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Important Service Tax amendments applicable from 1st October, 2014

Dear Professional Colleague,

We are sharing with you certain amendments made vide recent Notifications dated August 25, 2014 issued by the Central Board of Excise & Customs (“the CBEC”):

1. Fixation of date of applicability of Clauses (A), (B), (C) of Section 114 of the Finance (No.2) Act, 2014

The CBEC vide its **Notification No. 18/2014-ST dated August 25, 2014 (“the Notification”)** has fixed the date of applicability of provisions of Section 114(A),(B),(C) of the Finance (No.2) Act, 2014 as **October 1, 2014 (“Effective Date”)** which are given as under:-

A. Changes made in Interpretation of various terms under the Finance Act, 1994 (“the Finance Act”) are as follows:

- Clause (32) of Section 65B of the Finance Act which contains the meaning of “Metered Cab” will not include radio taxi in its purview from the Effective date.
- A new clause (39a) has been inserted under Section 65B of the Finance Act containing the meaning of “Print Media” which is as follows:

“Print media” means,—

(i) “book” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

(ii) “newspaper” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867)

B. Changes made in the Negative List of Services are as follows:

- Section 66D(g) of the Finance Act has been substituted with the new clause, which is as follows:-

(g) “selling of space for advertisements in print media;”

Earlier this clause reads as follows:

“(g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television”

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Hence, to broaden the tax base in Service tax, Sale of space or time for advertisements in broadcast media, namely radio or television, extended to cover such sales on other segments like online and mobile advertising, etc. Sale of space for advertisements in print media however would remain excluded from Service tax.

- Sub-clause(vi) of Section 66D(o) of the Finance Act has been substituted and the new clause is as follows:-

(vi) "metered cabs or auto rickshaws;"

Earlier this clause reads as under:

"(vi) metered cabs, radio taxis or auto rickshaws;"

Service provided by radio-taxis brought under the Service tax. The abatement of 60% presently available in terms of Notification No. 26/2012-ST Dated 20-6-2014, duly amended by Notification No. 8/2014-ST Dated 11-7-2014, to rent-a-cab service would also be made available to radio taxi service, to bring them on par.

C. Changes made in Rate of Exchange for valuation of Export or Import of Services are as follows:

- Explanation to Section 67A of the Finance Act has been substituted and the new Explanation inserted as under:-

"Explanation.—For the purposes of this section, "rate of exchange" means the rate of exchange determined in accordance with such rules as may be prescribed."

Earlier this explanation reads as under:

"Explanation.— For the purposes of this section, "rate of exchange" means the rate of exchange referred to in the Explanation to section 14 of the Customs Act, 1962.'; (52 of 1962.)]"

All the above mentioned changes will be applicable from the Effective date i.e. October, 1, 2014.

2. Insertion of Rule 11 and Rule 12 in the Service Tax Rules, 1994 ("the Service Tax Rules")

The CBEC vide its **Notification No. 19/2014-ST dated August 25, 2014** has inserted two new rules i.e. Rule 11 & Rule 12, after Rule 10 of the Service Tax Rules, which are provided as under:-

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- **Determination of Rate of Exchange (Rule 11)** – The rate of exchange for determination of value of taxable service shall be the applicable rate of exchange as per the generally accepted accounting principles on the date when point of taxation arises in terms of the Point of Taxation Rules, 2011.

This amendment has been made by the CBEC in view of requests from the trade and industry to delink the conversion from the notified Customs rates of exchange.

- **Power to issue supplementary instructions (Rule 12)** – The Board or the Chief Commissioners of Central Excise may issue instructions for any incidental or supplemental matters for the implementation of the provisions of the Act.

The above mentioned new Rules will be called the Service Tax (Second Amendment) Rules, 2014 and will come into force w.e.f October 1, 2014.

3. Amendment in Rule 12AAA of the Cenvat Credit Rules, 2004

The CBEC vide its **Notification No. 25/2014-Central Excise (N.T.) dated August 25, 2014** has amended Rule 12AAA of the Cenvat Credit Rules, 2004 (“the Credit Rules”) which prescribes power of CG to impose restrictions on certain types of cases to prevent misuse of provisions of the Credit Rules. Earlier, the CG was empowered to impose certain restrictions on a manufacturer, first stage and second stage dealer or an exporter only but now the restrictions can also be imposed on “**provider of taxable service**”.

The new rules will be called the Cenvat credit (Seventh Amendment) Rules, 2014 and shall come into force on the date of publication in the Official Gazette i.e. w.e.f 25th August, 2014

4. Some of Other Changes proposed during the Union Budget, 2014 and made applicable with effect from October 1, 2014

- **Variable Rates of Interest for Delayed Payment of Service Tax by Notification No. 12/2014-ST Dated 11-7-2014:-**

To encourage prompt payment of Service tax, new interest rates on delayed payments under Section 75 of the Finance Act, 1994, which would vary as per the extent of delay has been prescribed as under:

Extent of delay	Simple interest rate per annum
Up to six months	18%
More than six months and up to one year	18% for first six months and 24% for the period of delay beyond six months.

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More than one year	18% for first six months, 24% for second six months and 30% for the period of delay beyond one year
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This new interest rate regime will become operational from October 1, 2014 up to which the rate of interest of 18%, as presently applicable, will continue to apply.

As specified in the proviso to section 75, three per cent concession on the applicable rate of interest will continue to be available to the small service providers, whose value of taxable services provided in a financial year does not exceed Sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be.

- **Changes in the Service Tax Rules, 1994 Vide Notification No. 9/2014-ST Dated. 11-7-2014:-**

E-payment of Service tax has been made mandatory with effect from October 1, 2014. Relaxation from e-payment may be allowed by the Deputy Commissioner/ Asst. Commissioner on case to case basis.

- **Changes in Partial Reverse Charge Mechanism Vide Notification No. 10/2014-ST Dated 11-7-2014:-**

In case of Renting of motor vehicle where the service provider does not take abatement, the portion of Service tax payable by the service provider and service receiver has been modified as 50% each effective from October 1, 2014.

- **Changes in the Service Tax (Determination of Value) Rules, 2006 Vide Notification No. 11/2014-ST Dated 11-7-2014 to amend Service Portion in Works Contract (Effective From 1-10-2014):-**

In Rule 2A (ii) of the Service Tax (Determination of Value) Rules, 2006, Category 'B' (70%) and 'C' (60%) of Works Contract has been merged into one single category, with percentage of service portion as 70%, for the chargeability of Service tax.

- **Changes in the Point of Taxation Rules, 2011 ("The POT Rules") Vide Notification No. 13/2014-ST Dated 11-7-2014, amending POT for Reverse Charge (Effective From 1-10-2014):-**

The Point of Taxation in respect of Reverse Charge under the first Proviso to Rule 7 of the POT Rules has been amended to be the payment date

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occurs immediately after a period of three months from the date of invoice, whichever is earlier. The said amendment will apply only to invoices issued after October 1, 2014. A transition rule for the same has also been prescribed under new Rule 10 of the POT Rules.

- **Changes in Abatement Vide Notification No. 8/2014-ST Dated 11-7-2014:-**

Taxable portion in respect of transport of goods by vessel has been reduced from 50% to 40% with effect from October 1, 2014.

Service related to transportation of passenger by air-conditioned contract carriages has now become taxable. Therefore, a new entry is inserted at Sr. No. 9A providing taxable portion of such services to be 40% with the condition that Cenvat credit of inputs or capital goods or input services has not been availed.

The condition in entry No. 9 is amended with effect from October 1, 2014 allowing credit of input service of renting of a motor cab if such services are received from a person engaged in the similar business i.e. a sub-contractor providing services of renting of motor cab to the main contractor. The whole of the Cenvat credit has been allowed with respect to input service of renting of any motor cab, received from a person who is paying Service tax on 40% of the value of services. The Cenvat credit eligibility will be restricted to 40% of the credit of the input service of renting of any motor cab if Service tax is paid or payable on full value of the services i.e. no abatement is availed.

Effective from October 1, 2014, the service of tour operator is also being allowed to avail Cenvat credit on the input service of another tour operator, which are used for providing the taxable service.

- **Changes in Place of Provision of Services Rules, 2012 (“The POP Rules”) Vide Notification No. 14/2014-ST Dated 11-7-2014 (Effective From 1-10-2014):-**

Definition of ‘Intermediary’ has been amended to include intermediary of goods in its scope. Accordingly, an intermediary of goods, such as a commission agent or consignment agent shall be covered under Rule 9(c) of the POP Rules instead of Rule 3 of the POP Rules.

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Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.

Thanks & Best Regards.

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