

**Circular No. 97 / 8 /2007**New Delhi, the 23<sup>rd</sup> August, 2007**F. No. 137/85/2007-CX.4**Government of India  
Ministry of Finance  
Department of Revenue

(Central Board of Excise and Customs)

**Subject:- Procedural issues in Service Tax-circular-reg.**

Since the inception of the levy of service tax vide Chapter V of the Finance Act, 1994 (hereinafter called the Act) and rules made thereunder from time to time, a number of circulars/clarifications/instructions have been issued, for clarifying the scope of statutory provisions; providing legal interpretation of the provisions of the Act, the rules and the notifications; and clarifying as well as prescribing the procedures to be followed for administration of service tax. Over a period of time, there have been significant changes in law and procedures relating to service tax. While certain circulars/clarifications/ instructions have become redundant and anachronistic, new issues have arisen on account of changes in law and procedure. This circular aims to consolidate the **procedural issues** relating to service tax, including those relating to availment and utilization of CENVAT credit. This circular supersedes all previous circulars/clarifications/instructions issued on these subjects. It is, however, clarified that this circular is intended only to clarify the scope of the Act and the rules, and therefore, in the event of any inadvertent inconsistency or contradiction between this circular and the provisions of the Act or the rules, the latter shall prevail.

**2. Registration:**

2.1 As per the provisions of section 69 of the Act and rule 4 of the Service Tax Rules, 1994 (hereinafter called the Rules), every person providing a taxable service and liable to pay service tax is required to register with the Central Excise / Service Tax department (hereinafter called the department). Further, in a few cases liability to pay service tax has been shifted to the service receiver or other specified person, in terms of section 68(2) of the Act.

These cases are: -

- (i) insurer in case of service provided by insurance agent;
- (ii) person making payment of freight in such cases where a goods transport agency provides taxable service to a specified consignor and consignee;
- (iii) asset management company or mutual fund, in case of service provided by a distributor to them;
- (iv) where the service is provided to a person in India by any person from a country other than India; and
- (v) body corporate or a firm located in India receiving sponsorship service.

In all these cases, the person liable to pay service tax shall be obliged to register with the department.

2.2 The turnover limit, i.e., the aggregate value of taxable service for threshold based exemption is, currently, Rs. 8 lakh in a year. However, a person availing of this exemption is required (under section 69 of the Act, read with notification no.26/2005-ST) to register with the department on achieving a turnover of Rs 7 lakh in a financial year in respect of all taxable services provided by him. The expression "aggregate value not exceeding the threshold value of Rs 8 lakh" has been defined in notification No. 6/2005-ST.

2.3 An 'input service distributor' is an office or establishment of a manufacturer of excisable goods or provider of taxable service. It receives tax paid invoices/bills of input services procured (on which CENVAT credits can be taken) and distributes such credits to its units providing taxable services or manufacturing excisable goods. The distribution of credit is subject to the conditions that,- (a) the credit distributed against an eligible document shall not exceed the amount of service tax paid thereon, and (b) credit of service tax attributable to services used in a unit either exclusively manufacturing exempted goods or exclusively providing exempted services shall not be distributed. An input service distributor is required (under section 69 of the Act, read with notification no.26/2005-ST) to take a separate registration.

2.4 Application for registration is required to be made in Form ST-1 to the jurisdictional superintendent of Central Excise/Service tax within 30 days of levy of service tax on such service or, in case of an existing taxable service, within 30 days of the commencement of provision of such service. A person providing more than one taxable service is required to take only one single registration. He should indicate all taxable services provided by him in Form ST-1.

2.5 Any person liable to pay service tax, who,-

- (a) provides taxable service from more than one premises;
  - (b) receives taxable services in more than one premises; or
  - (c) has more than one premises engaged in relation to such taxable service,
- may seek centralised registration, provided he does centralised billing or maintains centralised accounting in respect of such taxable services in a premises. In certain cases the centralization can be at the zonal/regional level. In such case, each of such offices is to be registered individually. Such registrations are to be granted by the jurisdictional Commissioner where such offices/establishments are located.

2.6 The registration certificate will be granted by the department, in Form ST-2, within seven days of filing of an application complete and properly filled up. In case registration certificate is not issued within seven days, the registration is deemed to have been granted. Registration No., also known as 'Service Tax Code (STC)' is a fifteen digit PAN based number. First 10 digits of this number are the same as the PAN of such person. Next two digits are 'ST'. Next three digits

are serial numbers indicating the number of registrations taken by the service taxpayer against a common PAN. In addition to PAN, another number, namely, 'premises code' is also given (mentioned at Sl. No. 5 of the Form ST-2). This number indicates the code of the jurisdictional Commissionerate, division, range and Sl. No. within the range. This number is issued for easy identification of location of registration of the service taxpayer.

2.7 In case an existing registrant wishes to add any new premises to the centralized registration or wishes to add new taxable services in his registration certificate or amend it as regards any other details, he may provide such details to the jurisdictional Superintendent in Form ST-1, indicating only the amendment/rectification required to be made in the registration certificate, along with a copy of the original registration certificate. In case the changes relate to deletion of any premises or taxable service, the registrant may file an intimation on plain paper along with copy of the registration certificate.

### 3. **Payment of service tax:**

3.1 In terms of rule 6 of the Rules read with section 68 of the Act, the service tax is required to be paid on monthly basis by all service taxpayers, other than individuals or proprietary/partnership concerns who are required to pay service tax on quarterly basis. Service tax liability for a particular month or quarter is to be discharged on the payments towards the value of taxable service received during that month or quarter, as the case may be. It is to be deposited by the 5<sup>th</sup> day of the month following the month or quarter for which service tax is paid. However, for the month/quarter ending March, the payment is required to be made by the 31<sup>st</sup> March itself by all taxpayers.

3.2 **e-payment of service tax:** The service tax can be paid electronically. For this, the service taxpayer should have an account in any branch of the designated banks. For availing of the facility of e-payment, the service taxpayer shall obtain a user-ID and password from the designated bank in which he has the account. For e-payment, the service taxpayer should log on to the web-site of the bank with his user-ID and password. He should then choose the option of e-payment of service tax. On choosing this option, the service taxpayer would be guided to the e-payment portal wherein he would fill the challan for payment of service tax and would authorize payment of service tax by way of debit to his account. Thereafter, a copy of the acknowledgement would be generated for the records of the service taxpayer. Subsequently, the bank would generate copies of challan and send a copy each to the Pay and Accounts Officer (PAO) and the department.

### 4. **Mandatory e-payment of service tax**

4.1 The e-payment of service tax has been made mandatory w.e.f . 1.10.2006, (vide sub-rule (2) of rule 6 of the Rules), for all assesseees who have paid (in cash plus through CENVAT Credit) a service tax amounting to Rs. 50 lakh or more in the preceding financial year or in the current financial year. The latter type of service taxpayers shall make any further payment of service tax in cash (i.e. other than through credit), only through e-payment.

4.2 In case a taxpayer faces any procedural problems, he may contact the jurisdictional service tax/ central excise office or the jurisdictional Commissioner, who would advise and extend all possible help to the taxpayers to comply with the requirement of mandatory e-payment. At the same time, such taxpayers should expeditiously complete the procedural formalities required at their end for availing of internet banking facility from designated banks and complying with this requirement.

4.3 For a person providing taxable service from more than one premises and where each of such premises has been separately registered with the department, the criterion of Rs 50 lakh would apply to each of the registered premises individually in view of its separate legal identity. The same procedure would apply to a person paying service tax on taxable services received by him. However, in case of a Large Taxpayer (those taxpayers associated with LTU), the cumulative service tax paid by all registered premises will be taken into account for working out the of service tax amount of Rs 50 lakh. Similarly, if a person providing taxable service also receives taxable services on which he is liable to pay service tax and has a single registered premises, the service tax amount of Rs 50 lakh would be the total amount of service tax paid by him.

### 5. **Issuance of invoices, bills, challans, consignment notes and other documents:**

5.1 In terms of the provisions of rules 4A and 4B of the Rules, every taxable service provider is required to issue a document (i.e. invoice, bill or challan) within 14 days from either the date of completion of provision of service or receipt of any service charges (whichever is earlier). Such document should be serially numbered and should contain the name, address of the service provider and the service receiver, description, classification and value of service provided and service tax payable thereon. For complying with the requirements of CENVAT Credit Rules, (i.e., to facilitate availment of credit by the recipient of taxable service), the amount of 'education cess' and 'secondary and higher education cess' should be shown separately on the invoice. Further, STC no./registration no. of the service provider should also be mentioned on the invoice for this purpose.

5.2 An input service distributor is also required to issue such a document in favour of the recipient of the credit so distributed. This document should also be serially numbered and should give the details of the invoices under which the taxable service has been received and the name, address and registration no. of the input service distributor as well as of the recipient of the credit. The amount of credit distributed shall also be mentioned.

5.3 For service providers providing 'banking & other financial services', certain relaxations are available. For such

service providers, the invoice need not be serially numbered. They are also exempted from mentioning the address of the service receiver. Similar dispensation is available for input service distributors of such type of service providers.

5.4 For providers of taxable service of transport of goods by road (i.e. goods transport agency) the invoice/bill/challan should, in addition to the general information required (i.e. as mentioned in para 5.1), also contain the consignment note number, date and gross weight of the consignment.

5.5 Rule 4B of the Rules prescribes that the goods transport agency shall issue a consignment note, which would be serially numbered and would contain the names of the consignor and consignee, the vehicle registration number, details of goods transported, details of place of origin and destination, and the person (consignor / consignee/goods transport agency) liable to pay service tax. In case of less container load (LCL) cargo, where the goods transport agent is not aware of the vehicle registration number at the time when he receives the goods and issues consignment note, he may mention the non-availability of vehicle registration number on the copy issued to the consignor. However, after he comes to know about the vehicle registration number, he should mention the same, consignment note-wise, in the records maintained by him and produce the same in case of verification. Similarly, in case of trans-shipment of goods en-route (i.e. where the goods covered under a consignment note are shifted from one vehicle to another), the records of registration numbers of the vehicles carrying such goods under a consignment note must be recorded as soon as the said information is available to the goods transport agent. These procedural relaxations are provided for such special cases only and, in all other cases, mention of vehicle registration number on the consignment note, at the time of its issue would continue to remain a mandatory requirement.

## 6. Service tax return

6.1 The service tax return is required to be filed under Section 70 of the Act read with rule 7 of the Rules, by 'any person liable to pay the service tax'. This return is required to be filed on a half yearly basis, in Form ST-3. For the periods from April to September and October to March, it must be filed by the 25<sup>th</sup> October and the 25<sup>th</sup> April respectively. Further, 'Input Service Distributor' is also required to file this return. Persons who are not liable to pay service tax (because of an exemption including turnover based exemption), are not required to file ST-3 return.

6.2 A single service tax return should be filed (in Form ST-3) in respect of all taxable services provided by an assessee. Detailed instructions for filling the return are given in the return form itself.

6.3 **e-filing of return-** The service tax return can be filed electronically after logging into the website [www.servicetaxefiling.com](http://www.servicetaxefiling.com). For this purpose, the assessee shall obtain user-ID and log-in password from the department. A simple application may be made to the jurisdictional Central Excise Officer, giving details of STC no., and an 'e-mail ID'. The department would communicate the 'User ID', and 'password' along with technical details required for accessing the relevant site and the procedure for making entries and other guidance as may be necessary to the taxpayer by e-mail. While filing the return electronically, the service taxpayer must file details as contained in Form ST-3 and that of duty paying challans. On submission of the completed return, a key number and an acknowledgement would be generated by the system along with a copy of Form ST-3 and Challan, which could be printed by the service taxpayer for his records. In case of any difficulty faced in e-filing, the service taxpayer may send an e-mail to the address specified by the Commissioner, explaining the difficulties and if a reply is not received within two days, he may send an e-mail to [saps@excise.nic.in](mailto:saps@excise.nic.in)

6.4 **Delay in filing of return:** The return is required to be filed by the stipulated date as mentioned at para 6.1 above. Delay in filing of return attracts late fee. The late fee presently prescribed vide rule 7C of the Rules, is (a) Rs 500 for delay upto 15 days; (b) Rs 1000 for delay between 15 days and 30 days; and (c) Rs 1000 plus Rs 100 per day beyond 30 days, till the filing of return, not exceeding Rs 2000/-. To avoid late fee, the taxpayer must ensure timely filing of return. In case of returns filed late, the appropriate late fees should be paid at the time of filing the return, without waiting for any communication or notice from the department. Mere non-submission of evidence of payment of late fee along with the return is, however, not a ground for refusal to allow filing of the return.

6.5 **Filing of revised return:** Rule 7B of the Rules prescribes that an assessee can submit a revised return within 60 days of filing of original return to rectify any mistake or omission. It may be noted that in such cases where an assessee files a revised return, the limitation period for initiating any action for demanding the service tax not paid/ short paid/ not levied/short levied would be computed from the date of filing of revised return.

## 7 Assessment

7.1 Normally, under self assessment scheme, the service taxpayer assesses his tax liability himself and pays the same. However, if a service taxpayer is not in a position to determine the service tax liability, say, for the reason that valuation or classification of taxable service or issue of admissibility of an exemption notification cannot be determined (or any such other reason) at the time of filing the return, he may opt for assessment of service tax on provisional basis after obtaining an order from the jurisdictional Deputy Commissioner/ Assistant Commissioner. The assessment shall be made in terms of the said order and would continue to be provisional till the issue is finalized. Upon finalization, there may be additional tax liability or refund. In such cases, the taxpayer would have to either pay the differential amount of tax with interest or claim refund, as the case may be.

## 8. CENVAT Credit

8.1 With effect from 10.9.2004, under CENVAT Credit Rules, 2004, CENVAT Credit across goods and services has been allowed. This circular deals only with certain commonly raised issues relating to certain provisions of these rules that relate to service tax credit. The following are the issues which have been examined in this circular,-

(a) **ISSUE:** Whether a manufacturer or taxable service provider having credit balance in his account can utilize that credit for payment of service tax on goods transport by road, as a consignor or as a consignee?

**COMMENTS:** In terms of rule 3 (4) of the Rules, CENVAT credit can be utilized for the following payments:

- (a) any duty of excise payable on any final product;
- (b) .....
- (c) .....
- (d) service tax on any **output service**

In terms of the CENVAT Credit Rules, 'output service' means any taxable service provided by the provider of taxable service to the service receiver. Further, the definition of 'provider of taxable service' includes a person liable to pay service tax. Therefore, reading the two definitions in conjunction, it is clear that, to form 'output service', taxable service has to be actually provided by the 'provider of taxable service'. Even if due to a legal fiction, a consignor or a consignee qualifies to fall under the definition of 'a person liable to pay service tax' (and consequently a 'provider of taxable service'), it cannot be said that he has actually provided any taxable service. The service provided by a Goods Transport Agent (GTA) for which the consignor or the consignee is made liable to pay service tax does not become an 'output service' for such consignor or the consignee. Therefore, the service tax payable by the consignor or consignee on transportation of goods by road cannot be paid through credit accumulated by such consignor or consignee. For example, a manufacturer of steel sheets procures duty paid steel ingots as input and avails CENVAT credit of the excise duty paid on ingots. He clears his finished goods, i.e., steel sheets on payment of excise duty and sends the same to his customer, engaging the service of a goods transport agency. In this case, he pays service tax on service received by him for transportation of the goods. However, the input credit taken on steel ingots cannot be used for payment of service tax applicable to goods transport agency. The reason is that the such manufacturer (consignor) is not the service provider. The transport service is being provided by the 'goods transport agency' and the excise assessee pays the service tax *only* for the reason that the liability for payment of service tax has been shifted to the service receiver. Accordingly, the consignor or the consignee has to pay service tax in cash on goods transport by road service.

(b) **ISSUE:** Whether a consignee can take credit of the amount paid as service tax either by himself (as consignee) or by the consignor or by the Goods Transport Agency?

**COMMENTS:** As per Rule 3 of the CENVAT Rules, 2004, CENVAT Credit of, *inter alia*, service tax leviable and paid on any 'input services' can be taken. The rule does not distinguish as to who (i.e. the GTA, the consignor or the consignee himself) has paid the aforesaid tax. The only condition required to be satisfied is that the consignee must be a manufacturer of excisable goods or a provider of taxable service and the service must be in the nature of 'input service' for such activity. In case of inward transportation of inputs or capital goods, such service (being specifically mentioned under the definition of 'input service') would qualify to be called as 'input service' and, thus, the service tax paid (by any of the persons mentioned above) on it would be eligible as credit to the receiver if he is either a manufacturer of excisable goods or a provider of taxable service.

(c) **ISSUE:** Up to what stage a manufacturer/consignor can take credit on the service tax paid on goods transport by road?

**COMMENTS:** This issue has been examined in great detail by the CESTAT in the case of M/s Gujarat Ambuja Cements Ltd. vs CCE, Ludhiana [2007 (006) STR 0249 Tri-D]. In this case, CESTAT has made the following observations:-

*"the post sale transport of manufactured goods is not an input for the manufacturer/consignor. The two clauses in the definition of 'input services' take care to circumscribe input credit by stating that service used in relation to the clearance from the place of removal and service used for outward transportation upto the place of removal are to be treated as input service. The first clause does not mention transport service in particular. The second clause restricts transport service credit upto the place of removal. When these two clauses are read together, it becomes clear that transport service credit cannot go beyond transport upto the place of removal. The two clauses, the one dealing with general provision and other dealing with a specific item, are not to be read disjunctively so as to bring about conflict to defeat the laws' scheme. The purpose of interpretation is to find harmony and reconciliation among the various provisions".*

Similarly, in the case of M/s Ultratech Cements Ltd vs CCE Bhavnagar 2007-TOIL-429-CESTAT-AHM, it was held that after the final products are cleared from the place of removal, there will be no scope of subsequent use of service to be treated as input. The above observations and views explain the scope of the relevant provisions clearly, correctly and in accordance with the legal provisions. In conclusion, a manufacturer / consignor can take credit on the service tax paid on outward transport of goods up to the place of removal and not beyond that.

8.2 In this connection, the phrase 'place of removal' needs determination taking into account the facts of an individual case and the applicable provisions. The phrase 'place of removal' has not been defined in CENVAT Credit Rules. In terms of sub-rule (t) of rule 2 of the said rules, if any words or expressions are used in the CENVAT Credit Rules, 2004 and are not defined therein but are defined in the Central Excise Act, 1944 or the Finance Act, 1994, they shall have the same meaning for the CENVAT Credit Rules as assigned to them in those Acts. The phrase 'place of removal' is defined under section 4 of the Central Excise Act, 1944. It states that,-

*"place of removal" means-*

- (i) a factory or any other place or premises of production or manufacture of the excisable goods ;
- (ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be stored

without payment of duty ;

(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory; from where such goods are removed.”

It is, therefore, clear that for a manufacturer /consignor, the eligibility to avail credit of the service tax paid on the transportation during removal of excisable goods would depend upon the place of removal as per the definition. In case of a factory gate sale, sale from a non-duty paid warehouse, or from a duty paid depot (from where the excisable goods are sold, after their clearance from the factory), the determination of the 'place of removal' does not pose much problem. However, there may be situations where the manufacturer /consignor may claim that the sale has taken place at the destination point because in terms of the sale contract /agreement (i) the ownership of goods and the property in the goods remained with the seller of the goods till the delivery of the goods in acceptable condition to the purchaser at his door step; (ii) the seller bore the risk of loss of or damage to the goods during transit to the destination; and (iii) the freight charges were an integral part of the price of goods. In such cases, the credit of the service tax paid on the transportation up to such place of sale would be admissible if it can be established by the claimant of such credit that the sale and the transfer of property in goods (in terms of the definition as under section 2 of the Central Excise Act, 1944 as also in terms of the provisions under the Sale of Goods Act, 1930) occurred at the said place.

8.3 A doubt has been raised regarding admissibility of CENVAT credit on service tax paid in respect of mobile phones. In the Service Tax Credit Rules, 2002, it was prescribed that credit of service tax was admissible only on telephone connection installed in the business premises. A clarification to this effect was also issued vide circular No. 59/8/2003-ST, dated 20.6.2003, in the context of the Service Tax Credit Rules, 2002. However, in the CENVAT Credit Rules, 2004 no such condition has been prescribed. Therefore, w.e.f. 10.9.2004, credit of service tax paid in respect of mobile telephone service is admissible, provided the mobile phone is used for providing output service or used in or in relation to manufacture of finished goods.

8.4 Input service distributor is an office or premises of the manufacturer or taxable service provider which receives bills/invoices etc., of input services. The input service distributor can distribute the eligible credit to any unit of the manufacturer or any premises/office of taxable service provider.

## 9 Delay in payment of service tax

9.1 Delay in payment of service tax, including a part thereof, attracts simple interest in terms of section 75 of the Act. The rate of interest is as prescribed from time to time, in accordance with this section. At present, the rate of interest is 13% per annum (notification No. 26/2004-ST, dated 10.9.2004). Further, failure to pay service tax also attracts a penalty under Section 76 of the Act, which shall not be less than Rs 200 for every day during which such failure continues or at the rate of 2% of such tax per month, which ever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax. However, such penalty would not exceed the service tax payable.

## 10 Any amount recovered by any person as service tax

10.1 Any amount collected by a person as service tax from any other person, even if it was not permissible in terms of the service tax law, is required to be deposited with the Central Government. In other words, no amount collected as service tax shall be retained by the person who has collected such amount. Any delay in depositing such amount attracts simple interest at the rate prescribed under section 73 B of the Act. At present, the rate of interest is 13% per annum (notification No. 8/2006-ST, dated 19.4.2006).

## 11 Audit

11.1 The selective audit of service taxpayers and other assessees like input service distributors, may be done by the jurisdictional central excise officer (authorized for the purpose) or by an audit party deputed by the Comptroller and Auditor General of India. Rule 5 of the Rules makes it mandatory for every assessee to make available the records, on demand, for inspection and examination to such authorized person/audit party.

## 12. Adjudication of cases

12.1 Section 73 of the Act deals with adjudication of cases of short-levy or non-levy of service tax or service tax short paid or not paid or erroneously refunded. For quick settlement of disputes, this section prescribes that (i) in other cases involving fraud, collusions, wilful misstatement and suppression of facts etc., the dispute could be settled by making payment of the service tax amount specified in the notice along with interest and penalty equal to 25% of service tax amount, within thirty days of issue of show cause notice; (ii) and in any other case the person chargeable to service tax, or to whom service tax has been erroneously refunded, may make payment *suo moto* along with interest, as applicable, and, consequently no Show Cause Notice will be served in respect of the amount so paid.

12.2 Section 83A confers powers on the Central Excise Officer for adjudging a penalty under the provisions of the said Act or the rules made there under. Board has specified monetary limits for adjudication of cases under section 83A of the said Act vide notification No. 30/2005- Service Tax dated 10th August, 2005. The monetary limits are as follows:

S.No	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose adjudication under section 83A

(1)	(2)	(3)
(1).	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakh
(2).	Joint Commissioner of Central Excise	Above Rs. 5 lakh but not exceeding Rs. 20 lakh
(3).	Additional Commissioner of Central Excise	Above Rs. 20 lakh but not exceeding Rs. 50 lakh
(4).	Commissioner of Central Excise	Without limit.

The monetary limits specified in the above tables for adjudication of service tax cases are irrespective of whether or not such cases involve fraud, collusion, wilful mis-statement, suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder with an intent to evade payment of service tax and whether or not extended period has been invoked. Cases not involving non-payment of service tax or mis-utilization of CENVAT credit are to be adjudicated by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.

12.3 Where different cases involving the same issue are due to be adjudicated in a Commissionerate, all such cases may be adjudicated by the Central Excise Officer competent to decide the case where the service tax or CENVAT credit involved is of the highest amount.

12.4 For cases where the appellate authority remands the case for de-novo adjudication, specifically mentioning the authority that has to adjudicate the case, then such authority specified in the said appellate order should adjudicate such cases. Where the appellate authority does not specifically mention any adjudicating authority, it should be decided by the authority competent in terms of the monetary limits mentioned in para 12.1.

12.5 Central Board of Excise & Customs (CBEC) has directed that in respect of demands for an amount upto one thousand rupees towards short payment/non-payment of service tax, if the service provider, on the default being pointed out, pays the service tax along with interest within a period of one month of the default in payment, the penalty should be waived, taking recourse to the provisions under section 80 of the Act. In other cases, i.e. where amount of service tax involved is

over Rs one thousand, penal action prescribed under sections 76, 77 and 79 would be attracted.

#### 13 Revision of orders:

13.1 The adjudication order passed by the officers subordinate to the Commissioner of Service Tax can be revised by the Commissioner after causing such inquiry as he deems fit, in terms of section 84 of the Act. The limitation period for issuing such revisional order is two years from the date on which the original order was passed. However, any issue against which an appeal has been filed by the service taxpayer before Commissioner (Appeals) cannot be revised. Thus, if an order deals with several issues and the party files an appeal only in respect of a few issues, the Commissioner may pass revisional order in respect of only such remaining issues against which an appeal has not been filed by the party. The principles of natural justice shall be followed while passing an order in revision.

#### 14 Appeal provisions

14.1 A service taxpayer aggrieved by any order passed by an adjudicating authority lower than the Commissioner, may file an appeal before the Commissioner (Appeals). Such appeal shall be filed within three months of the communication of the original order to the party. An appeal against an order of the Commissioner, including an order in revision, and against an order of the Commissioner (Appeals) lies with the Appellate Tribunal (CESTAT).

#### 15. Other frequently asked question on procedural issues

15.1 For other frequently asked questions on procedural issues, the information available on web-site [www.cbec.gov.in](http://www.cbec.gov.in) (FAQ in Service Tax) may be referred to.

16. Trade and field formations may be informed accordingly.

17. Hindi version will follow.

Yours faithfully,  
(Gautam Bhattacharya)  
Commissioner(Service Tax)  
[F. No. 137/85/2007-CX.4]