7.1 Registration

Registration is an identification of assessee to the department, which is being used for every correspondence made with department like for filing returns, deposit of service tax and to undertake various procedures obtained by law. If any person who is required to pay service tax, fails to obtain registration then penalty u/s 77 of Finance Act, 1994 (read with rule 4 of Service Tax Rules 1994) would be attracted to him.

Every person liable for paying the service tax shall make an application to the concerned Superintendent of Central Excise in Form ST-1 for registration within a period of thirty days from the date on which the service tax under section 66 of the Finance Act, 1994 (32 of 1994) is levied.

Provided that where a person commences the business of providing a taxable service after such service has been levied, he shall make an application for registration within a period of thirty days from the date of such commencement. (Refer section 69 of Finance Act, 1994 & Rule 4 of the Service Tax Rules 1994)

Also, the following two categories of persons have been identified as ‘Special Category of Persons’ under The Service Tax (Registration of Special Category of Persons) Rules, 2005:

(i) Input Service Distributor;

(ii) Any provider of taxable service whose ‘aggregate value of taxable service’ (‘aggregate value’ has been defined in Rule 2(b) of The Service Tax (Registration of Special Category of Persons) Rules, 2005) in a financial year exceeds nine lakh rupees.
‘Input service distributor’ as defined under Rule 2 (m) of CENVAT Rules, 2004 means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be.

The government website www.exciseandservicetax.nic.in gives the details of the jurisdictional offices of the Central Excise Department, State-wise, District-wise as well as Commissionerate-wise.

Where a person, liable for paying service tax on a taxable service,

(i) Provides such service from more than one premises or offices; or

(ii) Receives such service in more than one premises or offices; or,

(iii) Is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax, and has centralized billing system or centralized accounting system in respect of such service, and such centralized billing or centralized accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralized billing or centralized accounting systems are located.

The registration under sub-rule 2 of Rule 4 of the Service Tax Rules, 1994, shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralized billing or accounting is done, are located.
Provided that nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralized billing or centralized accounting systems, prior to the 2nd day of November, 2006.

A single registration is sufficient even when an assessee is providing more than one taxable services. However, he has to mention all the services being provided by him in the application for registration and the field office shall make suitable entries/endorsements in the registration certificate. (Refer Rule 4 (4) of Service Tax Rules, 1994)

In case of transfer of business to another person:- A fresh registration is required to be obtained in case of transfer of business to another person. (Refer Rule 4 (6) of Service Tax Rules, 1994). Any registered assessee when ceases to provide the taxable service shall surrender the registration certificate immediately. (Refer Rule 4 (7) of Service Tax Rules, 1994)

In case a registered assessee starts providing any new service from the same premises, he need not apply for a fresh registration. He can simply fill in the Form S.T.1 for necessary amendments he desires to make in his existing information. The new form may be submitted to the jurisdictional Superintendent for necessary endorsement of the new service category in his Registration certificate.
Some practical issues:-

In case of multiple services provided by an assessee, is separate registration certificate required for each service?

As per sub-rule (4) of rule 4 of the Service Tax Rules, 1994, only one Registration certificate is to be taken even if the person provides more than one service from the same premises for which registration is sought. However, while making application for registration, all taxable services provided by the person should be mentioned. If there is centralized registration, only one registration certificate is required for services provided from different premises, declared in the application for centralized registration.

What is to be done when the existing assessee starts providing a taxable service not mentioned in the registration certificate?

He should intimate to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise in writing if there is a change in any information or details furnished by him in the original ST-1 form submitted at the time of obtaining registration or if he intends to furnish any additional information or details within a period of thirty days of such change. (As per Rule 4(5A) of Service Tax Rules, 1994).

Is PAN allotted by the Income Tax Department a must for obtaining Service Tax Registration?

Having PAN is essential because the Service Tax Code/Registration number is generated based on the PAN issued by the Income Tax Department. The PAN based Service Tax Code/Registration number is a must for payment of service tax using the G.A.R. 7 Form.
What should be done with the Service Tax Registration on cessation of business of providing taxable service -?

The Service Tax Registration certificate (ST-2) should be surrendered immediately to the Superintendent of Central Excise [Rule 4(7) of the Service Tax Rule, 1994].

What should be done with the Registration in case of transfer business to another person?

In the event of transfer of the business, the transferee should obtain a fresh certificate of Service Tax registration. [Rule 4(6) of the Service Tax Rules, 1994].

Whether a service provider can make payment of Service Tax and file Returns before the grant of registration by the proper officer?

A person liable to pay service tax must apply for registration before he starts paying service tax and filing return. Service provider should apply well in advance to obtain registration, which is normally granted within 7 days of filing of application. If registration is not granted within seven days, it deems to have been granted.

Is there any penal provision for non-registration?

Failure of registration may attract a penalty upto Rs.10000/- or Rs. 200/- for every day during which such failure continues, whichever is higher [Section 77(1)(a) of the Finance Act, 1994].

However, such penalty may be waived in case the assessee proves that there was reasonable cause for such failure [Section 80 of the Finance Act 1994].
What should be done in case of change in the office/place of business?

Any change in premises/office, as mentioned in Form ST-1, should be intimated to jurisdictional Assistant/Deputy Commissioner Central Excise.

If a registration certificate issued by the Department is lost, can duplicate be issued? What is the procedure in this regard?

The assessee is required to make written request for duplicate registration certificate. The same will be issued by the Department after suitable entry in the registers/records of the Office.

7.2 INVOICE

Every person providing taxable service is required to issue (within 14 days of completion of service or receipt of payment towards value of service, whichever is earlier) an invoice, a bill or challan signed by him or a person authorized by him. Such invoice, bill or challan should be serially numbered and should contain following information:

(i) Name, address and registration number of such person

(ii) The name and address of the person receiving services

(iii) Description, classification and value of taxable service provided, and

(iv) Service tax payable thereon.
Any goods transport agency which provides service in relation to transport of
goods by road in a goods carriage and is liable to pay tax shall issue a consignement note to the recipient of service.

(Rule 4B of Service Tax Rules, 1994)

Every input service distributor, distributing credit of taxable services should issue an invoice, a bill or challan signed by him or a person authorized by him for each of the recipient of credit distributed and such invoice, bill or challan should be serially numbered and should contain:

(i) Name, address and registration number of the person providing input services and the serial number and date of invoice, bill or challan issued by him.

(ii) Name, address and registration number of the input service distributor

(iii) Name and address of the recipient of the credit distributed, and

(iv) The amount of the credit distributed.
7.3 Payment of Service Tax

Sec 68 of the Finance Act, 1994: Any person providing taxable service to any person shall pay service tax at the rate specified in Sec.66 in such a manner and within such period as may be prescribed.

The table below shows the rate of service tax applicable over the period at the relevant period of time.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Period</th>
<th>Rate of Service Tax</th>
<th>Rate of Education Cess</th>
<th>Rate of Secondary &amp; Higher Education Cess</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Till 13.05.2003</td>
<td>5%</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2.</td>
<td>14.05.2003 to 09.09.2004</td>
<td>8%</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>3.</td>
<td>10.09.2004 to 17.04.2006</td>
<td>10%</td>
<td>2% of the S.T.</td>
<td>Nil</td>
</tr>
<tr>
<td>4.</td>
<td>18.04.2006 to 31.05.2007</td>
<td>12%</td>
<td>2% of the S.T.</td>
<td>Nil</td>
</tr>
<tr>
<td>5.</td>
<td>01.06.2007 to 23.02.2009</td>
<td>12%</td>
<td>2% of S.T.</td>
<td>1% of S.T.</td>
</tr>
<tr>
<td>6.</td>
<td>24.02.2009 to 31.03.2012</td>
<td>10%</td>
<td>2% of S.T.</td>
<td>1% of S.T.</td>
</tr>
<tr>
<td>7.</td>
<td>01/04/2012 to Date</td>
<td>12%</td>
<td>2% of S.T.</td>
<td>1% of S.T.</td>
</tr>
</tbody>
</table>

In case of Individuals or Proprietary Concerns and Partnership Firm, service tax is to be paid on a quarterly basis. The due date for payment of service tax is the 5th of the month immediately following the respective quarter (in case of e-payment, by 6th of the month immediately following the respective quarter).
Refer Rule 6 (1) of Service Tax Rules, 1994

For this purpose, quarters are: April to June, July to September, October to December and January to March. **However, payment for the last quarter i.e. January to March is required to be made by 31st of March itself.**

In case of any other category of service provider other than specified above, service tax is to be paid on a monthly basis, by the 5th of the following month (in case of e-payment, by 6th of the month immediately following the respective month). **However, payment for the month of March in all cases is required to be made by 31st of March itself.**

Service tax is to be paid to the Central Government in respect of service deemed to be provided as per the rules framed. The facility of e-payment of service tax has been introduced with effect from 11.05.2005. From 1st April, 2010 e-payment of service tax has been made mandatory for the assessee who have paid service tax of Rs.10 Lakhs (cash + Cenvat) and above during the last financial year or who have paid service tax of Rs.10 Lakhs (cash + Cenvat) and above during the current financial year. The e-payment shall be made only in designated banks by 6th day of the following month.


The assessee is required to deposit the amount of service tax in the designated banks through GAR-7 challan. While depositing the service tax, the appropriate ‘account head’ pertaining to the particular service category should be mentioned on the challan.

If the assessee deposits the amount of tax liable to be paid, by cheque, then the date of presentation of the cheque to the designated bank would be treated as the date of payment of service tax.
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 partially for any reason, 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 credit of such excess service tax paid by him, if the assessee:-

(i) Has refunded the payment or part thereof, so received for the service provided to the person from whom it was received or

(ii) Has issued a credit note for the value of the service not so provided to the person to whom such an invoice has been issued

The assessee can opt for provisional payment of service tax in case he is not able to correctly estimate the tax liability. In such a situation he may request in writing to the jurisdictional Assistant / Deputy Commissioner for the same.

Service tax (including interest, penalty, and refund) is to be rounded off to the nearest rupee. 50 paise or more should be rounded off to the next rupee and less than 50 paise should be ignored.

Section 73A of the Finance Act, 1994:- Any person, who has collected any sum on account of service tax, is under obligation to pay the same to the Government. He cannot retain the sum so collected with him by contending that service tax is not payable.
7.4 **Records to be maintained**

The records including computerized data as maintained by the assessee in accordance with the various laws in force shall be accepted.

Every assessee is required to furnish to the Superintendent of Central Excise a list of accounts maintained by him in relation to service tax. This list is to be submitted once at the time of filing his first S.T.3 return.

*(E.g. books of account, viz. sales register, purchase register, cash book, petty cash book, general ledger, etc.)*

*(Refer Rule 5 (2) of Service Tax Rules, 1994)*

7.5 **Import and Export of services**

Import of service: There is no concept as ‘import’ of service in the strict sense of the term in the Finance Act, 1994 or the rules made there under. Here the word ‘import’ is used just to indicate service provided by a person who has established his business or has his permanent address outside India and the recipient of such service is such a person who has his permanent address or usual place of business in India.

Provisions made under section 66A of the Finance Act, 1994 provide for payment of service tax by the recipient of service in cases where the provider of taxable service is from outside India and the receiver of service has his permanent address / usual place of business in India. This is applicable even though the service is received / consumed by the Indian outside India. This provision is not applicable in case of individuals who have received such service other than for the purpose of use in business or commerce.
In case where the service provider is a non-resident or is from outside India and does not have office in India, the person receiving the service shall be liable to pay the service tax.

(Refer Rule 2 (1)d(iv) of Service Tax Rules, 1994)


The taxable services have been divided in three groups and some group-specific criteria are prescribed for provision of a particular service in a particular group to be treated as export of service. However, there is a common condition which is required to be fulfilled by all the taxable services (irrespective of the group they belong to) to qualify as exported services. These two conditions are:

(i) Such service is delivered outside India and used outside India, and

(ii) The payment received for providing such service should be in convertible foreign exchange. It is necessary that the common qualifying conditions as well as the group-specific conditions are fulfilled so as to treat the provision of any such service as export of service.
7.6 Returns

- Every assessee is required to submit a half yearly return in form S.T.3 or S.T.3A (in triplicate) along with proof of payment of tax. For the purpose of filing returns half year is counted from April to September and October to March. In case the assessee has opted for provisional payment of service tax, he is required to file the service tax return in form S.T.3A.

- The ST-3 Returns can also be got prepared and filed through the ‘Service Tax Return Preparers’ (STRPs) who have been duly accredited and authorized by the Department. The Board has issued relevant provisions and guidelines in regard of Service tax Return Preparer Scheme vide Notification No.07/2009-ST dated 03.02.2009 as amended. Currently, there are 1477 STRPs functioning at various locations spread out all across the country. The service tax assesses can log on to www tpaccount.com to know the details of the STRPs available in their area.

- An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of ninety days from the date of submission of the return under rule 7.

- **Date of filing of Returns:** The half yearly return is required to be filed by the 25th of the month following a particular half year.

- **E-filing of Returns:** The department has made it mandatory to file the return of service tax online for all category of service providers.

The due date for payment of service tax is 6th day of the month following the relevant month/quarter, if electronically paid and in other cases, 5th day of the month following the relevant month / quarter.
## Periodic Exemption Limit

<table>
<thead>
<tr>
<th>Period</th>
<th>Basic Exemption Limit (in INR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-07-1994 to 31-03-2005</td>
<td>No limit</td>
</tr>
<tr>
<td>01-04-2005 to 31-03-2007</td>
<td>4 Lakhs</td>
</tr>
<tr>
<td>01-04-2007 to 31-03-2008</td>
<td>8 Lakhs</td>
</tr>
<tr>
<td>01-04-2008 onwards</td>
<td>10 Lakhs</td>
</tr>
</tbody>
</table>

## Due Date for Return Filing

<table>
<thead>
<tr>
<th>Period</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st April to 30th September</td>
<td>25th October</td>
</tr>
<tr>
<td>1st October to 31st March</td>
<td>25th April</td>
</tr>
</tbody>
</table>

## Due Date for Return Filing for Input Service Distributor (ISD)

<table>
<thead>
<tr>
<th>Period</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st April to 30th September</td>
<td>31st October</td>
</tr>
<tr>
<td>1st October to 31st March</td>
<td>30th April</td>
</tr>
</tbody>
</table>
7.7 Interest

It is provided under section 75 of the Finance Act, 1994 that in case of delayed payments (after due date) the assessee is required to pay simple interest at the rate prescribed. Notification No. 26/2004 dated 10.09.2004 has specified the rate of at 13% per annum. The table below shows the rate of interest applicable at relevant period of time.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Period</th>
<th>Rate of Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Till 11.05.2001</td>
<td>1.5% per month</td>
</tr>
<tr>
<td>2.</td>
<td>11.05.2001 to 11.05.2002</td>
<td>24% per annum</td>
</tr>
<tr>
<td>3.</td>
<td>11.05.2002 to 10.09.2004</td>
<td>15% per annum</td>
</tr>
<tr>
<td>4.</td>
<td>From 10.09.2004 to 31.03.2011</td>
<td>13% per annum</td>
</tr>
<tr>
<td>5.</td>
<td>From 01.04.2011</td>
<td>15% per annum</td>
</tr>
<tr>
<td></td>
<td>• For assesses having turnover</td>
<td>18% per annum</td>
</tr>
<tr>
<td></td>
<td>upto INR 60lakhs</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• For other assesses</td>
<td></td>
</tr>
</tbody>
</table>

**From Oct 2014 onwards rate of Interest on delayed payment:** - In exercise of power under sec 75 of the Finance Act, 1994 and in the suppression of the Not. No. 26/2004 –service tax dated 10/09/2004 the Central Government has fixes the following rate of interest through Notification No 12/2014 ST dated 11/07/2014.

<table>
<thead>
<tr>
<th>SI. No</th>
<th>Period of delay</th>
<th>Rate of interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Up to six month</td>
<td>18%</td>
</tr>
<tr>
<td>2</td>
<td>More than 6 month and up to 1 year</td>
<td>18% of first 6 month of delay and 24% for delay beyond 6 month</td>
</tr>
<tr>
<td>3</td>
<td>More than 1 year</td>
<td>18% of first 6 month of delay and 24% for delay beyond 6 month and 30% for any delay beyond 1 year</td>
</tr>
</tbody>
</table>

This notification shall come into force on the 1/10/2014.
7.8 Recovery of Service Tax

Section 73, 73A to 73D and Section 87 provide for recovery of service tax under various circumstances. The provisions made under each section are separately discussed below:

Section 73: This section empowers the Central Excise Officer to serve notice to the person, chargeable with service tax, which has been not levied or paid or short-levied or short-paid or erroneously refunded. Time limit for serving a notice under this situation is ‘one year’ from the relevant date.

In cases where service tax has been not levied or paid or short-levied or short-paid or erroneously refunded by the reason of fraud; or collusion; or wilful mis-statement; or suppression of facts; or contravention of any of the provisions of this act or rules made thereunder with an intent to evade payment of service tax, then the time limit for serving the notice is extended up to five years.

Where the service of notice is stayed by order of court, such stay period shall be excluded.

- Section 73A provides for payment by an assessee of any amount collected in excess of the service tax liveable or recovery of any amount as representing service tax, which has been collected by a person but not deposited with the Central Government.

- Section 73B enables the Central Government to collect interest on the amount as determined under sub-section (4) of section 73A at a rate notified by the Central Government (not less than 10% but not exceeding 36% p.a.).

- Section 73C provides for provisional attachment by Central Excise Officer of any property belonging to a person on whom notice is served under sub-section (1) of section 73 or sub-section (3) of section 73A during the pendency of such proceedings.
• Section 73D provides for publishing the name of any person and any other particulars relating to any proceedings under the provisions of Chapter V of the Finance Act, 1994, in relation to such person, in public interest, in such manner as may be prescribed.

• Section 87 provides for recovery of any amount due to the Central Government by any one of the following modes:

  i. By deducting such amount from any money owed to such person, under the control of any Central Excise Officer or any officer of Customs.

  ii. By recovery from any other person from whom money is due to such defaulting person.

  iii. By restraining any movable or immovable property belonging to such person and detain the same until the amount payable is paid.

  iv. By preparing a certificate signed by Central Excise officer specifying the amount due and sends it to the Collector of district in which such person owns any property or carries on his business. The said Collector, on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.
## 7.9 Penalties

Penalties have been prescribed under different sections for different types of offences:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Section</th>
<th>Offence</th>
<th>Details</th>
</tr>
</thead>
</table>
| 1       | 77      | General penalty for contravention of any provisions of chapter V of Finance Act, 1994 or rules made there under for which no penalty is provided | a) Failure to take registration in accordance with Sec.69 or rules made thereunder - Rs. 10000 or Rs. 200 per day during which failure continues, whichever is higher.  

b) Failure to keep, maintain or retain records - Up to Rs.10000/-

c) Failure to furnish information, to produce documents called for by Central Excise Officer or to appear before the Central Excise Officer - Upto Rs.10000/- or Rs. 200 per day during which failure continues.

d) Failure to pay tax electronically by the person required to pay tax electronically - upto Rs.10000/-

e) Failure to issue correct invoice with complete details and account for the invoice in his books of accounts - Upto Rs.10000/-

2. For contravention of any other provisions of the Act where no separate penalty is provided - upto Rs.10000/- |
| 2       | 78      | Service tax not been levied or paid or been short-levied or short-paid or erroneously refunded by reason of fraud or collusion or willful misstatement or suppression of facts | Shall in addition to the Service Tax and interest thereon, if any payable, be the amount equal to the amount of Service tax not levied or paid or short-levied or short paid or erroneously refunded. But where true ac- |
or contravention of any of the provisions of chapter V of Finance Act, 1994 or of the rules made there under with intent to evade payment of service tax

| 3 | 70(1) & Rule 7C | Late filing of returns | Late fee upto Rs.20000/-
|   |               |                        | a) Delay up to 15 days-Rs.500/-
|   |               |                        | b) Delay beyond 15 days and upto 30 days-Rs.1000/-
|   |               |                        | c) Delay beyond 30 days-Rs.1000/- plus Rs.100 per day of delay beyond 30 days

Provided the total amount payable in terms of this rule shall not exceed the amount specified in Sec.70 of the Act.

Section 80 provides for non-imposition of penalty in certain cases falling under sections 76, 77 and 78 if there is reasonable cause for such failure.
7.10 Electronic Tax Administrations

- The ETA comprises of on-line generation of PAN based code numbers, filing of S.T.3 Returns and e-payment of service tax.

- The on-line generation of PAN based code is in practice since April, 2003.

- On-line submission of S.T.3 Returns was introduced from April, 2003. Initially, this facility was extended for 10 selected categories of services. However, from 20.01.2004 the facility of e-filing of returns has been extended to all the categories of services.

- The facility of e-payment of service tax was introduced from 11.05.2005. Assessees can pay service tax through Internet Banking facility extended by certain banks.

- E-payment has been made mandatory with the issue of Notification No.1/2010-ST dated 19.2.2010 for an assessee who in the preceding financial year, has paid total service tax of rupees 1 lakh or more including the amount paid by utilization of Cenvat credit, to pay service tax and file its returns electronically only. While the measure is aimed at bringing efficiency by automating the processes, it is anticipated that this would cut down the time and cost of tax payers and also result in a steady increase in more and more assessees adopting this facility.
7.11 Settlement of Cases

Vide Notification No. 16/2012 sections 31, 32 and 32A to 32P of the Central Excise Act, 1944 are made applicable to service tax vide section 83 of the Act, 1994, the following rules are made by the Central Government:

Form and manner of Application–

An application under sub-section (1) of section 32E of Excise Act, made applicable to service tax vide section 83 of the Act, shall be made in the Form SC(ST)-1.

Person authorised to sign the documents-

The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be signed,-

- In the case of an individual, by the individual himself or where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

- In the case of a Hindu undivided family, by the Karta of such family and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by the senior most adult member of the family available;

- In the case of a company or local authority, by the principal officer thereof;

- In the case of a firm, by any partner thereof, not being a minor;

- In case of any other association, by any member of the association or the principal officer thereof; and

- In the case of any other person, by that person or some person competent to act on his behalf.
Disclosure of information in the application of settlement -

The Settlement Commission shall, while calling for a report from the Commissioner of Central Excise having jurisdiction or Commissioner of Service Tax having jurisdiction, under sub-section (3) of section 32F of Excise Act, made applicable to service tax vide section 83 of the Act, forward a copy of the application referred to in sub-rule (1) of rule 3 along with the annexure to the application and the statements and other documents accompanying such annexure.

Manner of provisional attachment of property

Where the Settlement Commission orders attachment of property under sub-section (1) of section 32G of Excise Act, made applicable to service tax vide section 83 of the Act, it shall send a copy of such order to the Commissioner of Central Excise or Commissioner of Service Tax having jurisdiction over the place in which the applicant owns any movable or immovable property or resides or carries on his business or has his bank account.

On receipt of the order referred to in sub-rule (1), the Commissioner may authorise any officer subordinate to him and not below the rank of an Assistant Commissioner of Central Excise or Service Tax to take steps to attach such property of the applicant.

The officer authorised under sub-rule (2) shall prepare an inventory of the property attached and specify in it, in the case of the immovable property, the description of such property sufficient to identify it and in case of the movable property, the place where such property is lodged or kept and shall hand over a copy of the same to the applicant or to the person from whose charge the property is attached.

The officer authorised under sub-rule (2) shall send a copy of the inventory so prepared each to the Commissioner of Central Excise and the Settlement Commission.
Fee for copies of reports— Any person who makes an application under section 32J of Excise Act, made applicable to service tax vide section 83 of the Act, for obtaining copies of reports made by any Central Excise Officer, shall pay a fee of five rupees per page of each report or part thereof.

“Voluntary compliance is the best and cheapest way of paying and collecting taxes. It is Utopianism. To be tempted to maximize material gains and to hold on to them by evading taxes is human. The sense to realize the error and correct it is also human”. This is the philosophy of whatever it may be called, that provides justification for the constitution of Settlement Commission.

The primary objective of setting up the Commission is to settle “cases” which are pending at various adjudication and appellate levels but not those pending in the Court. Similarly, classification disputes are out of the purview of Settlement Commission [S.32E refers]. Apart from the qualifying conditions which the applicant has to satisfy for filing an application for settlement, the applicant has to accept an “additional amount of duty” exceeding two lakhs rupee.

The first issue and which is a contentious one though, is the meaning of words “additional amount of duty” read with “… full and true disclosure of duty liability which has not been disclosed before the Central Excise Officer having jurisdiction…” Although a reference is made to a show cause notice having been served for recovery of duty, a debate arises as to whether the two lakh rupee embargo should be over and above the duty demanded or otherwise. No Doubt it has been the consistent stand of the Settlement Commission that this “two lakhs” amount should be with reference to the duty already paid or not paid by the assessee and not in excess of the show cause notice. However, it would be advisable to define the term “additional amount of duty” in section 31 of the CEA’44 so as to avoid such frivolous objections being raised by the Revenue.