

SUMMARY OF TAXABLE SERVICES

	Name of service	Coverage		Included services	- Excluded (Not Covered) - Exemption (Covered but CG given exemption for time being)
		Sr Provider	Sr Receiver		
(1)	Architect service	Architect [Registered Architect]	A Client	Any service in professional capacity	
(2)	Practicing CA Service	Practicing CA [Individual (member + Holding CoP) & Any concern ----- engaged in rendering services in the field of Chartered Accountancy]	A Client	Any service in professional capacity	<u>Exemption[CA/CS/CWA]</u> Representational services (service of representing client before any statutory authority) shall be exempt from service tax if it relates to ⇒ proceedings initiated by the statutory authority under any law ⇒ by way of issue of notice [E/N 25/2006]
<u>Discuss the ST liability of a PCA in respect of following services rendered by him:</u> 1) Service of Audit, A/cs Writing, IT Return Preparation and filing etc. → These services are covered under this category – ST Payable 2) CA edits a journal published a Taxman and receives payment for that. → This service is covered under this category – also not covered elsewhere ---- No ST Payable 3) CA gives coaching to students and receives payment for that. → This service is covered under this category – but covered elsewhere (under category of Commercial Training and Coaching Centre Service) --- thus, ST Payable 4) Mr A has not paid Income Tax. ITO has issued a notice u/s 148 to Mr A for assessing income escaping assessment. Mr has approached CA DG (the renowned PCA) to represent him before the ITO. → This service is covered under this category – but fully exempted at present --- thus, no ST Payable 5) Mr A has approached CA DG to prepare a representation seeking exemption from excise duty on the product manufactured by it and to explain circumstances of exceptional nature to the Joint Secretary concerned in Ministry of Finance. → This service is covered under this category – not covered by exemption (as representation is not respect of any proceedings initiated by notice) --- thus, ST Payable					
(3)	Consulting engineer service	Consulting Engineer i) Professionally Qualified	A Client	Advice <u>or</u> Consultancy <u>or</u> Technical Assistance in Any Discipline of Engineering <u>Including Computer Hardware Engineering</u>	<u>Exemption</u> If a service is provided that includes transfer of technology, then the

		Engineer ii) Any Body [e.g. TCS] Corporate iii) Any Other Firm		<u>but excluding Computer Software Engineering</u>	service provider shall get exemption equivalent to the amount of cess paid on the transfer of technology under the provisions of R & D Cess Act, 1986. e.g., An Engg firm provides engineering consultancy on transfer of technology to a client. The taxable value of consultancy is Rs 1,00,000/-. Assume that the R&D Cess liable to be paid on transfer of technology in this case is Rs 5,000/-. The firms liability to ST would be calculated as follows: <u>ST liability</u> = Normal ST (1,00,000 * 12.36%) – 5,000 = Rs 7,360/-
(4)	CHA (Customs House Agent) Service	Customs House Agent	A client	⇒ Entry or Departure of Conveyance ⇒ Import or Export of Goods <u>Services covered:</u> 1) Service of filing IGM/EGM for a shipping company; 2) Obtaining “Entry Inward” / “Entry Outward” for the shipping company 3) Arranging for loading of cargo for the client exporter; 4) Filing Bill of Entry / Shipping Bill and getting customs clearance for goods of client	
(5)	Interior decorator service	Interior Decorator (It includes ⇒ <u>Landscape designer</u>)	A Client	Planning <u>or</u> Designing <u>or</u> Beautification of <u>spaces</u> . [Spaces= Open Space (Garden) or Closed Space (Room)] <u>Services covered:</u> <u>VAASTU or FENG-SHUI Service also covered</u> (as these relate to planning of spaces)	
(6)	Management or Business Consultancy Service [FA, 07(A)]	Management or Business Consultant [No particular qualification necessary]	A client	Management Consultancy It covers services of advice, consultancy or technical assistance in relation to : -Marketing Management -Production Mgmt - IT Resources Mgmt, Financial Mgmt, Human resource Mgmt	

				- Other similar areas of Mgm	
(7)	Manpower Recruitment / Supply Service	Manpower Recruitment / Supply Agency [Any person engaged in providing any service in any manner for recruitment or supply of manpower]	A client	Recruitment or Supply of Manpower (whether permanent or temporary) <u>Services covered:-</u> 1) A nursing home proposes to recruit trained nurses who have obtained training from recognized training institutes and have minimum 2 years working experience in nursing. The nursing home approaches an agency which agrees to screen the candidate, short-list them and supply nurses to nursing home.--- Taxable 2) A patient suffering from diabetes is critically ill. He is advised to be under care of a trained nurse for a month. An agency provides a trained nurse temporarily for a period of 1 month --- Taxable [Labour Contractor supplying labour on temporary basis (either for a particular period or for a particular project) also covered] 3) Educational Institutes such as IITs/ IIMs charge a fee from prospective employers like corporate houses/ MNCs, who come to the institutes for recruiting candidates through <u>campus interviews</u>. Whether charges recovered for this are also subject to ST?- <u>Master Circular (2007):-</u> Such institutes also fall within the definition of “Manpower Recruitment or Supply Agency”—so they also subject to ST	
M/s Renu Consultants are <u>a labour contractor</u> of manpower to M/s Sun Creations. They charge to the principal employer for the wages of their labour which amounts to Rs 1,20,000 plus their service charges of Rs 12,000 for arranging the labour. The issue is whether service is payable on the gross amount charged by them or only their charges for labour. Examine the case. ST is payable on the “value of taxable service” which shall be determined with reference to Sec 67 of the FAT, 1994. Sec 67 provides that value of taxable service shall be the gross amount charged by the service provider for the service. M/s Renu Consultant is providing the service of supply of manpower. In relation to their service, they have charged Rs 1,32,000 in totality which is inclusive of Rs 1,20,000 payable by them to labour as wages. CBEC in this context has clarified that the value shall include recovery of staff costs from the recipient e.g., salary and other contributions. Thus, M/s Renu consultant shall be liable to pay service tax on Rs 1,32,000/-. [<i>same view endorsed in PANTHER DETECTIVE SERVICES- 2007- TRIBUNAL</i>] Note: Whether there would be in any change in your answer if agreement provides for direct payment of Rs 1,20,000 by client to the staff and only Rs 12,000 is paid to M/s Renu Consultants, the manpower recruitment or supply agency? NO, CBEC has clarified that “even if agreement does not involve the recipient paying these staff costs to the supplier/service provider (because the salary is paid directly to the individual or the contributions are paid to the respective authority) these amounts are still part of the consideration and hence form part of the gross amount”.					
(8)	Real estate agent service	Real Estate Agent [Who renders service in relation to ⇒ <u>Sale, Purchase,</u> ⇒ <u>Leasing/ Renting</u> of real estate and includes --- Real Estate Consultant]	A Client	Real Estate <u>Services covered:-</u> 1. An industrial firm approaches real estate agent to assist in bargaining for price of piece of land. The assistance offered by the real estate agent is a service in relation to sale/purchase and thus, subject to ST. 2. A MNC Company asks a real estate consultant to advise on the site for a proposed SEZ. The service rendered by real estate consultant is taxable.	

(9)	Franchise Service	A franchisor	A franchisee	A franchise [Franchise means an agreement by which franchisee is granted representational right ⇒ to <u>sell</u> or <u>manufacture</u> goods or to <u>provide service</u> identified with franchisor.] <u>Services covered:</u> 1. McDonald Franchise.(right to manufacture and sell goods) 2. Shahnaz Hussian Franchise (right to sell goods) 3. NIIT Franchise (right to provide service) CBEC Circular: Franchise is broader term. It covers even “License Production Agreement” – as provisioning of Know-how is not mandatory requirement of an agreement to be a franchise agreement.	
(10)	Intellectual Property Right (IPR) Service	Holder of IPR	Any Person	Intellectual Property Service [it covers (a) transferring IPR (excluding copyright), <u>temporarily</u>; or (b) permitting the use or enjoyment of IPR (excluding copyright)] <u>Services covered:</u> 1. A pharmaceutical company allows a process invented by it to be used by another company. The transferor company charges Rs 50 lakhs per year for use of its process for a period of 5 years. This transaction is subject to ST (since it is a case of temporary transfer of IPR)	<u>Services not covered:</u> 1. A shoe making company makes shoes bearing its trademark. It sells the trademark to another company on a one-time payment basis for Rs 50 lakhs. The transaction is not subject to ST (since it is a case of permanent transfer of IPR)
(11)	Mailing list compilation &/or mailing service	Any person	Any Person	<u>Mailing List Compilation</u> and <u>Mailing</u> [It covers any of the following: ⇒ Compiling and providing list of name, address etc. ⇒ Sending <u>document</u>, <u>information</u>, <u>goods</u> in a packet, by addressing, stuffing, sealing, metering or mailing <u>Services covered:</u> 1. Bank selling data to Telecom Co.(compilation of list) 2. Telecom Co selling data to Insurance Co. (compilation of list) 3. Google selling data to Tata Teleservices (compilation of list) 4. XYZ Ltd mailing AGM Notice to shareholders of RNRL (mailing sr)	
(12)	Market Research	Market	A Client	Market research of any Product, Service	

	Service	Research Agency		[both customized or syndicated research] <u>Services covered:</u> 1. Noodle manufacturing company engaged an agency to do market research in order to find out how people will respond to its new product, namely, atta noodles (<i>customized research</i>) 2. Three Cigarette Companies jointly engages an agency to undertake a survey in order to know the smoker's response to switch from biris to cigarette if retail price thereof are reduced by 60% (<i>syndicated research</i>)	
(13)	Opinion Poll Service	Opinion Agency Poll	Any Person	Opinion poll <u>Services covered:</u> 1. A TV channel has engaged an agency to conduct a public survey to find out who is the best teacher of IDT (response was DG).	
(14)	Public Relation Service	Any person	Any Person	Managing Public Relations of such person. [Public relations include corporate image management, media relations, press release, press conference, brand support, brand launch, retail support and promotions, crisis communication.] <u>Services covered:</u> 1. A MNC engages an agency to prepare press releases to inform people on its current activities, further diversifications policies and of marketing strategies. The service provided by agency is covered under this category. 2. A Telecom Company launches a new mobile phone and SRK charges Rs 1 crore to be present in the press conference and answers the questions. SRK has rendered service liable to ST under this category (<i>brand support</i>)	
(15)	Scientific & Technical Consultant Services	1) Scientist or Technocrat 2) Scientific or Technical Institution [IIT= Technical Institution] [National Science Laboratory = Scientific Institution]	A client	Scientific & Technical Consultancy. [Advice, consultancy, or scientific or technical assistance, in any disciplines of science or technology] <u>Services covered:</u> 1. A chemical plant engages a scientist of National Chemical Laboratory to advise them on how to use the effluent treatment plant more efficiently. The service rendered is taxable under this category. 2. A shoe factory consults the Central Leather Institute to advise them on processes to be modified to reduce wastage in the manufacture of shoes. The service provided by Central Leather Institute is taxable under this category.	<u>CBEC Clarification:</u> Service rendered by Doctors – not covered (as these are not understood as Scientist in common parlance) – their service is “medical service” which is not taxable
(16)	Technical testing & analysis service	Technical Testing & Analysis Agency	Any Person	Technical Testing & Analysis of Goods, Material, Process, Immovable Property Excluding:- technical testing and analysis in relation to <u>Human Beings and Animals</u>.	

				<u>Explanation:</u> For the removal of doubts, it is hereby declared that “technical testing and analysis” shall include -- the testing and analysis undertaken for the purposes of clinical testing of drugs and formulations. <u>Services covered:</u> 1. Testing of samples of various edible oil by National Chemical Laboratory (<i>Chemical Testing</i>); 2. Testing of samples or iron beams to determine the level of stress it can bear (<i>Physical Testing</i>); 3. A manufacture produces gas heaters and asked an agency to test for safety standards; 4. Service of Bio-Con to Ranbaxy in relation to clinical testing of “new cancer drug” [<i>However Exemption is available</i>]; 5. Service of XYZ Ltd to a medicine manufacturing company as to clinical testing of a new drug formulated for ailments of dog [<i>Exemption is not available—ST payable also</i>];	<u>Services not covered:</u> 1) A pathological laboratory [Dr LalPath / SRL] undertakes testing of urine to detect the presence of inspection causing pain in the stomach of a patient. It is not covered; <u>Services Exempted</u> • Testing of WATER quality by a Government owned State/District Level Laboratory • <u>Exemption to clinical testing of new drugs</u> Clinical testing service provided or to be provided by a Clinical Research Organization (CRO- organization approved by the Drugs Controller General of India) in relation to testing and analysis of newly developed drugs (including vaccines and herbal remedies) on human participants shall be exempt [E/N 11/2007]
(17)	Business Auxiliary Service	Any Person	A Client	<u>Business Auxiliary Service</u> It covers any service in relation to: (1) Promotion or Marketing or Sale of GOODS of client; or (2) Promoting or marketing of SERVICES provided by client; or (3) Any CUSTOMER CARE SERVICE provided on behalf of the client; or (4) PROCUREMENT OF GOODS OR SERVICES FOR THE CLIENT; or (5) PROCESSING OF GOODS for, or on behalf of, the client (where such processing doesn't amount to manufacture	<u>Services not covered:</u> 1. A computer software company designs a computer network for a departmental store and maintains it for inventory control, sale and purchase of goods (<i>It being an IT service</i>); <u>Certain J/W Exempt E/N 21/2005:</u> Processing services of Job-worker in relation to i) Agriculture; ii) Printing; iii) Textile Processing iv) Education

			under Excise); (6) PROVISIONING OF SERVICE on behalf of client; (7) Service incidental or auxiliary to above activities (such as billing, issue, collection or recovery of cheques, maintenance of accounts and remittances, inventory management etc) (8) Services as a COMMISSION AGENT → [Explanation: Commission Agent means any person who acts on behalf of another person and causes → sale or purchase of goods for a consideration; or → provision or receipt of service for a consideration.] But it shall not cover: IT (Information Technology) Service Services covered: 1. Selling Agent finding out buyer for goods of Mr A on commission basis (<i>Promoting goods of other person</i>); 2. Sachin Tendulkar wears a T-Shirt sporting an “Addidas” logo playing cricket match. (<i>Promoting goods of other person</i>); 3. An outdoor caterer provides services of outdoor catering for supply of food and beverages. An agency enters into an agreement with the outdoor caterer to book orders and maintains accounts for supplies and arranges to deliver food and beverages to the customers (<i>Promoting services of other person</i>); 4. HDFC provides loans for houses. It engages an agency (commonly known as DSA) to procure orders through a network of executives who contact people on phone to give detailed information about the loan facilities and impress upon them the advantage of taking loan from HDFC. The agency provides service to promote the loan service of HDFC. (<i>Promoting services of other person</i>); 5. Bharati Airtel has engaged an agency to provide a helpline to its customers for booking complaints and forwarding them to the company (<i>Customer Care services provided on behalf of client</i>); 6. Buying Agent finding out seller for goods needed by Mr A on commission basis (<i>Procurement of goods for client</i>);	E/N 21/2005: Processing services of Job-worker in relation to ii) Cut and polished diamonds and gem stones ; or iii) Jewellery of Gold and other precious metals E/N 8/2005: When after processing goods are returned to the supplier and the supplier will be using the processed goods for use in or in relation to manufacture of “<u>excisable goods which are dutiable also</u>” then, J/Worker can claim 100% exemption. Commission Agent exempt Services of Commission Agent in relation to agricultural produce (like, cereals, pulses, fruits, vegetables, spices, sugarcane, rice, coffee, tea etc) are 100% exempt.
Certain Issues: 1) Mutual Fund Distributors selling units of Mutual Fund: Whether their service is “business auxiliary service” falling within meaning of “promotion or marketing or sale of goods of client” and thus, liable to ST. --- Yes [Mutual Fund units are “goods” and thus, mutual fund distributors are definitely rendering service in relation to promotion, marketing or sale of goods of client] Their service is “business auxiliary service” and thus, liable to ST. [CBEC Circular 2007] 2) Agents selling Lottery Tickets: Whether their service is “business auxiliary service” falling within meaning of “promotion or marketing or sale of goods of client” and thus, liable to ST. [CA Final, May 2008] MARTING LOTTERY AGENCIES LTD. – 2007- SIKKIM HC: “Lottery tickets are actionable claims and not “goods” as upheld by SC (in a case relating to Sales Tax Matter). Therefore, as such, any service in relation to promotion or marketing or sale of lotteries is not liable to ST.				

				i) Mr A is collecting the goods from factory – storing them – and then forward them to buyers as per direction from mfrer → Services are covered under the category of “C & F Agent Service”. – as he is performing clearing and forwarding operations ii) Goods delivered to Mr A by the mfrer—Mr A stores them – and then forward them to buyers as per direction from mfrer ----- <u>MEDOPHARMA (P) LTD. – 2006 – TRI (Larger Bench)</u> — The term “clearing and forwarding service” shall be understood as “clearing or forwarding service” --- thus, his case falls under this category and liable to ST.	sales of product of Mr B. The orders procured are forwarded to Mr B. Mr B dispatches the goods to the buyers, raises invoices and collects payment. Mr A is paid commission for his services of procurement of orders and development of orders for Mr B. → Service of Mr A is not that of C& F Agent, and thus, not taxable under this category. However, his service will fall under “Business Auxiliary Service” (he is pure commission agent)
(22)	Residential complex construction service	Any person	Any Person	<u>Construction of Residential Complex</u> [Note: Residential building is != residential complex]	<u>67% Abatement Benefit Available [E/N 1/2006]</u> • <u>2 Basic Conditions</u> • Benefit of E/N 12/2003 (exempting value of inputs) is not availed. • Cenvat credit of Input, Capital Goods, Input Services is not availed. • <u>2 additional Conditions</u> • GAC shall include value of goods/materials used in construction (whether supplied by service receiver or by Constructor) • Sr Activity is not only that of “completion and finishing activity”

Step-1: RESIDENTIAL COMPLEX

means --- **any complex** comprising^(“consisting”) of —

- (i) **A building or buildings**, having **more than 12 Residential Units**
- (ii) A common area; and
- (iii) Any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system, located within a premise and the layout of such premises is approved by an authority under any law for the time being in force,

but does not include --- **a complex which is intended for personal use** as residence of service receiver.

[Explanation: “Residential Unit” means a single house or a single apartment intended for use as a place of residence.]



Step-2: CONSTRUCTION

Construction covers:

- i. **Construction** of a new residential complex or a part thereof; **or**
- ii. **Completion and finishing services** in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall papering, fencing and railing, carpentry and other similar services; **or**
- iii. **Repair, Alteration, Renovation or Restoration** of, or similar service in relation to, residential complex.

Services covered:

1. A builder engages a contractor to construct a complex consisting 20 residential units the layout of which has been approved by DDA. The service provided by contractor is taxable.
2. A builder has a plan to construct a residential complex comprising of 30 residential unit. He awards the contract to 6 contractors, each contractor to construct 5 residential units. In this case, each contractor is liable to ST even though each constructs less than 12 residential unit. (construction of part of residential complex)
3. 10 years ago, a Group Housing Society had constructed a residential complex of 30 residential units. The society has now engaged a contractor to provide floor tiling in residential complex. The service is also taxable.
4. A developer advertises for construction of a residential complex comprising of 100 residential units on a plot of land acquired by him from the Haryana Urban Development Authority (HUDA). He invites application for membership on payment of the price of the residential complex in installments. **It can be argued** that the developer is providing service to individual members in relation to construction. However, developer is not liable to pay ST on the services provided by him to individual members. This is for the reason that he provides service to an individual member for the construction of single residential unit and not construction of a “residential complex”. It is only when a person provides the service of construction of a “residential complex” comprising more than 12 residential unit that the service is taxable.

Service tax on promoter or developer: Master Circular

1. DG & Company is a builder of residential complexes. DG & Co engages a contractor, SRK & Co. for construction of a residential complex in Chennai. In this case, SRK & Co are liable to pay service tax and not DG & Co. this is for the reason that it is SRK & Co who is providing service to DG & Co. [The same applies if DG & Co were a developer or promoter].
2. In the above example, assume that DG & Co undertake construction on their own without engaging the services of any other person, then the service provided by DG & Co would be in the nature of self-supply of service and in the absence of any relationship of service provider and service receiver, the question of paying service tax does not arise..

Computation of ST liability:

1. A contractor **builds a residential complex** comprising 30 residential units for a developer. The contractor charges Rs 1,00,000 towards labour charges and Rs 10,00,00 towards the cost of material used in respect of each unit. The contractor can discharge his ST liability **availing the abatement benefit** [by paying ST calculated on [33% of Rs 11,00,000].
2. A residential society comprising 30 residential units engages **a contractor to provide for wooden walls** (1 m height) in each members drawing room. The contractor charges Rs 1000 as the cost of wood and Rs 300 as his labour charges in respect of each drawing room. The contractor is **not entitled to abatement benefit** because exemption does not apply to finishing service.
3. A residential complex comprising 40 residential units engages **the services of a contractor to repair the defects** leading to seepage of water during the rainy season. The contractor charges Rs 500 including all costs and labour in respect of each house. In this case, the contractor **can avail abatement benefit** because repair is not excluded from its purview.

(23)	Commercial/ industrial construction (including pipeline)	Any person	Any Person	Commercial & Industrial Building Construction including → <i>Civil Structure Construction and Pipeline Construction)</i> but excluding Construction of : → <i>Roads</i> → <i>Airports, Railways, Transport terminal, Bridges, Tunnel , Dam</i> <i>[Construction covers: All activities as mentioned in case of construction of Residential Complex]</i>	<u>67% Abatement Benefit Available [E/N 1/2006]</u> (same as above) <u>Construction of flat by developer on its own and then selling them off</u> – this activity is “sale” and not “service” – no ST [K RAHEJA DEVELOPMENT CORP – 2005- SC] <u>Exempted Service:</u> <u>Construction service (only civil work) of PORT</u> shall be exempt [E/N 25/2007]
(24)	Site Preparation service	Any person	Any Person	Site formation , Clearance, Excavation, Earth-moving, Demolition, Other similar Service	<u>Service exempted when provided in relation to:</u> - Roads - Airports, Railways, Transport terminal, - Bridges, Tunnel , Dam <u>PORT</u>
(25)	Banking & other financial services	1) Banking Company 2) Financial Institution (including NBFC) 3) Any other Body Corporate 4) Any Commercial Concern 5) Foreign Exchange Broker	A Customer	<u>Banking & Other Financial Services</u> “Banking and Financial Services” means: <u>(a)</u> the following service provided by a <u>Banking Company</u> or a <u>Financial Institution</u> (including NBFC) or <u>Any Other Body Corporate</u> or <u>Commercial Concern</u> (1) <u>FINANCIAL LEASING Services</u> (including equipment leasing and hire-purchase); (2) <u>Merchant Banking Services</u>; (3) <u>Securities and Foreign Exchange Broking</u>; (4) <u>Asset Management Services</u> (including portfolio management, all forms of fund management, custodial and depository services) <u>but excluding cash management</u>; (5) <u>Advisory and other auxiliary services</u> (including investment and portfolio research and advice, advice in mergers and acquisitions and advice on corporate restructuring (6) <u>Provision and transfer of information and data</u>	<u>Valuation of Service</u> 1. <u>Lending Service</u> → Interest Element shall not form part of TV (Rule 6 of ST Valuation Rules, 2006) --- However, file charges or other charges shall form part of TV. 2. <u>Lease/ Hire Purchase Financing</u> → TV shall be 10% of (Lease Management/Documentation Fee + Interest Amount] (bcoz of E/N) <u>Exempted Service</u> 100% Exemption when provided to CG/ SG in relation to collection of duties and taxes levied by Govt.

			processing; (7) Banker to an issue service (8) Other financial services, namely → Lending → Issue of DD/ Pay Order/ Letter of Credit, → Providing Bank Guarantee/ Overdraft Facility/ Bill Discounting Facility, → Providing safe deposits / lockers, → Operation of Bank Accounts, → Money Transfer Facility (Telegraphic Transfer / Mail Transfer / Electronic Transfer) <u>(b)</u> Foreign Exchange Broking service provided by → a Foreign Exchange Broker Other than those covered under (a).	
<u>Latest Issues</u> <u>Issue 1: Whether service of “Money Changers” is covered as foreign-exchange broking?</u> <u>Ans:</u> CBEC Circular (2007): ‘Money changing’ and ‘foreign exchange broking’ are two distinct activities. Money changing is an activity of sale and purchase of foreign exchange at the prevalent market rates. On the other hand, foreign exchange broking is the activity performed as an intermediary, on a commission/brokerage basis, for facilitating the clients who wish to buy or sell foreign exchange. The foreign exchange broker providing foreign exchange broking service does not hold title to the foreign exchange. Accordingly, ST is not leviable on money changing per se, as such activity does not fall under the category of foreign exchange broking. <u>Issue 2: Whether service of “Chit Fund” is covered under this category?</u> iv. <u>Simple Chit Funds:</u> In this case, members agree to contribute the fund a certain amount at regular interval. Lots are drawn periodically and the member, whose name appears, gets the periodical collection. No separate charge is charged from the members. (b) <u>Business Chit Funds:</u> In this case, there is a promoter known as foreman who draws up the terms and conditions of the scheme and enrolls subscribers. Every subscriber. Every subscriber has to pay his subscription in regular installments. The foreman charges a separate amount for the services provided. Some states prescribe a ceiling limit for the amount to be charged by such promoter for the services provided. Commission amount is retained by the promoter as consideration for providing the services in relation to Chit Fund. <u>CBEC Circular (2007):</u> RBI has clarified the business of a Chit Fund is to mobilize cash from subscribers and effectively cause movement of such cash to keep it working and, therefore, the activity of Chit Fund is in the nature of cash management. v. In case of <u>Simple Chit Funds</u>, no consideration is paid or received for the services provided and, therefore, the question of levy of ST does not arise. vi. In the case of <u>Business Chit Funds</u>, cash management is provided for a consideration and therefore, leviable to ST under “Banking & Financial Service”. <u>Issue 3: Whether depository services and Electronic Access to Securities Information (EASI) provided by CDSL is liable to ST under “Banking & Financial Service”?</u> <u>CBEC Circular (2007):</u> ‘Definition of “Banking & Financial Service” specifically includes “provision and transfer of information and data business”. Services provided by CDSL falls within the scope of ‘provision and transfer of information and data processing’. These services are not in the nature of “on-line information and database access or retrieval”. Therefore, the depository services provided for a fee are liable to ST under Banking & Financing Service. <u>Issue 4: Whether Service tax is leviable on ‘asset management and all other forms of fund management’ under the category of ‘banking and other financial service’. In this context a question has arisen as to whether the service tax would be chargeable on the ‘entry and exit load’ amount charged by a mutual fund to the investor?</u> <u>CBEC Circular (2007):</u> In terms of the Tenth Schedule to the SEBI (Mutual Fund) Regulation, 1996, the initial issue expenses are amortized over a period of the scheme, and the entry and exit load charges are paid by the investors to the fund to meet these expenses. Any unamortized portion of expenses is included in calculation of NAV. Hence, entry and exit load charges are not towards fund management service provided by the AMC but to meet the initial issue expense and other specified expenses, incurred by the mutual fund. It is accordingly clarified that “entry and exit load” charged by mutual fund would not attract service tax levy under the				

	<i>category of fund management service.</i>			
(26)	Stock broker service	Stock Broker [including sub-broker]	Any Person	Sale / Purchase of Listed Securities <u>Services covered:</u> i) Stock-Broker ----- → Investor (Purchaser) → Service of stock broker is covered under this category – ST Payable ii) Stock-Broker----- → Sub-Broker----- → Investor → Service of sub- broker to investor is covered under this category (as sub-broker is covered by definition of stock-broker) – ST Payable → Service of stock-broker (main broker) to sub- broker is also covered under this category (as service to ANY PERSON is covered by definition of stock-broker) – ST Payable by main broker also iii) Stock-Broker ----- → Investor [BSE] ↑ ↓ Stock-Broker [NSE] → Service of BSE broker to investor is covered under this category) – ST Payable → Service of NSE broker (main broker) to BSE broker is also covered under this category (as service to ANY PERSON is covered by definition of stock-broker) – ST Payable by NSE broker also
(27)	Transport of goods by air service	An Aircraft Operator	Any person	Transport of goods by air <u>Services covered</u> 1. Indian Airlines provides the service of transporting cargo from New Delhi to Chennai. Indian Airline charges Rs 200 per kg for transport of such cargo. Indian Airline is liable to ST.
(28)	Transport of goods In containers by rail service	Any person (Other than Govt Railway)	Any person	Transport of goods ⇒ in container ⇒ by rail <u>Services covered</u> 1. An importer uses the services of CONCOR for the transport of his cargo in containers from Mumbai in ICD Delhi. Since CONCOR is not a Government Railway Service, it is liable to pay service tax on the service provided to the importer.

Exemption: 100% exempt when in relation to transport of export cargo.

Exemption:

- **70% Abatement Benefit Available**
[2 Basic Conditions to be fulfilled]

[E/N 1/2006]

(29)	Transport of goods by road service	Goods Transport Agency	Custom er	Transport of goods -- by road - -- in <u>goods carriage</u> <i>[Rail is not a goods carriage – Hence, railway transportation is not covered here, but that service is also taxable separately]</i>	<u>Exemption:</u> (1) ST exempt when provided in relation to transport of <u>Fruits, Vegetables, Eggs or Milk</u> . (2) When provided in relation to transport of goods (other than Fruits, Vegetables, Eggs Or Milk), ST exempt in any of the 2 situations: <i>I) When Gross Amount charged (freight amount) for <u>an individual consignment consignment</u> is upto Rs 750/- (Individual Consignment)</i> or <i>ii) When Gross Amount charged (freight amount) for <u>all the consignments</u> carried in a goods transport carriage is upto 1500/-, (Fully Loaded Truck)</i> (3) <u>75% of Taxable Value Exempt</u> <i>[E/N 13/2008]</i> [No conditions attached – this is an unconditional exemption]
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Reverse Charge [Rule 2(1)(d)(v) of ST Rules, 1994]

<u>In relation to</u>	<u>Person liable for payment of ST shall be</u>
<u>Goods Transport Service</u> provided or to be provided by GTA --- Where either Consignor or Consignee falls under any of following: a) Any factory registered under Factories Act, 1948; b) FSD // SSD ; c) Any society registered under the Societies Registration Act, 1860; d) Registered partnership firm; e) Any company established under the Companies Act, 1956; f) Any corporation established under any law; g) Any Body Corporate established under any law; h) Any co-operative society;	<u>the person paying the freight</u> [whether consignor or consignee];

<u>“FREIGHT PAID” Bilty</u>	<u>Person liable for payment of ST</u>
I) ABC Ltd -----→ DEF Ltd	GTA ABC Ltd
II) ABC Ltd -----→ Mr A	GTA ABC Ltd
III) Mr A -----→ DEF Ltd	GTA Mr A
IV) Mr A -----→ Mr B	GTA
<u>“FREIGHT TO BE PAID” Bilty</u>	
I) ABC Ltd -----→ DEF Ltd	GTA DEF Ltd
II) ABC Ltd -----→ Mr A	GTA Mr A
III) Mr A -----→ DEF Ltd	GTA DEF Ltd
IV) Mr A -----→ Mr B	GTA

Illustrations explaining exemption of GTA:

1 Truck (Full) ---- Carrying goods booked by Mr A ---- Total Freight Rs 600/- Total Truck Load Benefit – Available (as Total Truck Freight = < 1,500) Individual Consignment Benefit --- Available (as Freight =< 750) <i>GTA can claim exemption from angle of “Total Truck Load Benefit”. It can also claim exemption from angle of “Individual Consignment Benefit”. ----- So, effectively it need not pay any ST.</i>	1 Truck (Full) ---- Carrying goods booked by Mr A ---- Total Freight Rs 1400/- Total Truck Load Benefit – Available (as Total Truck Freight = < 1,500) Individual Consignment Benefit --- Not Available (as Freight > 750) <i>GTA needn't claim exemption from angle of “Individual Consignment Benefit”. GTA can claim exemption from angle of “Total Truck Load Benefit”. ----- So, effectively it need not pay any ST.</i>
1 Truck (Full) ---- Carrying goods booked by Mr A ---- Total Freight Rs 700/- ---- Carrying goods booked by Mr B ---- Total Freight Rs 600/- ---- Carrying goods booked by Mr C ---- Total Freight Rs 500/- Total Truck Load Benefit – Not Available (as Total Truck Freight > 1,500) Individual Consignment Benefit --- Mr A's Consignment --- Available (as Freight = < 750) Mr B's Consignment --- Available (as Freight = < 750) Mr C's Consignment --- Available (as Freight = < 750) <i>GTA needn't claim exemption from angle of “Total Truck Load Benefit”. It can claim exemption from angle of “Individual Consignment Benefit”. ----- So, effectively it need not pay any ST.</i>	1 Truck (Full) --- Carrying goods booked by Mr A ---- Total Freight Rs 800/- ---- Carrying goods booked by Mr B ---- Total Freight Rs 1,000/- ---- Carrying goods booked by Mr C ---- Total Freight Rs 500/- Total Truck Load Benefit – Not Available (as Total Truck Freight > 1,500) Individual Consignment Benefit --- Mr A's Consignment --- Not Available (as Freight > 750) Mr B's Consignment --- Not Available (as Freight > 750) Mr C's Consignment --- Available (as Freight = < 750) <i>GTA can't claim exemption from angle of “Total Truck Load Benefit”. It can, however, claim exemption in respect of “Consignment of Mr C” from angle of “Individual Consignment Benefit”. In respect of consignment of Mr A and Mr B, ST is payable.</i>

However, in respect of these two consignments, further benefit of 75% Exemption can be claimed. Thus, amount of ST payable shall be as under:

ST in respect of Mr A's Consignment --- [25% of Rs 800] * 12.36%

ST in respect of Mr B's Consignment --- [25% of Rs 1,000] * 12.36%

Who shall pay service tax to Govt?

Consignment II: Mr A has send goods to Mr Z.

Consignment III: Mr B has send goods to DEF Ltd.

Applicability of 6/2005: Small Scale Exemption

Mr A, a GTA has rendered services of “transportation of goods by road” during FY 2008-09. The details of services rendered are as follows:

Services rendered to Companies (in respect of such services GTA is not liable to pay ST to the credit of CG, rather the corporate client is liable to pay ST to the credit of CG)	Rs 10 lakhs	
Services rendered to Individuals (in respect of such services GTA is liable to pay ST to the credit of CG)	Rs 9 lakhs	

E/N 6/2005 specifically provides that

→ “While computing the **exemption limit of 10 lakhs**, in relation to GTA service,

→ those receipts shall not be taken into account in relation to which liability to pay ST falls on service recipient under reverse charge

(30)	Transport of goods (other than water) Through pipeline or other conduit	Any person	Any Person	Transport of goods (other than water) through pipeline <u>Services Not covered:</u> iv) Transportation of <i>Petroleum Products, Natural Gas, LPG, Chemicals, Coal Slurry and other similar products.</i>	
(31)	Cargo handling service	Cargo Agency Handling	Any Person	Cargo Handling Service [Cargo Handling = Loading, Unloading, Packing or Unpacking of cargo] [“Transportation Activity” is different from “Cargo Handling Activity”] <u>Services covered</u> 1. A <i>packer and mover agency</i> undertakes packaging, loading and unloading of household articles when a person shifts from one house to another. The service provided is taxable as cargo handling service.	<u>Services not covered [CBEC Clarification]</u> 1. Container Freight Stations (CFS) undertake <i>handling of empty containers</i>. It is not taxable as cargo handling service because empty containers are <i>not cargo</i>. <u>Exemption:</u> • Cargo handling service in relation to AGRICULTURAL PRODUCE is exempt.
(32)	Storage and WHing Service	Storage and W/H Keeper	Any Person	Storage and W/Hing of GOODS [Excluding: 1. Cold Storage Services (in relation to any goods) 2. Storage Sr in relation to agricultural produce <u>Services covered</u> <u>Master Circular:</u> Storage and warehousing of empty container would be covered within the scope of “storage and warehousing service”, as empty containers are goods.	