Analysis on Negative list at one place with image effects

GIRIDHAR'S

List of Negative services available for november exams 2015
Section 66D Talks about negative list of services.
Entry "a" to "q"

Section 66D(a) **Read with entry (o) + entry (p)**
Services by Government or Local Authority

General : are not chargeable to service tax.
Exceptions : they are taxable

Let us know some definitions in this entry (a)

Government - no where defined , but taken from Section 3(23) of GCA 1897
inlcudes both central + state governments , various departments +offices
or union territory administrations -under name and order by president of india or
governor of state.

Local authority	Means	
Panchyat		cantonment board
municipality		regional council
municipal committee		district council
district board		development board

following services even if provided by the govt or local authority : are Taxable

Services by

(i) Department of Posts by way of speed post+ express parcel post+ life insurance+agency services provided to a person **other than** Government	(ii)Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;	(iii)Transport of goods(read with **entry 'P'**) or passengers(read with **entry 'o'**)	(iv)Support services other than services covered under clauses (i) to (iii)
following services provided by Department of Posts are **not liable** to service tax **(i)** Basic mail services **(ii)** Transfer of money through money orders **(iii)** operation of savings accounts**(iv)** issue of postal orders, pension payments and other such services	Aircraft(sec 65B(7) Airport (sec 65B(8) port(sec 65B(38) includes 2 types of port :- 1.major ports(defined in sec 2(q) of the MPTA 1963) 2.other ports(defined under sec 3(4) of IPA 1908). Vessel (sec 65B(53)	Transport of passengers by Government or local authority is generally taxable. However, following services of transportation of passengers,(whether provided by Government or otherwise) with or without accompanied belongings are not taxable:—	**1.**Business entity (sec 65B(17) - realting to industry+commerce or any other business or profession. **2.**support services(sec 65B(49)

GCA - means General Clauses Act
MPTA - Major Port Trust Act
IPA- Indian ports Act

Entry (o) : -Transportation of passengers

Generally - taxable
Following services - not taxable

1.Stage Carriage

Note;-

means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [**Section 65B(46)**]

In other words, carriages running under public transport shall not be taxable

Here **contract carriage is outside** the purview of negative list.

2.Railways other than 1st class + air conditioned coach

Note;-

journey by rail in 2nd class, sleeper class or general class is **not taxable**

1st class	Taxable
air conditioned coach	Taxable

air conditioned coach Examples:-

2 tier	chair car
3 tier	Executive chair car

3.Metro +monorail+ tramway

Not Taxable

4.Inland waterways

Inland waterways

national waterways as defined in sec 2(h) of IWAI 1985

or

other water way on any inland water as defined in sec 2(b) of IVA 1917

IWAI - Inland Waterways Authority of India Act 1985
IVA - Inland Vessels Act 1917 (**section 65B(29)**)

5.Public Transport, other than predominantly for tourism purpose, in a **VESSEL** between places located in india.	Implies that the public transport by a vessel should not be predominantly for tourism purpose. however services provided by leisure + charter vessels or a cruise ship these are predominant is tourism - so taxable

6.Metered cabs or auto rickshaws

Metered cab means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder **but does not include radio taxi** [**Section 65B(32)**]

Entry (p) : -Transportation of Goods

Generally - taxable
Following services - not taxable

1. by road except services of GTA and courier agency	Provided by GTA - taxable **GTA** means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called [**Section 65B(26)**] Provided by Courier agency or express cargo service - taxable angadia -covered in courier services - so taxable **Courier agency** means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles [**Section 65B(20)**]

2. by an aircraft or a vessel from a place outside India up to the customs station of clearance in India	**Aircraft** means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines [**Section 65B(7)**]. **Vessel** includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson [**Section 65B(53)**]. **Customs station** means any customs port, customs airport or land customs station [**Section 65B(21)**].

3.Inland Waterways	any water transport within India would be covered under the negative entry for transportation of goods by inland waterways

Entry (b) **Services provided by Reserve Bank of India**

by RBI - not taxable

Services **PROVIDED TO** the Reserve Bank of India are NOT included in the negative list and hence, would be taxable subject to any exemption granted to them

Entry (c): Services by a Foreign Diplomatic Mission located in India

Entry (d): Services relating to agriculture or agricultural produce

1.Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing.	Activities like pisiculture +sericulture+floriculture+horticulture+forestry	included in definition of Agriculture
	Plantation crops like rubber, tea or coffee	covered under Agriculture Produce
	Only processes usually done by cultivator or producer is included in agriculture produce other than those cultivator or producer done means are outside the ambit of agriculture produce	

Agriculture means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products **[Section 65B(3)]**
Agricultural produce means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market [**Section 65B(5)**].

Circular No. 177/03/2014 ST dated 17.02.2014
agricultural produce covers 'paddy'; but excludes 'rice'.

2.Supply of farm labour	**3.**Processes which do **not alter the essential characteristics** of agricultural produce but make it only marketable for the primary market	**4.**Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use
5.Loading, unloading, packing, storage or warehousing of agricultural produce	**6. Agricultural extension means** application of scientific research and knowledge to agricultural practices through farmer education or training [**Section 65B(4)**]	
7. Services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce		

Entry (e): Trading of goods

Two fold

activity should be of trading	and	trading should be of goods

Activities of a commission agent/CHA selling goods - not included in negative list
Forward contracts in commodities - included in negative list
Commodity futures - included in negative list
Auxiliary services relating to future contracts or commodity futures - not covered

Goods means every kind of movable property other than actionable claim and money; and includes **securities**, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale [**Section 65B(25)**].

includes

shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate
derivative
Units or any other instrument issued by any collective investment scheme to the investors in such schemes
Government Securities
such other instruments as may be declared by the central Government to be Securities; and
rights or interest in securities [**Section 65B(43)**]

Entry (f): Processes amounting to manufacture or production of goods

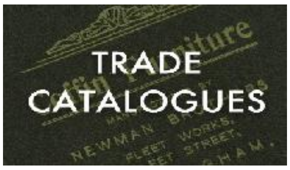
1. a process on which duties of excise are leviable under section 3 of the **Central Excise Act, 1944** or the **Medicinal and Toilet Preparations (Excise Duties) Act, 1955** or
2. any process amounting to manufacture of alcoholic liquors for **human consumption**, **opium**, **Indian hemp** and **other narcotic drugs** and **narcotics** on which duties of excise are leviable under any State Act for the time being in force [**Section 65B(40)**]

Entry (g): Selling of space for advertisements in print media

print media	online and mobile advertising, advertisements on internet websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, automated teller machines, commercial publications, aerial advertising, etc
Not Taxable	Taxable

Print media Means book + newspaper

(i) "**book**" as defined in section 1(1) of the Press and Registration of Books Act, 1867, but does not include **business directories, yellow pages and trade catalogues** which are primarily meant for commercial purposes;
"**newspaper**" as defined in section 1(1) of the Press and Registration of Books Act, 1867 [**Section 65B(39a)**]



Thus, sale of space for advertisements in business directories, yellow pages and trade catalogues would attract service tax

Advertisement means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person [**Section 65B(2)**].

Making or preparing advertisements - **TAXABLE**
Composite service of providing space for advertisement coupled with designing and preparation of the advertisement - **bundled service sec 66F**
Canvassing advertisement for publishing on a commission basis-**TAXABLE**

Entry (h): Access to a road or a bridge on payment of toll charges

Access to national highways or state highways	Collection charges or service charges paid to any toll collecting agency
Not Taxable	Taxable

Example :-
HYDERABAD TO BANGALORE HIGHWAY
Andhra pradesh NHAI
MEP Infrastructure Developers Ltd
had a contract period of 16.05.2013 to 15.05.2022 with NHAI .it has given a type of service called OMT -means Operate Maintenance - Transfer .
MEP is a toll collecting agency here.

Entry (i): Betting, gambling or lottery

Betting or gambling means putting on stake something of value, particularly money, with consciousness of risk and hope of gain on the outcome of a game or a contest, whose result may be determined by chance or accident, or on the likelihood of anything occurring or not occurring [**Section 65B(15)**].

The auxiliary services that are used for organizing or promoting betting or gambling events are **NOT** covered in this entry.

Entry (j): Entry to entertainment events and access to amusement facilities

two services are not taxable

Entry to entertainment events	Access to amusement facilities

Entertainment event means an event or a performance which is intended to provide recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or programme [**Section 65B(24)**].

Amusement facility means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided [**Section 65B(9)**].

Important points :-

Standalone ride set up in a mall qualifies as an amusement facility → Negative list — i.e Access to such amusement ride on payment of charges

Cultural programme, drama or a ballet held in an open garden and not in a theatre qualifies as an entertainment event → Negative list

Entry to video parlors exhibiting movies played on a DVD player and displayed through a TV screen is covered in the entry → Negative list

Membership of a club DOES NOT qualify as access to an amusement facility	**NOT in NEGATIVE LIST**	Auxiliary services for organizing an entertainment event or for providing the entertainment to an entertainment event organizer NOT covered in this entry

Entry (k): Transmission or distribution of electricity

covers the services of transmission or distribution of electricity by an electricity transmission or distribution utility

Electricity transmission or distribution utility means
the Central Electricity Authority
a State Electricity Board
the Central Transmission Utility
a State Transmission Utility notified under the Electricity Act, 2003
a distribution or transmission licensee
any other entity entrusted with such function by the Central or State Government
[**Section 65B(23)**]

Entry (l): Specified services relating to education

following services relating to education are specified in the negative list

1. Pre-school education and education up to higher secondary school or equivalent	**2.** Education as a part of a curriculum for obtaining a qualification recognised by any law(**indian law**) for the time being in force	**3**. Education as a part of an approved vocational education course
(i) services by international schools - **not taxable**	(i) Services of conducting admission tests for admission to colleges **are exempt**	
(ii) services by Private tuitions - **taxable**	(ii) If a course in a college leads to dual qualification only one of which is recognized by law, service in respect of each qualification would, therefore, be assessed separately	
(iii) services by Boarding schools - education + dwelling (bundled service)-**not taxable**	(iii) Training given by private coaching institutes **would not be covered**	

Approved vocational education course means

(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or
(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment **[Section 65B(11)]**

Service tax is liable on services provided by such institutions in relation to campus recruitment as such services are not covered in the negative list.

Entry (m): Services by way of renting of residential dwelling for use as residence

entry covers services

by way of renting	of a residential dwelling	for use as residence

Renting means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property [**Section 65B(41)**].
Residential dwelling: The phrase 'residential dwelling' has not been defined in the Act. It has therefore to be interpreted in terms of the normal trade parlance as per which it is any residential accommodation, but does not include hotel, motel, inn, guest house, camp– site, lodge, house boat, or like places meant for temporary stay.

Renting of a residential dwelling which is for use partly as a residence and partly for non residential purpose - bundled services

Residential house taken on rent used only or predominantly for commercial or non- residential use - taxable

House given on rent and the same being used as a hotel or a lodge - taxable

Rooms in a hotel or a lodge let out whether or not for temporary stay - taxable

Houses allotted by Government department to its employees and a license fee is charged for the same - not taxable covered in negative list.

Furnished flats given on rent for temporary stay (a few days)
bonafide use - not taxable
given for different persons for shorter period - taxable

Entry (n): Specified financial services

services are included

Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount	Services by way of inter se sale or purchase of foreign currency **amongst banks** or **authorised dealers of foreign exchange** or **amongst banks and such dealers**

Loan or overdraft facility or a credit limit facility provided in consideration for payment of interest.
Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.
Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.

Note: This entry would not cover investments by way of equity or any other manner where the investor is entitled to a share of profit.

Entry (q): Funeral, burial, crematorium or mortuary services

Funeral, burial, crematorium or mortuary services **including transportation** of the deceased are included in this entry and hence, are not liable to service tax.