

G.S.R. (E).- 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 services provided in relation to the execution of works contract, referred to in sub-clause (zzzza) of clause (105) of section 65 of the Finance Act, when provided wholly within an airport and classified under sub-clause (zzm) of clause (105) of section 65 of the Finance Act, 1994, from the whole of service tax leviable thereon under section 66 of the Finance Act.

[F. No. 334/3/2011-TRU]



(SAMAR NANDA)

Under Secretary to the Government of India

G.S.R. (E).- 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 services provided in relation to the execution of works contract, referred to in sub-clause (zzzza) of clause (105) of section 65 of the Finance Act, when provided wholly within the port or other port, for construction, repair, alteration and renovation of wharves, quays, docks, stages, jetties, piers and railways from the whole of service tax leviable thereon under section 66 of the Finance Act.

[F. No. 334/3/2011-TRU]



(SAMAR NANDA)

Under Secretary to the Government of India

G.S.R. (E).- In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Export of Services Rules, 2005, namely :-

1. (1) These rules may be called the Export of Services (Amendment) Rules, 2011.
(2) They shall come into force on the 1st day of April, 2011.
2. In the Export of Services Rules, 2005, in rule 3, in sub-rule (1),-
 - (i) in clause (i), for the brackets, letters and word “(zzzza), and (zzzzm)”, the brackets, letters and word “(zzzza), (zzzzm) and (zzzzu)” shall be substituted;
 - (ii) in clause (ii), for the portion beginning with the brackets, figures and words “specified” and ending with the words “as are performed outside India”, the following shall be substituted,namely:-

“(ii) specified in sub-clauses (a), (f), (h), (i), (j), (l), (n), (o), (w), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zz), (zza), (zzc), (zzd), (zzf), (zzg), (zzi), (zzl), (zzm), (zzo), (zzt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze), (zzzf), (zzzzg), (zzzzh), (zzzzi), (zzzzk), (zzzzl) and (zzzzo) of clause (105) of section 65 of the Act, be provision of such services as are performed outside India:”

[F. No. 334/3/2011-TRU]


(SAMAR NANDA)

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, published in the Gazette of India, Extraordinary vide number G.S.R. 151(E), dated the 3rd March 2005 and last amended vide notification No.06/2010-Service Tax, dated the 27th February, 2010, vide number G.S.R.150 (E), dated the 27th February, 2010.

G.S.R. (E).- In exercise of the powers conferred by sections 93 and 94 read with section 66A of the Finance Act, 1994 (32 of 1994), the Central Government, hereby makes the following rules further to amend the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, namely :-

1. (1) These rules may be called the Taxation of Services (Provided from Outside India and Received in India) Amendment Rules, 2011.
(2) They shall come into force on the 1st day of April, 2011.
2. In the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, in rule 3,-
 - (i) in clause (i), for the brackets, letters and word “(zzzza) and (zzzzm)”, the brackets, letters and word “(zzzza), (zzzzm) and (zzzzu)” shall be substituted;
 - (ii) in clause (ii), for the portion beginning with the brackets, figures and words “specified” and ending with the words “as are performed in India”, the following shall be substituted, namely:-

“(ii) specified in sub-clauses (a), (f), (h), (i), (j), (l), (n), (o), (w), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zz), (zza), (zzc), (zzd), (zzf), (zzg), (zzi), (zzl), (zzm), (zzo), (zzt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze), (zzzf), (zzzzg), (zzzzh), (zzzzi), (zzzzk), (zzzzl) and (zzzzo) of clause (105) of section 65 of the Act, be such services as are performed in India.”

[F. No. 334/3/2011-TRU]


(SAMAR NANDA)

Under Secretary to the Government of India

Note.- The principal rules were notified vide notification no. 11/2006-Service Tax, dated the 19th April, 2006, published in the Gazette of India, Extraordinary vide number G.S.R. 227(E), dated the 19th April, 2006 and last amended vide notification No.16/2010-Service Tax, dated the 27th February, 2010, published on the Gazette of India vide number G.S.R.160 (E), dated the 27th February, 2010.

G.S.R. (E).- In exercise of the powers conferred by section 75 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 26/2004-Service Tax, dated the 10th September, 2004, published in the Gazette of India, Extraordinary, vide Number G.S.R. 601 (E), dated the 10th September, 2004, namely:-

In the said notification, for the words “thirteen per cent.”, the words “eighteen per cent.” shall be substituted.

2. This notification shall come into force on the 1st day of April, 2011.

[F. No. 334/3/2011-TRU]



(SAMAR NANDA)

Under Secretary to the Government of India

Note.- The principal notification No. 26/2004-Service Tax, dated the 10th September, 2004 was published in the Gazette of India, Extraordinary, vide Number G.S.R. 601(E), dated the 10th September, 2004.

G.S.R. (E).- In exercise of the powers conferred by section 73B of the Finance Act, 1994 (32 of 1994), the Central Government, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8/2006-Service Tax, dated the 19th April, 2006, published in the Gazette of India, Extraordinary, vide number G.S.R.224 (E), dated the 19th April, 2006, namely:-

In the said notification, for the words “thirteen per cent.”, the words “eighteen per cent.” shall be substituted.

2. This notification shall come into force on the 1st day of April, 2011.

[F. No. 334/3/2011-TRU]


(SAMAR NANDA)

Under Secretary to the Government of India

Note.- The principal notification No.8/2006-Service Tax, dated the 19th April, 2006 was published in the Gazette of India, Extraordinary, vide number G.S.R.224 (E), dated the 19th April, 2006.

G.S.R. (E).- 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 makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 1/2006-Service Tax, dated the 1st March, 2006, published in the Gazette of India, vide Number G.S.R.115(E), dated the 1st March, 2006, namely:-

2. In the said notification, in the Table, after S.No.11 and the entries relating thereto, the following S.No. and the entries shall be inserted, namely:-

TABLE

(1)	(2)	(3)	(4)	(5)
"12.	(zzzzl)	Services provided or to be provided, to any person, by any other person, in relation to transport of- i) Coastal goods; ii) Goods through national waterway; or iii) Goods through inland water.	-	75"

[F. No. 334/3/2011-TRU]


(SAMAR NANDA)

Under Secretary to the Government of India

Note.- The principal rules were notified vide notification no. 1/2006-Service Tax, dated the 1st March, 2006, published in the Gazette of India, Extraordinary vide Number G.S.R. 115(E), dated the 1st March, 2006 and last amended vide notification No.40/2010-Service Tax, dated the 28th June, 2010, published on the Gazette of India vide Number G.S.R.561 (E), dated the 28th June, 2010.

G.S.R. (E). – 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) read with sub-section 3 of section 95 of Finance (No.2), Act, 2004 (23 of 2004) and sub-section 3 of section 140 of the Finance Act, 2007(22 of 2007) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 9/2009-Service Tax, dated the 3rd March, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R.146(E), dated the 3rd March, 2009, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in clause (105) of section 65 of the Finance Act, chargeable to tax under section 66 or section 66A of the Finance Act, received by a Unit located in a Special Economic Zone (hereinafter referred to as SEZ) or Developer of SEZ for the authorised operations, from the whole of the service tax, education cess and secondary and higher education cess leviable thereon.

2. The exemption contained in this notification shall be subject to the following conditions, namely:-

(a) the exemption shall be provided by way of refund of service tax paid on the specified services received for the authorised operations in a SEZ:

Provided that where the specified services received and used for authorised operations are wholly consumed within the SEZ, the provider of such services or the receiver of such services on reverse charge basis, as the case may be, has the option not to pay the service tax *ab initio* instead of the Unit or Developer claiming exemption by way of refund in terms of this notification.

Explanation.- For the purposes of this notification, the expression “wholly consumed” refer to following taxable services, received by a Developer or Unit of a SEZ, for the authorised operations, namely:-

- (i) services listed in clause(i) of sub-rule (1) of rule 3 of the Export of Services Rules, 2005 in relation to an immovable property situated within the SEZ; or
- (ii) services listed in clause (ii) of sub-rule (1) of rule 3 of the Export of Services Rules, 2005, as are wholly performed within the SEZ; or
- (iii) services other than those falling under (i) and (ii) above, provided to a Developer or Unit of SEZ, who does not own or carry on any business other than the operations in the SEZ;

(b) for the purpose of claiming exemption, the Developer or Unit of SEZ shall obtain a list of taxable services as are required for the authorised operations approved by the Approval Committee (hereinafter referred to as the specified services) of the concerned SEZ;

(c) the Developer or Unit of SEZ who does not own or carry out any business other than SEZ operations, shall furnish a declaration to that effect in Form A-1, verified by the Specified Officer of the SEZ, in addition to obtaining list under condition (b) above, for the purpose of claiming exemption;

(d) where the specified services received by Unit or Developer, are not wholly consumed within SEZ, i.e., shared between authorised operations in SEZ Unit and Domestic Tariff Area(DTA) Unit, refund shall be restricted to the extent of the ratio of export turnover to the total turnover for the given period to which the claim relates, i.e.,

$$\text{Maximum refund} = \frac{\text{service tax paid on specified services used for SEZ Authorised Operations shared with DTA Unit for the period} \times \text{Export turnover of SEZ Unit for the period}}{\text{Total turnover for the period}}$$

Explanation.- For the purposes of condition (d),-

(1) “total turnover” means the sum total of the value of,-

- (i) all output services and exempted services provided, including the value of services exported;
- (ii) all excisable and non-excisable goods cleared, including the value of the goods exported;
- (iii) bought out goods sold,

during the period to which the invoices pertain and the exporter claims the facility of refund under this notification.

(2) “turnover of SEZ Unit” shall mean the sum total of the value of final products and output services exported during the period of which the invoices pertain and the exporter claims the facility of refund under this notification;

(e) any Developer or Unit of SEZ claiming the exemption shall declare that the specified services on which exemption and/ or refund is claimed to have been actually used for the authorised operations;

(f) the Developer or unit of SEZ claiming the exemption, by way of refund has actually paid the amount indicated in the invoice, bill or as the case may be, challan, including the service tax payable, to the person liable to pay the said tax or the amount of service tax payable under reverse charge, as the case may be, under the provisions of the Finance Act;

(g) no CENVAT credit of service tax paid on the specified services used for the authorised operations in a SEZ has been taken under the CENVAT Credit Rules, 2004;

(h) exemption or refund of service tax paid on the specified services other than ‘wholly consumed’ services used for the authorised operations in a SEZ shall not be claimed except under this notification;

(i) the developer or unit of a SEZ, who intends to avail exemption and or refund under this notification, shall maintain proper account of receipt and use of the specified services on which exemption is claimed, for authorised operations in the SEZ.

3. The following procedure should be adopted for claiming the benefit of the exemption contained in this notification, namely:-

(a) the Developer or Unit of a SEZ, who has paid the service tax under sections 66 of the Finance Act, shall avail the exemption by filling a claim for refund of service tax paid on specified services used for the authorised operations;

(b) the Developer or Unit of a SEZ who is registered as an assessee under the Central Excise Act, 1944 (1 of 1944) or the rules made there under, or the said Finance Act or the rules made there under, shall file the claim for refund to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the SEZ or registered office or the head office of the Developer or Unit, as the case may be, in Form A-2;

(c) the Developer or Unit of a SEZ who is not so registered under the provisions referred to in clause (b), shall, before filing a claim for refund under this notification, file a declaration with the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the SEZ or registered office or the head office of the Developer or Unit, as the case may be, in Form A-3;

(d) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code number to the Developer or Unit of SEZ, referred to in clause (c), within seven days from the date of receipt of the said declaration, in Form A-3;

(e) claim for refund shall be filed, within one year from the end of the month in which actual payment of service tax was made by such developer or unit to the registered service provider or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit;

(f) the refund claim shall be accompanied by the following documents, namely:-

(i) a copy of the list of specified services as are required for the authorized operations in the SEZ, as approved by the Approval Committee; wherever applicable, document specified in 2(c), i.e. , declaration in Form A-1;

(ii) invoice or a bill or as the case may be, a challan, issued in accordance with the provisions of Finance Act or rules made thereunder, in the name of the Developer or Unit of a SEZ, by the registered service provider, along with proof of payment for such specified services used for the authorised operations and service tax paid, in original;

(iii) a declaration by the Developer or Unit of SEZ, claiming such exemption, to the effect that—

(A) the specified services on which refund of service tax claimed, has been actually used for the authorized operations in the SEZ ;

(B) proper account of the specified services received and used for the authorised operations are maintained by the developer or unit of the SEZ and the same shall be produced to the officer sanctioning refund, on demand;

(C) accounts or documents furnished by the Developer or Unit as proof of payment of service tax claimed as refund, based on the invoice, or bill , or as the case may be challan issued by the registered service provider indicating the service tax paid on such specified services, are true and correct in all respects;

(g) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, after verifying that,-

(i) the refund claim is complete in all respects;

(ii) the information furnished in Form A-2 and in supporting documents correctly indicate the service tax involved in the specified services used for the authorised operations in the SEZ, which is claimed as refund, and has been actually paid to the service provider,

shall refund the service tax paid on the specified services;

(h) a service provider, shall provide the specified services falling under 'wholly consumed' category, under exemption granted by this notification, to a Developer or Unit of SEZ, for authorised operations, subject to the production of documents specified in sub-para (b) of para 2 and in addition wherever applicable, documents specified in sub-para (c) para 2, i.e., declaration in Form A-1;

(i) where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the said Finance Act and the rules made there under, as if it is recovery of service tax erroneously refunded;

4. Words and expressions used in this notification and defined in the Special Economic Zones Act, 2005 (28 of 2005) or the rules made thereunder, shall apply, so far as may be, in relation to refund of service tax under this notification as they apply in relation to a SEZ.

Explanation.- For the purposes of this notification, "statutory auditor" refers to a Chartered Accountant who audits the annual accounts of the Developer or Unit of a SEZ for the purposes of the Companies Act, 1956 (1 of 1956) or the Income Tax Act, 1961(43 of 1961).

[F. No. 334/3/2011-TRU]



(SAMAR NANDA)

Under Secretary to the Government of India

FORM A-1

DECLARATION BY DEVELOPER OR UNIT OF SEZ WHO DOES NOT OWN OR CARY ON ANY BUSINESS OTHER THAN OPERATIONS IN THE SEZ, FOR AVAILING EXEMPTION UNDER NOTIFICATION No.____ DATED ____ [Refer paragraph 2(c)]

1. Name of the SEZ Unit/Developer:
2. Address of the SEZ Unit/Developer with Telephone and Email:
3. Permanent Account Number(PAN) of the SEZ Unit/Developer:
4. Import and Export Code Number:
5. Jurisdictional Central Excise/Service Tax Division:
6. Service Tax Registration Number/Service Tax Code:
7. Declaration: I/We hereby declare that-

- (i) The information given in this application form is true, correct and complete in every respect and I am authorised to sign on behalf of the SEZ Unit/Developer;

- (ii) I/We maintain proper account of specified services, as approved by the Approval Committee of SEZ, received and used for authorised operations in SEZ; I/we shall make available such accounts and related records, at all reasonable times, to the jurisdictional Central Excise Officers for inspection or scrutiny.
- (iii) I/We shall use/have used specified services for authorised operations in the SEZ.
- (iv) I/We declare that we do not own or carry out any other business of providing taxable service or manufacture, in the domestic tariff area; I/We are aware that the Declaration is valid only for the purpose specified in Notification _____ dated _____ and is subject to conditions.
- (v) This declaration is intended for submission to the following DTA service provider(s):

Sl.No.	Description of Specified Service(s) to be received from the DTA service provider(s)	DTA Service provider(s) who provide(s) the specified service(s), for SEZ authorised operations	
		Name and address	Service Tax Registration No.
(1)	(2)	(3)	(4)

Signature and Name of Authorised Person with stamp

Date:
Place:

I have verified the above Declaration; it is correct

Signature, date and stamp of the Specified Officer of the SEZ (Specified Officer shall retain a copy of the verified Declaration, for the purpose of record)

FORM A-2

APPLICATION FOR CLAIMING REFUND OF SERVICE TAX PAID ON SPECIFIED SERVICES USED FOR AUTHORISED OPERATIONS IN SEZ

To
The Assistant/Deputy Commissioner of Central Excise/Service Tax
_____ Division, _____ Commissionerate

Sir,

I /We claim refund of Rs..... (Rupees in words)

- (a) in respect of service tax paid on 'wholly consumed' specified services used for the authorized operations in SEZ, as approved by the Unit Approval Committee of the _____ SEZ [Rupees _____]
- (b) in respect of service tax paid on specified services, other than those that are wholly consumed, used for the authorized operations of SEZ Unit/Developer, as approved by the Unit Approval Committee of the _____ SEZ [Rupees _____].

1. Name of the SEZ Unit/Developer:
2. Address of the SEZ Unit/Developer with Telephone and Email:
3. Address of the Registered/Head Office with Telephone and Email:
4. Permanent Account Number(PAN) of the SEZ Unit/Developer:
5. Import and Export Code Number:

6. Jurisdictional Central Excise/Service Tax Division:
7. Service Tax Registration Number/Service Tax Code:
8. Information regarding Bank Account (Bank, Address of Branch, Account Number) in which refund amount should be credited/to be deposited:
9. Details regarding Service Tax refund claimed:

9.1. Refund arising out of 'wholly consumed' specified services:

Table-A

No.	Details regarding specified services used in the authorized operations of SEZ, as approved by the Unit Approval Committee							Amount of service tax claimed as Refund (including education cess) (Rupees)	Document enclosed as proof of payment of service tax by the SEZ Unit/Developer, (sl.no and date of invoice/ bill / challan)	
	Description of taxable service used in the authorized operations of SEZ	Classification under section 65(105) of the Finance Act, 1994	Name and address of Service Provider	Service Tax Registration Number of Service Provider	Invoice/Bill/Challan (original enclosed)					
					Number	Date	Value of taxable service (Rupees)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.										
2.										
TOTAL										--

9.2. Refunds arising out of specified services, other than those are 'wholly consumed':

I/We request refund of service tax paid on specified services, other than those that are 'wholly consumed', -

- (a) used in the manufacture of final products exported from SEZ
- (b) used in providing output services exported from SEZ

I/We furnish following true and correct particulars, in Tables 'B' and 'C', for the purpose of above refund:

Table – B

No.	Specified services used for authorised operations in SEZ Unit shared with Domestic Tariff Area Unit during the period for which refund is claimed[para 2(d)of the notification]						Document enclosed as proof of payment of service tax (sl.no and date of invoice/ bill / challan)
	Descripti on of taxable service used in the authorize d	Classifica tion under section 65(105) of the Finance Act, 1994	Name and address of Service Provid er	Service Tax Registr ation Numbe r of Service Provide	Invoice/Bill/Challan (original enclosed)		
Num ber					Date	Value of taxabl e servic	

	operation s of SEZ			r			e (Rupees)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.									
2.									
TOTAL									--

(Table - C)

Details		Details for the period to which the invoices pertain and refund is claimed		
		Export turnover of SEZ Unit(s)	Turnover of DTA unit(s)	Total turnover
		(1)	(2)	(3) = (1) + (2)
<i>Final products</i>	(a)			
<i>Output services</i>	(b)			
<i>Others(Bought out goods sold)</i>	(c)	----		
<i>Total (a)+(b)+(c)=(d)</i>				

Instructions for compilation of the above statistical table:

- To calculate the export turnover of SEZ, in the case of export of goods, FOB value provided in Shipping Bills or Bills of Export, should be taken into account, which have been duly certified by the officer of customs to the effect that the goods have in fact been exported;
- To calculate the export turnover of SEZ, in the case of export of services, value of output services exported shall be on the basis of certificates issued by the bank certifying realization of export proceeds.
- Amount of service tax claimed as refund, under Table B read with Table C: Rupees_____
- Particulars filled in the Table C should be verified and certified as true by the statutory auditor of the SEZ Unit

10. I/We Declare that-

- information given in this application for refund is true, correct and complete in every respect and that I am authorised to sign this application for refund of service tax;
- the specified services, as approved by the Approval Committee of SEZ, on which exemption/refund is claimed are actually used for the authorised operations in a SEZ;
- refund is being claimed only on the service tax actually paid on the specified services used for the authorised operations in a SEZ; we have not claimed nor received any refund of service tax earlier, on the basis of above documents/information.
- We have not taken any CENVAT credit of service tax paid on the specified services under the CENVAT Credit Rules, 2004;
- accounts or documents furnished as proof of payment of service tax being claimed as refund, as per the invoice, bill or challan of the service provider indicating the service tax paid on such specified services, are true and correct in all respects;
- proper account of receipt and use of the specified services on which exemption/refund is claimed, for the authorised operations in the SEZ, is maintained and the same shall be produced to the Officer sanctioning refund, on demand.

Signature and name
(of proprietor/managing partner/

person authorised by managing director of SEZ Unit/Developer)
with complete address, telephone and e-mail

Date:

Place:

FORM A-3

DECLARATION FOR OBTAINING SERVICE TAX CODE

[Refer paragraph 3(c)]

1. Name of the SEZ Unit/Developer:
2. Address of the SEZ Unit/Developer with Telephone and Email:
3. Address of the Registered/Head Office:
4. Permanent Account Number(PAN) of the SEZ Unit/Developer:
5. Import and Export Code Number:
6. Jurisdictional Central Excise/Service Tax Division:
7. Service Tax Registration Number/Service tax Code:
8. Details of Bank Account (Bank, Address of Branch, Account Number)
9. (a) Constitution of SEZ Unit/Developer [proprietorship/partnership/Registered Private Limited Company/Registered Public Limited Company/Others(specify)]
(b) Name, Address, Telephone number of Proprietor/partner/director(s)
10. Name, designation and address of the authorised signatory/signatories
11. I/We hereby declare that-
 - (i) The information given in this application form is true, correct and complete in every respect and that I am authorised to sign on behalf of the SEZ Unit/Developer;
 - (ii) I/We shall maintain proper account of specified services as approved by the Approval Committee of SEZ, received and used for authorised operations in SEZ; and shall make available such accounts and related records, at all reasonable times, to the Department for inspection or scrutiny.
 - (iii) I/We shall use/have used specified services for authorised operations in the SEZ.

Signature and Name of Authorised Person with stamp

Date:

Place:

G.S.R. (E).- In exercise of the powers conferred under clause (a) and clause (hhh) of sub-section (2) of section 94 of the Finance Act, 1994, the Central Government hereby makes the following rules for the purpose of collection of service tax and determination of rate of service tax, namely,-

1. Short title and commencement.-(1) These rules shall be called the Point of Taxation Rules, 2011.

(2) They shall come into force on the 1st day of April, 2011.

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

- (a) “Act” means the Finance Act, 1994 (32 of 1994);
- (b) “associated enterprises” shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961 (43 of 1961);
- (c) “continuous supply of service” means any service which is provided, or to be provided continuously, under a contract, for a period exceeding three months, or where the Central Government, by a notification in the Official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition;
- (d) “invoice” means the invoice referred to in rule 4A of the Service Tax Rules, 1994 and shall include any document as referred to in the said rule;
- (e) “point of taxation” means the point in time when a service shall be deemed to have been provided;
- (f) “taxable service” means a service which is subjected to service tax, whether or not the same is fully exempt by the Central Government under Section 93 of the Act;

3. Determination of point of taxation.- For the purposes of these rules, unless otherwise stated, ‘point of taxation’ shall be determined in the following manner, namely:-

- (a) a provision of service shall be treated as having taken place at the time when service is provided or to be provided; and
- (b) if, before the time specified in clause (a), the person providing the service issues an invoice or receives a payment, the service shall, to the extent covered by the invoice or the payment made thereof, be deemed to have been provided at the time the invoice was issued or the payment was received, as the case may be, whichever is earlier.

Explanation.- For the purposes of this rule, wherever any advance, by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

Explanation 2.- For the purposes of this rule, in respect of services taxable under section 66A of the Act, the point of taxation under clause (b) shall be the date on which the invoice is received, or the payment is made, as the case may be, whichever is earlier.

4. Determination of point of taxation in case of change of rate of tax.- Notwithstanding anything contained in rule 3, the point of taxation in cases where there is a change of rate of tax in respect of a service, shall be determined in the following manner, namely:-

(a) in case a taxable service has been provided before the change of rate,-

- (i) where the invoice for the same has been issued and the payment received after the change of rate, the point of taxation shall be date of payment or issuing of invoice, whichever is earlier; or
- (ii) where the invoice has also been issued prior to change in tax rate but the payment is received after the change of rate, the point of taxation shall be the date of issuing of invoice; or
- (iii) where the payment is also received before the change of rate, but the invoice for the same has been issued after the change of rate, the point of taxation shall be the date of payment;

(b) in case a taxable service has been provided after the change of rate,-

- (i) where the payment for the invoice is also made after the change in tax rate but the invoice has been issued prior to the change of tax rate, the point of taxation shall be the date of payment; or
- (ii) where the invoice has been issued and the payment for the invoice received before the change of tax rate, the point of taxation shall be the date of receipt of payment or date of issuance of invoice, whichever is earlier; or
- (iii) where the invoice has also been raised after the change of rate but the payment has been received before the change of rate, the point of taxation shall be date of issuing of invoice.

5. Payment of tax in cases of new services.- Where a service, not being a service covered by rule 6, is taxed for the first time, then, –

- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of the Service Tax Rules, 1994.

6. Determination of point of taxation in case of continuous supply of service.- (1) In case of continuous supply of service, the whole or part of which is determined or payable periodically or from time to time, shall be treated as separately provided at the date on which the payment is liable to be made by the service receiver, if such date is specified in the contract.

(2) If, before the time specified in sub-rule (1), the person providing the service issues an invoice or receives a payment, the service shall, to the extent covered by the invoice or the payment made

thereof, be deemed to have been provided at the time the invoice was issued or the payment was received, as the case may be, whichever is earlier.

Explanation.- For the purposes of this rule, wherever any advance, by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

Explanation 2.- For the purposes of this rule, in respect of services taxable under section 66A of the Act, the point of taxation under sub-rule (2) shall be the date on which the invoice is received, or the payment is made, as the case may be, whichever is earlier.

7. Determination of point of taxation in case of associated enterprises.- The point of taxation in respect of associated enterprises shall be the date on which the payment has been made, or invoice under rule 4A of the Service Tax Rules, 1994 has been issued, or the date of debit or credit in books of accounts of the person liable to pay service tax, whichever is earlier.

8. Determination of point of taxation in case of copyrights, etc. .- In respect of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever is earlier.

9. Savings.- Nothing contained in these rules shall be applicable in case of invoices issued prior to the date from which these rules become effective.

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(SAMAR NANDA)

Under Secretary to the Government of India