

E-Filing of Returns under Direct Tax and Indirect Taxes

E-FILING UNDER SERVICE TAX

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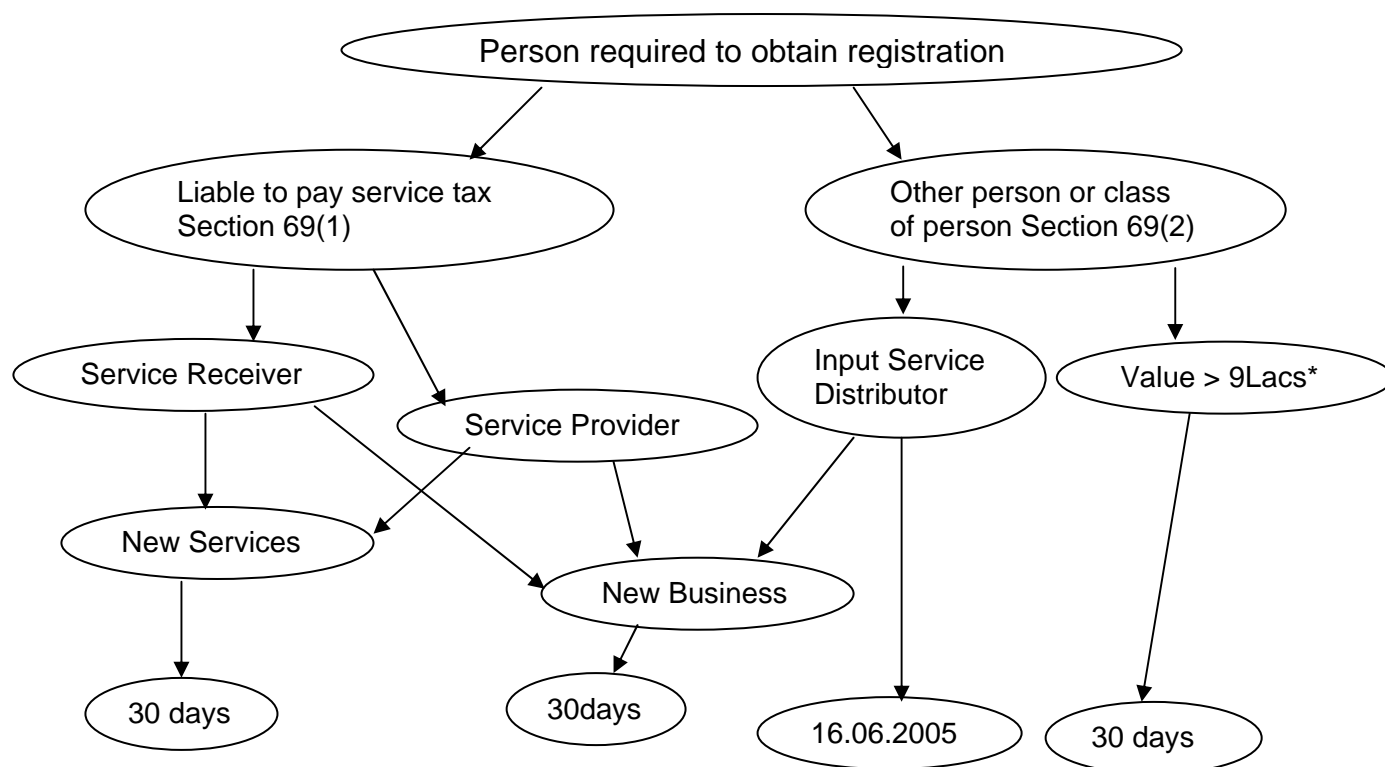
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1. REGISTRATION [Section 69, Rule 4 & Service Tax (Registration of special category of persons) Rules, 2005]

1.1. Person required to obtain registration and applicable time limit:

Section 69 of the Finance Act, 1994 read with rule 4 of Service Tax Rules, 1994 requires that every person liable to pay service tax must make an application for registration (in Form ST-1) to the Jurisdictional Superintendent of Central Excise / Service Tax. However, a relaxation has been provided in case of services pertaining to goods transport agencies, the date of application has been specified to be 31st March, 2005 even though service tax applicable on this service on 1st January, 2005.

The person required to obtain registration is summarised in the chart given below:



*9 Lacs¹

1.2. MULTIPLE / CENTRALISED REGISTRATION [Rule 4(2)]

Service tax registration is “qua premises” and not “qua assessee” unlike Income tax where single PAN is granted for all the premises. Separate application has to be made for registration of each premises from which

¹ Applicable from 1st April, 2008. Prior to that between 1st April, 2007 to 31st March, 2008 Value > 7 Lacs and between 16th June, 2005 to 31st March, 2007 value > 3 Lacs.

taxable services are rendered. Even within single premises, if there are multiple firms, all of them have to be separately registered.

Where person liable to pay service tax (either provider or receiver² of taxable service) from more than one premises and has a centralized billing systems or centralized accounting systems and such centralized billing systems or centralized accounting systems are located in one or more premises he may, at his option, register such premises or office where such centralized billing systems or centralized accounting systems are located.

1.3. **MULTIPLE SERVICES RENDERED** [Rule 4(4)]

If the same assessee provides more than one description of service, he may apply for single registration for all the description of services. Single application mentioning therein all the taxable services provided shall be sufficient. In case the assessee is already registered for one service but subsequently becomes liable for another description of service, then he has to get his certificate amended for the other description of service.

Post 30th June, 2012 after the introduction of Negative list, there were no category of services, however category-wise registration is required as per notification no. 48/2012-Service Tax, dated 30th November, 2012.

1.4. **CHANGES IN REGISTRATION CERTIFICATE** [Rule 4(5A)]

At the time of registration assessee submits various details to the department like address of the premises, name of the authorized persons, constitution of the assessee, name of the director/partner etc. If after granting of certificate any change happens in any details submitted by assessee in registration application then assessee has to mandatorily intimate such change to the Central Excise Officer within 30 days of the said change.

² Person liable to pay service tax u/s 68(2) is eligible for centralised registration - Maharashtra State Bureau of Text Books Production & Curriculum Research 2006 (4) S.T.R. 331 (Commr. Appl.). Consequent to this decision Rule 4(2) has been amended w.e.f. 2nd November, 2006 allowing service receiver who is liable to pay service tax may take centralised registration.

If there is any change in name or place of the applicant, the registration certificate should be sent for necessary amendment within 30 days from the change. Moreover, if the change in the place also results in a change in the jurisdiction, an additional request for the transfer of records should also be made.

Existing Service tax payer who does not have an Online User ID: Fill in a simple declaration form and submit to department. After receiving the same, department sends the email on the ID as given in declaration form. This email contains links to the site and a password and follow the procedure given in para 1.7 below.

1.5. TRANSFER OF BUSINESS [Rule 4(6)]

When a registered assessee transfers his business to another person than transferor shall surrender the registration certificate and the transferee shall obtain a fresh certificate of registration.

1.6. CHANGES IN LAW FROM TIME TO TIME

- 1.6.1. Upto 30th June, 2012 i.e. under positive regime the service tax registration was required to be applied for under various categories of services as prescribed under law.
- 1.6.2. W.e.f. 1st July, 2012 i.e. under negative list regime the service tax registration was required to be applied for only under one head i.e. Services other than negative list.
- 1.6.3. However, a Notification No. 48/2012 - Service Tax, dated on 30th November, 2012 was issued amending the Service Tax Rules, 1994 wherein Form ST-1 has been amended and again the erstwhile categories of services were introduced for the purpose of making application of service tax registration.
- 1.6.4. Further, letter bearing number F.No. 137/22/2012-Service Tax, dated 30th November, 2012 was issued seeking to amend Form ST-1 so as to

enable applicants seeking registration to choose the description of the service being provided by them.

- 1.6.5. A Circular was issued bearing number 165/16/2012 - ST, dated 20th November, 2012 wherein it is stated that where registrations have been obtained under the description 'All Taxable Services', the taxpayer should file amendment application online in ACES and opt for relevant description/s from the list of 120 descriptions of services given in the Annexure to the said Circular.

1.7. REGISTRATION WITH ACES:

Every person is required to register with ACES before proceeding to ACES.

Following types of persons needs registration with ACES:

- a. New Assessee
- b. Existing Assessee
- c. LTU Assessee
- d. Non Assessee

a. **New Assessee:**

In case of a new assessee, login to ACES at <http://www.aces.gov.in> and choose the Service Tax link and Submit the form "Registration with ACES", by furnishing a self-chosen user ID and e-mail ID. System checks for availability of the chosen User Id and generates a password. It will be sent to assessee e-mail from acesadmin@icegate.gov.in.

Login again and proceed with the registration with Service Tax, by filling in Form ST-1. For security reasons, change password immediately.

b. **Existing Assessee**

In case of an existing assessee, fresh registration need not be taken with the department. Assessee will have to only apply to department and get itself registered with ACES.

A mail will be sent from acesadmin@icegate.gov.in to your e-mail ID, as available in the existing registration data base, indicating a TPIN and password. The mail will contain a hyperlink to the website, by clicking it you can proceed to register with ACES.

Many a times, assessee does not have PAN based service tax registration, in other words they are not registered under erstwhile system of SAP. In such a situation, ACES will not be able to send hyperlink to such assessee's. In such case, assessee can either register themselves as a new user or they can fill "Declaration form" with the concerned Jurisdictional office and obtain the hyperlink. On submission of "Declaration Form", ACES will send hyperlink containing TPIN (Temporary Personal Identification Number) and password. On receipt of such TPIN and password, existing user can register with ACES. The format of TPIN is t+9 digit number (e.g. t012345678)

Further, many a times, department do not have the correct or valid email ID of the assessee, in such a case, ACES would not be able to sent the hyperlink to the assessee though he is holding PAN based Service tax registration. In such a situation, assessee has to fill "Declaration Form" with the ACES and afterwards ACES will send the hyperlink to assessee.

c. Non-Assessee

This category of registration is given in ACES to any individual, firm or company, who are not assesseees but who require to transact with the Central Excise or Service Tax Department, such as

- Merchant Exporter;
- Co-noticee;
- Refund Applicant other than registered taxpayers;
- Persons who have failed to obtain CE/ST registration as required under the law and against whom the Department has initiated proceedings and

Where such persons desire to seek non-assessee registration they have to follow the same steps as in the case of a new assessee.

In case the user wants to take such a registration for claiming any refund or rebate it is mandatory to provide a valid PAN. A Non-assessee registration can also be given by the designated officer of the Commissionerate. The non-assesseees are not required to file any tax returns.

d. Large Tax Payer Unit (LTU) Client

If assessee desires to opt for LTU scheme, submit the consent form to your jurisdictional LTU officer. It will be processed off-line and then uploaded to ACES.

All pending items of work will be transferred to the concerned LTU automatically and intimation will be sent.

If assessee is approved as an LTU client, and want to register a new unit, submit the registration application in ACES. The system will automatically attach the new unit with the concerned LTU on the basis of PAN details in the registration form.

If you are an existing LTU client, the process of registration is same as explained for existing assesseees.

Note:

1. The user id once selected will be permanent and cannot be changed. However, it is desirable to frequently change passwords.
2. The user id should be of 6-12 alphanumeric characters, no special character such as !, @, #, \$, %, ^, &, *, +, -, or space except under score “_”.
3. Assesseees should note that the e-mail ID is furnished to the department in writing, and they will be responsible for all communications to and from this email ID. Currently, ACES provides for communication to one email ID only. After registration with the ACES, assesseees, on their own, can modify their registration details online.
4. Check bulk/spam folder periodically for any communication from ACES.

1.8. PROCEDURE TO BE FOLLOWED FOR ONLINE SERVICE TAX REGISTRATION

- a. After registering with Aces, Fill in the form ST-1 given on site. After filling the same, take a print out of ST-1 form and then submit the form and take the print out of E-acknowledgement receipt.
- b. Within fifteen days of such online submissions, submit these print outs along with all other documents as mentioned in E-acknowledgement. Failing to submit this within fifteen days may lead to cancellation of online application made earlier.
- c. After department receives the documents, it processes the application and a new registration certificate (Form ST-2) is send via email.
- d. Take the print out of Form ST-2 and get the stamp and signature from the jurisdictional Superintendent.

1.9. DOCUMENTS TO BE ATTACHED

All the documents including Form ST-1 shall be self-certified. In case of doubts in select cases, original documents may have to be presented for verification³.

List of documents that are required to be attached with Form ST-1 in case of centralised and de-centralised (single premises) registration is enclosed as Annexure I.

In respect of registration of input service distributor, address of all the premises to which credit of input services is distributed or intended to be distributed along with attested copy of proof of address of all such premises to be attached.

1.10. CANCELLATION/SURRENDER OF REGISTRATION CERTIFICATE [Rule 4(7) & 4(8)]

Every registered assessee, who ceases to provide the taxable service for which he is registered, shall surrender his registration certificate immediately

³ Ans 2.6 of FAQ issued by DGST on 5th March, 2009.

with concerned Superintendent of Central Excise. Certificate has to be surrendered online by filing the forms available at www.aces.gov.in.

Following is the process for surrender of Form ST-2

- a. Fill in the form given online for surrender of registration certificate. After filling in the same, take a print of the form and then submit form online. Along with print out of Surrender Form ST-2, E-acknowledgement of successful submission of the same shall be submitted to jurisdictional Superintendent along with following further documents;
- b. Declaration form;
- c. Original ST-2 certificate;
- d. Latest Income Tax return for three years;
- e. Latest copy of ST-3 return.

The above list of documents to be submitted is based on our practical experience.

After receiving the aforesaid documents and after ensuring that assessee has paid all monies due to government, concerned Superintendent of Central Excise shall cancel the registration.

2. PAYMENT OF SERVICE TAX [Section 68 and Rule 6]

2.1. DUE DATE OF PAYMENT OF SERVICE TAX [Rule 6(1)]

Service Tax to be paid on the provision of service or receipt of payment or issuance of invoice, whichever is earlier in terms the Point of Taxation Rules, 2011, during any calendar month is payable by the 5th of the month immediately following the said calendar month, however, ⁴[in case of E-payment, service tax is payable by the 6th of the month immediately following the said calendar month]. However, where the assessee is an individual or a proprietary firm or a partnership firm, service tax on the value of taxable services provided or payment is received or issuance of invoice service tax on payments received, whichever is earlier, for taxable service

⁴ Inserted by the Service Tax (Fifth Amendment) Rules, 2007, w.e.f. 12th September, 2007.

provided or to be provided during any quarter is payable by the 5th of the month immediately following the said quarter ⁵[and in case of E-payment by the 6th of the month immediately following the said quarter]. Service tax on the value of taxable services provided or payment is received or issuance of invoice whichever is earlier in terms the Point of Taxation Rules, 2011 during the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

It has been clarified in answer 3.12 of the FAQ issued by DGST on 5th March, 2009 that where TDS has been deducted by the service receiver, in that case service tax shall be payable on the amount of TDS also.

2.2. ADVANCE PAYMENT OF SERVICE TAX [Rule 6(1A)]

From 1st March, 2008 facility of advance payment of service tax has been introduced and available to all the assessees.

The assessee who is paying service tax in advance should follow the following procedures:

- Intimate to the jurisdictional Superintendent of Central Excise within 15 days of such payment.
- Service tax paid in advance is allowed to be adjusted against service tax liability for the subsequent period. It is sufficient that such adjustment is disclosed in the periodical return to be filed.

2.3. PAYMENT IN TR 6/GAR 7 CHALLAN [Rule 6(2)]

Service tax has to be paid to the credit of the Central Government in Form **GAR 7⁶** into the ***designated bank*** only.

⁵ Inserted by the Service Tax (Fifth Amendment) Rules, 2007, w.e.f. 12th September, 2007.

⁶ Form GAR 7 has been issued by Pay & Account Office replacing Form TR6 yellow colour, but Rule 6(2) has not yet been changed and it still says that payment has to be made in Form TR-6 or any other manner prescribed by the CBEC.

It has been clarified that payment of Service Tax into non-designated banks would not amount to paying Service Tax (Refer answer 3.7 of FAQ issued by DGST on 5th March, 2009), but in case of Shaman Marketing Research Association vs. Commissioner of Central Excise [153 ELT 231 (Mum CEGAT)] and Nisha Industrial Service Pvt Ltd. v Commissioner of Central Excise 2003 157 ELT 66 (Mum CEGAT) had taken liberal view and granted the credit of taxes paid into non designated bank.

Customer can effect payment from anywhere for the Commissionerate in which he is registered with, provided that particular bank is designated and authorized to collect revenue for that Commissionerate (Refer answer 3.20 of FAQ issued by DGST on 5th March, 2009).

The Form GAR 7 Challan is to be filled in single copy and tendered to the designated bank along with the payment of service tax. The CBEC has clarified vide circular no.58/7/2003-ST Dt. 20/05/2003 that where service tax has been paid using a wrong accounting code, the assessee need not pay the service tax again and where the assessee has paid service tax again, it is to be refunded. Such matter should be sorted out with the Pay & Account office. This circular has been withdrawn by Circular No. 97/8/2007 ST dated 23rd August, 2007.

It is mandatory for the service tax payer to mention correct assessee code on the GAR 7 challan.⁷

2.4. MANDATORY E-PAYMENT OF SERVICE TAX [Proviso to Rule 6(2)]

Assessee, who has paid service tax of rupees ten lacs⁸ or above in the preceding financial year, shall mandatorily require to deposit the service tax liable to be paid by him electronically, through internet banking.

For the purpose of calculating limit of ten lacs the payment made through CENVAT as well as from GAR 7 both has to be considered.

⁷ Trade Notice No. 15/ST/2006, dated 15th November, 2006, issued by the Service Tax Commissioner, New Delhi.

⁸ Rs. 10 lacs has been replaced for Rs. 50 Lacs vide Notification No. 1/2010-ST w.e.f. 1st April, 2010

New Notification bearing number 16/2013-Service Tax dated 22nd November, 2013 has been issued wherein the said limit of Rs. 10,00,000/- has been reduced to Rs. 1,00,000/- (Rupees One Lakh) effective from 1st January, 2014.

Thus, effective from 1st January, 2014 if the assessee has paid service tax of Rs. 1,00,000/- or more (in cash plus Cenvat Credit) in the preceding financial year, is mandatorily required to pay their service tax electronically through internet banking.

Any service tax payment pertaining to December 2013 or prior period paid on or after 1st January, 2014 shall be paid electronically, subject to Rs. 1,00,000/- service tax payment in preceding financial year.

2.5. PAYMENT BY CHEQUE [Rule 6(2A)]

If the assessee deposits the service tax by cheque, the date of presentation of cheque to the bank designated by CBEC shall be deemed to be the date on which service tax has been paid, provided the cheque is not dishonored in the course of clearing.

2.6. ADJUSTMENT OF EXCESS SERVICE TAX PAID [Rule 6(3), 6(4A), 6(4B) and 6(4C)]

Service not wholly of partly provided or amount is renegotiated: Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee.-

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or
- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

It has been clarified that in such cases of adjustment the assessee is required to file the details in respect of such *suo motu* adjustments done by him at the time of filing the service tax returns (Para 21.1 of Trade Notice No. 7/98- Service tax dated 13.10.1998 issued by Commissioner of Central Excise, Mumbai-I). Along with enclosure of documentary evidence for adjustment of such excess service tax paid. It is to be noted that rule 6(3) does not allow adjustment of excess payment of service tax *per se*, say due to clerical mistake etc. In such cases the assessee has to follow the procedure laid down in section 11B of Central Excise Act to claim the refund of excess tax paid.

Self adjustment of excess tax paid: Self-adjustment of excess service tax paid by assesseees is allowed subject to the following conditions:

- (i) Self-adjustment of excess credit is allowed on account of reasons other than interpretation of law, taxability, valuation or applicability of any exemption notification.
- (ii) Adjustment of excess paid service tax without any monetary limit⁹.
- (iii) Adjustment can be made only in the succeeding month or quarter.
- (iv) No intimation required¹⁰.

Adjustment of Property tax for payment of service tax under Renting of immovable property: Excess amount paid due to non-availment of deduction of property tax paid in terms of notification No.29/2012-ST, Dtd. 20th June 2012, from the gross amount charged for renting of the immovable property for the said period at the time of payment of service tax within one year from the date of payment of such property tax. The details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of fifteen days from the date of such adjustment. So there may be two situations:

⁹Prior to 1st April, 2012, Excess amount paid and proposed could have been adjusted upto Rs.200,000⁹ for the relevant month or quarter

¹⁰ Prior to 1st April, 2012, the details of self-adjustment had to be intimated to the Superintendent of Central Excise within a period of 15 days from the date of adjustment.

- (i) Property Tax paid before or during the month or quarter in which rent for the relevant month or quarter is received, then, reduce the taxable value to the extent of property tax paid relevant to said month or quarter and then calculate the service tax on balance amount.
- (ii) Property Tax paid after the month or quarter in which rent for the relevant month or quarter is received or Property tax has not been adjusted from the assessable value, then, follow the procedure given in Rule 4C.

2.7. PROVISIONAL PAYMENT OF TAX [Rule 6(4), 6(5) and 6(6)]

Where an assessee is unable to correctly estimate the actual amounts of service tax payable for any month or quarter, the assessee may make a request in writing to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise (AC/DC), as the case may be, to make a payment on provisional basis and after receiving request AC/DC may allow the provisional payment of tax. In such cases, memorandum in form No. ST-3A shall be accompanied with the service tax return for the relevant period. After receiving memorandum in ST-3A, AC/DC is require to complete the assessment after calling further documents and records as he may consider necessary. Upon finalization of such assessment, if a liability of service tax arises, the differential amount be paid by the assessee. If he has paid excess amount he would be entitled to refund¹¹.

2.8. ROUNDING OF SERVICE TAX

As per section 37D of The Central Excise Act, which is also applicable to Service Tax and Circular No. ST-53/2/2003, Dated 27.03.2003, The Service tax amount payable is to be rounded off to the nearest rupee.

¹¹ Ans 3.3 of FAQ issued by DGST on 5th March, 2009.

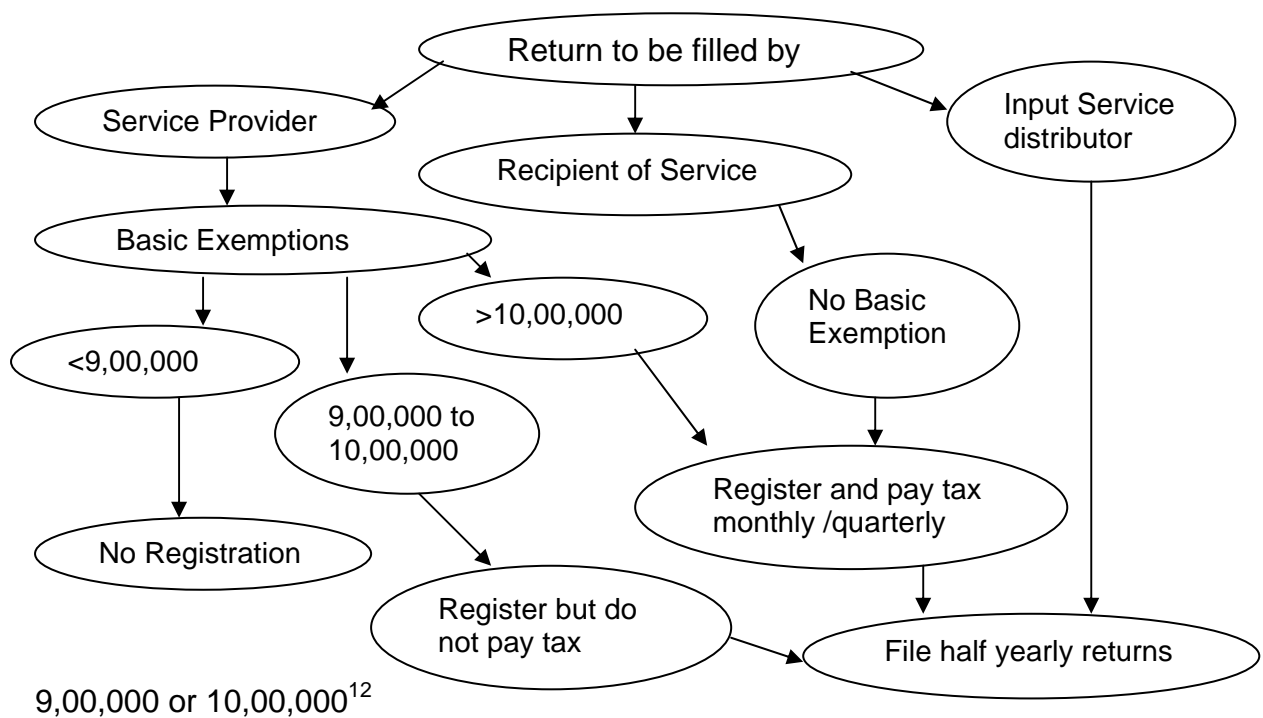
2.9. EXCESS OR WRONG COLLECTION OF SERVICE TAX [Section 73A and 73B]

Any amount collected in excess of service tax leviable or collected service tax which is not required to be collected to deposit the same with the Central Government and also provide authority to Central Excise Officer for recovery of such excess amount. This also enables the Central Government to collect interest on the amount referred to in Section 73A.

3. RETURNS [Section 70 & Rule 7]

3.1. PERSON REQUIRED TO FILE RETURN

Service tax returns are to be filled by various person or class of persons which has been explained by way of following chart:



¹² Applicable from 1st April, 2008. Prior to that between 1st April, 2007 to 31st March, 2008 7,00,000 or 8,00,000 and between 16th June, 2005 to 31st March, 2007 3,00,000 or 4,00,000 as the case may be.

3.2. FORMS AND DUE DATES

Returns have to be filed in Form ST-3 in triplicate on half yearly basis by the 25th of the month following the particular half-year.

DUE DATES FOR FILING OF SERVICE TAX RETURN

<u>For the half year:</u>	<u>To be filed by:</u>
1 st April to 30 th September	25th October
1 st October to 31 st March	25th April

DUE DATES FOR FILING OF ISD RETURN

<u>For the half year:</u>	<u>To be filed by:</u>
1 st April to 30 th September	31st October
1 st October to 31 st March	30th April

3.3. PROCEDURE FOR FILING SERVICE TAX RETURN ONLINE

W.e.f. 1st October, 2011, every assessee shall file the service tax return electronically. There are two modes for filing return electronically – Online utility and Offline utility

Online utility

- a. Returns can be prepared and filed on line by selecting the 'File Return' option under RET module after logging into the ACES.
- b. All validations are thrown up during the preparation of the return in this mode and the status of the return filed using the online mode is instantaneously shown by ACES.
- c. Confirmation for successful filing is generated immediately.
- d. If data for filing of return is not ready 100% than also return can be prepare using this utility and saved on the site. After compiling the data assessee go to Complete ST option in RET module and

amend/complete the ST3 return saved but not submitted. After filing the return in totality assessee has to click submit button.

Offline utility

- a. Returns can also be prepared and filed off-line.
- b. Its advisable to use Excel 2003 instead of Excel 2007. For the reason that Excel 2007 has higher security features and built in macros for checking and validating the file may not work effectively in excel 2007.
- c. Enable the Macros (if disabled) as per the following instructions, so that all the functionalities of e filing utility will work fine.
 1. On the Tools menu, Point to Macro, and then click Security.
 2. Click on either Medium or Low to select the 'Security Level'
 3. On the Trusted Publishers tab, select the Trust all installed add-ins and templates check box.
 4. Please make sure that your system date is correct.
- d. Downloads the Offline return preparation utility available at <http://www.aces.gov.in> (Under Download)
- e. Downloaded utility contains one Microsoft Excel file containing eight (8) work sheets to be filled in by the assessee. These eight work sheets are:
 1. Instructions: This sheet provides various instructions to be followed at the time of filling up of return. Such instructions are in connection with Structure of utility for ST-3, Steps for filing return, filling of data in return, Generation of xml file and up-loading of xml file.
 2. Return: Initially when excel utility is downloaded; it will contain only two sheets viz. Instructions and Return. Once the data is filled in return sheet, other sheets i.e. sheet no. 3 to 8 will appear in the whole sheet. If assessee is providing more than one services only one return have to be compiled for all the services.
 3. Payable Service: In this sheet details have to compiled on the basis of service provider (SP) and service recipient (SR) in connection with the selected services. Further, details to be compiled in relation

to Value of taxable services, Service tax payable and Gross amount charged have to be compiled. All Green fields in the sheets are areas where in details are to be filled. If assessee is providing more than one services, separate details to be compiled for each services in different "Payable Service" sheet.

4. Advance –Payment: Assessee can make advance payment of tax pursuant to Rule 6(1A) of Service tax Rules, 1994. In this sheet, all advance payment made during the period, have to be compiled. Challan number should contain 20 alpha numeric number consist of 1st 7 digit BSR Code number of bank followed by the date of submission of the challan in the form DDMMYYYY and further followed by a 5 digit running serial number, e.g. 12345672002201012345.
 5. Paid Service: In this sheet details as to Service tax, Education Cess, Secondary and Higher Education Cess and other amounts paid has to be filled.
 6. Challan – Service: In this sheet details of challans through which Service tax, Cess and other amounts paid by assessee during the half yearly period needs to be filled.
 7. Cenvat: In this sheet details of Inputs Stage Input Credit needs to be filled. Further, details are not required to be filled if assessee is Input Service Distributor (ISD) or paying service tax by receiver of services under Reverse Charge Mechanism.
 8. Distributor: In this sheet detail of Cenvat Credit for Input Service Distributor (ISD) needs to be filled. Further, assessee have to certify the self declaration part in the sheet and than validate the return for up-loadation.
- f. The return preparation utility contains preliminary validations which are thrown up by the utility from time to time. Validate the file thereafter An XML file will be generated.
- g. Logs in using the User ID and password.

- h. Selects RET from the main menu and uploads the return.
- i. Returns uploaded through this procedure are validated by the ACES before acceptance into the system which may take up to one business day. Assessee can track the status of the return by selecting the appropriate option in the RET sub menu. The status will appear as “uploaded” meaning under process by ACES, “Filed” meaning successfully accepted by the system or “Rejected” meaning the ACES has rejected the return due to validation error. The rejected returns can be resubmitted after corrections.
- j. The Service Tax returns, however, can be modified once as per rules up to 90 days from the date of filing the initial return.
- k. Both the ‘Original’ and the ‘Revised’ return can be viewed by the assessee online.

At present digital signature is not require for filing return electronically. There is no requirement to file return physically, once it is filed electronically.

3.4. REVISE RETURN [RULE 7B]¹³

Assessee is allowed to rectify mistakes or omission and file revised return including CENVAT credit return within 90¹⁴ days from the date of filing of the original return.

3.5. LATE FEE FOR DELAY IN FILING OF RETURN [Section 70] [Rule 7C]¹⁵

Section 70 read with rule 7C of The Service Tax Rules, 1994 prescribes for a specified amount of late fee and not the penalty linked to period of delay for filing of return after the due date. The assessee is required to pay

¹³ Inserted by Service Tax (Amendments) Rules, 2007, w.e.f. 1st March, 2007.

¹⁴ Previously it was 60 days w.e.f. 1st March, 2008 it has been increased to 90 days by Service Tax (Amendments) Rules, 2008.

¹⁵ Inserted by Service Tax (Third Amendments) Rules, 2007, w.e.f. 12th May, 2007.

following amount of late fee depending upon the period of delay, but not exceeding Rs. 20,000/-¹⁶.

S. No	No. of Days delay from due date for filing of service tax return	Late Fee in Rs.
1	From 1 st day up to 15 th day	500
2	From 16 th day Up to 30 th day	1000
3	Delay beyond 30 days	100/- per day

Late Fee as mentioned in Section 70 is not a penalty and the reference of Section 70 has not been given in Section 80. Section 80 provides that penalty shall not be imposed if assessee proves that there is a reasonable cause for delay. It means this late fee is mandatory.

Earlier the CBEC in master circular no 97/8/2007, dated 23rd August 2007 at para 6.1 mentions as under,

"Persons who are not liable to pay service tax (because of an exemption including turnover based exemption), are not required to file ST-3 return."

With this amendment indirectly now an assessee registered under service tax department would be required to file Nil service tax return i.e. where the gross amount of service tax payable is Nil including turnover base exemption.

Earlier Commissioner of Service Tax, Ahmedabad had issued trade notice no 6/2007, dated 22nd May 2007, whereby it was clarified that returns shall be accepted by the jurisdictional Officers after the specified date for submission only on production of evidence of payment of late fee as prescribed.

However after the introduction of Finance Bill 2008 there is an amendment in section 7C of Service Tax Rules, 1994 which now provides the power to Central Excise Officer for reduction or waiver of penalty in case where the gross amount of service tax payable is NIL.

¹⁶ Substituted for Rs. 2000/- w.e.f. 8th April, 2012

Thus there seems to be a contradiction between Trade notice and Rule 7C (as amended).

In the case of **Suchak Marketing Pvt. Ltd. Vs. Commr. of Service Tax, Kolkata [2013 (30) STR 593 (Tri. – Kolkata)]** it was held that the assessing authority should have waived the late filing fee in event of non-filing of Nil returns as per proviso to Rule 7C.

Disclaimer:- The opinion and views expressed in this book are those of the compiler. The WIRC of ICAI or J.B. Nagar CPE Study Circle of WIRC does not necessarily concur with the same. While every care is taken to ensure the accuracy of the contents of this compilation neither the compiler nor The WIRC of ICAI or J.B. Nagar CPE Study Circle of WIRC are not liable for any inadvertent errors.

ANNEXURE I

I. THE FOLLOWING DOCUMENTS ARE REQUIRED FOR NEW SINGLE PREMISE SERVICE TAX REGISTRATION (2 Copies)

1. Self attested copy of Address proof for premise / office shall be required. **One document for each category A & B is required.**

A	B
1. Landline Telephone Bill not older than 3 Months, or	<u>1. Self owned Property</u> Annual Tax payment receipt showing the Name and Address or Copy of sale deed etc. or
2. Electricity Bill not older than 3 Months, or	<u>2. Leased & Rented Property.</u> (I). Leave & License/Rent Agreement or Rent receipt of Registered Co. Op. Housing Society A. The said agreement shall be for at least for a tenure of more than one year from the date of application for registration B. Further in case the rent amount payable is more than Rs.10 Lakh, the Service Tax Registration number of owner / lessor.
3. Copy of Bank Account statement showing the name of the applicant and address of the premises, not older than 3 months.	(II). In case the leave & license agreement or rent receipt is not in the name of the applicant and the lessee is the related / associated person of the tenant / lessee, then following documents shall be required:

	<p>A. Rent agreement between original lessor and the applicant shall be produced</p> <p>B. Relationship between applicant and lessee / tenant</p> <p>C. No Objection Certificate for carrying out the business of applicant from the owner of the premises</p> <p>D. Photo ID Proof of the person giving NOC i.e. owner of the premises, and</p> <p>E. Annual rent payable by applicant to lessee / tenant and in case Annual rent is more than Rs. 10 Lakhs, the Service Tax Registration number of lessee / tenant</p>
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2. **Details of Directors/ Partners/ Proprietor** of any 3 Directors/ Partners who actively involved in running the affairs of the business :-

- (I) Self Attested copy of PAN Card
- (II) Address proof **Any one** of following :-
- Passport
 - Voter id card
 - Driving License
 - Bank passbook showing the name and address, along with Photo graph.

3. **Details of Authorized Signatory:-**

- (I) Self Attested copy of PAN Card
- (II) Address proof **Any one** of following :-
- Passport
 - Voter id card

- Driving License
 - Bank passbook showing the name and address, along with Photo graph.
- (III) Board Resolution in case if the Authorized Signatory is other than Director in case of company & Authorization from partner/ proprietor in case of others.

4. Self Certified copy of PAN Card of the applicant.

5. Details of Three Major Bank Accounts of the applicant.

- Name and Address of the Bank.
- Account Number.
- Photocopy of blank cancelled Cheque.

6. Self Attested copy of MOA and AOA or Partnership deed of the company / Firm.

7. Email ID & Telephone Number of the organization. (Only valid Email ID shall be given because all future correspondence by the department will be done through that e-mail id).

8. Brief activity of the firm and category of service under which registration is required.

Note: All documents send should be self certified.

II. DOCUMENTS REQUIRED FOR NEW CENTRALISED SERVICE TAX REGISTRATION (2 Copies)

1. All documents as above plus details as per Annexure II, III and IV

Note: Annexure III should be certified by the Company secretary or Chartered Accountant (Statutory or Internal).

ANNEXURE - II

INFORMATION WITH RESPECT TO BRANCHES WHICH ARE ALREADY REGISTERED WITH SERVICE TAX

1) Details of branches for which S.T. Registration has been taken (Please give the details in the table below)

Address of Branches	STC No. (Please also attach copy of ST-2)	Address of jurisdictional C.Ex./Service Tax Authorities (Commissionerate, Divn, Range)	Date of Registration	Date and Period for which last ST-3 return filed	Closing balance of CENVAT credit as per last ST-3 return filed (as per col. 5)
1	2	3	4	5	6

2) Details of SCN issued which are pending adjudication-

Address of Branches	STC No.	SCN No. & Date	Period covered	Issue in brief	Amount demanded (in Rs.)	Authority to whom SCN is answerable i.e. Commr., / ADC /JC/DC/AC/Supdt.
1	2	3	4	5	6	7

3) Whether any case is pending with Appellate Authorities/Court. If yes, provide following details with regard to each authority as mentioned below, in the prescribed format as under:

- a. Commissioner (Appeals),
- b. Tribunal,
- c. Settlement Commission,
- d. High Court,
- e. Supreme Court ,

Address of Branches	STC No.	Order No & Date appealed against	Authority and place where appeal is pending	Issue in brief	Amount demanded (showing duty & penalty separately)		Date of filing appeal	If filed with Stay Application, the Stay Order No. & date
					S. Tax	Penalty		
1	2	3	4	5	6		7	8

4) Details of cases which have been decided and where No appeal has been filed,

Address of Branches	STC No.	Order No & Date	Issue in brief	Amount confirmed (in Rs.)	Whether S. Tax/ interest/ penalty paid, if yes, the amount thereof
1	2	3	4	5	6

5) Whether audit has been conducted by Service Tax/Central Excise authorities of the concerned Branch. If yes, provide following details for all branches :

Address of Branches	STC No.	Whether Audited or not	If audited, period covered in Audit	If audited, Audit Report and Date (enclose copy)
1	2	3	4	5

6) Whether Audit has been conducted by CERA for the Branch?

If yes, provide following details Branch wise:

Address of Branches	STC No.	Whether Audited or not	If audited, period covered in Audit	Audit Report and Date (enclose copy)
1	2	3	4	5

7) Branch wise details of any investigations initiated against the said branch on the issue of Service Tax where search has taken place or statement has been recorded. Please furnish details..

ANNEXURE - III

QUESTIONNAIRE FOR CENTRALISED ACCOUNTING/BILLING

Please state Yes or No in the space provided for each of the Questions.

- | | Yes/No |
|---|--------|
| 1) Reasons for Centralized Registration: | |
| -Centralised Billing | _____ |
| -Centralised Accounting | _____ |
| 2) Whether bills or invoices are raised at branch office : | _____ |
| 3) Whether all bills or invoices relating to business of all branches are/would be raised at proposed Centralised Registration premises, | _____ |
| 4) (i) If the bills/invoices are raised at branches, whether these are/would be sent to proposed Centralized Registration premises for accounting purpose, | _____ |
| (ii) If yes, frequency of sending-Monthly/ Quarterly/
Half yearly/ Annually- | _____ |
| 5) Whether the following financial records/documents are/would be maintained and kept at proposed centralized office: | |
| i) All the sales invoices / receipts | _____ |
| ii) Debtors and Creditors ledgers | _____ |
| iii) General ledgers | _____ |
| iv) Journal Vouchers | _____ |
| 6) Whether you are having SAP/ERP or other similar accounting software whereby all accounting transaction, entered at branch level automatically get entered in the Central Server, (You may give brief write-up on basic features of said software) | _____ |
| 7) Whether CENVAT Credit taking documents including of branches are/would be kept at the centralized office or not: | _____ |
| 8) Please explain in brief the Accounting system followed by you to justify your claim that you are following Centralized Accounting system. | |

ANNEXURE-IV

UNDERTAKING

(on the letter head of applicant)

I/We, M/s. _____ (Name & Address) hereby undertake that on being acceptance of my / our application dated _____ for centralised registration in term of proviso to rule 4(2)(iii) of Service Tax Rules, 1994 read with section 69 of the Finance Act, 1994, I/We shall follow and comply with the below mentioned acts-

- i) I/ We agree that a proper branch wise record of all the bills/invoices/challans issued and contract entered into by each branch and the proper accounting of all the transaction shall be maintained at our proposed centralized registered office and will make available to the Department as and when called for;
- ii) I/ We agree that all the records namely invoices / bills / cenvat availment documents and other financial records for the past five years for all the branches would be kept at the centralized registered office;
- iii) I/ We shall provide all the documents and information relating to provision of output services, availment of cenvat credit and all other relevant financial or other records, at the time of audit and for any other enquiry.
- iv) I/ We agree that the service tax department, either through their local officers or from officers of other commissionerates may carry out audit at the branch level and for this purpose all records and documents and other necessary support to the audit staff would be provided by us;
- v) We would provide the information to the Department regarding the activities of the branches including financial information for the purpose of issue of Show Cause Notice or in regard to any enquiry by the Department within 15 days time of receipt of letter by the department;
- vi) I/We, after communication of granting of Centralized Registration, we shall surrender the single registration for all branches and intimate to the jurisdictional Divisional A.C./ D.C.-in-charge of proposed Centralized Registration within a period of two months;

- vii) We shall inform the amount of Cenvat Credit lying in balance as on the date of granting Centralized Registration for all branches within a period of 15 days to the jurisdictional Divisional A.C. /D.C. under whose jurisdiction the proposed Centralized Registration falls and seek permission for transfer of the same,
- viii) We also undertake that we do not have any objection for show cause notice to be adjudicated by the officers having jurisdictions over the Centralized Registered office, where SCN has been issued by and answerable to the Competent Authority having jurisdiction of any of our branches as declared in Annexure-II.
- ix) We agree to the condition that in case of non compliance of any of the above mentioned acts or condition or the provisions of the Service Tax law or rules, the Centralized Registration permission may be withdrawn by the department.

Place:

(Signature)

(Name of Partner/ Proprietor/ Director)

Date:

(Seal of company)