BUNDLED SERVICES – SEC 66F Giridhar's

66F.
Sec 66F(1) Unless otherwise specified, reference to a service (herein referred to as **main service**) shall not include reference to a service which is **used** for providing main service.

Example:-
Provision of access to any road or bridge on payment of toll' **(main service)** is a specified entry in the negative list in section 66D of the Act. Any service provided in relation to collection of tolls or for security of a toll road would be in the nature of service **used** for providing such specified service and will not be entitled to the benefit of the negative list entry.

In other words accordingly, if any service (say main service) is covered under negative list or mega exemption notification or other exemption notifications, services used for providing such main service COULD BE TAXABLE

Example:-
Transportation of goods on an inland waterway is a specified entry in the negative list in section 66D of the Act. Services provided by an agent to book such transportation of goods on inland waterways or to facilitate such transportation would not be entitled to the negative list entry.

Sec 66F(2) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

Example:-
The services provided by a real estate agent are in the nature of intermediary services relating to immovable property. As per the Place of Provision of Service Rule, 2012, the place of provision of services provided in relation to immovable property is the location of the immovable property. However in terms of the rule 9 pertaining to services provided by an intermediary the place of provision of service is where the intermediary is located. Since Rule 5 provides a specific description of 'estate agent', the same shall prevail.

Example:-
Pandal and Shamiana is an existing service and will remain a subject of taxation. Likewise service provided by way of catering is a taxable service and entitled to abatement. There is abatement when the two are provided in combination. Since the combination is more a specific entry than the two provided individually, there is no need to apply the later rule of bundled services, where the character could be judged by the service which provides it the essential character.

(3) Subject to the provisions of sub-section (2), the taxability of a bundled service shall be determined in the following manner, namely:—

(a) if various elements of such service **are naturally** bundled in the **ordinary course of business**, it shall be treated as provision of the single service which gives such bundle its essential character;

Example:-
A hotel provides a 4 days-3 night's package with the facility of breakfast. This is a natural bundling of services in the **ordinary course of business**. The service of hotel accommodation gives the bundle the **essential character** and would, therefore, be treated as service of providing hotel accommodation.

A 7 star hotel is booked for a conference of 150 delegates on a lump sum package with the following facilities:

- ✓ Accommodation for the delegates
- ✓ Breakfast for the delegates,
- ✓ Tea and coffee during conference
- ✓ Access to fitness room for the delegates
- ✓ Availability of conference room
- ✓ Business centre

As is evident a bouquet of services is being provided, many of them chargeable to different effective rates of tax. None of the individual constituents are able to provide the **essential character** of the service. However, if the service is described **as convention service** it is able to capture the entire essence of the package. Thus the service may be judged as convention service and chargeable to full rate. However, it will be fully justifiable for the hotel to charge individually for the services as long as there is no attempt to offload the value of one service on to another service that is chargeable at a concessional rate.

(b) if various elements of such service **are not naturally** bundled in the ordinary course of business, it shall be treated as provision of the single service which results in **highest liability** of service tax.

Example:-
A house is given on rent one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.

<u>Explanation</u>: - for the purposes of sub-section (3), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.';

Example:- Air transport services provided by airlines where in an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different.