

Recent Changes in Service Tax Law

Introduction

Service tax is a levy on provision/rendition of service in India. Chapter V of Finance Act, 1994, introduced Service tax in India and it came to force from July 1994. Finance Act, 1994 is the only parent legislature and there is no separate act for the same.

Apart from the Finance Act, 1994 the following constitutes the Service tax law in India.

1. Provision of Central Excise Act, 1944 as are relevant to Service tax
2. Service Tax Rules, 1994
3. Cenvat Credit Rules, 2004
4. Service Tax (Determination of value) Rules, 2006
5. Point of Taxation Rules, 2011
6. Place of Provision of Service Rules, 2012
7. Service Tax (Settlement of Cases) Rules, 2012
8. Service Tax (Advance Rulings) Rules, 2003
9. Service Tax (Registration of Special category of Persons) Rules, 2005
10. Service Tax (Publication of Names) Rules, 2008
11. Service Tax (Provisional Attachment of Property) Rules, 2008
12. Service Tax (Compounding of Offences) Rules, 2012
13. Service Tax Return preparer Scheme, 2009
14. Notifications
15. Circulars / Instructions
16. Case Laws
17. Orders
18. Trade Notices

All of the above forms Service tax law in India and they are the law of Land and every assessee registered under Service tax has to comply with the same. In the present context, it needs mention that, wherever, any Rule, Notification, Circular, Order etc override the provisions of the Act, the provision of the Act shall prevail over the all other rules, notifications etc.,.

Service Tax, since its introduction is in the process of evolution and is undergoing change every year, even after, taking a paradigm shift from July 2012. As the amendments / changes are brought into effect through various Notifications, circulars, case laws etc every year, an assessee always stays in the confused corner which would certainly result into the following

- Non complying with Service tax law
- Overpayment/Underpayment of Service tax
- Facing disputes with the department
- Engaging in corrupt practices

However, it would be the prime responsibility of any Assessee to comply with the law and also to ensure no over payment is made by optimizing the credit and also to avoid disputes by updating himself frequently in the ever-changing law.

In this article we are discussing the important changes took place in Service tax law in the year 2013-14. Any amendments / changes could be brought into effect by way of Notifications and hence few experts also opine that the Service tax law is a notification driven law and as the interpretation or opinion is very correct the FY 2013-14 also brought many changes to the Service tax law.

We shall discuss the changes in four parts as follows

- Part-I: Changes in the Ground level - Any change in the basic law i.e., changes in the Act like omissions, additions or introduction of some new concept by way of sub sections.
- Part-II: Changes by way of few important Notifications
- Part-III: Changes brought by the departmental Circulars/Instructions
- Part-IV: Changes as applicable & relevant by few case laws.

Part-I: Changes in Ground level:

There are no major changes on the ground level but, the change which is introduced by Section 103 (K) of the Finance Act, 2013 is of the highest critical importance and it also brought 'Inspector Raj' back in action, which is very much familiar to the conditions of the pre-independent India.

Yes, the Sections 90 & 91 in the Finance Act, 1994, with effect from 10th May, 2013 introduced by Section 103 (k) has bestowed the departmental officers with powers to arrest an assessee at default.

In terms of section 90 of the Finance Act, 1994, as amended, offences under section 89(1) (ii) shall be cognizable and all other offences shall be non-cognizable and bailable. In terms of section 91(1) read with section 89(1) (i) and (ii) of the Finance Act, 1994, as amended, the power to arrest has been introduced in cases involving evasion of service tax covered under section 89(1) (i) and (ii) of the Finance Act, 1994, as amended and the amount of service tax evaded exceeds rupees fifty lakh. The same is clarified by the departmental Circular No.171/6/2013-Service Tax and would be discussed in the part III of this article.

Part-II: Important Notifications:

Notification No. 05/2014-Service Tax

This notification is been issued to delete the Export of Cotton Yarn (specified in paragraph 3.14.5 of the Foreign Trade Policy) from the categories of exports which shall not be counted for calculation of export performance or for computation of entitlement under the Focus Market Scheme:

Notification 6/2013 exempts the taxable services provided or agreed to be provided against a scrip by a person located in the taxable territory from the whole of the service tax leviable thereon under section 66B of the Finance Act, 1994 but there is a proviso stating that a few categories of exports are not entitled to avail the said benefit and now vide notification **5/2014-ST** Export of Cotton Yarn is deleted from such list.

Therefore Export of Cotton Yarn **shall be** counted for calculation of export performance or for computation of entitlement under the Focus Market Scheme:

Notification No. 04/2014 - Service Tax

This notification intends to introduce two additional exempted services as follows:

A new additional exempted service by entry no. 40 'Services by way of loading, unloading, packing, storage or warehousing of rice' is been added to the list of 39 exempted services in the Mega exemption notification 25/2012 by the current notification and thus making 40 exempted services under notification 25/2012.

A sub-category of an exempted service under 'Health care services by a clinical establishment, an authorised medical practitioner or para-medics' an additional entry, entry no. 2A '**Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation**' is also been added to the list of exempted services by the current notification.

Notification No. 14/2013 - Service Tax

A sub-category of an exempted service under entry no. 19 'Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and (ii) a license to serve alcoholic beverages' an additional entry, entry no. 19A '**Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 (63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year**' is also been added to the list of exempted services by the current notification.

Notification No. 13/2013 - Service Tax

A sub-category of an exempted service under entry no. 9 'Services provided to or by an educational institution in respect of education exempted from service tax, by way of,- (a) auxiliary educational services; or (b) renting of immovable property' an additional entry, entry no. 19A 'Any services provided by,

- (i) The National Skill Development Corporation set up by the Government of India;
- (ii) A Sector Skill Council approved by the National Skill Development Corporation;
- (iii) An assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (iv) A training partner approved by the National Skill Development Corporation or the Sector Skill Council'

is also been added to the list of exempted services by the current notification.

Notification No. 03/2014 - Service Tax

This notification is issued to state and clarify that the service tax shall not be payable on the taxable services provided by an 'authorised person or sub-broker to the member of a recognised association or a registered association, in relation to a forward contract', by exercising the powers conferred by section 11C of the Central Excise Act, 1944 read with section 83 of the Finance Act.

Service was not being levied prior to the issuance of this notification according to the practice generally prevalent regarding levy of service tax (including non-levy thereof) during the period commencing from the 10th day of September 2004 and ending with the 30th day of June 2012.

Now with the issuance of this particular notification it's been cleared that service tax shall not be payable on the said service.

Notification No. 02/2014 - Service Tax

This notification has substituted the definition of 'government authority' as against the old definition as per the notification 25/2012.

The old definition:

"Governmental authority" means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W of the Constitution;

The new definition:

"Governmental authority" means an authority or a board or any other body;

Set up by an Act of Parliament or a State Legislature; or

Established by Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

Notification No 16 /2013-Service Tax

This Notification is issued to amend the Service Tax Rules, 1994 which would be enforceable from 1st Jan 2014 where any service tax liability more than Rs. **One lakh** has to be deposited electronically, through internet banking rather than Rs. **Ten lakh** as it was done previously.

Notification No 12 /2013-Service Tax

This notification is issued in suppression of the ST-Notification 40/2012 to provide exemption by way of refund of service tax paid on the specified services received by the SEZ Unit or the Developer and used for the authorised operations. The SEZ Unit or the Developer also has the option not to pay the service tax ab initio if they are used exclusively for the authorised operations, subject to the conditions and procedure as stated below.

- i. SEZ unit or developer shall get an approval from approval committee for the list of the services as are required for the authorised operations.
- ii. The ab-initio exemption on the specified services received by the SEZ Unit or the Developer and used exclusively for the authorised operation shall be allowed subject to the following procedure and conditions, namely:-

- a. the SEZ Unit or the Developer shall furnish a declaration in Form A-1
 - b. an authorisation shall be issued by the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be to the SEZ Unit or the Developer, in Form A-2.
 - c. the SEZ Unit or the Developer shall provide a copy of said authorisation to the provider of specified services.
 - d. the SEZ Unit or the Developer shall furnish to the jurisdictional Superintendent of Central Excise a quarterly statement, in Form A-3, furnishing the details of specified services received by it without payment of service tax.
 - e. in case the specified services not exclusively used for authorised operation, then an amount that is claimed by way of exemption from service tax and cesses along with interest as applicable shall be payable to the government.
 - f. shall submit only one claim of refund under this notification for every quarter.
- iii. The refund of service tax on (i) the specified services that are not exclusively used for authorised operation, or (ii) the specified services on which ab-initio exemption is admissible but not claimed, shall be allowed subject to the following procedure and conditions, namely:-
- a. If the service tax paid on specified services that are common to the authorised operation in an SEZ and DTA, then the same shall be distributed as per rule 7 of the Cenvat Credit Rules.
 - b. Those who are registered under Central Excise, shall file the claim for refund to the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, the as the case may be, in Form A-4.
 - c. The refund claim could be filed only upon making payment to the party rendering the specific services along with the service tax as per the invoice.
 - d. The refund claim shall be filed within one year from the end of the month in which actual payment of service tax was made.
 - e. shall submit only one claim of refund under this notification for every quarter.
 - f. The SEZ unit or the developer shall be registered under Service tax before filing a claim for refund.
 - g. a common refund may be filed at the option of the assessee. if there are more than one SEZ Unit registered under a common service tax registration.
- iv. The SEZ Unit or Developer, who intends to avail exemption or refund under this notification, shall maintain proper account of receipt and use of the specified services, on which exemption or refund is claimed.
- v. Any refund, granted erroneously by the Government shall be recoverable under the provisions.
- vi. SEZ Unit or the Developer shall also have the option not to avail of this exemption and instead take CENVAT credit on the specified services as per CENVAT Credit Rules.

Notification No 9/2013-Service Tax

This Notification is issued to insert conditions for determining abatement percentage to entry no.12 Construction services, of Notification 26/2012 (Abatement Notification).

The conditions are follows

- a) For a residential unit satisfying both the following conditions, namely: -
 - i. The carpet area of the unit is less than 2000 sq feet; and

- ii. The amount charged for the unit is less than rupees one crore;
- b) For other than the (a) above.

Abatement percentage would be 75 on satisfying condition a, if not the abatement percentage would be 70. This notification intends to reduce 5% from abatement value for larger construction activities / services.

Part-III: Circulars

Circular No.177/03/2014 – ST

This circular was issued clarify that **service tax** shall not leviable on various activities in relation to rice, under the negative list approach.

These doubts have been examined and clarifications are given below:

- The definition of ‘agricultural produce’ covers ‘paddy’; but excludes ‘rice’. However, many benefits available to agricultural produce in the negative list [section 66D(d)] have been extended to rice, by way of appropriate entries in the exemption notification.
- Transportation of rice by way of following is also exempt:
 - by a rail or a vessel
 - Loading, unloading, packing, storage and warehousing of rice
 - Milling of paddy into rice

Circular No.175 /01 /2014 – ST

This circular was issued clarify that **service tax shall be levied on services provided by a Resident Welfare Association (RWA) to its own members on non fulfillment of certain conditions.**

The following doubts were clarified with corresponding clarifications for the same.

<u>Sl no</u>	<u>Doubt</u>	<u>Clarification</u>
1	Is service tax leviable? On contribution collected from members and used for the purpose of making payment to third parties, in respect of commonly used services like <i>for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity Bill for the common area and lift, etc.</i> What if the contribution exceeds Rs.5,000	Basically the same is exempt vide Notification 25/2012 (entry no. 28(c)). However a monetary ceiling of Rs.5,000 has been prescribed for this exemption. But, if the per month per member contribution of any or some members of a RWA exceeds Rs.5,000, the exemption would be ineligible and Service tax would be leviable on the aggregate amount of month contribution of such members.
2	(i) Is threshold exemption under notification No. 33/2012-ST available to RWA? (ii) Does ‘aggregate value’ for the purpose of threshold exemption, include the value of exempt service?	The same is available subject to conditions prescribed in the notification. Under this notification, basic exemption of Rs. Ten lakhs is available but, as per the definition of ‘aggregate value’ provided in Explanation B of the notification, aggregate value does not include the value of services which are exempt from service tax.
3	If a RWA provides certain services such as	The exclusion would be available if the conditions

	payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of exemptions provided in Notification 33/2012-ST or 25/2012-ST ?	specified in the valuation rules w.r.t pure agent is satisfied and the RWA has not charged any commission or a consideration by any other name. However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area, etc., since there is no agent involved in these transactions, the exclusion from the value of taxable service would not be available.
4	Is CENVAT credit available to RWA for payment of service tax?	RWA may avail cenvat credit and use the same for payment of service tax, in accordance with the Cenvat Credit Rules.

Circular No.173/8/2013 – ST

Clarification on Service tax leviable on **Restaurant Service**

<u>Sl no</u>	<u>Doubt</u>	<u>Clarification</u>
1	In a complex where air conditioned as well as non-air conditioned restaurants are operational but food is sourced from the common kitchen, will service tax arise in the non-air conditioned restaurant?	In a complex, if there are more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year is liable to service tax and service provided in a non air-conditioned or non centrally air- heated restaurant will not be liable to service tax.
2	In a hotel, if services are provided by a specified restaurant in other areas e.g. swimming pool or an open area attached to the restaurant, will service tax arise?	Yes. Services provided by specified restaurant in other areas of the hotel are liable to service tax.
3	Whether service tax is leviable on goods sold on MRP basis across the counter as part of the Bill/invoice.	If goods are sold on MRP basis (fixed under the Legal Metrology Act) they have to be excluded from total amount for the determination of value of service portion.

Circular No.172/7/2013 – ST

This Circular is issued mainly on the based the representations made by different educational institutions seeking clarification regarding the levy of service tax on certain services relating to education sector.

Here, the Director of TRU, Mr. J.M.Kennedy, has made specific references to the Negative list of services and the Mega exemption Notification 25/2012 as relevant to the current context and clarified that –

‘By virtue of the entry in the negative list and by virtue of the portion of the exemption notification, it will be clear that all services relating to education are exempt from service tax.’

There are many services provided to an educational institution. These have been described as “auxiliary educational services” and they have been defined in the exemption notification. Such services provided to an educational institution are exempt from service tax.

Ex: transport operator providing the transport services to school is exempt; other examples would be hostels, housekeeping, security services, canteen, etc.

The circulars also states that to ‘These institutions and organizations are requested not to give credence to rumours or mischievous suggestions. If there is any doubt they are requested to approach the Chief Commissioner concerned.’

Circular 171/6/2013-Service Tax

This Circular is issued to provide clarification regarding **Guidelines for arrest and bail in relation to offences punishable under the Finance Act, 1994.**

Assessee found to have evaded service tax payment in excess of Rs.50 lakhs could be arrested as per sections 90 & 91 of the Finance Act, 1994 w.e.f 10th May 2013. Offences under section 89(1) (ii) shall be cognizable and all other offences shall be non-cognizable and bailable.

Let us see clearly what are the cognizable and non- cognizable offences as per above stated sections.

The following cases could be covered under section 89(1)(i)

- where a person knowingly evades the payment of service tax, or
- avails and utilizes credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules, or
- avails and utilizes credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules,

and the amount of service tax involved is more than fifty lakh rupees and in such cases the Assistant Commissioner or the Deputy Commissioner shall have the same powers and be subject to the same provisions as an officer in-charge of a police station has for the purpose of releasing an arrested person on bail or otherwise.

The following cases could be covered under section 89(1)(ii)

- where a person has collected service tax exceeding fifty lakh rupees but has failed to pay the amount to the Government beyond a period of six months from the date on which such payment becomes due.

In such cases the arrested person shall be produced before the Magistrate within 24 hours of arrest and the magistrate would decide on whether or not to grant bail.

The Circular further clarifies on Conditions, procedures, post arrest formalities and reporting system in relation to arrest and instructs the departmental officers observe all these with utmost care since, the same is question of personal liberty, reputation of an individual at default.

Conditions:

- the service tax evasion should be in excess of Rs.50 lakhs.
- a Superintendent of Central Excise or the officer above to this rank can only arrest with the reason to believe that the person proposed to be arrested has committed an offence and the reason to believe must be based on credible material which will stand judicial scrutiny.
- An officer with the charge of arrest has to ensure that the proper investigation, prevention of the possibility of tampering with evidence or intimidating or influencing witnesses and large amounts of service tax evaded are relevant factors before arresting the person.

Procedures

- Commissioner should ensure that all officers are fully familiar with the provisions of the Code of Criminal Procedure 1973 (2 of 1974) they should adhere to the same.
- There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions in D.K Basu vs State of West Bengal reported in 1997(1) SCC 416 (see paragraph 35). The arrest memo should include:
 - brief facts of the case;
 - details of the person arrested;
 - gist of evidence against the person;
 - relevant section (s) of the Finance Act, 1994 or other laws attracted to the case and to the arrested person;
 - the grounds of arrest must be explained to the arrested person and this fact noted in the arrest memo;
 - a nominated person (as per the details provided by arrested person) of the arrested person should be informed immediately and this fact also may be mentioned in the arrest memo;
 - the date and time of arrest may be mentioned in the arrest memo and the arrest memo should be given to the person arrested under proper acknowledgment;
 - a separate arrest memo has to be made and provided to each individual/arrested person. This should particularly be kept in mind in the event that there are several arrests in a single case.
- Further there are certain modalities that should be complied with at the time of arrest and pursuant to an arrest, which include the following:
 - A female should be arrested by or in the presence of a woman officer;

- Medical examination of an arrested person should be conducted (by a medical officer in the service of Central or State Governments and in case the medical officer is not available, by a registered medical practitioner, soon after the arrest is made. If an arrested person is a female then such an examination shall be made only by, or under supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.)
- It shall be the duty of the person having the custody of an arrested person to take reasonable care of the health and safety of the arrested person.

Post arrest formalities

- In cases covered under section 89(1) (i), the Assistant Commissioner or Deputy Commissioner is bound to release a person on bail against a bail bond. The bail conditions should be informed in writing to the arrested person and also informed on telephone to the nominated person of the person (s) arrested. The arrested person should be also allowed to talk to a nominated person.
- If the conditions of the bail are fulfilled by the arrested person, he shall be released by the officer concerned on bail forthwith.
- In cases covered under section 89(1) (ii) and only in the event of circumstances preventing the production of the arrested person before a Magistrate without unnecessary delay, the arrested person may be handed over to nearest Police Station for his safe custody, within 24 hours, under a proper challan, and produced before the Magistrate on the next day, and the nominated person of the arrested person may be also informed accordingly.
- Formats of the relevant documentation i.e. the Bail Offer Letter, the Bail Bond and the Challan for handing over to the police, in the Code of Criminal Procedure, 1973. (2 of 1974) may be followed.
- Every Commissionerate should maintain a Bail Register which will have the details of the case, arrested person, bail amount, surety amount.

Reporting System

- A report on every person arrested should be sent to the jurisdictional Chief Commissioner with a copy to DGCEI (Headquarters) the same day or on the next day.
- Chief Commissioners shall send a report on every arrest to the Zonal Member within 24 hours of the arrest giving such details as prescribed in the monthly report. To maintain an all India record of arrests made in service tax, a monthly report of all persons arrested in the Zone shall be sent by the Chief Commissioner to DGCEI (Headquarters), New Delhi, by the 5th of the succeeding month, in the following format:

Monthly Report on Persons Arrested in a Zone

S.No	Name, designation and age of arrested person	Date of arrest	Commissionerate	Name and Registration Number of Company	Amount of duty evaded	Role in evasion and nature of evidence collected

Total						

Circular 171/6/2013-Service Tax

This circular is issued to provide clarification on **Tax on service provided by way of erection of *pandal* or *shamiana***. The clarifications could be briefed as per the following:

- Activity by way of erection of *pandal* or *shamiana* is a declared service, under section 66E 8(f). The process is a specialized job and requires labour services by the provider of this service and would also include supply of crockery, furniture, sound system, lighting arrangements, etc and results into an activity of service, hence service tax is liable.
- to constitute the transaction for the transfer of the right to use the goods, the transaction must have the following attributes:-
 - There must be goods available for delivery;
 - The transferee should have a legal right to use the goods and, consequently, all legal consequences of such use including any permissions or licenses required therefore should be available to the transferee;
 - For the period during which the transferee has such legal right, it has to be the exclusion of the transferor: this is the plain language of the statute, viz., a “transfer of the right to use” and not merely a license to use the goods;
 - Once transferred, the owner cannot again transfer the same right to others.
- Considering the above points, the current service does not involve ‘a transfer of right to use goods’ and It is a service of preparation of a place to hold a function or event.
- Effective possession and control over the *pandal* or *shamiana* remains with the service provider, even after the erection is complete and the specially made-up space for temporary use handed over to the customer.
- Accordingly services provided by way of erection of *pandal* or *shamiana* would attract the levy of service tax.

Part-IV: Case Laws

G.D. BUILDERS Versus UNION OF INDIA

2013 (32) S.T.R. 673 (Del.)

IN THE HIGH COURT OF DELHI

Sanjiv Khanna and Sanjeev Sachdeva, JJ.

2014 (33) S.T.R. 148 (Mad.)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Issue: Service tax was imposed on whole amount of composite contract, (i.e., Works Contract including both the supply of labour & material) a part of Construction contract and the Service tax levied on three stages

- i. 1st Stage: On Construction of industrial and commercial complexes
- ii. 2nd Stage: On Residential complexes of 12 or more residential units
- iii. 3rd Stage: On works contracts of any nature (inclusive of material value)

Decision: Service Tax should be levied and imposed on the “service” element and not levied and charged on material or goods used, as the power to levy sales tax or value added tax on the sales of goods is with the State Governments.

COMMISSIONER OF CENTRAL EXCISE, SALEM versus CHERAN SPINNERS LTD.

Chitra Venkataraman and K.B.K. Vasuki, JJ.
C.M.A. No. 894 of 2008, decided on 5-7-2013

Issue: Service Tax liability on GTA services was discharged / paid by utilizing Cenvat Credit paid on inputs and capital goods. The service tax had to be paid in cash along with applicable interest.

Decision: the recipient of GTA services is treated as deemed provider of services and liable to pay service tax but, he is not entitled to make use of Cenvat credit to discharge their liability under the Service Tax provisions.

Commissioner v. Vinayak Textile Mill - 2014 (33) S.T.R. J49 (P & H)

Issue: Service Tax liability on GTA services was discharged / paid by utilizing Cenvat Credit paid on inputs and capital goods partially and by par PLA (cash).

Decision: In Favour of Appellant which read as “There is no specific bar in Rule 3(4) of Cenvat Credit Rules, 2004 in utilising credit for Service Tax payable as a deemed service provider.”

K. ANAND CATERERS versus UNION OF INDIA

2014 (33) S.T.R. 142 (All.)
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
Sunil Ambwani and Manoj Kumar Gupta, JJ.
Writ Tax No. 642 of 2013, decided on 16-9-2013

Issue: Service Tax demand of Rs. 60 lakhs along with interest and Garnishee order was also against M/s K. Anand Caterers passed after departmental inspection.

The petitioner has filed submitted VCES-1 by admitting the liability on 20th June 2013.

Decision: The proceedings are temporarily suspended and it was referred Commissioner of Central Excise (competent authority) and was ordered to decide within a period of 60 days from the 16-9-2013 and it was also ordered that the bank accounts shall be released by the respective banks.

COMMISSIONER OF S.T., CHENNAI versus SANGAMITRA SERVICES AGENCY

2014 (33) S.T.R. 137 (Mad.)
IN THE HIGH COURT OF JUDICATURE AT MADRAS
Chitra Vekataraman and K.B.K. Vasuki, JJ.
C.M.A. No. 985 of 2008, decided on 27-6-2013

Issue: Reimbursable expenses (various charges) received by assessee from the Principal to be added to the taxable value related to clearing and forwarding agents service.

Decision: (In favour of assessee) In the absence of any material to show the understanding between the principal and the client that the commission payable by principal was all inclusive and the mere act of reimbursement, per se, would not justify the contention of Revenue that the same, having the character of the remuneration or commission deserves to be included in the sum amount of remuneration/commission.

COMMISSIONER OF C. EX. & CUSTOMS versus STOVEC INDUSTRIES LTD.

2014 (33) S.T.R. 124 (Guj.)
IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
V.M. Sahai and N.V. Anjaria, JJ.
Tax Appeal No. 1294 of 2011, decided on 10-7-2012

Issue: Availment of Cenvat Credit on service tax paid for the services provided by Customs House Agent/Port services in relation to the goods exported by the assessee. Assessee is engaged in the manufacture and export of Rotary Screen Printing Machine and parts thereof and holding Central Excise Registration.

Decision: this appeal is dismissed keeping the question open to be decided in an appropriate case

Commissioner v. V.S. Patil - 2014 (33) S.T.R. J90 (Kar.)

Issue: Penalty imposable for mala fide intention when duty and interest paid before issue of SCN

Decision: Imposition of penalty was set aside by Commissioner (Appeals) accepting no mala fide intention and also considering Revenue's contention, penalty reduced to 25% of Service Tax amount.

Commissioner v. Tribhuvan Motors Ltd. - 2014 (33) [S.T.R. J90 \(Kar.\)](#)

Issue: Renting of table space to financial institution whether covered under Business Auxiliary Service?

Decision: (Order in Favour of assessee). They only inform buyers about availability of types of loans thereby directing them to financial institutions and there is indicating the assessee is promoting the services provided by financial institutions.