

TO BE PUBLISHED IN PART II SECTION 3 SUB-SECTION (i) OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED THE 3RD MARCH, 2005
12 PHALGUNA, 1926 (SAKA)

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi dated the 3rd March, 2005.
12 Phalgun, 1926 (Saka)

NOTIFICATION
No. 9/2005-Service Tax

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Export of Services Rules, 2005.
(2) They shall come into force on the 15th day of March, 2005.
2. Definitions.- In these rules, unless the context otherwise requires,-
 - (a) "Act" means the Finance Act, 1994 (32 of 1994);
 - (b) "input" shall have the meaning assigned to it in clause (k) of rule 2 of the CENVAT Credit Rules, 2004;
 - (c) "input service" shall have the meaning assigned to it in clause (l) of rule 2 of the CENVAT Credit Rules, 2004.
3. Export of taxable service.- The export of taxable service shall mean,-
 - (1) in relation to taxable services specified in sub-clauses (d), (p), (q), (v) and (zzq) of clause (105) of section 65 of the Act, such taxable services as are provided in relation to an immoveable property which is situated outside India;
 - (2) in relation to taxable services specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (s), (t), (u), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zzc), (zdd), (zzf), (zzg), (zzh), (zzi), (zzj), (zzl), (zzm), (znn), (zzo), (zzp), (zss), (zzt), (zzv), (zzw), (zzx) and (zzy) of clause (105) of section 65 of the Act, such services as are performed outside India:

Provided that if such a taxable service is partly performed outside India, it shall be considered to have been performed outside India;
 - (3) in relation to taxable services, other than,-
 - (i) the taxable services specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (p), (q), (s), (t), (u), (v), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zzc), (zdd), (zzf), (zzg), (zzh), (zzi), (zzj), (zzl), (zzm), (znn), (zzo), (zzp), (zzq), (zss), (zzt), (zzv), (zzw), (zzx) and (zzy); and
 - (ii) the taxable service specified in sub-clause (d) as are provided in relation to an immoveable property,
of clause (105) of section 65 of the Act,-
 - (i) such taxable services which are provided and used in or in relation to commerce or industry and the recipient of such services is located outside India:

Provided that if such recipient has any commercial or industrial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of services only if-

- (a) order for provision of such service is made by the recipient of such service from any of his commercial or industrial establishment or any office located outside India;
 - (b) service so ordered is delivered outside India and used in business outside India; and
 - (c) payment for such service provided is received by the service provider in convertible foreign exchange;
- (ii) such taxable services which are provided and used, other than in or in relation to commerce or industry, if the recipient of the taxable service is located outside India at the time when such services are received.

Explanation.- For the purposes of this rule "India" includes the designated areas in the Continental Shelf and Exclusive Economic Zone of India as declared by the notifications of the Government of India in the Ministry of External Affairs Nos. S.O.429(E), dated the 18th July, 1986 and S.O.643(E), dated the 19th September 1996.

4. Export without payment of service tax.- Any service, which is taxable under clause (105) of section 65 of the Act, may be exported without payment of service tax.

5. Rebate of service tax.- Where any taxable service is exported, the Central Government may, by notification, grant rebate of service tax paid on such taxable service or service tax or duty paid on input services or inputs, as the case may be, used in providing such taxable service and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.

[F. No. B2/4/2004-TRU]

(V. Sivasubramanian)
Deputy Secretary to the Government of India

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NOTIFICATION
No. 10/2005-Service Tax

G.S.R. (E).- In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby rescinds the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), as specified in column (2) of the Table below, except as respects things done or omitted to be done before such rescission, namely:-

Table

S. No.	Notification No. and date
(1)	(2)
1.	21/2003-Service Tax, dated the 20 th November, 2003 which was published in the Gazette of India, Extraordinary, <i>vide</i> number G.S.R. 897(E), dated the 20 th November, 2003.
2.	28/2004-Service Tax, dated the 17 th September, 2004 which was published in the Gazette of India, Extraordinary, <i>vide</i> number G.S.R. 616(E), dated the 17 th September, 2004.

2. This notification shall come into force on the 15th day of March, 2005.

[F. No. B2/4/2004-TRU]

(V. Sivasubramanian)
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NOTIFICATION

No. 16/2005-Central Excise (N.T.)

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (Third Amendment) Rules, 2005.

(2) They shall come into force on the 15th day of March, 2005.
2. In the CENVAT Credit Rules, 2004, in rule 5, for the *Explanation*, the following *Explanation* shall be substituted, namely:-

'Explanation.- For the purposes of this rule, the words "output service which is exported" means the output taxable services exported in accordance with the Export of Services Rules, 2005.*'*

[F. No. B2/4/2004-TRU]

(V. Sivasubramanian)
Deputy Secretary to the Government of India

Note: The principal rules were notified *vide* notification No. 23/2004-Central Excise (N.T.), dated the 10th September, 2004, and published in the Gazette of India Extraordinary *vide* number G.S.R.600 (E), the 10th September, 2004 and last amended *vide* notification No. 13/2005-Central Excise (N.T.), dated the 1st March, 2005 and published *vide* number G.S.R. 136 (E), dated the 1st March, 2005.