



PROVISIONS  
RELATED  
TO  
INDIRECT TAXES  
IN  
TAX AUDIT  
REPORT

**CA Vishal Garg,  
Ex-Chairman, NIRC  
98141-33353**

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## IMPACT ON CHARTERED ACCOUNTANTS

EXTRA WORK

OPPORTUNITY



## UNDERSTANDING INDIRECT TAXES



## COLLECTION OF SERVICE TAX(IN CRORES)



1994-1995	407
1995-1996	862
1999-2000	2072
2003-2004	7750
2004-2005	14150
2005-2006	23000
2007-2008	50600
2009-2010	58422
2010-2011	69400
2011-2012	97444
2012-2013	132601
2013-2014	164927(180141: budgeted)
2014-2015	168132 (215973 budget)
2015-2016	209774( budget)

## COMPARISON OF TAXES(IN CRORES)

1994-1995	2014-15	2015-16 Budget	Increase Proposed	%
Direct Tax	705628	797995	92367	13.09
Indirect Taxes	542325	647918	105593	19.47



## MAJOR INDIRECT TAXES

VAT

CST

Service Tax

Central Excise Duty

State Excise Duty

Customs Duty

Entry Tax

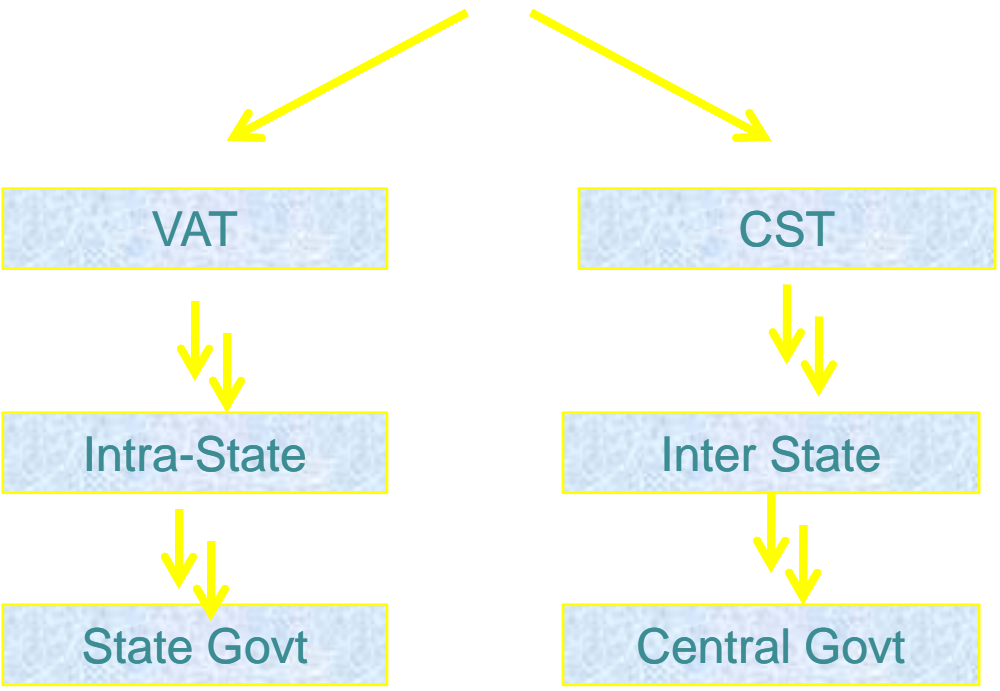
Luxury Tax

Entertainment Tax

Professional Tax



# UNDERSTANDING VAT & CST





## ***SALE UNDER VAT & CST (Including Deemed Sale)***

**Sale means any transfer of property in goods by one person to another for cash deferred payment or for any other valuable consideration.**

It also includes “deemed sales” which are:

- **Transfer otherwise than in pursuance of a contract- compulsory acquisition.**
- **Transfer of property in goods ( whether a goods or in some other form) involved in execution of works contract - construction of building, erection of plant or machinery, powder coating, re-treading of old tyres etc.**
- **A delivery of goods on hire purchase or installment basis - Buying of TV/ mobile/ vehicle on payment of down payment of 10% and rest in monthly installments where control, possession and use provided to the buyer, with no intention of taking back.**

“deemed sales” are: (cont...)

- **A transfer of right to use any goods for any purpose( whether or not for a specified period) - payment of monthly rental for a machine, vehicle, shuttering material where ownership still with the hirer. Here the control and possession needs to be parted to the customer.**



Chapter V of Finance Act,1994 (SEC 64-98 Relates to ST)

Service Tax Rules,1994 as Amended

CENVAT Credit Rules, 2004.

Notifications

Various other Rules like POP of Service Rules,2012 / POT Rules/  
CENVAT Credit Rules

Various Circulars/ Trade Notices/ DO Letters/ internal Circulars

Negative List/ Declared Services/ Bundled services

## UNDERSTANDING SERVICE TAX



- ❑ Applicable to all the activities
- ❑ Not applicable to those excluded from the definition of service
- ❑ Not applicable to those included in Negative list
- ❑ Applicable to Declared Services

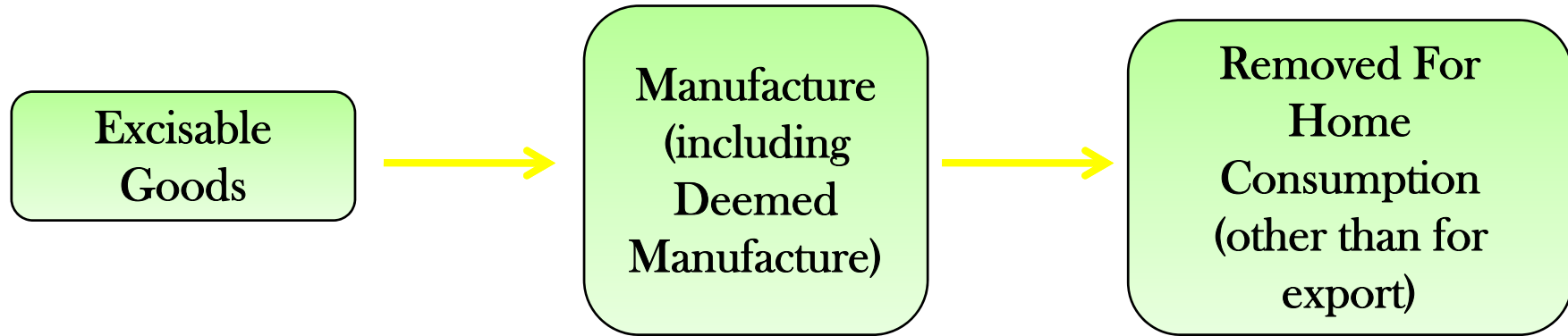
## *REVERSE CHARGE MECHANISM*

Covered under Notification No. 30/2012

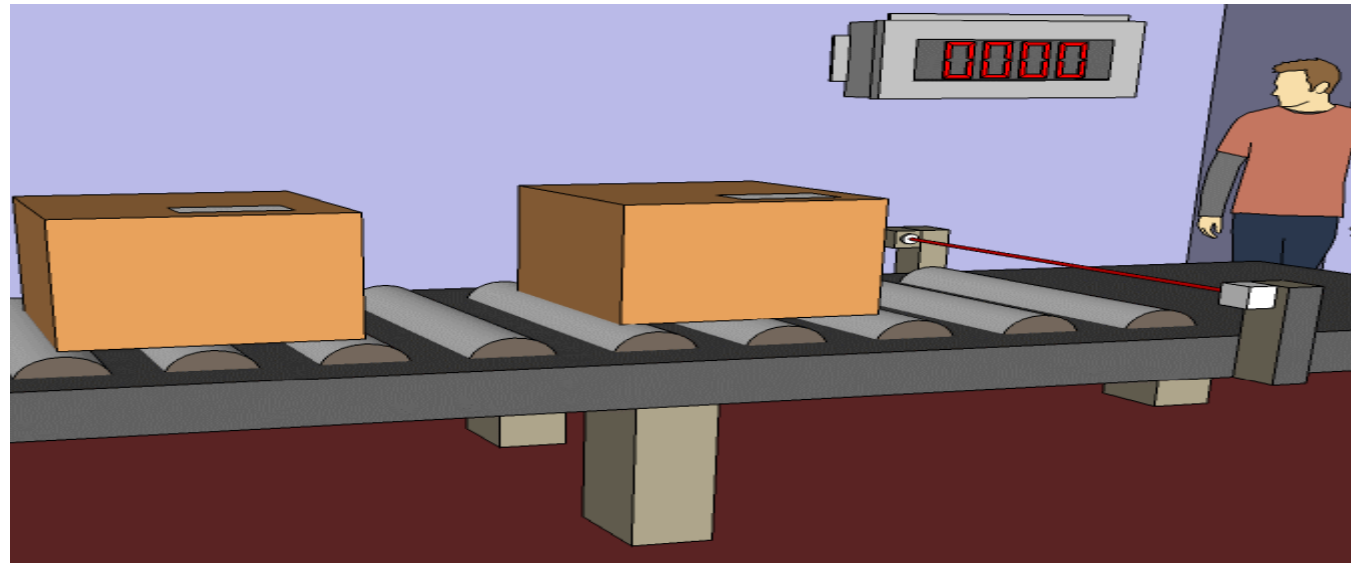
In this scheme ST is to be paid by Service recipient in place of Service Provider. The GOVT. has notified some taxable services & the extent of ST payable thereon by the person liable to pay ST.



## UNDERSTANDING CENTRAL EXCISE DUTY



Excise Duty  
attracted on  
**REMOVAL**



## EXSICE DUTY -SOME IMPORTANT CONCEPTS

*Excisable Goods*



*Exemptions*



*Manufacture*



*Valuations*



**FORM 3CD**

**PART A**

**Point 4:** Now have to mention whether the assessee is liable to pay Indirect tax like excise duty, service tax, sales tax, custom duty etc and furnish the registration number for the same.

*Requirement: : Where liable to pay indirect taxes such as excise duty, service tax, sales tax. If there is liability then give registration number or identification no allotted for same.*

**Issue?**

- Activity amounts to manufacture of excisable goods or provision of taxable services?
- Requirement to take registration under excise or service tax where wrongly claiming exemption, such as SSI exemption on branded goods.
- The excise duty/service tax/customs duties or VAT being paid at wrong rate.



## **FORM 3CD-PART B**

**Point 11(b) & 11 (c):** Earlier only required to mention a list of books of account maintained; now also to mention the address at which the books of accounts are kept. Further if books of accounts are not kept at one location, now need to furnish the addresses of locations

**11(c):** Apart from mentioning the list of books examined, also have to mention the nature of relevant documents examined

***Requirement: :***

- (i) Obtain and give list of addresses where the books of account are kept.*
- (ii) Details of books of account kept at each location.*
- (iii) books/records examined.*

## **FORM 3CD-PART B**

**Point 16:** Amounts not credited to P&L A/c, being  
(b) the pro forma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by authorities concerned.

***Requirement: :***

*Obtain from client and disclose amounts of the drawbacks, refund of duty of customs /excise or service tax, or refund of sales tax or VAT accepted as due by tax authorities.*

**Areas To Be Checked :**

Mention where any drawbacks, refunds of indirect taxes received into bank account are not booked into accounts.

**Point 18:** Particulars of depreciation allowable as per Income Tax Act, 1961 in respect of each asset or block of assets in the following form .....

(d) additions/deductions during the year with dates; in....including adjustments on account of

(i) Central value added tax credits claimed and allowed under Central Excise Rules 1944 in respect of assets acquired on or after 1.3.1994.

This is to ensure that double benefit is not availed by the client.

**Areas To Be Checked :**

*Cenvat credits availed on assets acquired. To be verified minutely.*

Reconcile credits availed on capital goods as per the financials with cenvat credits availed on capital goods as per the ST-3/ER-1.

The depreciation claimed on the duty paid portion [ either under sec 32 or 32AC] of capital goods which is restricted.



**FORM 3CD-PART B**

**Point 26:** In respect of any sum referred to in Clause (a), (b), (c), (d), (e), (f), of Section 43B, the liability for which:-

- (A) Pre-existed on first day of previous year but not allowed in assessment of any preceding previous year and was paid or not paid during previous year.
- (B) was incurred in the previous year and was paid on or before due date for furnishing return of income tax u/s139(1) or not paid before aforesaid date.

**As per Section 43B**

Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of -

- a)any sum payable by the assessee by way of tax, duty, cess or fee, (by whatever name called, under any law for the time being in force);.....

State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost passed through profit and loss account.

**FORM 3CD-PART B**

**Point 27:** (a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.- earlier referred to Modified Value Added Tax Credits.

**FORM 3CD-PART B**

**Point 35(B):** In case of manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products

***Requirement: :***

*Raw materials: opening stock, purchases during previous year, consumption during previous year, sales during previous year, closing stock, yield of finished goods, percent of yield, shortage/excess if any.*

Abnormal shortage in the items could indicate missed out sales with corresponding shortfall in payment of excise duty which may need to be paid with interest and penalty at time of audit.



**FORM 3CD-PART B**

**Point 37:** Disclosures on cost Audit to include disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/ identified by the Cost Auditor. Earlier the requirement was to only state whether Cost Audit was carried out or not and to enclose copy of report.

***Requirement: :***

***Report on details of disqualification or disagreement on any matter /item /value /quantity identified by cost auditor.***

**FORM 3CD-PART B**

**Point 38:** Similar disclosure as above point 37, to be made with respect to audit under Central excise Act as mentioned above. Disqualifications and disagreements to be reported

***Requirement: :***

*Comment if any audit was conducted, if yes report on details of disqualification or disagreement on any matter/ item/ value/quantity as reported/identified by the auditor.*

**FORM 3CD-PART B**

**Point 39:** Disclosure as above point 37, *to be made with respect to audit under section 72A of Finance Act as mentioned above.*

***Requirement: :***

*Comment whether audit was conducted under the Central Excise Act, if yes give details of disqualification or disagreement on any matter/item/value/quantity as reported/identified by auditor.*

**FORM 3CD-PART B**

**Point 40:** Details regarding turnover, gross profit etc for previous and preceding previous year.

***Requirement: :***

***Details of total turnover, GP to turnover and NP to turnover, stock in trade to turnover and material consumed to finished goods produced.***

**FORM 3CD-PART B**

**Point 41:** Details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 along with details of proceedings:

- *Details of demand raised or refund during previous year under any tax laws other than IT and Wealth Tax Act.*
- *Whether mere disclosure suffices or statutory auditor needs to qualify his report, especially where a demand under other taxes is huge*
- Whether prima facie demand is sustainable or not.
- Advise to seek the legal opinion from indirect taxes professionals on the demand.



8/14/2015

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