

CHAPTER V

SERVICE TAX

Amendment of Act 32 of 1994.	<p>93. In the Finance Act, 1994,—</p> <p>(A) in section 65B,—</p> <p style="padding-left: 2em;">(i) in clause (11),—</p> <p style="padding-left: 4em;">(a) in sub-clause (i), after the words “National Council for Vocational Training”, the words “or State Council for Vocational Training” shall be inserted;</p> <p style="padding-left: 4em;">(b) in sub-clause (ii), the word “or” occurring at the end shall be omitted;</p> <p style="padding-left: 4em;">(c) sub-clause (iii) shall be omitted;</p> <p style="padding-left: 2em;">(ii) in clause (40), after the words and figures “the Central Excise Act, 1944”, the words, figures and brackets “or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955” shall be inserted;</p> <p>(B) in section 66B, the <i>Explanation</i> shall be omitted;</p> <p>(C) after section 66B, the following section shall be inserted, namely:—</p> <p style="padding-left: 2em;">“66BA. (1) For the purpose of levy and collection of service tax, any reference to section 66 in the Finance Act, 1994 or any other Act for the time being in force, shall be construed as reference to section 66B thereof.</p> <p style="padding-left: 2em;">(2) The provisions of this section shall be deemed to have come into force on the 1st day of July, 2012.”;</p> <p>(D) in section 66D, in clause (d), in sub-clause (i), the word “seed” shall be omitted;</p> <p>(E) in section 73, after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p style="padding-left: 2em;">“(2A) Where any appellate authority or tribunal or court concludes that the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of,—</p> <p style="padding-left: 4em;">(a) fraud; or</p> <p style="padding-left: 4em;">(b) collusion; or</p> <p style="padding-left: 4em;">(c) wilful misstatement; or</p> <p style="padding-left: 4em;">(d) suppression of facts; or</p> <p style="padding-left: 4em;">(e) contravention of any of the provisions of this Chapter or the rules made thereunder with intent to evade payment of service tax,</p> <p>has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of eighteen months, as if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1).”;</p> <p>(F) in section 77, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—</p> <p style="padding-left: 2em;">“(a) who is liable to pay service tax or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to a penalty which may extend to ten thousand rupees;”;</p> <p>(G) after section 78, the following section shall be inserted, namely:—</p> <p style="padding-left: 2em;">“78A. Where a company has committed any of the following contraventions, namely:—</p> <p style="padding-left: 4em;">(a) evasion of service tax; or</p> <p style="padding-left: 4em;">(b) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules made under the provisions of this Chapter; or</p> <p style="padding-left: 4em;">(c) availment and utilisation of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or</p> <p style="padding-left: 4em;">(d) failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due,</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>	<p>1 of 1944.</p> <p>16 of 1955.</p> <p>32 of 1994.</p>
Reference to section 66 to be construed as reference to section 66B.			
Penalty for offences by director, etc., of company.			

then any director, manager, secretary or other officer of such company, who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of business of such company and was knowingly concerned with such contravention, shall be liable to a penalty which may extend to one lakh rupees.”;

5 (H) in section 83, for the figure and letter “9A”, the words, brackets, figures and letter “sub-section (2) of section 9A” shall be substituted;

(I) in section 86, in sub-section (5), for the word, brackets and figure “sub-section (3)”, the words, brackets and figures “sub-section (1) or sub-section (3)” shall be substituted;

(J) in section 89,—

10 (a) in sub-section (1), for clauses (i) and (ii), the following clauses shall be substituted, namely:—

“(i) in the case of an offence specified in clauses (a), (b) or (c) where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months;

15 (ii) in the case of the offence specified in clause (d), where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to seven years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months;

20 (iii) in the case of any other offences, with imprisonment for a term, which may extend to one year.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any person is convicted of an offence punishable under—

25 (a) clause (i) or clause (iii), then, he shall be punished for the second and for every subsequent offence with imprisonment for a term which may extend to three years;

(b) clause (ii), then, he shall be punished for the second and for every subsequent offence with imprisonment for a term which may extend to seven years.”;

(K) after section 89, the following sections shall be inserted, namely:—

30 “90.(1) An offence under clause (ii) of sub-section (1) of section 89 shall be cognizable. Cognizance of offences.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences, except the offences specified in sub-section (1), shall be non-cognizable and bailable.

35 91. (1) If the Commissioner of Central Excise has reason to believe that any person has committed an offence specified in clause (i) or clause (ii) of sub-section (1) of section 89, he may, by general or special order, authorise any officer of Central Excise, not below the rank of Superintendent of Central Excise, to arrest such person. Power to arrest.

(2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall, inform such person of the grounds of arrest and produce him before a magistrate within twenty-four hours.

40 (3) In the case of a non-cognizable and bailable offence, the Assistant Commissioner, or the Deputy Commissioner, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer in charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973.

2 of 1974.

45 (4) All arrests under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrests.”;

2 of 1974.

(L) in section 95, after sub-section (1-I), the following sub-section shall be inserted, namely:—

32 of 1994.

50 “(1J) If any difficulty arises in giving effect to section 93 of the Finance Act, 2013, in so far as it relates to amendments made by the Finance Act, 2013 in Chapter V of the Finance Act, 1994, the Central Government may, by an order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2013 receives the assent of the President.”;

(M) after section 98, the following section shall be inserted, namely:—

Special
provision for
taxable
services
provided by
Indian
Railways.

“99. Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, no service tax shall be levied or collected in respect of taxable services provided by the Indian Railways during the period prior to the 1st day of July, 2012, to the extent notices have been issued under section 73, up to the 28th day of February, 2013.” 5