CHAPTER 1

CONCEPTS AND GENERAL PRINCIPLES OF SERVICE TAX

Learning objectives

After reading this chapter you will be able to understand the:

- principles underlying the introduction of service tax.
- evolution of service tax to its present form.
- nature of coverage of services in India.
- constitutional background of service tax.
- components which make up the service tax law.
- administrative machinery of service tax.
- procedures governing the service tax law.
- nature of services rendered by a Chartered Accountant in his capacity as a service tax consultant.
- challenges faced by the service tax administration.
- extent, commencement and application of the service tax provisions.

1. NEED FOR A TAX ON SERVICES

In any Welfare State, it is the prime responsibility of the Government to fulfill the increasing developmental needs of the country and its people by way of public expenditure. India, being a developing economy, has been striving to fulfill the obligations of a Welfare State with its limited resources. The Government's primary sources of revenue are direct and indirect taxes. Central excise duty on the goods manufactured/produced in India and customs duties on imported goods constitute the two major sources of indirect taxes in India. However, revenue receipts from customs & excise have been declining due to World Trade Commitments and rationalization of commodity duties.

On the other hand, service sector has been growing phenomenally all over the world, though it may vary in degree and magnitude among the various countries. The growing importance of this sector can be gauged from the ever increasing contribution made by the service sector to GDP, thereby pushing back the contribution of traditional contributors like agriculture and manufacturing sectors. India is also not an exception to this changed phenomenon. In 2002, the service sector accounted for 49.2% of GDP while agriculture accounted for 25% and industry 25.8% of GDP. Continued growth in GDP accompanied by higher rate of growth in service sector promises new and wider avenues of taxation to the Government.

In the present day context, services are so widespread and encompass almost all activities like management, banking, insurance, hospitality, administration, communication, entertainment, travel, wholesale distribution, retailing, research and development activities, other professional services, etc. Service sector is now occupying the center stage of the economy so much so that in the contemporary world, development of service sector has become synonymous with the advancement of the economy. Economists believe that with the phenomenal development of the service sector, the exclusion of the service sector from indirect taxation leads not only to the loss of considerable potential revenue, but also creates distortion in the allocation of resources. The distortion arises because the consumer starts making the choice between the consumption of goods and services.

Hence, the Government's argument is that substantial revenue should come from the service sector and the tax on goods (excise duty) should be complemented with the tax on services. If the tax on services reduces the degree of intensity of taxation on manufacturing and trade without forcing the government to compromise on the revenue needs, it will enable better pricing of its products by the manufacturing sector in the global market.

With these objectives in mind, service tax was introduced in India in 1994 and today it is envisaged as the tax of the future.

2. GENESIS OF SERVICE TAX IN INDIA

The levy of service tax can be traced back to recommendations made in early 1990's by the Tax Reforms Committee headed by Professor Dr. Raja J. Chelliah. The Committee recommended imposition of tax on select services. The Committee emphasized the importance of moving towards full-fledged value added tax for making the system of indirect taxation broadly revenue neutral in relation to production and consumption and widening the tax base by covering exempted commodities. Dr. Raja J. Chelliah opined that introduction of value added tax would eliminate cascading and cost escalation effect of indirect taxation. However, the desired objectives would not be achieved to the full extent, unless services were also taxed and the tax on services and tax on goods were integrated to form one general value added tax. It was envisaged that as the central excise duties on goods would get gradually transformed into a value added tax at the manufacturing level, service tax would get woven into that system.[1]

It was considered that in the Indian context, the taxation of services would lead to widening of the tax base which would make possible a further reduction in the general level of rates of commodity taxes. The recommendations relating to introduction of service tax made in the interim report of the Tax Reforms Committee have been reproduced here for the better understanding of the students.

"We have throughout the report emphasised the need for broadening the base of the tax system, which would make possible a lowering of rates. In respect of indirect taxes such broadening has to take the form of covering (a) almost all commodities other than raw produce of agriculture, (b) *many, if not most, services* and (c) all stages of production or transactions. This is accomplished under the ideal system of VAT. In our present context, the major steps to be taken are to extend the coverage of commodities under excise, on which we have already made recommendations, and to make a beginning with the *taxation of services*.

From the economic point of view, there is little difference between the taxation of commodities and that of services. In both cases, the principle of value added taxation can be applied to tax the final users. As an economy develops, the services sector expands relatively to the commodities sector. Multifarious services are produced for the benefit of the consumers as well as producers. Exclusion of services from indirect taxation tends to create distortions just as the exclusion of major commodity groups. There is no question therefore, that services must be brought under taxation. As pointed out earlier, the substantial broadening of the base through the taxation of services would enable the lowering of rates of commodity taxation. A general value added tax levied even at 10 per cent covering imports and domestically produced commodities and services plus a selective excise at a limited number of higher rates on a few commodities should be able to fetch sufficient revenues.

It is extremely important, however, that we do not commit the same kinds of mistakes as we have committed in respect of commodities. We must ensure that there will be a unified and rational system of taxation of services applicable to the whole country. This means that the services tax must be part of a value added tax in course of time and should be levied at the central level. A cascading type of service tax should be avoided at all costs. We envisage that

[1] Concepts relating to value added tax have been dealt in Chapter 4 of this study material.

as the Union excise on commodities gets gradually transformed into a value added tax at the manufacturing level, the service tax will get woven into that system and therefore tax could be levied also on services that enter into the productive processes.

Towards the end of our discussion of the reform of the Union excises earlier in this chapter we had indicated the manner in which the Modvat system should be gradually converted into the comprehensive value added tax at the manufacturing stage. Once this is done it would be possible to introduce a fairly comprehensive system of taxation of services also on the basis of the value added principle so that the entire system of indirect taxation at the Central level would be devoid of cascading and would cause no distortion in costs or in the allocation of resources.

The power to levy a tax on services in general is not mentioned either in the Union List or in the State List in the VII Schedule of the Constitution. However, by virtue of Entry 97 in the Union List which gives power to the Centre for levy and collection of "any tax not mentioned in either of those Lists" (that is, the State List or the Concurrent List), it is clear that the Union Legislature is competent to levy indirect tax on services.

For the time being only a few selected services should be subjected to tax; and the services to be selected for the purpose must be those which do not enter into productive processes in any substantial way. We recommend that a tax be levied on the following services:

a. Advertising services;

b. Services of stock brokers;

c. Service of automobile insurance;

d. Service of insurance of residential property, personal effects and jewellery; and

e. Residential telephone services.

In all the cases above except for telephone services, the tax will be levied at 10 per cent of the value of the transaction, i.e., the value of the turnover in the case of advertising and brokerage services and the value of the insurance policy in the case of insurance services. The same basis could be applied also to the taxation of the residential telephone services. However, in order to limit the incidence and because of the difficulty of separating out business and non-business telephone calls made from residences. It is recommended that an annual telephone service tax, on every residential telephone connection, of Rs. 1,000 be levied on those in whose names telephones are installed in residential premises. For purposes of this tax, connections in places other than the non-residential premises of public limited companies, non profit organisations and government offices will be treated as residential telephones.

The telephones department should be asked to collect the tax alongwith the telephone charges in bound equal instalments. It is common in India for employers to provide their senior employees with one or more telephone connections in their residences. Although they are meant to be used for official purposes, they are also generally being used for calls on personal account often without any restriction as to the number of calls. Such telephone connections should also be made subject to the telephone service tax. In their case, the tax can be collected only from the employers because the telephone connections would be in their names. However, in case such connections are in the name of the employer-the Government, public sector company, private sector company or non-profit organisation, as the case maybe-the tax will be collected from the employer. It is for the employer to recover the whole or part of the tax from the employee concerned".

Based on the above recommendations (though with certain modifications), Dr. Manmohan Singh, the then Union Finance Minister, in his Budget speech for the year 1994-95 introduced the new concept of service tax and stated that "There is no sound reason for exempting services from taxation, when goods are taxed and many countries treat goods and services alike for tax purposes. The Tax Reforms Committee has also recommended imposition of tax on services as a measure for broadening the base of indirect taxes. I, therefore, propose to make a modest effort in this direction by imposing a tax on services of telephones, non-life insurance and stock brokers." Thus, service tax was imposed on 3 services.

The baton then passed on to successive Finance Ministers who widened the service tax net in their budgets. The modest beginning that was made in the year 1994 by levying tax on three services has reached an ambitious level today. At present, *106* services are in the net of service tax. In the years to come, it is expected that all services would be in the service tax net except a few exempted services. During this period of *sixteen years (1994-2009*) not only the number of taxable services has increased from 3 to *106,* the rate of service tax, which was 5% in the year 1994, has also taken a leap to 8% in the year 2003, to 10% in the year 2004 and to 12% in 2006. In 2009, the rate of service tax has again been reduced to 10%.

3. SELECTIVE VS. COMPREHENSIVE COVERAGE

Depending on the socio-economic compulsions, each country evolved a taxation system on services adopting either a comprehensive approach or a selective approach. In comprehensive approach all services are made taxable and a negative list is given in case some services are to be exempted. In selective approach, selective services are subjected to service tax. While most of the developed countries tax all the services with very few and limited exemptions, most of the developing countries have opted for taxation of select services only. India has adopted a selective approach to taxation of services.

In India, service tax has been levied on specified taxable services and the responsibility of payment of the tax is cast on the service provider (barring few exceptional cases). The service tax is leviable on the gross amount charged by the service provider from the client. System of self assessment of service tax by the assesses has been introduced. Tax returns are expected to be filed half yearly. Central Board of Excise & Customs is the central authority to regulate service tax matters. Directorate of Service Tax at Mumbai oversees the activities at the field level for technical and policy level coordination.

4. VITAL STATISTICS OF SERVICE TAX

The service tax collections have shown a steady rise since its inception in 1994. The tax collections have grown manifolds since 1994-95 i.e, from Rs. 410 crores in 1994-95 to Rs. 14196 crores in 2004-05. Service tax collection is primarily from metro areas and bigger towns.

Service tax revenue collection target for the year 2004-05 was fixed at Rs. 14150 crores, however, the actual service tax revenue collection stands at Rs. 14196.19 crores. It indicates a growth of 79.93% against the actual realization Rs. 7889.97 crores during the last financial year 2003-04.

There is a substantial growth in the assessee base from 403856 nos. in 2003-04 to 7,74,988 nos. in 2004-05. It indicates a growth of almost 91%, which is significantly robust ever after 1994-95. The revenue and assessee statistics from the year 1994-95 to 2004-05 is shown in the Table below:

Year	*No. of assessees*	*Gross Collections (Rs. Crores)*	*Percentage(%) of growth*	*No. of Services*
1994-1995	3943	410	Base Year	3
1995-1996	4866	846	101	3
1996-1997	13982	1022	24	6
1997-1998	45991	1515	49	18
1998-1999	107479	1787	18	30
1999-2000	115495	2072	16	27
2000-2001	122326	2540	23	26

2001-2002	187577	3305	26	41
2002-2003	232048	4125	25	51
2003-2004	403856	7890	91	58
2004-2005	774988	14196	79.93	71

Trends of revenue indicate that the service tax collection is growing at fast rate since its inception.

5. NATURE OF SERVICE TAX

Service tax is a tax on services. This is not a tax on profession, trade, calling or employment but is in respect of service rendered. If there is no service, there is no tax. As per Webster's Concise Dictionary, 'service' means a useful result or product of labour, which is not a tangible commodity. Thus, basically, service is a value addition that can be perceived but cannot be seen, as it is intangible. However, usage of some goods during the course of rendering the service would not mean that there is no 'service'. It is the predominant factor in each case, which is to be studied to arrive at a conclusion.

6. CONSTITUTIONAL AUTHORITY

The Government derives its power to levy taxes from the Constitution of India. Elaborate provisions have been made in the Constitution of India to regulate the power of taxation of both the Central Government and the State Governments. Article 265 of the Constitution of India prohibits arbitrary collection of tax. It reads as:

"No tax shall be levied or collected except by authority of law."

Thus the Government may levy a tax on the citizens only under the authority of the Constitution of India. The Constitution, in its Schedule VII, has enumerated the matters on which the Central Government and the State Government can make laws. Such matters are divided into three categories--

(a) List – I : Union List (It contains the matters in respect of which only the Central Government has the power of legislation)

(b) List – II : State List (It contains the matters in respect of which only the State Government has the power of legislation)

(c) List – III : Concurrent List (It contains the matters in respect of which both the Central and the State Governments have power of legislation).

Entries 82 to 92C of List I enumerate the subjects where the Central Government has power to levy taxes. Entries 45 to 63 of List II enumerate the subjects where the State Governments have power to levy taxes.

Entry 92C of the Union List of the Seventh Schedule to the Constitution of India enables the Union to levy "Taxes on Services". Initially there was no specific entry in the Union List for levying service tax. Service tax was levied by the Central Government by drawing power from entry 97 of the Union List. Entry 97 is a 'residuary entry' in List-I, which has been reproduced below:

"97 - Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists."

The 'residuary entry' provides wide powers to the Central Government in respect of taxation of the subjects not mentioned in the Lists given by the constitution.

However, as a result of deliberations between the States and the Centre and as per the recommendations of the various expert committees, entry 92C was introduced in the VII Schedule in the Union List vide Constitution (92nd Amendment) Act, 2003 with effect from 07.01.2004. Entry 92C reads as under:

"92C - Taxes on services."

A new Article 268A was inserted in the Constitution which reads as follows:

"268 (1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the State in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be--

(a) Collected by the Government of India and the States;

(b) Appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by the Parliament by law."

A consequential amendment to Article 270 of the Constitution was also made to enable Parliament to formulate by law, principles for determining the modalities of levying the service tax by the Central Government and collection of the proceeds thereof by the Central Government and the State Government.

With this amendment in the Constitution, the Central Government has become competent to enact a separate legislation on service tax.

7. SERVICE TAX LAW

Service tax was introduced in 1994 but there is no independent statute on service tax as yet. However, following sources provide statutory provisions relating to service tax and can be broadly grouped under the following categories:

7.1 Finance Act, 1994: The statutory provisions relating to service tax were first promulgated through Chapter V of the Finance Act, 1994. Since then, Chapter V of the Finance Act, 1994 is working as the Act for the service tax provisions. Later, in the year 2003, the Finance Act 2003 inserted Chapter VA relating to advance rulings on service tax in the Finance Act, 1994. In the year 2004, the provisions relating to charging of 'education cess' on the amount of service tax were made applicable through Chapter VI of the Finance (No.2) Act, 2004.

7.2 Rules on service tax: Section 94 of Chapter V and section 96 -I of Chapter VA of the Finance Act, 1994 grants power to the Central Government to make rules for carrying out the provisions of these Chapters. Using these powers, the Central Government has issued Services Tax Rules 1994, Service Tax (Advance Rulings) Rules, 2003, CENVAT Credit Rules, 2004, Export of Service Rules, 2005, Service Tax (Registration of Special Category of Persons) Rules, 2005, Service Tax (Determination of Value) Rules, 2006 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 which are amended from time to time.

Rules should be read with the statutory provisions contained in the Act. Rules are made for carrying out the provisions of the Act. The rules can never override the Act and cannot be in conflict with the same.

7.3 Notifications on service tax: Sections 93 and 94 of Chapter V, and section 96-I of Chapter VA of the Finance Act, 1994 empower the Central Government to issue notifications to exempt any service from service tax and to make rules to implement service tax provisions. Accordingly, notifications on service tax have been issued by the Central Government from time to time. These notifications usually declare date of enforceability of service tax provisions, provide rules relating to service tax, make amendments therein, provide or withdraw exemptions from service tax or deal with any other matter which the Central

Government may think would facilitate the governance of service tax matters.

7.4 Circulars or Office Letters (Instructions) on service tax: The Central Board of Excise and Customs (CBEC) issues departmental circulars or instruction letters from time to time to explain the scope of taxable services and the scheme of service tax administration etc. These circulars/instructions have to be read with the statutory provisions and notifications on service tax.

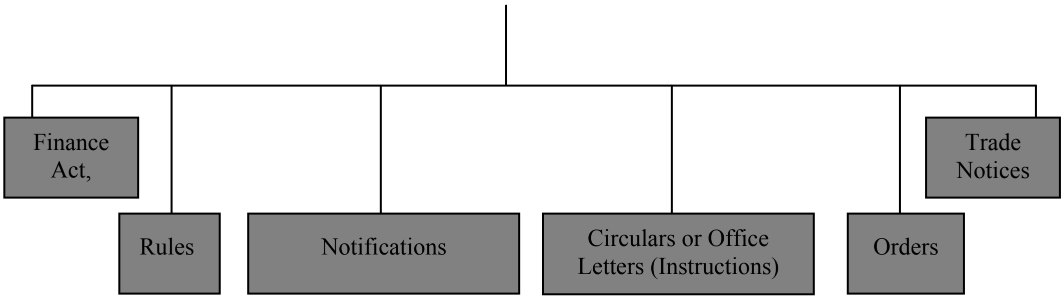
The circulars clarify the provisions of the Act and thus, bring out the real intention of the legislature. However, the provisions of any Act of the Parliament cannot be altered or contradicted or changed by the departmental circulars.

7.5 Orders on service tax: Orders on service tax may be issued either by the CBEC or by the Central Government. Rule 3 of the Service Tax Rules, 1994, empowers the CBEC to appoint such Central Excise Officers as it thinks fit for exercising the powers under Chapter V of the Finance Act, 1994. Accordingly, orders have been issued by the CBEC, from time to time, to define jurisdiction of Central Excise Officers for the purposes of service tax.

7.6 Trade Notices on service tax: Trade Notices are issued by the Central Excise/Service Tax Commissionerates. These Commissionerates receive various instructions from the Ministry of Finance or Central Board of Excise & Customs for effective implementation and administration of the various provisions of service tax law. The same are circulated among the field officers and the instructions which pertain to trade are communicated to them in the form of trade notices. Trade Associations are supplied with the copies of these trade notices. Individual assesses may also apply for copies of trade notices. The trade notice disseminate the contents of the notifications and circulars/letters/orders, define their jurisdiction; identify the banks in which service tax can be deposited; give clarifications regarding service tax matters, etc.

The various components making service tax law have been represented in the following diagram:

SOURCES OF SERVICE TAX LAW



8. ADMINISTRATION OF SERVICE TAX

The Department of Revenue of the Ministry of Finance exercises control in respect of matters relating to all the direct and indirect taxes through two statutory Boards, namely, the Central Board of Direct Taxes (CBDT) and the Central Board of Excise and Customs (CBEC). Matters relating to the levy and collection of all the direct taxes (income tax, wealth tax etc.) are looked after by CBDT, whereas those relating to levy and collection of indirect taxes (customs duties, central excise duties etc.) fall within the purview of CBEC. The two Boards were constituted under the Central Board of Revenue Act, 1963.

The responsibility of administration and collection of service tax has also been vested upon the CBEC ('Board'). The Board administers service tax matters through the Central Excise Zones and each Zone, in turn works through Central Excise Commissionerate falling under its territory. Each zone is headed by a Chief Commissioner of Central Excise, while each Commissionerate is headed by a Commissioner of Central Excise.

The Chief Commissioner of Zone exercises supervision and control over the working of the Commissionerates in the Zone and is mainly responsible for monitoring revenue collection, disposal of pendencies, redressal of grievances of trade, etc. He also ensures coordination among the Commissionerates within the Zone.

8.1 Director General (Service Tax): Considering the increasing workload due to the expanding coverage of service tax, it was decided to centralise all the work and entrust the same to a separate unit supervised by a very senior official. Accordingly, the office of Director General (Service Tax) was formed in the year 1997. It is headed by the Director General (Service Tax). The functions and powers of Director General (Service Tax) are as follows:

(1) To ensure that proper establishment and infrastructure has been created under different Central Excise Commissionerates to monitor the collection and assessment of service tax.

(2) To study the staff requirement at field level for proper and effective implementation of service tax.

(3) To study as to how the service tax is being implemented in the field and to suggest measures as may be necessary to increase revenue collection or to streamline procedures.

(4) To undertake study of law and procedures in relation to service tax with a view to

simplify the service tax collection and assessment and make suggestions thereon.

(5) To form a data base regarding the collection of service tax from the date of its inception in 1994 and to monitor the revenue collection from service tax.

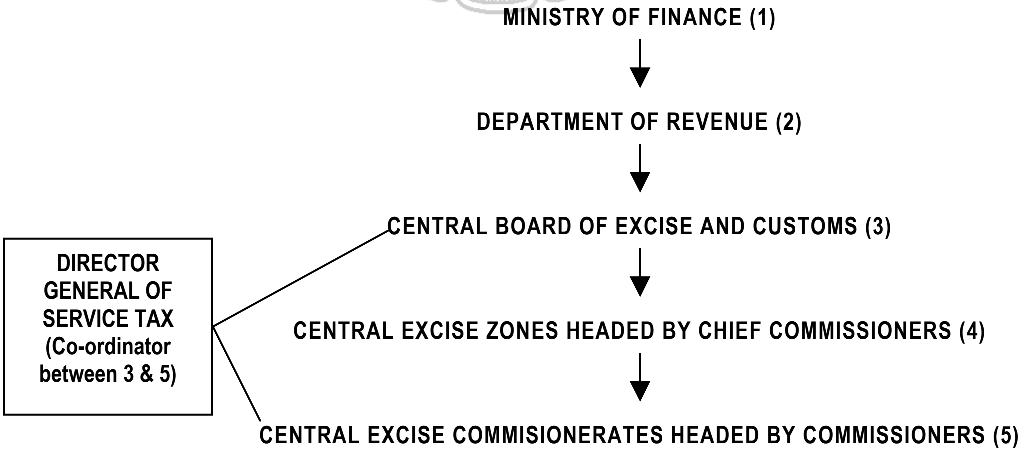
(6) To inspect the service tax cells in the Commissionerate to ensure that they are functioning effectively.

(7) To undertake any other functions as assigned by the Board from time to time.

The Directorate of Service Tax coordinates between the CBEC and Central Excise Commissionerates. It also monitors the collection and the assessment of service tax. It compiles the service tax revenue reports received from various Central Excise Commissionerates and monitors the performances of the Commissionerates. It scrutinises the correspondences received from field formations and service providers and replies to the clarifications sought for, wherever possible. In cases where the doubts/clarification sought involves policy matter, the Directorate apprises the Board for issuing clarification/instruction.

The administrative machinery of the service tax law can be understood with the help of the following diagram:

ADMINISTRATION OF SERVICE TAX



9. SERVICE TAX PROCEDURES

Service tax procedures include registration, maintenance of books and records, payment of service tax, availment and utilization of CENVAT credit, filing of service tax returns, self assessment, provisional assessment and recovery of service tax, interest and penalties, rectification of mistakes, revision of assessment order, appeals, search and seizure, advance rulings, refund etc.[2]

10. ROLE OF A CHARTERED ACCOUNTANT

As the gamut of service tax is expanding there is a great need for professionals to advice and assist the assessees. A chartered accountant with his training and experience is well-equipped to position himself in the new role as an advisor and facilitator for due compliance of service tax law. The nature of services are:

10.1 Advisory services : With the selective coverage of service tax on certain specified services a great deal of professional acumen is required to interpret and understand the law and advise the applicability of service tax *qua* an activity or service. A chartered accountant is able to fill this void.

10.2 Procedural compliance: The service tax law envisages registration, payment of tax, filing returns and assessments involving interface with the excise department. A chartered accountant with his experience and expertise is the best person to assist the assessee in all the above functions and ensure compliance.

10.3 Personal representation: As per the service tax law read with the Central Excise Act and Rules, a chartered accountant is allowed to appear before the assessment authority, Commissioner (Appeals) (first appeal) and Tribunal (second appeal). Here, too with his experience and expertise a chartered accountant is well positioned to represent his clients in these fora.

10.4 Certification and audit: With the widening of tax base there has been a phenomenal growth in the number of service tax assessees. In the ensuing years, the department would have to evolve a mechanism where there is management by exception i.e. generally accept all the returns as correct and pick and choose those returns which need detailed scrutiny. In this

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[2] The procedure relating to availment and utilisation of credit is spelt out in CENVAT Credit Rules, 2004 which will be discussed at the Final level. Provisions relating to payment of service tax and filing of returns have been dealt in Chapter 3, while rest of the procedures shall be taken up at the Final level.

mechanism, a chartered accountant could be of great assistance. Service tax returns and financial statements could be certified by the Chartered Accountant from the perspective of service tax similar to an audit under section 44AB of the Income-tax Act.

10.5 Onerous task to keep pace : The service tax like excise is administered more by way of trade notices issued by various commissionerates. A Chartered Accountant will have to keep himself abreast of the latest notifications and trade notices in addition to the changes in law so as to meet the client expectations. Thus, in order to render good value added services in the area of service tax, a chartered accountant has an onerous task to keep pace with the latest in the legal front.

11. CHALLENGES BEFORE THE SERVICE TAX ADMINISTRATION IN INDIA

Although the spread and quantum of service tax levy has shown a tremendous rise over the past twelve years and there are fair chances of its further rise in the forthcoming years, at administrative front, service tax is still at a nascent stage. Service tax administration in India has to face multi-dimensional challenges. Few of them are related to the very nature and growth of service sector in the economy and others relate to procedural aspects of the service tax collection.

The growth of service sector at higher rate offers opportunities as well as challenges to bring under the tax net, hitherto uncovered services. This offers tremendous revenue potential to the Government. It is expected that in due course service tax would reduce the tax burden on international trade (customs duty) and domestic manufacturing sector (excise duty). So, a planned growth of service tax would be commensurate with the goals of economic liberalization and globalization. This process requires levy of taxes on new services without substantial rise in the rate or cost of collection.

The basic objective of service tax is broadening the tax base, augmentation of revenue and larger participation of citizens in the economic development of the nation. Bringing services under taxation is not simple as the services are intangible and are provided by large groups of organized as well as unorganized service providers including retailers who are scattered across the country. Further, there are several services, which are of intermediate nature. The low level of education of service providers also poses difficulties to both-tax administration and assessees.

The administration of service tax requires a separate comprehensive legislation along with distinct administrative machinery exclusively devoted to the collection of service tax. That alone would bring in greater clarity, streamlined procedures, greater taxpayer assistance and a new tax culture of voluntary compliance. The twin goal of revenue maximization and introduction of the culture of voluntary tax compliance also throw up major challenge before the service tax administration in the country.

12. EXTENT, COMMENCEMENT AND APPLICATION [SECTION 64]

The Finance Act, 1994 came into force from 1.7.1994. By section 64(1), the Act extends to the whole of India except the state of Jammu and Kashmir, and by section 64(3), the levy applies to "taxable services provided". Thus, services provided in the State of Jammu and Kashmir are not liable to service tax.

As per Article 370 of the Constitution, any Act of Parliament applies to Jammu & Kashmir only with concurrence of State Government. Since, no such concurrence has been obtained in respect of Finance Act, 1994; service tax provisions are not applicable in Jammu and Kashmir.

Service tax will not be payable only if service is provided in Jammu & Kashmir. However, if a person from Jammu & Kashmir provides the service outside Jammu & Kashmir in any other part of India, the service will be liable to service tax, as the location where service is provided is relevant. Merely because the office of the service provider is situated in Jammu & Kashmir, it does not mean that service is provided in Jammu & Kashmir.

Levy of service tax extends to services rendered in designated areas in the continental shelf and exclusive economic zone. The 'exclusive economic zone' extends upto 200 nautical miles inside the sea from base line.

Service provided within the territorial waters will be liable to service tax as levy of service tax extends to whole of India except Jammu and Kashmir and 'India includes territorial waters. Indian territorial waters extend upto 12 nautical miles from the Indian land mass.

13. DEFINITIONS [SECTION 65]

This section contains definitions of various important terms used in the Finance Act, 1994. The adoption of selective coverage necessitates the definition of various service categories/service providers. These definitions are contained in section 65 of the Act. The Act defines the categories of services to which the Act applies by defining the term "taxable service" which is contained in section 65(105) of the Act. Further, various service providers like "stock brokers", "advertisement agencies", "courier agency", etc. are also defined in this section.

13.1 Services provided by unincorporated association or body of persons to its members subject to tax: The explanation after clause (121) of section 65 clarifies that taxable services include any service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration. Thus, service tax shall be payable if a taxable service is provided by such an organisation to any of its members.

Self-examination questions

1. Service tax was introduced in India in the year:

   (a) 1994

   (b) 1996

   (c) 1995

   (d) 1991

2. Which entry of the Union List of the Constitution provides for levy of service tax?

   (a) 92C

   (b) 97

   (c) 84

   (d) none of the above

3. The provisions relating to service tax are contained in:

   (a) Service tax Act, 1992

   (b) Finance Act, 1994

   (c) Finance Act, 1992

   (d) Income-tax Act, 1961

4. Which of the following statement is true?

   (a) Rules can override the provisions of the Act.

   (b) Only in certain exceptional circumstances can the rules override the provisions of the Act.

(c) Rules can never override the provisions of the Act.

(d) none of the above

5. Director General (Service tax) coordinates between ________________ and ________.

   (a) CBEC and CBDT

   (b) Chief Commissioner of Central Excise and Commissioner of Central Excise

   (c) Department of Revenue and CBEC

   (d) CBEC and Central Excise Commissionerates

6. Sections ________ and _______ of the Finance Act, 1994 empower the Central Government to make rules.

   (a) 64 and 65

   (b) 94 and 96-I

   (c) 93 and 94

   (d) none of the above

7. Indian Territorial Waters extend up to _____________ nautical miles from the Indian land mass.

   (a) 200

   (b) 24

   (c) 12

   (d) none of the above

8. In which of the following cases service tax will not be attracted?

   (a) a person from Jammu provides service at New Delhi

   (b) a person having office at Srinagar provides service at New Delhi

   (c) a person from New Delhi provides service at Jammu

   (d) all of the above

9. Which committee recommended the introduction of service tax?
10. Which were the first three services to be brought under the service tax net?
11. What is the extent and application of the provisions of Finance Act, 1994 relating to service tax?
12. Write a note on administration of service tax.
13. What do you mean by selective and comprehensive coverage of services for the purpose of service tax? Which system is being adopted in India?
14. Write briefly about the role of a chartered accountant in the field of service tax consultancy.

Answers

1.(a); **2.**(a); **3.**(b); **4**.(c); **5.**(d); **6.**(b); **7.**(c); **8.**(c); **9.** Tax Reforms Committee headed by Dr. Raja J. Chelliah; **10.** Telephones, General insurance and Stock brokers