Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
1	Renting of Immovable Property	Allow to use only, not the transfer of title in asset	a	relating to agriculture/ agri. Produce by renting of vacant land	a	renting of precincts religious place	Location of property	40	No CENVAT credit for inputs & capital goods	a	if partly used for residence then proportionately used for ST
			b	renting of residential dwelling	b	residential renting by hotels not exceeding RS 1000/- per day				b	applicable to social functions- marriage, parties etc.
			c	renting by RBI	c	renting to/by exempted educational institutions				c	renting without transfer of possession is also included. Eg.- hoarding service
			d	renting by Govt. / local authority to a non business entity	d	exemption for property taxes paid only not for interest/penalty paid				d	Letting of theater to cinema distributors is included
					e	when excess ST is paid without taking deduction for taxes paid , then can adjust upto 1 year and inform SEC within 15 days from adj.				e	compensation recd for damages is not included.
										f	**w.e.f. 01/04/2013- renting of immovable property by Educational Institute is taxable.**
2	Financial Services	Conversion of currency	a	Services by RBI	a	by MF agent to MF / asset mgt.	Location of service proprietor	90	financial leasinjg - only interest component is included	a	While determining value RBI rate on the date of transaction shall be used
		business chit fund, preparation of DD/PO for commission, investment of funds,	b	extending deposits /loans so far as limits to interest in return only - **Also includes discounts on Bill of Exchange**	b	by distributor to MF / asset mgt.				b	If rate is not available then **1% * gross amt in Indian rupees**
		debt collection,		: OD facility : mortgage with collateral security				30	services in relation to chit	c	**Foreign exchange broker-** upto 1 L = 0.12%, 1 L to 10L = Rs 120+0.06%, above 10 L = Rs 660+ 0.012% but max Rs 6000/-
		charges for late payment of dues of credit card.		: invoice/ cheque discounting							Once opted for above rates , locked for that FY
				: repos and reverse repos trans between banks, : authorized foreign exchange dealers						d	entry/exit load charges by MF, fund management, depositary services are chargeable to ST
			a	Services by way of - : Pre school and higher secondary school, : education as a part of curriculum for low in force, : approved vocational course	a	training or coaching in recreational activities				a	Following services are taxable-: Placement service

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
3	Educational Services	**w.e.f. 01/04/2013- auxiliary education services by Educational Institute is taxable.(earlier it was under mega exemption list.)**	b	approved vocational course- eg. ITI	b	if educational service is chargeable to St then auxiliary is chargeable to service tax	where the services are actually performed	-	-		: campus recruitment service, : Institution preparing students for competitive exam , : postal coaching,
			c	degree cources by colleges, universities / institutions which lead to grant of qualification	c	charitable activities relating to : abandoned / orphaned children's					: foreign courses conducted by private institution, : personality development
			d	services provided by boarding school		: physically or mentally challenged				b	Following services are not taxable- : donation service,
			e	institutions providing non-recognized course with recognized courses(full/none)		: prisoners, : above 65 years in rural areas					: conducting admission tests for recognized degree
4	Intellectual Property Service	It includes following (if allowed to use temporarily)	-	-	a	original literary, dramatic, musical, artistic work	when payment is made each time or invoice is issued by the provider whichever is earlier	-	-	a	Temporary transfer of IPR outside India to use is taxable
		: Copyright			b	cinematograph films				b	distribution of music by music company is taxable
		: Patent , : Trademarks			c	sound recording				c	royalty for allowing recoding of songs by composer not liable to service tax
		: Design								d	screening of cinematographic films by producers is exempt
		: Similar rights to an intangible property								e	Import of technology is exempt

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
		works contract involves **element of sale of goods + provision of service .**			a	service to GOVT, Local authority etc. (construction, refection, installation fittings, repairs, maintenance, renovation, alteration of following) 1) civil construction, 2) historical monuments, archaeological sites, 3) structure used for educational, clinical, cultural establishment 4) canal, dam/irrigation 5) pipeline, water supply plant, water treatment plant, sewerage plant 6) residential complexes for self/employees use				a	architect or consultancy service is taxable
5	**Works Contract Service**	**works contract pattern for determining value of service- Value of goods xxx (+) Value of ser xxx Total gross amt xxx (+) VAT portion on goods only xxx (+) ST on service portion only xxx Total invoice amt xxx**			b	service by (construction, refection, installation fittings, repairs, maintenance, renovation, alteration of following) - 1) road, bridge, tunnel for general public, 2) civil const. work under Jawaharlal Nehru national urban renewal mission or Rajiv awas yojna , 3) bldg owned by religious / charitable trust, 4) Pollution control or effluent treatment plant 5) structure for funeral buril or cremation				b	construction of 2 floore house taxable if both floores are transferrable separately
		Composition Scheme (where value has not been determined, then value for service portion shall be as follows) a. execution of original work- 40% of total amt charged			c	service by way of construction , refection , commissioning, installation - 1) air port / railway / port 2) single residialtial unit/ complex , 3) low cost houses4) post harvest storage infrastructure , cold storage , 4) food grain handling system, machinery for agriculture produce, food stuff other than alcohol				c	labour contracts are liable to service tax
		b. maintenance/ reconditioning - 70% of total amt charged			d	Sub contractor providing **WC** to main contractor for exempt goods is exempt				d	contracts for repairs of motor vehicles liable for service tax
		c. others (a+b+glazing,plastering,finishing,tiling)- 60% of total amt charged								e	contracts for construction of pipeline liable for service tax

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List Sr No	Negative List Explanation	Exemptions Sr No	Exemptions Explanation	Place of Provision/ POT	Abatement %	Abatement Conditions	Others Points Sr No	Others Points Explanation
		Person liable to pay service tax: 1) partial reverse charge mechanism= 50% ST payable by receiver and 50 % by provider , 2) WC by govt = 100 % payable by receiver , 3) others = 100 % by service provider								f	contracts for painting bldg liable for service tax
6	Construction service	construction of complex, building, civil structure or part intended to sale, includes additions , alterations, reconstruction etc.	-	-	a	provided to Govt, local authority	-		No CENVAT credit for inputs , value of land shall be excluded	a	Applicable for more than 1 residential units
					b	service by (construction, refection, installation fittings, repairs, maintenance, renovation, alteration of following) - 1) road, bridge, tunnel for general public, 2) civil const. work under Jawaharlal Nehru national urban renewal mission or Rajiv awas yojna , 3) bldg owned by religious / charitable trust, 4) Pollution control or effluent treatment plant 5) structure for funeral buril or cremation				b	hospital & educational institute for other than govt liable to ST
					c	service by way of construction , refection , commissioning, installation - 1) air port / railway / port 2) single residialtial unit/ complex , 3) low cost houses4) post harvest storage infrastructure , cold storage , 4) food grain handling system, machinery for agriculture produce, food stuff other than alcohol					
					d	**Residential unit having, 1)Carpet area < 2000 sq.ft. or 2) amount charged < 1 Crore . (wef 8/5/13 notification no.9/13)**		**75**			
					d	**Commercial and other residential (wef 8/5/13 notification no.9/13)**		**70**		c	has business and constructed for own / employees then only exempt

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
7	Food related service	Service portion of **A)Restaurant service B) Outdoor catering**	-	-	a	serving of food & breverages in restaurant , mess, eating jointly other than having AC/ central AC facility in any part of restaurant any time during year is exempt	Service portion of total amt charged will be A) restaurant-40% B) catering -60%	30	Only for (food + renting) eg. PG	a	Serving of food in the area attached or in other areas of hotel is taxable
						AC canteen service at factory is exempt w.e.f. 22/10/2013, Notification No.-14/2013	**NO STCR on inputs**		**NO STCR on inputs**	b	each restaurant in a area is a separate unit
										c	Mid day meals to educational institute is exempt
										d	**Goods sold over counter shall be excluded from service portion**
										e	**Service by AC as sell as non AC restaurant having AC/central Ac anytime during year is taxable**
8	Information Technology software service	development, customization, adaption, up gradation etc. eg. SDLC/ERP etc								a	prepackaged S/W is not liable to ST but liable for VAT as it is a GOODS
										b	onsite development is liable to ST
										c	Advice, consultancy is liable to ST . Eg, Infosys, sat yam
										d	if only right to use is applicable to ST
9	Delivery of goods on HP / installment							90	**NO STCR on inputs**		
10	Services provided by/to GOVT / local authority	GOVT= CG + SG		All the services by/to are in negative list		sovereign services not taxable at all eg. Granting license, audit by CAG etc.				a	agency services by post are taxable on a commission basis eg. Bonds, MF, telephone, electricity
		Local authority includes every element of panchayat raj		**Except(i.e. following r taxable) a) postal services- speed post , express parcel post , b) vassal/aircraft inside/outside of port , c) transport of goods or passengers , d) support services other than a, b, c**		inter departmental services				b	if support service provided then receiver is liable under reverse charge

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
				suppoer services includes following- outsourcing of services advertising , promotion , renting of property, construction or works contract, infrastructural, operational, admin, logistics		provided to govt by way of water supply, public health, solid waste mgt are exempt				c	if other than support service then concerned dept will be liable for ST
11	Services related to agriculture and agri. produce		a	services directly related to agriculture						a	selling of paddy is taxable as ST
			b	supply of farm labour						b	any intermediate production process as job work related agri. Is exempt
			c	process carried at farm not changing character of produce							
			d	renting / leasing of agro machine							
			e	loading unloading of agri produce							
			f	activity carried outside farm							
12	Job Work Process	-	a	process amounting to manufacture / production of goods	a	agri, printing / textile process	-	-	-	-	-
					b	jwellery labour work					
					c	any good on which appropriate duty is payable by manufacturer					
					d	cycle parts / sewing machines exempt upto 150 Lakhs					
13	Transportation of goods by road		a	Transportation of goods except a) GTA b) courier agency	a	fruits, veggis, milk , eggs,goods for victims of natural disaster, defense, newspaper, agri produce, foodstuff, chemical fertilizers		75	NO STCR on inputs	a	**If provided by specified person** then person who **pays freight** will bw liable for ST payment
					b	Gross amt less than **Rs 1500 in a single goods carriage**				b	and for **others GTA** is liable to pay ST
					c	Gross amt less than **Rs 750 in a single consignee**					
14	Courier Agency	door to door transportation of time sensitive documents, goods utilizing the person	a	Transportation of goods except a) GTA b) courier agency	-	-	-	-	-	-	-
			a	by air from outside to Indian port			mail/courier - destination place	70	by rail		

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
15	Transportation of goods by other modes of transportation		b	Indian waterways	a	Transportation by rail of following goods-railway equipments/ materials, goods for victims of natural disaster, defense, newspaper, agri produce, foodstuff, chemical fertilizers	GTA- location of person liable to pay tax	50	in vassal		services provided other than point (a) in exemption are taxable after 1-10-12
							required to be made physically available- location where service is performed		**NO STCR on inputs**		
16	Transportation of passengers		a	by rail other than AC/ first class	a	from airport of Aru pradesh, asam, manipur, meghalay, mizorum,sikkim	Boarding point of passenger	60	by Air- CENVAT cr only for input service is available		
			b	metro/monorail	b	contract carriage of transport		70	by Rail -NO STCR on inputs		
			c	inland waterways	c	ropeway, cable car					
			d	public transport							
			e	metered cabs / rekshaws							
17	Hiring/ Leasing related	transfer of right to use only			a	more than 12 persons to state transport	hiring upto 1 month - location of service provider	60	**NO STCR on inputs**		service provider other than co lovated in taxable territory is liable to pay ST
		following does not amt to right to use- tripsathi car, mandap saman, bank lockers etc			b	transportation of goods -GTA	other- location of service receiver				service recipient company located in taxable territory
											if opted for abatement - entire ST is payable by provider
											No abatement then 60 % by provider and 40% by receiver
18	Tour operator service							75	in relation to package tour		eg- Kesari tours
								90	solely arranging /booking accommodation		eg- make my trip
								60	services in relation to both above		eg-stay, food, tourist guide
		any service in relation to advice, consultancy, in any			a	by any tribunal to other than business entity upto 10 lakhs					

Service Tax-Summary Notes (Including latest case laws- May 2015)

Sr. No.	Service	Nature of Transactions included	Negative List		Exemptions		Place of Provision/ POT	Abatement		Others Points	
			Sr No	Explanation	Sr No	Explanation		%	Conditions	Sr No	Explanation
19	Legal Services	branch of law in any manner before court, tribunal/ authority			b	representation on arbitral tribunal					100 % reverse charge
20	Sale of space or time slot for advertisements	promotion or bringing awareness about any idea through needs paper, TV, radio or any other means **not include presentation in person**	a	other than advt by radio/ TV	a	print media, bill boards, public places, cell phones, ATM, Internet					separately quoted and genuine only service part is taxable bundle- service containing dominant nature artificial bundle- highest rate of ST
21	Refrain from act	it includes to refrain from act or tolerate an act or situation									eg- demurrage charges for not clearing goods within specific period, advance forfeited, late delivery charges, non compete fees, forfeiture of security deposit

Notes:

1) w.e.f. 01/04/2013 following exemptions have been withdrawn
a] Vehicle parking provided to general public is now taxable service
b] Repairs and maintenance of aircrafts (service provided to Govt./ Govt. bodies) is now taxable service, R & M of vassals is still exempt
c] exhibition of films other than theater is a taxable service

2) Following Services provided by National Skill Development Corporation (NSDC) or by an approved agency/training partner are exempt w.e.f. 10/09/2013, Notification No.-13/2013
a] National skill devt. Programme by NSDC
b] vocational skill devt. Course and any other scheme by NSDC

3) Restaurant service and accommodation service provided in Uttarakhsnd between 17/9/2013 to 31/3/2013 are exempt.[exemption order 1/2003]
a] renting of room
b] serving food & beverages

4) Mega Exemption notifiaction is ammended as under
a] Services provided by cord blood bank by way of stemcels / any other services in relation to preservation is exempt [w.e.f 04/2014]
b] Loading / unloading/ warehousing / storage/ packing of rice is exepmt
c] defination of government control authority [w.e.f. Feb 2014]
it is authority / body/ board ,
i) set up by Act of parliement / state legislature
ii) established by government
with >= 90 % equity hoaldings to carrry out any function entrusted to Muncipality under article 243W of constitution
d] services provided by way of sponcership of sports events were exempt if individual or team represents state /district/zone
now it includes any country too [w.e.f.01/2014]

5) Agriculture produce
Sec. 65(5) of finance act 1994-definition of agriculture produce includes only "**paddy"** only, excludes" **rice". Hence rice doesn't come under negative list. [sec 66D(d)]**

Service Tax- Imp Case Laws-(May 2015)

Sr. No.	Year	Parties	Subject
1	2012	Mayo College Vs CCEx(appeals)	Franchaise /collaboration fees received are taxable service
2	2013	Tirumala Tirupati Devsthan Vs SCEST	Running guest house with/ without profit is taxable service, can not be treated exepmt in the name of Devotees
3	2014	Indian coffee worker's coopearative society Vs CCE & ST 2014	Supplu of food , edibles & breverages provided to the customers, employees & guests using canteen /guesthouse of another is a taxable service **Taxable catering services could not be consumed with who consumes food & to what extent, whether VAT paid/not? Etc**
4	2014	CCE & ST Vs Garg Aviation Ltd	Course of completion certificate/ training provided by approved Flying Institutes is recognised by law, and eligible for exemption from service tax
5	2013	Indian Institute of aircraft engineering Vs Union of India	Delhi high court has given sam edecidion too as above, case is in the context of commercial coaching ot training services
6	2014	CST Vs Arvind Mills Ltd	deputation of some staff to subsidiary or group companies amounts to supply of manpower eveniff they are controlled by their main source? Not chargable to service tax as assessee is not in the busineess of supply of manpower and subsidiary doesn't become client of co.
7	2014	Hotel East park Vs OUI	Sec. 66E (i) of Finance act 1994 i. e supply of food or any article/thing for human consumption is an ultraavirus to the article 366(29A)(f) of the constitution ? Q of law as under a) ST can be levied on sale of goods or thing - **NO** b) ultravirus to constitution - **ST on service portion only, sale of food is out of service tax as per sec. 65B(44)** **c) Rule 2C of serice tax determination rules 2006 specifies % of service to total bill value**
8	2014	Naresh Kumar & Co Vs UOI	Is rule 5(1) of ST(DOV) Rules 2006 ultravirus the finance act 1994-section 66B ? Supply of High speed diesel free of cost by service recepient is not chargable to ST . Belo case law referred. **[whereas there are many caselaws deciding that the reimburcement of expenses shall be chargable to service tax]**
9	2013	Intercontinental consultants & technocarts Vs UOI	HC Delhi treated Rule 5(1) ultra virus the act i .e. over-rullung provisions of Sec, 66B of Finance Act 1994 a]As per section 66B- only service portion shall be considerred for ST b]As per rule 5(1) of DT(DOV) Rules 2006-exps incurred for providing taxable service like transportation, hotel stay , travel etc shall be consideration for service & chargable to ST
10	2014	CST Vs. Zydus Technologies Ltd	Is exepmtion in relation to services provided to / for SEZ /SEZ developer are exempt even for period prior to manufacturing of final products? Yes SEZ developer is allowed to get refund of ST paid on services which are essential for beginning of manufacturing of Final Product a] Point of dispute- as per sec 4(2) & 15(9) of SEZ act 2005 , assessee has not started authorised operations yet , hence not eligible for refund of ST paid on input services taken prior manufacturing of final product b] Gujrat HC relied on the decision in case of Ccadila Health care Vs CCEX 2013
11	2014	Ccux Ccex & ST Vs Indian Farmer fertilizers cooperation ltd	Is receipient foe refund of excess ST paid on account of downword revision of Service Charges? a] since burdon of tax has been actualy borned by assessee he is eligible for refund & question of unjust enrichment does not areses as per Sec 11 B of Central Excise Act 1944
12	2014	Astyck Dyestuff Pvt ltd Vs Ccex & Customs (Guj)	Whether sales commission is eligible input service? a] point of dispute- assessee says that he is eligible for credit as per CBEC circuler dated 29/04/2011 & Dept says that sales commission is not input service as per rule 2(I) of CCR 2004 b] Decision of High Court is binding, CBEC circuler can not override HC decision c] If there are contrary decisions of Jurisdictional HC & another HC the decision of Jurisdictinoal HC will rule d] I- cadila Health care - JHC denied credit after interpretation of law i.e Guj HC II- Ambika overseas Vs P&H HC- credit was allowed on sales commission Here HSC's decision will rule i.e. credit will not be allowed
13	2013	Delhi Chit Fund Association Vs UOI	Can service tax be levied on services renderrred in connection with Chit Fund business? a] ST leviable only when there is receiver, provider , consideration & actual service is renderred b] mere transaaction in money lack above elements c] Explanation 2 , sec 65B(44) excludes above and includes conversion of money
14	2013	CIT Vs rajsthan Urban Infrastructure	TDS to be deducted on service tax portion or not ?194J ? a] as per T & C of agreement between payee & payer b] ST to be paid seperately & not included in fees c] then TDS not deductible on ST
15	2013	Wipro Ltd Vs UOI	Refund of input srvices used for rendering IT enabled services outside India - Eligible? a] filing of declaration of claiming refund shall be beforeprior date of export date as per N.No.39/2012 under Rule 6A of ST rules 1994 b] in case of assessee it is practically impossible to determine actual date of export as the service renderred is continous in nature refund is eligible & shall be granted