16/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the commercial or industrial construction service, referred to in sub-clause (zzq)

of clause (105) of section 65 of the Finance Act, provided to any person by a commercial concern in relation to construction of port or other port, from the whole of service tax leviable thereon under section 66 of the said Finance Act.

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

Ajay
Under Secretary to the Government of India

7th June, 2005

Notification No. 17/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the site formation and clearance, excavation and earthmoving and demolition and such other similar activities, referred to in sub-clause (zzza) of clause (105) of section 65 of the Finance Act, provided to any person by any other person in the course of construction of roads, airports, railways, transport terminals, bridges, tunnels, dams, ports or other ports, from the whole of service tax leviable thereon under section 66 of the said Finance Act.

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

Ajay
Under Secretary to the Government of India

7th June, 2005

Notification No. 18/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service provided to any person by any other person, in relation to construction of complex, referred to in sub-clause (zzzh) of clause (105) of section 65 of the Finance Act, from so much of the service tax leviable thereon under section 66 of the said Finance Act, as is in excess of the service tax calculated on a value which is equivalent to thirty-three per cent. of the gross amount charged from any person by such service provider for providing the said taxable service:

Provided that this exemption shall not apply in such cases where –

- (i) the credit of duty paid on inputs or capital goods used for providing such taxable service has been taken under the provisions of the CENVAT Credit Rules, 2004; or
- (ii) the service provider has availed the benefit under the notification of the Government of India, in the Ministry of Finance, (Department of Revenue) No. 12/2003-Service Tax, dated the 20th June, 2003 [G.S.R. 503 (E), dated the 20th June, 2003]; or
- (iii) the taxable services provided are only completion and finishing services in relation to residential complex, referred to in sub-clause (b) of clause (30a) of section 65 of the Finance Act.

Explanation.- For the purposes of this notification, the “gross amount charged” shall include the value of goods and materials supplied or provided or used for providing the said taxable service by the said service provider.

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

(Ajay)

Under Secretary to the Government of India

7th June, 2005

Notification No. 19/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby directs that the following notifications of the Government of India in the Ministry of Finance (Department of Revenue) as specified in column (2) of the Table below, shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely:-

Table

S.No.	Notification number and date	Amendments
(1)	(2)	(3)
1	13/2003-Service Tax, dated the 20 th June, 2003 [G.S.R. 504 (E), dated the 20 th June, 2003]	In the said notification, in the <i>Explanation</i> , clause (i) shall be omitted.
2	14/2004-Service Tax, dated the 10 th September, 2004 [G.S.R. 588 (E), dated the 10 th September, 2004]	In the said notification,- (i) in clause (b), for the words “production of goods on behalf of the client;”, the words “production or processing of goods for, or on behalf of, the client;” shall be substituted;

		<p>(ii) for the words “from the whole of the service tax”, the words “and provided in relation to agriculture, printing, textile processing or education, from the whole of service tax” shall be substituted;</p> <p>(iii) the proviso shall be omitted.</p>
3	15/2004-Service Tax, dated the 10 th September, 2004 [G.S.R. 589 (E), dated the 10 th September, 2004]	<p>In the said notification,-</p> <p>(i) for the words “construction service”, occurring at two places, the words “commercial or industrial construction service” shall be substituted;</p> <p>(ii) in the proviso, for clause (ii), the following shall be substituted, namely:-</p> <p>“(ii) the commercial concern has availed the benefit under the notification of the Government of India, in the Ministry of Finance, (Department of Revenue) No. 12/2003-Service Tax, dated the 20th June, 2003 [G.S.R. 503 (E), dated the 20th June, 2003]; or</p> <p>(iii) the taxable services provided are only completion and finishing services in relation to building or civil structure, referred to in sub-clause (c) of clause (25b) of section 65 of the Finance Act, 1994.”.</p>
4	24/2004-Service Tax, dated the 10 th September, 2004 [G.S.R. 598 (E), dated the 10 th September, 2004]	<p>In the said notification,-</p> <p>(i) in the opening paragraph, the following proviso shall be inserted at the end, namely:- “Provided that nothing contained in this notification shall apply to the taxable services provided in relation to commercial training or coaching by a computer training institute.”;</p> <p>(ii) in the <i>Explanation</i>, after clause (ii), the following clause shall be inserted, namely:- ‘(iii) “computer training institute” means a commercial training or coaching centre which provides coaching or training relating to computer software or hardware.’.</p>
5	8/2005-Service Tax, dated the 1 st March, 2005 [G.S.R. 142 (E), dated the 1 st March, 2005]	<p>In the said notification,-</p> <p>(i) for the words “production of goods on behalf of the client”, the words “production or processing of goods for, or on behalf of, the client” shall be substituted;</p> <p>(ii) in the proviso, for the words “produced”, occurring at two places, the words “produced or processed” shall be substituted;</p> <p>(iii) in the <i>Explanation</i>, in clause (i),-</p> <p>(a) for the words ‘ “production of goods” ’, the words ‘ “production or processing of goods” ’ shall be substituted;</p> <p>(b) for the words “production” occurring at two places, the words “production or processing” shall be substituted.</p>

2. This notification shall come into force on the 16th day of June, 2005.

Note:

- (1) The principal notification 13/2003-Service Tax, dated the 20th June, 2003 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 504 (E) dated the 20th June, 2003 and was last amended *vide* notification No. 8/2004-Service Tax, dated the 9th July, 2004 [G.S.R. 434 (E) dated the 9th July, 2004];
- (2) The principal notification 14/2004-Service Tax, dated the 10th September, 2004 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 588 (E) dated the 10th September, 2004;
- (3) The principal notification 15/2004-Service Tax, dated the 10th September, 2004 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 589 (E) dated the 10th September, 2004 and was last amended *vide* notification No. 4/2005-Service Tax, dated the 1st March, 2005 [G.S.R. 138 (E) dated the 1st March, 2005];
- (4) The principal notification 24/2004-Service Tax, dated the 10th September, 2004 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 598 (E) dated the 10th September, 2004;
- (5) The principal notification 8/2005-Service Tax, dated the 1st March, 2005 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 142 (E) dated the 1st March, 2005

Notification No. 20/2005-Service Tax

In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby rescinds the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), as specified in column (2) of the Table below, except as respects things done or omitted to be done before such rescission, namely:-

Table

S.No.	Notification No. and date
(1)	(2)
1.	6/2001-Service Tax, dated the 9th July, 2001 [G.S.R. 516 (E), dated the 9th July, 2001]
2.	7/2001-Service Tax, dated the 9th July, 2001 [G.S.R. 517 (E), dated the 9th July, 2001]
3.	11/2002-Service Tax, dated the 1st August, 2002 [G.S.R. 539 (E), dated the 1st August, 2002]

4.	18/2003-Service Tax, dated the 21st August, 2003 [G.S.R. 676 (E), dated the 21st August, 2003]
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2. This notification shall come into force on the 16th day of June, 2005.
F. No. B1/6/2005-TRU

Ajay
Under Secretary to the Government of India

7th June, 2005

Notification No. 21/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service of production or processing of goods for, or on behalf of, the client, referred to in sub-clause (v) of clause (19) of section 65 of the said Finance Act, provided by a commercial concern, in the course of manufacture of,-

- (a) cut and polished diamonds and gem stones; or
- (b) plain and studded jewellery of gold and other precious metals,

falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986), from the whole of service tax leviable thereon under section 66 of the said Finance Act.

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/5/2005-TRU

(Ajay)
Under Secretary to the Government of India

Notification No. 22/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in sub-clauses (h), (i), (j), (zn), (zr), (zza), (zzg), (zzi) and (zzl) of clause (105) of section 65 of the Finance Act provided by a non-resident person outside India and consumed outside India, in the course of sailing of a ship which is,-

- (a) registered as an Indian ship under the Merchant Shipping Act, 1958 (44 of 1958);
- (b) registered under the Coasting Vessels Act, 1838 (19 of 1838);
- (c) registered under the Inland Vessels Act, 1917 (1 of 1917); or

- (d) chartered and licenced under the Merchant Shipping Act, 1958,
and such ship is owned or chartered, as the case may be, by,-
- (i) a citizen of India;
 - (ii) a company or a body established by or under any Central Act or State Act which has its principal place of business in India; or
 - (iii) a co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law relating to co-operative societies for the time being in force in any State,
- from the whole of service tax leviable thereon under section 66 of the said Finance Act:

Provided that the said exemption shall apply only in such cases where the said taxable services are provided in relation to,-

- (a) handling of ships in a port outside India;
- (b) handling or storage of goods carried in a ship in a port outside India; or
- (c) any other services related to the handling of ships or goods carried in a ship.

Explanation.- For the purposes of this notification, “non-resident person” means a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India.

2. This notification shall come into force on the 16th day of June, 2005

[F. No. B1/7/2005-TRU]

Ajay
Under Secretary to the Government of India

Notification No. 23/2005-Service Tax

In exercise of the powers conferred by sub-sections (1) and (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. (1) These rules may be called the Service Tax (Fifth Amendment) Rules, 2005.
(2) They shall come into force on the 16th day of June, 2005.
2. In the Service Tax Rules, 1994, (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), in clause (d),-
 - (i) for sub-clause (iv), the following sub-clause shall be substituted, namely:-

“(iv) in relation to any taxable service provided or to be provided by a person, who has established a business or has a fixed establishment from

which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India, and such service provider does not have any office in India, the person who receives such service and has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India;”;

(ii) in sub-clause (v), in item (b), for the words “established by or under”, the words “formed or registered under” shall be substituted.

3. In the said rules, in rule 4A, in sub-rule (1), after the second proviso, the following proviso shall be inserted, namely:-

“Provided also that where any payment towards the value of taxable service is not received and such taxable service is provided continuously for successive periods of time and the value of such taxable service is determined or payable periodically, an invoice, a bill, or as the case may be, a challan shall be issued by a person providing such taxable service, not later than fourteen days from the last day of the said period.”.

4. In the said rules, in rule 6, after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(4A) Notwithstanding anything contained in sub-rule (4), where an assessee has opted for registration under sub-rule (2) of rule 4 of these rules and has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, for the reason of not receiving details of payments received towards the value of taxable services at his other premises or offices, the assessee may adjust such excess amount so paid as service tax by him against his service tax liability for the subsequent period and the details of such adjustment shall be intimated to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the date of such adjustment.”.

F. No. B1/6/2005-TRU

Ajay

Under Secretary to the Government of India

Note.- The principal rules were notified vide notification No. 2/94-Service Tax, dated the 28th June 1994 and published in the Gazette of India, Extraordinary vide number G.S.R.546 (E), dated the 28th June 1994 and were last amended vide notification No. 7/2005-Service Tax, dated the 1st March, 2005 which was published vide number G.S.R. 141(E), dated the 1st March, 2005.

7th June, 2005

Notification No. 24/2005-Service Tax

In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 36/2004-Service Tax, dated the 31st December, 2004 which was published

in the Gazette of India, Extraordinary, vide number G.S.R. 849 (E), dated the 31st December, 2004, namely:-

In the said notification,-

- (i) in paragraph (A), in sub-paragraph (iv), in item (b), for the words "established by or under", the words "formed or registered under" shall be substituted;
- (ii) for paragraph (B), the following paragraph shall be substituted, namely:-

"any taxable service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India, and such service provider does not have any office in India."

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

Ajay
Under Secretary to the Government of India

Note.- The principal notification No. 36/2004-Service Tax, dated the 31st December, 2004 was published in the Gazette of India, Extraordinary, dated the 31st December, 2004 vide number G.S.R. 849 (E), dated the 31st December, 2004 and was last amended vide notification No. 5/2005-Service Tax, dated the 1st March, 2005 [G.S.R. 139 (E) dated the 1st March, 2005];

Notification No. 25/2005-Service Tax

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts any taxable service provided to an individual by a service provider, where the said taxable services are received and consumed outside India, by such individual, not in the course or furtherance of commerce or industry or any other business, from the whole of service tax leviable thereon under section 66 of the Finance Act.

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

(Ajay)
Under Secretary to the Government of India

Notification No. 26/2005-Service Tax

In exercise of the powers conferred by sub-section (2) of section 69 of the Finance Act, 1994 (32 of 1994), the Central Government hereby specifies the following person or class of persons who shall make an application for registration under the provisions of the said sub-section, namely:-

- (i) an input service distributor; and

(ii) any provider of taxable service whose aggregate value of taxable service in a financial year exceeds three lakh rupees.

Explanation 1.- For the purposes of this clause, where a provider of taxable service provides one or more taxable services from one or more premises, the aggregate value of all such taxable services and from all such premises and not separately for each services or each premises shall be taken into account for computation of aggregate value of taxable service.

Explanation 2.- For the purposes of this notification,-

(a) “input service distributor” has the meaning assigned to it in clause (m) of rule 2 of the CENVAT Credit Rules, 2004;

(b) “aggregate value of taxable service” means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the said Finance Act, charged by the service provider towards taxable services but does not include payments received towards such gross amount which are exempt from the whole of service tax leviable thereon under section 66 of the said Finance Act under any notification other than Notification No. 6/2005-Service Tax, dated the 1st March, 2005 [G.S.R. 140 (E), dated the 1st March, 2005].

2. This notification shall come into force on the 16th day of June, 2005.

F. No. B1/6/2005-TRU

(Ajay)

Under Secretary to the Government of India

Notification No. 27/2005-Service Tax

In exercise of the powers conferred by sub-sections (1) and (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Service Tax (Registration of Special Category of Persons) Rules, 2005.

(2) They shall come into force on the 16th day of June, 2005.

2. Definitions.- In these rules, unless the context otherwise requires,-

(a) “Act” means the Finance Act, 1994 (32 of 1994);

(b) “aggregate value of taxable service” means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the Act, charged by the service provider towards taxable services but does not include payments received towards such gross amount which are exempt from the whole of service tax leviable thereon under section 66 of the Act under any notification other than

Notification No. 6/2005-Service Tax, dated the 1st March, 2005 [G.S.R. 140 (E), dated the 1st March, 2005];

- (c) “input service distributor” shall have the meaning assigned to it in clause (m) of rule 2 of the CENVAT Credit Rules, 2004.
3. Registration.- (1) The input service distributor shall make an application to the jurisdictional Superintendent of Central Excise in such form as may be specified, by notification, by the Board, for registration within a period of thirty days of the commencement of business or the 16th day of June, 2005, whichever is later.
- (2) Any provider of taxable service whose aggregate value of taxable service in a financial year exceeds three lakh rupees shall make an application to the jurisdictional Superintendent of Central Excise in such form as may be specified, by notification, by the Board, for registration within a period of thirty days of exceeding the aggregate value of taxable service of three lakh rupees.
- (3) The provisions of sub-rules (2) to (7) of rule 4 of Service Tax Rules, 1994 shall be applicable to the persons or class of persons who make an application for registration under the provisions of these rules, with such modifications and alterations as may be prescribed by the Board.
4. Furnishing of returns.- The input service distributor shall furnish a return to the jurisdictional Superintendent of Central Excise in such form and at such frequency as prescribed under sub-rule (10) of rule 9 of CENVAT Credit Rules, 2004.

F. No. B1/6/2005-TRU

(Ajay)

Under Secretary to the Government of India

Notification No. 28/2005-Service Tax

In exercise of the powers conferred by sub-sections (1) and (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules to amend the Export of Services Rules, 2005, namely :-

1. (1) These rules may be called the Export of Services (Amendment) Rules, 2005.
- (2) They shall come into force on the 16th day of June, 2005.
2. In the Export of Services Rules, 2005, in rule 3,-
 - (i) in sub-rule (1),-
 - (a) for the word, brackets and letters “and (zzq)”, the brackets, letters and word “, (zzq), (zzza), (zzzb), (zzzc) and (zzzh)” shall be substituted;
 - (b) the following proviso shall be inserted at the end, namely:-

“Provided that for the purposes of this sub-rule, any taxable services provided shall be treated as export of services only if-

- (a) such service is delivered outside India and used in business or for any other purpose outside India; and
 - (b) payment for such service provided is received by the service provider in convertible foreign exchange.”;
- (ii) in sub-rule (2),-
- (a) for the word, brackets and letters “and (zzy)”, the brackets, letters and word “, (zzy), (zzzd), (zzze) and (zzzf)” shall be substituted;
 - (b) after the first proviso, the following proviso shall be inserted, namely:-

“Provided further that for the purposes of this sub-rule, any taxable services provided shall be treated as export of services only if-
- (a) such service is delivered outside India and used in business or for any other purpose outside India; and
 - (b) payment for such service provided is received by the service provider in convertible foreign exchange.”;
- (iii) in sub-rule (3),-
- (a) in clause (i), for the word, brackets and letters “and (zzy)”, the brackets, letters and word “, (zzy), (zzza), (zzzb), (zzzd), (zzze), (zzzf) and (zzzh)” shall be substituted;
 - (b) in clause (ii), for the brackets and letter “(d)”, the brackets, letters and word “(d) and (zzzc)” shall be substituted.

[F. No. B1/6/2005-TRU]

(Ajay)

Under Secretary to the Government of India

Note.- The principal rules were notified vide notification No. 9/2005-Service Tax, dated the 3rd March 2005 and published in the Gazette of India, Extraordinary vide number G.S.R.151 (E), dated the 3rd March 2005.
