

CHAPTER V

SERVICE TAX

Amendment of Act 32 of 1994. **112.** During the period commencing on and from the 16th day of July, 1997 and ending with the 1st day of August, 1998, the provisions of Chapter V of the Finance Act, 1994 shall be deemed to have had effect subject to the following modifications, namely:—

(a) in section 65,—

(i) for clause (6), the following clause had been substituted, namely:—

'(6) "assessee" means a person liable for collecting the service tax and includes—

(i) his agent; or

(ii) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent; or

(iii) in relation to services provided by a goods transport operator, every person who pays or is liable to pay the freight either himself or through his agent for the transportation of goods by road in a goods carriage;";

(ii) after clause (18), the following clauses had been substituted, namely:—

'(18A) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988;

(18B) "goods transport operator" means any commercial concern engaged in the transportation of goods but does not include a courier agency;";

(iii) in clause (48), after sub-clause (m), the following sub-clause had been inserted, namely:—

"(ma) to a customer, by a goods transport operator in relation to carriage of goods by road in a goods carriage;";

(b) in section 66, for sub-section (3), the following sub-section had been substituted, namely:—

"(3) On and from the 16th day of July, 1997, there shall be levied a tax at the rate of five per cent. of the value of taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (ma), (n) and (o) of clause (48) of section 65 and collected in such manner as may be prescribed;";

(c) in section 67, after clause (k), the following clause had been inserted, namely:—

"(ka) in relation to service provided by goods transport operator to a customer, shall be the gross amount charged by such operator for services in relation to carrying goods by road in a goods carriage and includes the freight charges but does not include any insurance charges;";

Validation of certain action taken under Service Tax Rules.

113. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, sub-clauses (xii) and (xvii) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994 as they stood immediately before the commencement of the Service Tax (Amendment) Rules, 1998 shall be deemed to be valid and to have always been valid as if the said sub-clauses had been in force at all material times and accordingly,—

(i) any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 16th day of July, 1997 and ending with the day, the Finance Act, 2000 receives the assent of the President shall be deemed to be valid and always to have been valid for all purposes, as validly and effectively taken or done;

(ii) any service tax refunded in pursuance of any judgment, decree or order of any court striking down sub-clauses (xii) and (xvii) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994 before the date on which the Finance Act, 2000 receives the assent of the President shall be recoverable within a period of thirty days from the date on which the Finance Act, 2000 receives

the assent of the President, and in the event of non-payment of such service tax refunded within this period, in addition to the amount of service tax recoverable, interest at the rate of twenty-four per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.