

E-filing under Service Tax

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Bullets

- Registrations
- Payments
- Returns
- Misc.



REGISTRATION



Single Premise Registration...



- Who is liable to be registered?

Service Provider/Service Receiver	Situations	Event triggering registration	Time limit to take registration
Service provider	Normal case	> Rs. 9 Lakhs	Within 30 days
Service provider	Partial reverse charge case	> Rs. 9 Lakhs	Within 30 days
Service receiver	Reverse Charge/Partial Reverse Charge	Date of making payment	Within 30 days
Input Service distributor	Distribution of Credits	Commencement of business	Within 30 days

- A person having two premises is required to take two separate registration?

– *Rule 4(3A) of the STR*

...Single Premise Registration...

- A person providing/receiving more than 1 services is required to take two separate registrations?
 - Premise wise registration
 - Single RC including all services
- Whether the assessee may appoint agent to pay Service tax?
 - Section 65B (12) – Assessee means a person liable to pay tax and include his agent
 - *Katrina R. Turcotte 2013 (31) STR 670 (Tri.-Ahmd.)*
 - *Zaheerkhan B. Khan 2014 (33) STR 75 (Tri.-Mum.)*



...Single Premise Registration...

- A person, providing erection, commissioning and installation services or management, maintenance or repairs services i.e. provision of on site services, is required to register all the premises where he works?
 - *Rule 4(2) of the STR*
 - “...provides such service from more than one premises or offices...”
- Whether PAN is mandatory for obtaining ST Registration?
 - Registration before PAN?
 - PAN not mandatory for Government Departments
 - If no PAN then no registration
 - If Old ST Reg. without PAN-No PAN furnished till 31st May, 2015
 - Temporary registration to be cancelled after giving an opportunity of being heard

...Single Premise Registration...

- What is the procedure for registration?
 - Create user ID and Password (password-Max. 6 digit)
 - [Snapshots](#)
 - Mail at Email registered
 - Application for registration – ST – 1
 - [Jurisdiction to be found out](#) (Better to ask for Municipal Ward)
 - Trade Notice No. 1/2014-ST dated 7th October, 2014
 - [Contact local ST Offices](#)
 - [To be filed online](#)
 - [Final ST-1](#)
 - [Registration No. generated immediately](#)
 - [Registration Certificate \(RC\) to be granted within 2 days \(Trust-based registration\)](#)
 - Submit self-attested requisite documents within 7 days through registered post/speed post
 - If required, physical verification by Additional/Joint Commissioner and above
- Note: Better to keep all documents ready before application of registration**

...Single Premise Registration

- Documents
 - Check other registrations online through various sources such as IEC, VAT etc.
- Revocation of RC by AC/DC if
 - Dummy premise or premise not in possession of assessee
 - Documents not received by department within 15 days from the date of filing application
 - Documents either incomplete or incorrect
- Whether Signature is required on ST-2?
 - No
 - Even if asked, signature may not be given

Centralised Registration...



- Who is required to apply for Centralised Registration?

– *Rule 4(2) of STR*

- *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 centralised billing system or centralised accounting system in respect of such service, and such centralised billing or centralised accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralised billing or centralised accounting systems are located

– Application for registration : File with Commissioner of Central Excise

...Centralised Registration...

- Are there any benefits of Centralised Registration?

- Seamless Cenvat Credit across entity
- Administrative Convenience



- Whether time limit (T/L) of 7 days applicable to Centralised Registration.

– *Karamchand Thapar & Bros. (Coal Sales) Ltd. vs. Union of India 2010 (20) STR 3 (Cal.)*

- Deeming fiction u/r. 4(5) of STR, 1994 applicable to registration granted by Superintendent of Central Excise
- Centralised Registration granted by Commissioner of Service Tax
- Therefore, T/L of 7 days not applicable to Centralised Registration
- However, registration to be granted within reasonable T/L
- 7 days can be considered to be reasonable T/L

...Centralised Registration



- Is the process of Centralised Registration simple?
 - *Circular No. 3/2011-ST (CST-I, Mumbai T.N.) dated 1st October, 2011*
 - Cumbersome procedure
 - Information of existing branches such as pending dues, SCNs etc.
 - Different documentation
 - Signature on ST-2 required?
 - Practically period of getting signed RC: Approx. 6 months
- If there is already a separate single premise registration, whether one can apply for centralised registration.
 - *Circular No. 3/2011-ST (CST-I, Mumbai T.N.) dated 1st October, 2011*
 - “A Service Provider desiring to obtain Centralized Registration for the first time for all their branches or **converting from single registration/s to Centralised Registration...**”
 - Old registration to be surrendered and intimated to AC/DC in 2 months

Input Service Distributor...



- Basic Concepts

- Rule 2(m) of the CENVAT Credit Rules, 2004; Rule 4A(2) of the ST Rules, 1994; Rule 7 of the CENVAT Credit Rules, 2004

- Centralised registration vs. Input Service Distributor(ISD)

Particulars	Centralised Registration	Input Service Distributor
Manufacturer/ SP	SP/SR can take this registration	Manufacturer or SP both can take this registration
Invoice	Need not issue a separate invoice	Need to issue a separate invoice to distribute the CENVAT credit
CENVAT Credit of inputs, input services and capital goods?	No such provision for availment or even restriction on availment of CENVAT Credit	<ul style="list-style-type: none"> • Only input services u/r 7 of CCR, 2004 • In case of inputs and capital goods SP can claim CENVAT credit based on invoice issued by office/premise of SP u/r 7A of CCR, 2004

...Input Service Distributor



Particulars	Centralised Registration	Input Service Distributor
Ratio for CENVAT Credit?	No such provision for availment or even restriction on availment of CENVAT Credit	<ul style="list-style-type: none"> • CENVAT Credit attributable to exempted services cannot be availed • Services attributable to 1 unit: CENVAT Credit can be distributed only to that unit Services attributable to more than 1 unit: Pro-rata basis distribution based on turnover
Return	Only 1 return	All branches – Separate return
Audit	All together audited	One premise only would be audited
Branch reconciliation	Every month exercise	One time exercise

Registration – Electronic filing...

- Is there any offline utility available to apply for ST registration?
 - No
 - Option to fill up form online only
 - Precautions
 - Follow each instruction carefully such as format of password, selection of jurisdiction etc.
 - Snapshot of each information filled in
 - Snapshot of acknowledgement
- Digital signature required to obtain ST RC?
 - No



...Registration – Electronic filing



- What if assessee is unable to file ST Registration application?
 - Range Superintendent can file registration application on behalf of the assessee
- Can we expect any help from ST Department for technical issues with respect to electronic filing?
 - LMS
 - Helpline Nos.: 1800 425 4251
 - Mail ID: aces.servicedesk@icegate.gov.in
on any working day from Monday to Friday between 9 AM and 7 PM and on Saturdays from 9 AM to 2.30 PM.

Registration – Other Misc. Issues...



- In view of negative list regime, whether the assessee needs to obtain registration categorywise and pay taxes accordingly?
 - *Circular No. 165/16/2012-ST dated 20th November, 2012*
 - 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
- Whether the persons temporarily coming to India and performing any activity leviable to Service tax, needs to get registered themselves.
 - Yes
 - Thrust is on provision of service within taxable territory

...Registration – Other Misc. Issues...

- In case the assessee is engaged in export of services only, whether the assessee needs to register with ST authorities.
 - *Wipro BPO Solutions Ltd. Vs. CST, Delhi 2012 (25) STR 371 (Tri.-Del.)*
 - Registration linked with liability for paying Service tax and not with mere providing of taxable services
 - *CST, Chennai vs. E-Care India Pvt. Ltd. 2011 (22) STR 529 (Tri.-Chennai)*
 - The relevant rules require only those assesseees to take registration who are required to pay service tax
 - Post 1st July, 2012, Wipro BPO Solutions holds good?
 - Advisable to get ST RC to avoid locking horns with Department



...Registration – Other Misc. Issues...

- A filed application for registration under “Business auxiliary services”. However, the departmental officials granted registration under “Clearing and forwarding agent” which was never asked. Is the department correct? Whether A is required to pay ST under “Clearing and forwarding agent”.
 - *Circular No. 72/2/2004-ST dated 2nd January, 2004*
 - In granting registration, the jurisdictional officer cannot question the correctness of the declaration made by an applicant for registration
 - *Karamchand Thapar & Bros. (Coal Sales) Ltd. vs. Union of India 2010 (20) STR 3 (Cal.)*
 - Proper officer not empowered to grant registration in category other than the category in which registration sought
 - Superintendent or Commissioner not empowered to refuse application for registration if ST-1/ST-2 properly filled up
 - Unless circulars are challenged and the challenge is succeeded, circulars are binding on department
 - *C.S.T. vs. karam Chand Thappar & Bros. (Coal Sales) Ltd. 2012 (28) STR 124 (Cal.)*
 - Department should have either allowed or rejected on its own merit
 - Assessee directed to deposit ST on provisional basis under “Business auxiliary services” till pendency of appeal

...Registration – Other Misc. Issues...



- Wrong jurisdiction mentioned
 - Cannot amend ST RC online
 - Visit the wrong jurisdiction mentioned and get it diverted to the correct jurisdiction
 - ACES : AC/DC to reassign the application to correct jurisdiction
- Change in address of assessee and consequently change in jurisdiction
 - Apply online for change of address at www.aces.gov.in in Service tax module
 - File this application with the Superintendent of old jurisdiction office with Annexure II of *Circular No. 3/2011-ST (CST-I, Mumbai T.N.) dated 1st October, 2011*
 - Follow up with the ST department to transfer the file to new jurisdiction
 - At new jurisdiction, submit application with requisite documents alongwith acknowledged copy of Annexure II submitted with old jurisdiction

...Registration – Other Misc. Issues

- Transfer / Sale of business: Amendment in RC or new RC?
 - *Rule 4(6) of STR, 1994*
- Surrender of registration online sufficient?
 - *Rule 4(7) and 4(8) of STR, 1994*
 - Practical issues
- Penalty for non-registration or late registration
 - Reduced to Maximum Rs. 10,000/- in Union Budget 2013-2014



PAYMENT



Payment of ST...

- Who is required to pay Service Tax?
 - SP
 - SR in case of reverse charge/partial reverse charge
- What is the rate of Service Tax?
 - Basic ST : 14%
 - Swachh Bharat Cess: 0.5%
 - **Krishi Kalyan Cess: 0.5% (Proposed) effective from 01.06.2016**

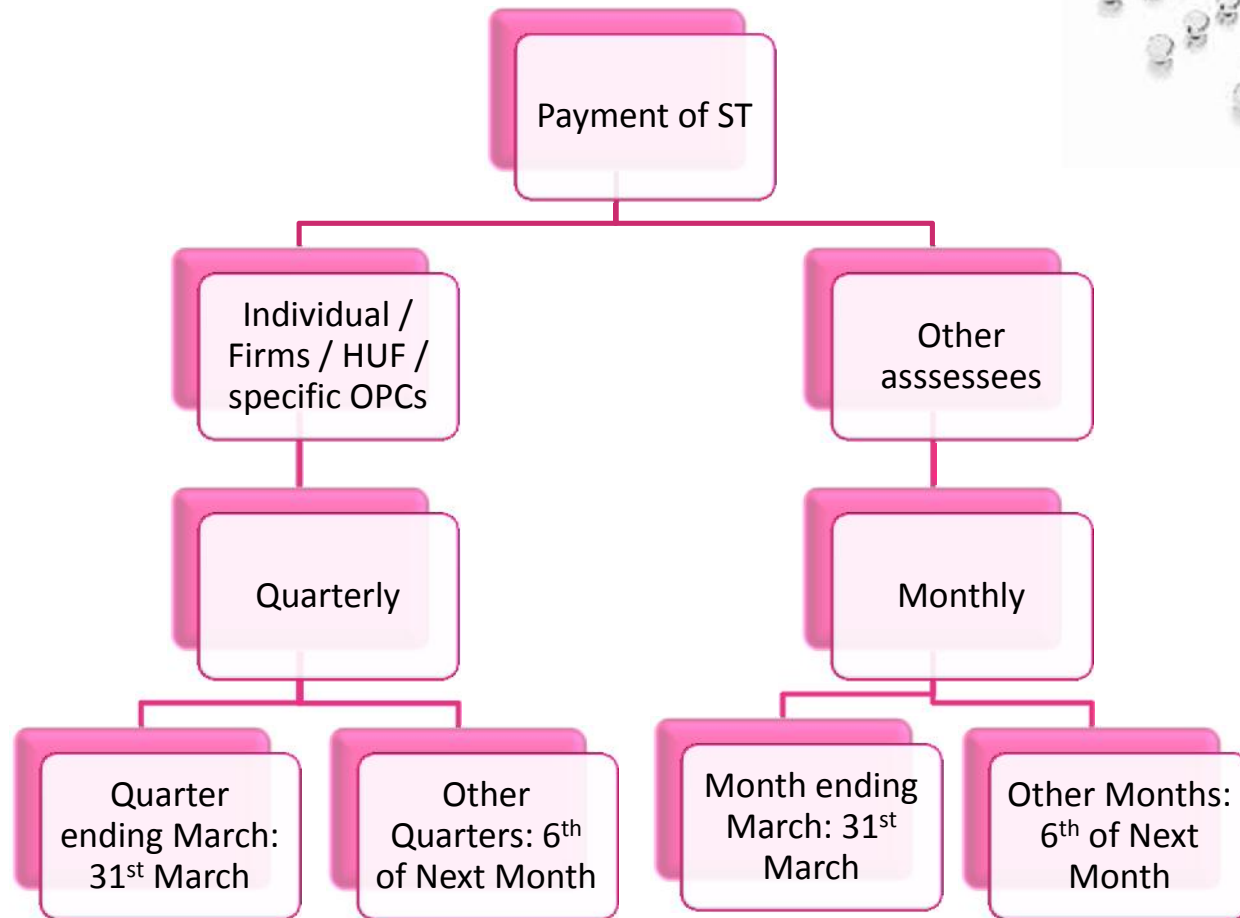


...Payment of ST...

- Is there any exemption to small scale service providers?
 - *Notification no. 33/2012-ST dated 20th June, 2012*
 - Exemption upto 10 Lakhs value of services provided in Current FY
 - If in Previous FY: Aggregate value of services provided from all premises \geq 10 Lakhs
 - Conditions:
 - No CENVAT Credit available on inputs and input services during the exemption period
 - Reverse CENVAT Credit on inputs in stock/in process from the date of availment of exemption
 - Not applicable to:
 - Services provided under brand name/trade name of another person
 - Reverse charge/partial reverse charge mechanism



...Payment of ST...



- Payments to be made in GAR-7 Challan

...Payment of ST...



- How to crystallize ST liability?
 - *Section 68 of the FA, 1994 read with Point Of Taxation Rules, 2011*
 - 1/2 Rule
 - Exception
 - Invoice not raised within T/L: Date of completion of provision of service
 - Individual / Partnership Firm / OPCs: Less than 50 Lakhs in PY – Cash basis upto 50 Lakhs in CY
 - *Exemptions, abatements etc.*
- Reverse charge / Partial reverse charge: Can SP as well as SR claim Small Scale Exemption?
 - *Proviso to Section 68 (2) of the FA, 1994 read with Proviso (ii) to Notification no. 33/2012-ST dated 20th June, 2012*

...Payment of ST...



- If the assessee pays ST in advance, is he required to follow any particular procedure?
 - *Rule 6(1A) of STR*
 - Adjustment possible subject to following conditions:
 - Intimation to jurisdictional Superintendent within 15 days
 - Indicates the details of advance payment and adjustment in ST return
- Excess payment of ST
 - *Rule 6(3) of STR*
 - Issued invoice or received payment but services not provided either wholly or partly for any reason
 - Invoice amount is renegotiated due to deficient provision of service or any terms contained in a contract
 - Follow prescribed conditions

...Payment of ST...

- How to make e-payment?
 - Go to www.cbec-easiest.gov.in
 - [Insert assessee code and follow procedure](#)
- What if the assessee intends make payment immediately on obtaining registration?
 - It takes generally 2-3 days to get the number activated for payment
 - It is advisable to set appropriate timelines to avoid any hassles
 - *City Land Associates (2016-TIOL-812-CESTAT-MUM)*
- What if last date for payment is a public holiday?
 - *Circular No. 63/12/2003-S.T., dated 14th October, 2003*
 - *Clause 10 of the General Clauses Act, 1897*



...Payment of ST...



- Whether all assesseees are required to pay ST electronically?
 - *Proviso to Rule 6(2) of STR, 1994*
 - AC/DC may allow assessee to deposit ST by any other mode other than internet banking
- What if internet connection is lost while making e-payment?
 - *Precaution*
 - Take snapshot of each screen for e-payment
 - *If could not save, approach own Bank for verification if payment is made*
 - *If yes, take a certified copy of challan / acknowledgement on letter from Bank*
- If ST is deposited under wrong code, whether the assessee needs to pay Service tax once again?
 - *Circular No. 58/7/2003-S.T., dated 20th May, 2003*
 - *Instruction F. No. 96/85/2015-CX dated 7th December, 2015*

...Payment of ST...



- **B.39 - Coimbatore Zone - Central Excise Rules & Procedures - E-payment of Excise Duty against Incorrect Assessee code Rectification - Regarding : *Issue* :**
- E-payment of excise duty was introduced with effect from April 2007. Under the e-payment system if an assessee enters an incorrect assessee code number (ECC) while making payment there are no clear instructions on the procedure and the mode to be adopted for rectifying the mistake. The Office Memorandum issued by the Principal Chief Controller of Accounts, CBEC, New Delhi envisages formulation of modalities to be followed while keeping track of such type of cases by the Commissioners. The avowed policy of the Government is to promote ease of doing business. Therefore, keeping in consonance with the above policy it is felt that **a uniform procedure to rectify the mistake committed by an assessee may be formulated by the Board and provided in automation mode.**
- ***Discussion & Decision***
- The conference after due deliberations concluded that this is a long standing problem with the assessee and needs to be addressed. **It was decided that Coimbatore zone should make a reference to the Board with complete set of correspondence made with Pr. CCA on the issue for further examination and issuance of necessary instructions/circular in this regard in consultation with Pr CCA**

...Payment of ST

- Is there any penalty for failure to pay ST electronically?
 - *Section 77(1)(d) of the FA, 1994*
 - Extend to Rs. 10,000/-
- Collection but non-payment beyond 6 months
 - *Higher interest u/s. 75 of the FA, 1994*
 - *Penalty u/s. 78 of the FA, 1994*
 - *Offences u/s. 89 of the FA, 1994*
 - > 2 Crore: Imprisonment upto 7 years
 - *Power to arrest u/s. 91 of the FA, 1994*



RETURNS



ST Return...

- How to fill offline utility of ST return?
 - [Offline Utility](#)
 - Always download new version of ST from www.aces.gov.in
 - Acknowledgement
 - Check after 1 business day – Status should be “FILED”
- Whether online utility available for ST returns.
 - [Yes](#)
 - Mandatory e-filing for all assessees



...ST Return...



- ST return is filed on 25th April, 2016. However, the same got rejected by system due to some technical error. Can it be considered as return filed on time?
 - *Circular No. 956/17/2011-ST dated 28th September, 2011*
 - “...In case a return is **“rejected”** by the application, the **date of uploading** of the rejected return will **not be considered as the date of filing**, rather the date of uploading of the **successfully “filed”**, return (after the assessee carries out necessary corrections and uploads it again) will be considered as the **actual date of filing...**”
 - *Section 70 of the FA, 1994 read with Rule 7 of STR, 1994*
 - Words used are “Furnish”; “Submit”
 - Whether the above circular is binding on the assessee
 - *CCE vs. Ratan Melting and Wire Industries 2008 (12) STR 416 (SC)*
 - » Circulars binding on department not on Court
 - » Circulars contrary to statutory provisions has no existence in law

...ST Return...

- Probable errors while filing Service tax returns
 - Swachh Bharat Cess payable
 - Challan does not exist
 - Opening balance of CENVAT Credit
 - Service tax payable and paid
- Excess Service tax paid
 - Presentation Issue

...ST Return...

- Mr. Samay had delayed ST registration by 1 year. Mr. Samay has deposited ST with interest to Government Treasury. Consequently, Mr. Samay wants to file ST return for the periods prior to registration. Is it possible?
 - Not required
 - No such provision in law
 - Earlier it was possible
 - *Section 73(3) of the FA, 1994*
 - Intimation to be filed with the department
 - No levy of penalty when ST with interest paid before issuance of SCN
 - Pay late filing fees??



...ST Return...

- Whether the assessee is required to file NIL return in case there is no taxable services provided and no payments received during a return period.
 - *Section 70 of the FA, 1994*
 - **“Every person liable to pay the service tax ...”**
 - *Rule 7 of the STR, 1994*
 - **“(1) Every assessee ...”**
 - *Para 4.9 of the FAQs issued by CBEC & DGST on 1st September, 2010*
 - *3rd Proviso to Rule 7C of STR, 1994*
 - Penalty can be waived if NIL return
 - *B & A Multiwall Packaging Ltd. vs. CCE, BBSR – I 2006 (3) STR 673 (Tri.-Kolkata)*
- What if the last date for filing is a public holiday?
 - *Circular No. 63/12/2003-S.T., dated 14th October, 2003*



...ST Return...

- Can the Original Return filed after due date, be revised within the time frame of 90 days?
 - *Rule 7B of the STR, 1994*
 - “...from the **date of submission of the return under rule 7.**”
- 90 days to be counted from when: From the date of filing original ST return or from the due date of filing original return?
 - *Rule 7B of the STR, 1994*
 - “...**from the date of submission** of the return **under** rule 7 ...”
- What if the assessee realised mistake after 90 days from the date of filing original return?
 - No provision in Law
 - File intimation letter



...ST Return...

- ST RC is surrendered. However, the department has not closed the procedure of surrender. Should the assessee file NIL ST return till the time department accepts surrender of ST RC?
 - No
- Penalty vs. late filing fees
 - Worded as late filling fees but penalty
 - 3rd Proviso to Rule 7C of the STR, 1994
 - ST payable NIL + sufficient reason: “Penalty” can be waived



...ST Return



- Mr. Ghanchakkar was engaged in providing 10 different categories of services
- Mr. Ghanchakkar got registered under only 1 category of service on time
- 9 other services were registered after a gap of 6 months
- Whether penalty u/s. 75 can be levied on all 9 services separately.
 - *Circular No. 76/6/2004-ST dated 3rd March, 2004*
 - Penalty for each service
- Further, he had provided services only under 1 category of services during the period July to September, 2012
- Accordingly, he filed return only under such 1 category of service.
- Whether department can levy Penalty for all other 9 services.
 - *Circular No. 76/6/2004-ST dated 3rd March, 2004*
 - Only 1 penalty can be imposed

Miscellaneous

- Acknowledgement of Service tax return
- Option of view Original ST3
 - If revised, this would show original return filed
- Service tax Refund procedure
 - [CENVAT Credit refund under Rule 5A of CENVAT Credit Rules, 2004](#)
- [Surrender of Service tax Procedure](#)



Practical Tips

- Download the latest version of forms from www.aces.gov.in
- Keep snapshot of each procedure made online
- Wherever required, file intimations with ST department
 - Be careful in drafting these intimation letters
- Do not hesitate to contact ST experts
- Get confirmation from clients before filing applications / forms / letters with the department
- If wrong ID or password is entered continuously for 5 times, the account gets blocked and the ACES registration procedure needs to be repeated



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Right advice at right time...



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