Service Tax on Building Construction (can be availed or not)

It is clearly mentioned in the concept and definition of Input Service itself, which is as under:

- Input service means any service used by a provider of output service for providing an output service or
- Used by the manufacturer, whether directly or indirectly in or in relation to the manufacture of final product and clearance of final products up to the place of removal

It includes services used in relation to –

1. Modernization or renovation or repairs of the premises of provider of output service or an office relating to such premises
2. Advertisement or sales promotion
3. Market research
4. Storage up to the place of removal
5. Procurement of inputs
6. Accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry and security, business exhibition, legal service
7. Inward transportation of inputs or capital goods and
8. Outward transportation up to the place of removal

But excludes:

1. Service portion in the execution of a works contract and construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, to the extent used for
   a. Construction or execution of works contract of a building or a civil structure or a part thereof or
   b. Laying of foundation or making of structures for support of capital goods.
2. Services by way of renting of a motor vehicle should not be available as credits, insofar as they relate to a motor vehicle, which is not an eligible capital goods
3. Services such as general insurance service, servicing, repair and maintenance to an extent they relate to a motor vehicle, which is not an eligible capital goods except when used by:
   a. A manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person
   b. An insurance company in respect of a motor vehicle insured or re insured by such person
4. Services such as those provided in relation to outdoor catering, beauty treatment, health service, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefit extended to employees on vacation such as leave or home travel concession, when such services are used primarily for personal use or consumption of any employee.

Conclusion:

- **So far as the contract is in nature of repair, renovation of factory premises the cenvat is admissible. However in case of contract in nature of construction of new premises or expansion of existing remises they would fall under construction of building or civil structure and cenvat would be inadmissible.**
- **100% Cenvat credit can be availed of service tax paid on input services used exclusively for providing output (taxable) services.**
- **100% Cenvat Credit is available in case of excise duty paid on capital goods.**

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