

## INDIRECT TAX / AMENDMENTS

- (ii) A course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India would no more be exempt from service tax.

S. No.	Vocational courses	Prior to 10.05.2013	With effect from 10.05.2013
1.	Courses offered by ITI/ITC affiliated to State Council of Vocational Training	Taxable	Exempt
2.	Courses offered by ITI/ITC affiliated to National Council of Vocational Training	Exempt	Exempt
3.	Modular Employable Skill Course	Exempt	Exempt
4.	Courses run by an institute affiliated to the National Skill Development Corporation	Exempt	Taxable

### Example

Comment on the applicability of service tax in case of vocational educational courses (VEC) run by the following institutes during the month of February, 2013 and June, 2013:

- (a) 'Udaan' an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCVT)
- (b) 'A-Star' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC)
- (c) 'Best Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Delhi
- (d) 'Horizon' an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training.

The courses offered in point (a), (b) and (c) are in designated trades notified under the Apprentices Act, 1961.

### Solution:

S. No.	Institute/Centre	February, 2013	June, 2013
1.	'Udaan' - ITIs affiliated to NCVT are covered under the definition of approved VEC. Thus, the same are included in the negative list.	Non-taxable	Non-taxable
2.	'A-Star' - With effect from 10.05.2013, institutes affiliated to NSDC have been removed from the definition of approved VEC vide the Finance Act, 2013. Thus, the same are outside the purview of negative list.	Non-taxable	Taxable
3.	'Best Skill Centre' - With effect from 10.05.2013, ITCs affiliated to SCVTs have been included in the definition of approved VEC vide the Finance Act, 2013. Thus, the same are included in the negative list.	Taxable	Non-taxable
4.	'Horizon' - Institutes registered with DGET running MESC approved by NCVT are covered under the definition of approved VEC. Thus, the same are included in the negative list.	Non-taxable	Non-taxable

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**(b) Manufacture under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 not liable to service tax [Section 65B(40)]**

**Example**

State whether following activities undertaken by M & M Manufacturers of Chandigarh would be liable to service tax during April, 2013 and June, 2013:

- (i) Manufacture of herbal cosmetics liable to excise duty under the Central Excise Act, 1944
- (ii) Manufacture of alcoholic drinks liable to excise duty under the Punjab Excise Act, 1914
- (iii) Processing of raw materials to make them fit for further production. The process is not liable to any excise duty
- (iv) Manufacture of medicines liable to excise duty under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955

**Solution:**

S. No.	Activity	April, 2013	June, 2013
(i)	Manufacture of herbal cosmetics liable to excise duty under the Central Excise Act, 1944 — covered in the definition of process amounting to manufacture. Thus, included in the negative list.	Non-taxable	Non-taxable
(ii)	Manufacture of alcoholic drinks liable to excise duty under the Punjab Excise Act, 1914 — covered in the definition of process amounting to manufacture. Thus, included in the negative list.	Non-taxable	Non-taxable
(iii)	Processing of raw materials to make them fit for further production. The process is not liable to any excise duty. This will be a service liable to service tax.	Taxable	Taxable
(iv)	Manufacture of medicines liable to excise duty under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 — The Finance Act, 2013 has included such manufacture in the definition of process amounting to manufacture. Thus, with effect from 10.05.2013, such a manufacture is included in the negative list.	Taxable	Non-taxable

**(c) ALL testing activities including seed testing directly related to production of any agricultural produce not liable to service tax [Section 66Dd(i)]**

**Example**

'Big Agro Handlers' furnishes the following details with respect to the activities undertaken by them in the month of June, 2013:

S. No.	Particulars	Amount (₹)
(i)	Supply of farm labour	58,000
(ii)	Warehousing of biscuits	1,65,000
(iii)	Sale of rice on commission basis	68,000
(iv)	Training of farmers on use of new pesticides and fertilizers developed through scientific research	10,000
(v)	Renting of vacant land to a stud farm	1,31,500
(vi)	Testing undertaken for soil of a farm land	1,21,500
(vii)	Leasing of vacant land to a poultry farm	83,500

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Compute the service tax liability of 'Big Agro Handlers' for the month of June, 2013. Assume that the point of taxation in respect of all the activities mentioned above falls in the month of June, 2013 itself.

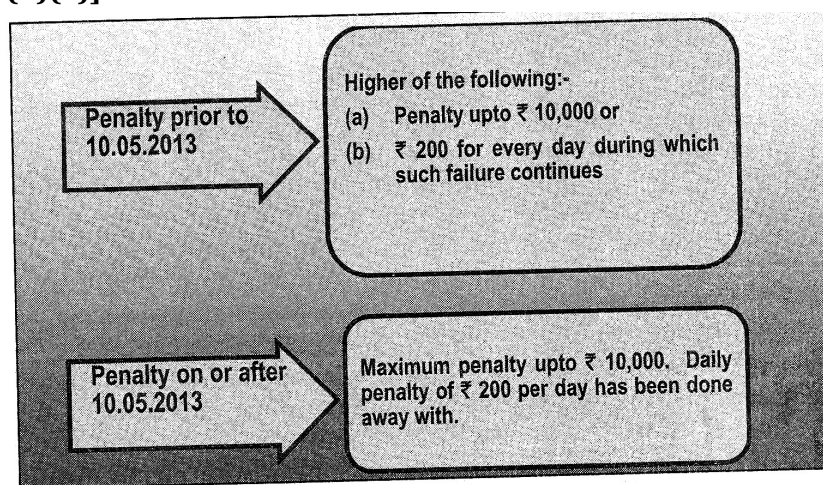
'Big Agro Handlers' has paid service tax of 6,18,000 during the Financial Year 2012-13.

**Solution:**

### Computation of service tax payable by Big Agro Handlers for June, 2013

S. No.	Particulars	Amount (₹)
(i)	Supply of farm labour [Note 1]	-
(ii)	Warehousing of biscuits [Note 3]	1,65,000
(iii)	Sale of rice on commission basis [Note 1]	-
(iv)	Training of farmers on use of new pesticides and fertilizers developed through scientific research [Note 1]	-
(v)	Renting of vacant land to a stud farm [Note 2]	1,31,500
(vi)	Testing undertaken for soil of a farm land [Note 1]	-
(vii)	Leasing of vacant land to a poultry farm [Note 2]	-
<b>Total</b>		<b>2,96,500</b>
<b>Service tax @ 12.36% (rounded off)</b>		<b>36,586</b>

4. **Maximum penalty for failure to obtain registration restricted to ₹ 10,000 [Section 77(1)(a)]**



### Example

A Ltd. starts an advertising agency on April 1, 2013. The details of the bills raised by it during April to June, 2013 are given as under:

Bill No.	Date	Value of taxable services (₹)
1.	05.04.2013	82,500
2.	11.04.2013	95,000
3.	18.04.2013	1,65,000
4.	28.04.2013	95,000
5.	13.05.2013	2,75,000
6.	15.05.2013	1,68,000
7.	30.05.2013	1,07,000
8.	01.06.2013	82,500
9.	17.06.2013	89,500
10.	25.06.2013	47,600

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A Ltd. applies for registration on 22.08.2013. Is A Ltd. at any default? If yes, what are the penal consequences?

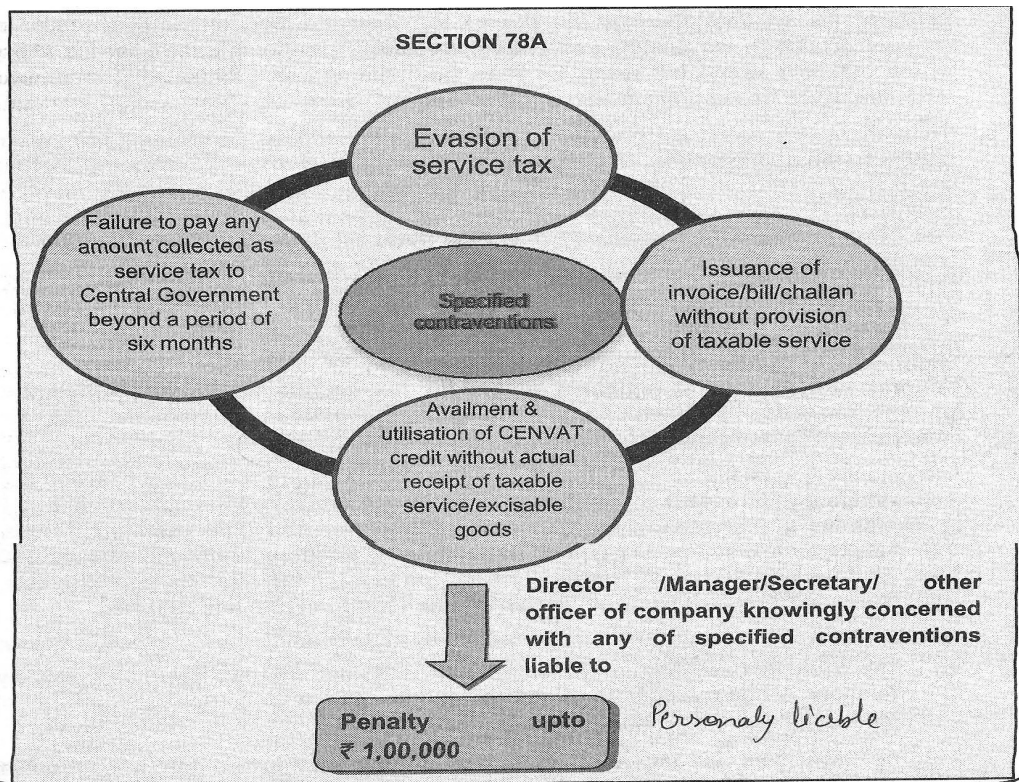
**Solution:** Since A Ltd. has started its business in the year 2013-14, it would be entitled for small service providers exemption available under Notification No. 33/2012 ST dated 20.06.2012. Thus, A Ltd. will be exempt from paying service tax on the taxable services of aggregate value up to ₹ 10 lakh.

However, section 69 of the Finance Act, 1994 read with the Service Tax (Registration of Special Category of Persons) Rules, 2005 provides that a provider of taxable service whose aggregate value of taxable services in a financial year exceeds ₹ 9,00,000 has to make an application for registration within a period of 30 days of exceeding the aggregate value of taxable service of ₹ 9,00,000.

The aggregate value of taxable services of A Ltd. exceeds ₹ 9,00,000 on 30.05.2013 when it issues Bill No. 7 of ₹ 1,07,000. Thus, A Ltd. should apply for registration on or before 29.06.2013. However, the application for registration is made on 22.08.2013. Thus, there is delay of total 54 days.

A Ltd. will, therefore, be liable to a penalty which may extend to ₹ 10,000. Under the old provisions of section 77(1)(a), A Ltd. would have been liable to a penalty of ₹ 10,800 [₹ 10,000 or ₹ 200 x 54 days, whichever is greater].

5. Imposition of personal penalty on director, manager, secretary, or other officer found to be knowingly concerned with specified contraventions [New section 78A]



6. Tribunal empowered to condone the delay in filing of an appeal by the assessee [Section 86(5)] after the expiry of the statutory period for filing the same i.e. 4 months.
7. Non-payment of amount collected as service tax beyond six months, when the amount exceeds ₹ 50 lakh, to be a cognizable offence punishable with an imprisonment extendible to seven years [Section 89 and 90]