

## Tax Updates\*

For December 2014 examination of Tax Laws (Old Syllabus), Tax Laws and Practice (New Syllabus), Advanced Tax Laws and Practice (Old and New Syllabus) assessment year 2014-15 (Previous Year 2013-14) is applicable. Students are advised to refer the Finance Act, 2013 and update themselves about all the relevant Circulars, Clarifications, Notifications, etc. issued by the CBDT, CBEC & Central Government, six months prior to the respective examination. The major notifications and circulars issued in this regard till 30th June, 2014 are given below:

### **A. CENTRAL EXCISE**

#### **1. Notification No. 01/2014-Central Excise (N.T.) dated 08.01.2014 - CENVAT Credit (First Amendment) Rules, 2014**

In rule 3 of the CENVAT Credit Rules, 2004, -

- (i) the Explanation occurring after the proviso to sub-rule (5B) shall be omitted;
- (ii) in sub-rule (5C), after the words "production of said goods", the words "and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods" shall be inserted;
- (iii) after sub-rule (5C), the following explanations shall be inserted, namely:-

*"Explanation 1.* - The amount payable under sub-rules (5), (5A), (5B) and (5C), unless specified otherwise, shall be paid by the manufacturer of goods or the provider of output service by debiting the CENVAT credit or otherwise on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

*Explanation 2.*- If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A), (5B) and (5C), it shall be recovered, in the manner as provided in rule 14, for recovery of CENVAT credit wrongly taken and utilised."

#### **2. Notification No.02/2014-Central Excise (N.T.) dated 20.01.2014 - CENVAT Credit (Second Amendment) Rules, 2014**

In rule 12 of the CENVAT Credit Rules, 2004, after the brackets, letters, figures and words, "[GSR 307(E), dated the 25th April, 2007]" the words, figures, letters and brackets, "or No.1/2010-Central Excise, dated the 6th February, 2010]" shall be inserted.

#### **3. Notification No. 05/2014 – Central Excise (N.T.) dated 24.02.2014 - CENVAT Credit (Third Amendment) Rules, 2014.**

In rule 7 of the CENVAT Credit Rules, 2004,

- (i) in clause (b) for the words, "used in a unit", the words "used by one or more units" shall be substituted;
- (ii) in clause (c) for the words, "used wholly in a unit", the words "used wholly by a unit" shall be substituted;
- (iii) for clause (d), the following clause shall be substituted, namely:-

"(d) credit of service tax attributable to service used by more than one unit shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.";

(iv) for Explanation 3, the following shall be substituted, namely:-

*“Explanation 3.- For the purposes of this rule, the ‘relevant period’ shall be,-*

- (a) If the assessee has turnover in the ‘financial year’ preceding to the year during which credit is to be distributed for month or quarter, as the case may be, the said financial year; or
- (b) If the assessee does not have turnover for some or all the units in the preceding financial year, the last quarter for which details of turnover of all the units are available, previous to the month or quarter for which credit is to be distributed.”.

**4. Notification No. 08/2014 – Central Excise (N.T.) dated 28.02.2014 - Central Excise (Amendment) Rules, 2014**

In the Central Excise Rules, 2002, in rule 9, in sub-rule (1), after the words “uses excisable goods”, the words “or an importer who issues an invoice on which CENVAT Credit can be taken” shall be inserted.

**5. Notification No. 09/2014 – Central Excise (N.T.) dated 28.02.2014 CENVAT Credit (Fourth Amendment) Rules, 2014**

In the CENVAT Credit Rules, 2004, in rule 9, in sub-rule (8), –

- (a) after the words “second stage dealer”, the words “or a registered importer” shall be inserted;
- (b) in the proviso, after the words “second stage dealer”, the words “or registered importer” shall be inserted.

**6. Notification No.12/2014 – Central Excise (N.T.) dated 03.03.2014 Seeks to notify procedures, safeguards, conditions and limitations for grant of refund of CENVAT Credit under rule 5B of CENVAT Credit Rules, 2004**

The Central Board of Excise and Customs hereby directs that the refund of CENVAT credit shall be allowed to a provider of services notified under sub-section (2) of section 68 of the Finance Act,1994, subject to the procedures, safeguards, conditions and limitations, as specified below, namely:-

1. Safeguards, conditions and limitations. –

- (a) the refund shall be claimed of unutilised CENVAT credit taken on inputs and input services during the half year for which refund is claimed, for providing following output services namely:-
  - (i) renting of a motor vehicle designed to carry passengers on non abated value, to any person who is not engaged in a similar business;
  - (ii) supply of manpower for any purpose or security services; or
  - (iii) service portion in the execution of a works contract; (hereinafter the above mentioned services will be termed as partial reverse charge services).

*Explanation :-* For the purpose of this notification,-Unutilised CENVAT credit taken on inputs and input services during the half year for providing partial reverse charge services = (A) – (B)

Where,

A = CENVAT credit taken on inputs and input services during the half year	(*) $\frac{\text{Turnover of output service under partial reverse charge during the half year}}{\text{Total turnover of goods and services during the half year}}$
B = Service tax paid by the service provider for such partial reverse charge services during the half year;	

- (b) the refund of unutilised CENVAT credit shall not exceed an amount of service tax liability paid or payable by the recipient of service with respect to the partial reverse charge services provided during the period of half year for which refund is claimed;
- (c) the amount claimed as refund shall be debited by the claimant from his CENVAT credit account at the time of making the claim;(d) in case the amount of refund sanctioned is less than the amount of refund claimed, then the claimant may take back the credit of the difference between the amount claimed and the amount sanctioned;
- (e) the claimant shall submit not more than one claim of refund under this notification for every half year;
- (f) the refund claim shall be filed after filing of service tax return as prescribed under rule 7 of the Service Tax Rules for the period for which refund is claimed;
- (g) no refund shall be admissible for the CENVAT credit taken on input or input services received prior to the 1st day of July,2012;

*Explanation.* – For the purposes of this notification, half year means a period of six consecutive months with the first half year beginning from the 1st day of April every year and second half year from the 1st day of October of every year.

- 2 *Procedure for filing the refund claim.* – (a) the provider of output service, shall submit an application in Form A annexed hereto, along with the documents and enclosures specified therein, to the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, before the expiry of one year from the due date of filing of return for the half year:

Provided that the last date of filing of application in Form A, for the period starting from the 1st day of July, 2012 to the 30th day of September, 2012, shall be the 30th day of June,2014;

- (b) if more than one return is required to be filed for the half year, then the time limit of one year shall be calculated from the due date of filing of the return for the later period;
- (c) the applicant shall file the refund claim along with copies of the return (s) filed for the half year for which the refund is claimed;
- (d) the Assistant Commissioner or Deputy Commissioner to whom the application for refund is made may call for any document in case he has reason to believe that information provided in the refund claim is incorrect or insufficient and further enquiry needs to be caused before the sanction of refund claim;
- (e) at the time of sanctioning the refund claim, the Assistant Commissioner or Deputy Commissioner shall satisfy himself or herself in respect of the correctness of the refund claim and that the refund claim is complete in every respect;

**7. Notification No. 13/2014 - Central Excise (N.T.) dated 21.03.2014 - Rescinds Notification No 6/2012-C.E. (N.T.) dated 13.03.2012**

In pursuance of rule 12CCC of the Central Excise Rules, 2002, and rule 12AAA of the CENVAT Credit Rules, 2004, the Central Board of Excise and Customs hereby rescinds the notification No. 6/2012- Central Excise (N.T.) dated the 13th March, 2012 which has authorised Member (Central Excise), Central Board of Excise and Customs to issue orders in terms of withdrawal of facilities or imposition of restrictions on a manufacturer, first stage or second stage dealer, or an exporter.

**8. Notification No. 14/2014 - Central Excise (N.T.) dated 21.03.2014 - Central Excise (Second Amendment) Rules, 2014**

For rule 12CCC of the Central Excise Rules, 2002, the following shall be substituted, namely:—

“12CCC. Power to impose restrictions in certain types of cases.— Notwithstanding anything contained in these

rules, where the Central Government, having regard to the extent of evasion of duty, nature and type of offences or such other factors as may be relevant, is of the opinion that in order to prevent evasion of, or default in payment of duty of excise, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter may, by notification in the Official Gazette, specify the nature of restrictions including suspension of registration in case of a dealer, types of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

*Explanation.-* For the purposes of this rule, it is hereby clarified that every proposal initiated in terms of the procedure specified under notification no. 05/2012-CE (N.T.) dated the 12th March, 2012, which is pending, shall be treated as initiated in terms of the procedure specified under this rule and shall be decided accordingly."

**9. Notification No. 15/2014 - Central Excise (N.T.) dated 21.03.2014 - CENVAT Credit (Fifth Amendment) Rules, 2014**

For rule 12AAA of the CENVAT Credit Rules, 2004, the following shall be substituted, namely:—

"12AAA. Power to impose restrictions in certain types of cases.— Notwithstanding anything contained in these rules, where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent the misuse of the provisions of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer or an exporter, may by notification in the Official Gazette, specify the nature of restrictions including restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

*Explanation.-* For the purposes of this rule, it is hereby clarified that every proposal initiated in terms of the procedure specified under notification no. 05/2012-CE (N.T.) dated the 12th March, 2012, which is pending, shall be treated as initiated in terms of the procedure specified under this rule and shall be decided accordingly."

**10. Notification No. 16/2014 - Central Excise (N.T.) dated 21.03.2014 - Supersedes Notification No 5/2012-C.E. (N.T.) dated 12.03.2012; Chief Commissioner of Central Excise to order withdrawal of facilities or impose the restrictions as specified**

In supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue, No. 05/2012-Central Excise (N.T.), dated the 12th March, 2012, except as respects things done or omitted to be done before such supersession, the Central Government hereby declares that where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter is prima facie found to be knowingly involved in any of the following:-

- (a) removal of goods without the cover of an invoice and without payment of duty;
- (b) removal of goods without declaring the correct value for payment of duty, where a portion of sale price, in excess of invoice price, is received by him or on his behalf but not accounted for in the books of account;
- (c) taking of CENVAT Credit without the receipt of goods specified in the document based on which the said credit has been taken;
- (d) taking of CENVAT Credit on invoices or other documents which a person has reasons to believe as not genuine;
- (e) issuing duty of excise invoice without delivery of goods specified in the said invoice;
- (f) claiming of refund or rebate based on the duty of excise paid invoice or other documents which a person has reason to believe as not genuine;
- (g) removal of inputs as such on which Cenvat credit has been taken, without paying an amount equal to credit availed on such inputs in terms of sub-rule (5) of rule 3 of the Cenvat Credit Rules, 2004,

The Chief Commissioner of Central Excise may order for withdrawal of facilities or impose the restrictions as specified in para 2 of this notification.

*Facilities to be withdrawn and imposition of restrictions.-*

- (1) Where a manufacturer is prima facie found to be knowingly involved in committing the offences specified in para 1, the Chief Commissioner of Central Excise may impose following restrictions on the facilities, namely:-
  - (i) the monthly payment of duty of excise may be withdrawn and the assessee shall be required to pay duty of excise for each consignment at the time of removal of goods;
  - (ii) payment of duty of excise by utilisation of CENVAT credit may be restricted and the assessee shall be required to pay duty of excise without utilising the CENVAT credit;
  - (iii) the assessee may be required to maintain records of receipt, disposal, consumption and inventory of the principal inputs on which CENVAT credit has not been taken;
  - (iv) the assessee may be required to intimate the Superintendent of Central Excise regarding receipt of principal inputs in the factory on which CENVAT credit has or has not been taken, within a period specified in the order and the said inputs shall be made available for verification upto the period specified in the order:

Provided that where a person is found to be knowingly involved in committing any one or more type of offences as specified in para 1 subsequently, every removal of goods from his factory may be ordered to be under an invoice which shall be countersigned by the Inspector of Central Excise or the Superintendent of Central Excise before the said goods are removed from the factory or warehouse.

*Explanation.-* For the purposes of this paragraph, it is clarified that-

- (i) a person against whom the order under sub-para (2) of para 4 has been passed may continue to take CENVAT credit, however, he would not be able to utilize the credit for payment of duty during the period specified in the said order.
  - (ii) "principal inputs" means any input which is used in the manufacture of final products where the cost of such input constitutes not less than 10% of the total cost of raw materials for the manufacture of unit quantity of a given final product.
  - (iii) if the assessee commits any offence specified in para 1 for the first time, the period of imposition of restrictions may not be more than 6 months.
  - (iv) if the assessee commits any offence specified in para 1 subsequently, the period of imposition of restrictions shall not be more than 1 year.
- (2) Where a first stage or second stage dealer is found to be knowingly involved in committing the type of offence specified at clauses (d) or (e) of para 1, the Chief Commissioner of Central Excise may order suspension of the registration granted under rule 9 of the Central Excise Rules, 2002 for a specified period.
  - (3) During the period of suspension, the said dealer shall not issue any Central Excise Invoice:  
Provided that he may continue his business and issue sales invoices without showing duty of excise in the invoice and no CENVAT credit shall be admissible to the recipient of goods under such invoice.
  - (4) Where a merchant exporter is found to be knowingly involved in committing the type of offence specified in clause (f) of para 1, the Chief Commissioner of Central Excise may order withdrawal of the self sealing facility for export consignment and each export consignment shall be examined and sealed by the jurisdictional Central Excise Officer:
  - (5) If a manufacturer, first stage dealer or second stage dealer or an exporter does anything specified in clause (f) of para 1, the Chief Commissioner of Central Excise may order withdrawal of the other facility available to them.

*Monetary limit.*- The provisions of this notification shall be applicable only in a case where the duty of excise or CENVAT Credit alleged to be involved in anything specified in para 1 exceeds rupees ten lakhs.

*Procedure.*-

- (1) The Commissioner of Central Excise or Additional Director General of Central Excise Intelligence, as the case may be, after examination of records and other evidence, and after satisfying himself that the person has knowingly committed the offence as specified in para 1, may forward a proposal to the Chief Commissioner of Central Excise, to withdraw the facilities and impose restriction during or for such period, within 30 days of the detection of the case, as far as possible.
- (2) The Chief Commissioner of Central Excise shall examine the said proposal and after satisfying himself that the records and evidence relied upon in the said proposal are sufficient to form a reasonable belief that the person has knowingly done or contravened anything specified in para 1, may issue an order specifying the type of facilities to be withdrawn or type of restrictions to be imposed, along with the period for which the said facilities will not be available or the period for which the restrictions shall be operative:

*Provided* that the Chief Commissioner of Central Excise, before issuing the order, shall give an opportunity of being heard to the person against whom the proceedings have been initiated and shall take into account any representation made by such person before he issues the order.

Proposals which are pending before the officer authorized by the Central Board of Excise and Customs or the Director General of Central Excise Intelligence in terms of notification no. 05/2012-Central Excise (N.T.), dated the 12th March, 2012, on the date of coming into force of this notification, shall be transferred to the Chief Commissioner of Central Excise, who shall decide the same in accordance with the procedure specified in paragraph 4 and the proposals pending before the Chief Commissioner of Central Excise shall also be decided accordingly.

#### **11. Circular No. 977/01/2014 dated 03.01.2014 - Clarification regarding availability of excise duty exemption to the units which have already availed of exemption under New Industrial Policy for another 10 years by way of 2nd substantial expansion in the State of Jammu & Kashmir**

The New Industrial Policy and other concessions for the State of J&K announced by the Department of Industrial Policy and Promotion (DIPP) in June 2002. Further, notification No.56/2002-CE (location specific exemption to all goods other than the exclusion list) & No.57/2002-CE (non-location specific exemption to specified industries other than the exclusion list), were issued to provide exemption from excise duty equivalent to the duty payable on value addition undertaken in the manufacture of the goods to the new units and units undertaking substantial expansion, for a period of ten years from the date of commencement of commercial production. Subsequently, pursuant to a review of the exemption, notification No.1/2010-CE was issued so as to extend the excise duty exemption to all goods barring the exclusion list to units located anywhere in the State of J&K subject to the same conditions and modalities as are applicable to the existing area-based exemptions for the State. Thus, notification No.1/2010-CE was basically an extension of the existing special package of incentives for the State of J&K with certain modifications.

Notification Nos.56/2002-CE & No.57/2002-CE and notification No.1/2010-CE does not specifically provide any cut-off date (sunset clause) for setting up of new units or for units undertaking substantial expansion. Further, notification No.1/2010-CE does not debar an existing unit which has availed of excise duty exemption under notification No.56/2002-CE & 57/2002-CE by way of substantial expansion, to avail of excise duty exemption again by way of substantial expansion.

It is, therefore, clarified that an existing unit which has availed of excise duty exemption under notification No.56/2002-CE & 57/2002-CE, both dated 14.11.2002 by way of substantial expansion can avail of excise duty exemption under notification No.1/2010-CE, dated 06.02.2010 again by way of second substantial expansion subject to conditions specified therein.

**12. Circular No.978/2/2014-CX dated 07.01.2014- Levy of the Education Cess and the Secondary and Higher Education Cess on other cesses.**

Circular No.345/2/2004-TRU (Pt.) dated 10th August, 2004, clarified that the Education Cess chargeable under Section 93(1) of the Finance (No.2) Act, 2004 is to be calculated by taking into account only such duties which are both levied and collected by the Department of Revenue. A cess levied under an Act which is not administered by Ministry of Finance (Department of Revenue) but only collected by Department of Revenue under the provisions of that Act cannot be treated as a duty which is both levied and collected by the Department of Revenue.

It is, therefore, reiterated that the Education Cess and the Secondary and Higher Education Cess are not to be calculated on cesses which are levied under Acts administered by Department/Ministries other than Ministry of Finance (Department of Revenue) but are only collected by the Department of Revenue in terms of those Acts.

**B. CUSTOMS ACT**

**1. Notification No. 10/2014-Customs (N.T.) dated 10.02.2014 - Customs Baggage Declaration (Amendment) Regulations, 2014**

In the Customs Baggage Declaration Regulations 2013, in Form 1,-

- (i) in sl. no 6, for the words "Number of Baggage", the words and brackets "Number of Baggages (including hand baggages)" shall be substituted;
- (ii) in sl. no 10, in item (vii), for the figures "7,500", the figures "10,000" shall be substituted.

**2. Notification No. 07/2014-Customs (N.T) dated 28.01.2014 – Amendment in Notification 152/84 dated 15.05.1984**

In the said notification, the following proviso shall be inserted, namely:-

"Provided that the prohibition shall not apply to import of machinery and equipment, which were exported to Bhutan from countries other than India through an Indian place of entry, for use in execution of projects in Bhutan, subject to the conditions that-

- i. The importer produces before the Assistant Commissioner of Customs or Deputy Commissioner of Customs the 'Letter of Guarantee' or the 'Bill of Import' and the other documents based on which the said goods were originally allowed transit clearance from the Indian place of entry to Bhutan, and
- ii. The Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied regarding the identity of the goods.

**3. Circular No. 05/2014-Customs dated 27.02.2014 - Customs Baggage Declaration Regulations, 2013**

Under the Customs Baggage Declaration Regulations 2013 all incoming international passengers will be required to declare the content of their baggage in the Indian Customs Declarations Form prescribed in the regulation. Therefore the declaration relating to Customs purposes by incoming passengers in arrival card notified by MHA hitherto done by passengers will be dispensed with. In other words, the incoming passengers will have to fill up the form notified under Customs Baggage Declaration Regulations 2013 independent of the form prescribed by the MHA. Ministry of Home Affairs has decided that arrival (disembarkation) card of MHA would be given to foreign nationals only.

**C. SERVICE TAX**

**1. Notification No. 01/2014 - Service Tax dated 10.01. 2014 – Amendment of notification No. 25/2012- Service Tax, dated 20.06.2012 (Mega exemption notification)**

In entry 11, in item (a), for the words "district, State or zone", the words "district, State, zone or Country" shall be substituted.

**2. Notification No. 02/2014 - Service Tax dated 30.01.2014 - Amendment of notification No. 25/2012 - Service Tax, dated 20.06.2012 (Mega exemption notification)**

In the said notification, in the paragraph 2, for clause (s), the following shall be substituted, namely:

'(s) "governmental authority" means an authority or a board or any other body;

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) 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;'

**3. Notification No. 03/2014-Service Tax dated 03.02.2014 - Levy of service tax on services provided by an authorised person or sub-brokers to the member of a commodity exchange**

The Central Government hereby directs that the service tax payable on the 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, shall not be required to be paid in respect of such taxable service on which the service tax was not being levied during the aforesaid period in accordance with the said practice.

**4. Notification No. 04/2014 - Service Tax dated 17.02.2014 – Amendment to the notification No. 25/2012- Service Tax dated 20.06.2012 (Mega Exemption Notification)**

In the said notification, in the opening paragraph,-

- (i) after entry 2, "2A. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation;" shall be inserted.
- (ii) after entry 39, "40. Services by way of loading, unloading, packing, storage or warehousing of rice." shall be inserted.

**5. Notification No. 05/2014-Service Tax dated 24.02.2014 – Amendment to notification No. 06/2013- Service Tax dated 18.04.2013 (Exemption under Focus Market Scheme)**

In the said notification, in paragraph 3, in condition (a), in the second proviso, serial number (xix) and the entries relating thereto shall be deleted.

**6. Circular No.175 /01 /2014 – ST dated 10.01.2014 - Levy of service tax on services provided by a Resident Welfare Association (RWA) to its own members.**

Under the negative list approach, with effect from 1st July, 2012, notification No.25/2012-ST [sl.no.28 (c)] provides for exemption to service by a RWA to its own members by way of reimbursement of charges or share of contribution up to five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members. Certain doubts have been raised which have been examined and clarifications are given below:

<i>Sl. No.</i>	<i>Doubt</i>	<i>Clarification</i>
1.	(i) In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods [Example : for providing security service for the residential complex, maintenance or upkeep of	Exemption at Sl. No. 28 (c) in notification No. 25/2012-ST is provided specifically with reference to service provided by an unincorporated body or a non-profit entity registered under any law for the time being in force such as RWAs, to its own members.  However, a monetary ceiling has been prescribed for this exemption, calculated in the form of five thousand rupees



<i>Sl. No.</i>	<i>Doubt</i>	<i>Clarification</i>
	common area and common facilities like lift, water sump etc.]. Is service tax leviable?	per month per member contribution to the RWA, for sourcing of goods or services from third person for the common use of its members.
	(ii) If the contribution of a member/s of a RWA exceeds five thousand rupees per month, how should the service tax liability be calculated ?	If per month per member contribution of any or some members of a RWA exceeds five thousand rupees, the entire contribution of such members whose per month contribution exceeds five thousand rupees would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly 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?	Threshold exemption available under notification No. 33/2012-ST is applicable to a RWA, subject to conditions prescribed in the notification. Under this notification, taxable services of aggregate value not exceeding ten lakh rupees in any financial year is exempted from service tax. 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 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 ?	In Rule 5(2) of the Service Tax (Determination of Value) Rules, 2006, it is provided that expenditure or costs incurred by a service provider as a pure agent of the recipient of service shall be excluded from the value of taxable service, subject to the conditions specified in the Rule. For illustration, where the payment for an electricity bill raised by an electricity transmission or distribution utility in the name of the owner of an apartment in respect of electricity consumed thereon, is collected and paid by the RWA to the utility, without charging any commission or a consideration by any other name, the RWA is acting as a pure agent and hence exclusion from the value of taxable service would be available. 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 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.

**7. Circular No. 176/2/2014 – ST dated the 20.01. 2014 – Clarification regarding issue of Discharge Certificate under VCES and availment of CENVAT credit - regarding.**

As per VCES, under Section 108 (2) of the Finance Act, 2013, a declaration made under Section 107 (1) shall become conclusive only upon issuance of acknowledgement of discharge under Section 107 (7). Further, in terms of Rule 7 of the Service Tax VCES Rules 2013, the acknowledgement of discharge in form VCES-3 shall be

issued within a period of 7 working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant.

It would be in the interest of VCES declarants to make payment of the entire service tax dues at the earliest and obtain the discharge certificate within 7 days of furnishing the details of payment. As already clarified in the answer to question No.22 of FAQ issued by CBEC dated 08.08.2013, eligibility of CENVAT credit would be governed by the CENVAT Credit Rules, 2004.

#### **8. Circular No.177/03/2014 – ST dated 17.02. 2014 - Rice– exemptions from service tax**

Doubts have arisen in the context of definition of 'agricultural produce' available in section 65B(5) of the Finance Act, 1994. The said definition 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. These have been examined and clarifications are given below:

- *Transportation of rice:*
  - *by a rail or a vessel* : Services by way of transportation of food stuff by rail or a vessel from one place in India to another is exempt from service tax vide exemption notification 25/2012-ST [entry sl.no.20(i)]; food stuff includes rice.
  - *by a goods transport agency* : Transportation of food stuff by a goods transport agency is exempt from levy of service tax [exemption notification 25/2012-ST dated 20th June, 2012 [entry sl.no.21(d)]; food stuff includes rice.
- *Loading, unloading, packing, storage and warehousing of rice* : Exemption has been inserted in the exemption notification 25/2012-ST dated 20th June, 2012 [entry sl.no.40]; amending notification 4/2014-ST dated 17th February 2014 may be referred.
- *Milling of paddy into rice* : When paddy is milled into rice, on job work basis, service tax is exempt under sl.no.30 (a) of exemption notification 25/2012-ST dated 20th June, 2012, since such milling of paddy is an intermediate production process in relation to agriculture.