SERVICE TAX

For NOV 17

- Basic Concepts
- Negative List
- Valuation
- Composition Scheme
- Mega exemption
- SSP exemption
- Abatement
- Reverse Charge
- Point of Taxation Rules
- Place of Provision of Service (POPOS) Rules
- Declared Services
- Online Info. & Data Retrieval (OIDAR) Service
- Transport of Goods from outside India to custom station service.

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BASIC CONCEPTS

• Service Tax Law Extends to whole of INDIA [Except J&K]

- LAND PART
- TWI (upto 12 NM)
- EEZ / Continental shelf ⇓ i.e. After 12 NM but upto 200 NM ⇓ Only on vessels used for the purpose of extraction of Mineral Oil and Natural Gas

Sec 65B(44) ⇒ SERVICE ⇒ Any activity carried out by a person for another person for a consideration. It includes declared service. But shall not include :-

* Sale / Deemed Sale / Gift of Movable / Immovable property.
* Transaction in Money or Actionable Claim.
* Service provided by employee to employer in course of an employment.
* fees taken in any Court or Tribunal.

Explanation 1 :- Following situations are not regarded as Service

- functions performed by MP / MLA / Members of panchayat or Municipality or Local Authority if they received consideration in performing their functions.
- Duties performed by any person who holds constitutional post. [Election Commission, Human Rights Commission etc.]
- Duty performed by any person as chairperson / Member / Director in a body established by CG / SG / Local Authority.

Explanation 2 :- Transaction in Money or Actionable Claim shall not include :-

- Commission / Brokerage Charged by Money Changer / Broker is liable to service tax.
- Commission charged by lottery distributor / selling Agent from state govt. is liable to service tax. [FA 2016]
- Commission Charged by Foreman of Chit Fund is liable to service Tax.

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Explanation 3 ⇒ Deemed Distinct persons.
- An unincorporated AOP/BOI and a Member Thereof
- Establishment of a person in TT and his other establishment in NTT

* Service must be provided by one person to another person i.e. service provided by a person to self are not a service.

⇓

- Unincorporated AOP ⟷ Members = Distinct person
- Head office (TT) ⟷ Branch (TT) = Same person
- Head office (TT) ⟷ Branch (NTT) = Distinct
- Head office (NTT) ⟷ Branch (TT) = Distinct
- C.G. Dept ⟷ S.G. Dept. = Distinct

Note ⇒ If AOP/BOI is incorporated, then AOP/BOI and its Members are Distinct Person by LAW.

* Consideration must be there at the time of provision of service. It may be in monetary or non monetary form. But exact value must be known at the time of provision of service.

- Capital contributions made by Members to the association are not consideration for an activity. Capital contributions are mere transaction in money, hence not liable to service tax.
- Fines / Penalties / Govt. taxes are not a consideration for service
- Directors → Whole time ⇒ Employee ⇒ No Service Tax
  → Part time ⇒ Service Tax under RCM.

Teacher's Signature: ____________

- Gifts Received are not in lieu of provision of service. ∴ No Consideration
- Non Competing fees is liable to service tax.
- Awards are not a consideration for service.
- Amount Received as advance are consideration for service.

- Donation Received ⇒ whether it is given with an intention to get something in Return
  - Yes ⇒ Consideration
  - No ⇒ Not a Consideration.
- Excess payment made by mistake is not a consideration if it is Returned.

- Deposits
  - Forfeited ⇒ Consideration
  - Returnable → Returnable Deposits are not considered as consideration. But if these Deposits are in nature of colorable device and interest earned there on is a part of consideration, then such interest will be considered as consideration for service.
  - Returned on cancellation of an agreement ⇒ Returned Deposits are considered as Returned consideration, Tax Paid on it will be Refunded.
  - forfeited due to Damages done by service Receiver ⇒ Not a consideration if it is related to accidental damages due to unforeseen actions.

- Amount Received on settlement of Dispute → Check whether Amt. received on settlement is a consideration for service or Not. ⇒ If the consideration for service itself is disputed then it will be consideration.
- Services provided by Employer to Employee are liable to Service Tax

- Grant Received ⇒ whether there is a direction to carry out a specific Activity
  - Yes ⇒ It is a consideration
  - No ⇒ ~~other~~ Weather there is a counter obligation to provide IPR Rights of outcome to association
    - Yes ⇓ Consideration
    - No ⇓ Not Consideration

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Govt. Related Service

All Services provided by Government are exempt. **Excluding**

- Following services by Dept. of post to a person other than Govt.
  - Speed Post
  - Agency
  - Life Insurance
  - Express Parcel Post
- Service Related to Aircraft/vessel at port or Airport or Anywhere.
- Transport of Goods/Passenger [Read with other Negative List]
- Any other services provided to a Business Entity.
  - Now All Services provided by Govt. to B/E are covered here. In order to provide Relief, govt. inserted some exemptions in Mega exemptions. [Entry No. 48 to 61]

• These 3 services provided to public or B/E are ~~covered~~ taxable under Normal Charge
• These 3 services are not effected by Mega exemption Notification.

Mega Exemptions in Relation to Govt. Services:-

Entry

39 ⇒ • Functions of Municipality done by Govt./Govt. Auth./Local Aut.

48 ⇒ • Services provided by Govt./Local Auth. to Small B/E
[N/A on ⇒ (i) P, A, T Services, (ii) Renting of Immovable property]

54 ⇒ • Services provided by Govt/LA to another Govt/LA. [N/A on P, A, T]

55 ⇒ • Services provided to Individuals ⇒ Passport/visa/Licence/BC/DC etc.

56 ⇒ • Services where Gross Amt. Charged < ₹ 5000. [N/A on P, A, T]

57 ⇒ • Services by way of Tolerating Non performance of Contract.

58 ⇒ • Registration charges/Testing/Calibration/Safety Check/Certification charges under any Law collected by Govt./LA.

59 ⇒ • Services by way of Assignment of Right to use Natural Resources to an INDIVIDUAL FARMER for the purpose of Agriculture.

60 ⇒ • Functions of Panchayat done by Govt./Govt. Auth./Local Auth.

61 ⇒ • By way of Assignment of Right to use Natural Resources, when Right was assigned prior to 1/4/2016. [The exemption is applicable on ST payable on one time charges payable in full upfron or in installments]

62 ⇒ • Telecom S.P. licence fee/Spectrum user charges prior to 1/4/2016.

63 ⇒ • Merchant Overtime Charges.

Note ⇒ Entry No. 25 & 34 are also Related with Govt. Services [Refer Mega exemption Notification discussed in next chapter]

Negative List

Date :
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(a) Services Provided by Government / Local Authority.

(b) Services Provided by RBI

SP (outside India) — Forex Mgmt. Service. (covered in Mega exemption) Exempt → RBI

SP —service→ RBI —provides service→
⇓ taxable
⇓ covered in negative list

(c) Services provided by Foreign Diplomatic Mission located in India.

SP —provides service→ Foreign Diplomatic Mission located in India. (Embassy etc) —provides services in India like Visa/Passport etc.→
⇓ exempt N/N 25/2012
⇓ covered in Negative list

Note ⇒ Office or establishment of any international organisation are not covered in negative list.

(d) Agriculture Related Service. (OLA T PREM)
- Agricultural operations related to production of agricultural produce.
- Supply of farm Labour.
- Processes carried out at an agricultural farm which do not alter the essential characteristics of agriculture produce but make it marketable for primary market.

Teacher's Signature :

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Meaning of Agriculture
→ Cultivation of Plants
→ Rearing (पालना) of Animals for food, fibre, fuel, raw material etc., [excluding horse]

Note ⇒ • Rice is not an agricultural produce.
• Paddy is agricultural produce.
• wheat is an agricultural produce.

Principal Manufacturer → Job Worker

Principal Manufacturer ⇓

Any process done by him, if the process amounts to Manufacture then not liable to S.T.
But if Manufacturing process is done on alcoholic Liquor for Human consumption then it is liable to service tax even if it is manufacturing process.

Job Worker ⇓

Any process done by Job worker, if it is manufacturing then not liable to ST, but if it is not manufacturing, then liable to S.T. subject to Mega exemption.
Any process done by J/w on Alcoholic Liquor for Human consumption is liable to S.T., whether it amounts to manufacture or not.

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- Renting / leasing of agro machinery or vacant land
- loading / unloading / Packing / storage / warehousing of agricultural produce.
- Agricultural extension services. (Farmer education / Call Center)
- Services provided by agriculture produce Marketing committee or Board. (Mandi Samiti)
- Services provided by a commission agent for sale or purchase of agricultural produce.

(e) Trading of Goods.
- It is sale of goods; so no service tax.
- Forward Contract / Future contract in commodities are contracts which involve t/f of title of goods on a future date at pre fixed price. These are also covered under trading of goods. But the agent who charges commission for such contracts, is liable to pay service tax on such commission.

(f) Process amounting to Manufacture / production of goods.
Note ⇒ Process अगर Manufacturing की हो गयी तो ED लगे या ना लगे, पर ST तो नहीं लगेगा। Because Manufacturing process is covered in negative list.

Teacher's Signature: ______

- Owner of News Paper (Rajasthan Patrika)
- Owner of Book (India today Magzine)

→ Ad Agency ← gives Ad — Mr x

Sale of Space in N.P/Book
Value = ₹ 2500000
⇓
Not liable to ST
⇓
covered in Neg. list.

Amt. Charged by Agency from Mr x = 2700000

Payment to Rajastan Patrika
⇓
₹ 2500000
⇓
No. ST.
⇓
Neg. list.

Ad Making Charges
₹ 200000
⇓
Liable to service tax.

Note
→ Betting / Gambling / Lottery पर service tax नहीं लगता
→ But Commission paid to agent for promotion / Marketing of Lottery is liable to service tax.

Electricity Transmission & Distribution Utility approved by CG/SG
(example RSEB / Power Grid etc.)
⇓
Charges Collected for transmission / Distribution of electricity
⇓
Not liable to ST (covered in Neg list)

→ Electricity Distribution by installing private Genset ⇒ liable to ST
→ Housing Society ⇒ Distributes electricity ⇒ Liable to service tax.

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(g) Selling of Space for advertisements in print Media.
Notes:- * News Paper / Book must be registered under press & Regulations of Books Act.
* Ad. in Business Directories, yellow pages, trade catelogues are liable to S.T.
* Making / priparation of ad is liable to service tax
* Advertisement ~~in print Media~~ / sale of Slot in electronic Media is liable to service tax
* Canvassing Ad / Public Hoardings / Ad on website is liable to service tax.

(h) toll charges collected to access a road / Bridge. (But Commission received by collection Agent is liable to service tax)

(i) Betting, gambling or lottery. (जब Customer को Lottery का ticket बेचेंगे तो उस पर Service tax charge नहीं कर सकते)

(j) ~~Admission to Entertainment Events~~ ⇒ Now taxable subject to Mega exemption.

(k) Transmission or Distribution of electricity by an electricity transmission or distribution utility.

(l) ~~Education Related Service~~ ⇒ Now taxable subject to Mega exemption Notification. [Omitted by FA 2016, but covered in Entry 9 of Mega exemption notification]

Teacher's Signature: ______

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Renting of ⇒ Residential Dwelling for –
- → Use as Residence ⇒ No ST
- → Non Residential use ⇒ ST ✓
- → Residence + Non Residence use ⇒ ST ✓
- → Use as Hotel / Lodge = ST ✓
- → Room in Hotel / Lodge = ST ✓
- → Furnished flat for temperory stay = ST ✓

Services By way of

Extending Deposits, Loans or Advance
⇓
For which consideration is represented by way of Interest or Discount
⇓
Covered in Neg List

Forex Transaction Between
⇓
Bank ⟷ Bank
Bank ⟷ Dealer
Dealer ⟷ Dealer
Dealer ⟷ Bank
⇒ No Service Tax

CRUX ⇒ No service tax on any kind of Interest / Discount.

Transportation of Passengers
- → ~~A Stage Carriage~~ [Omitted by FA 2016]
- → Rail (excluding first class or AC Coach)
- → Metro, Monorail, tramway
- → Inland waterways i.e. River transport.
- → Vessel used for Public Transport (tourism purpose के लिये है तो ST लगेगा)
- → Metered Cab or Auto Rickshaw.
  ⇓
  Govt. ने मीटर लगा रखे हैं

Transportation of Goods
- → By Road (excluding GTA or Courier Agency)
- → ~~By an Aircraft or a vessel from a place outside India upto the custom station of India.~~ [Omitted by FA 2016]
- → By Inland Waterways.

Due to amendment by FA 2016, now services of transportation of Goods from a place outside India to custom station by Aircraft or vessel became taxable. But in case of Aircraft a new entry no. 53 has been inserted in Mega exemption notification due to which services by Aircraft for transportation are exempt.

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(m) Renting of Residential dwelling for Residence.
Note ⇒ अगर Renting की Service पर tax लगता है
Value = Gross Amt. Charged – Taxes on such property levied by local authority.
But Interest / Penalty paid will not be deducted.

(n) Loan Services
Note – → Loan processing fee / → Administration Charges / → File processing Charges ⇒ Liable to Service Tax

Note ⇒ Forex transaction with other person is liable to service tax. (commission पर service tax लगेगा)

Note ⇒ Penalty is not a consideration for service, so no service tax.

(o) Transportation of passengers.

(p) Transportation of Goods

(q) Funeral, Burial, Crematorium or mortuary services including transportation of deceased.

Teacher's Signature: ______

Valuation of Service

Date :

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Value of Service

Where whole Consideration is in monetary form

⇓

Value = Gross Amt. Charged (Including Service charge)

Exp 2 Pg. 5.4

⇓

Bangan.

Consideration is not in Monetary form / Partly Monetary & Partly kind

- Consideration Ascertainable

  ⇓

  Value = Money Value + MV of Kind

- Consideration can't be calculated

  ⇓

  Follow Rules.

Notes:- * Consideration includes ⇒

- Amount payable for taxable services
- Reimbursable expenditure incurred during the course of service.
- Discount received on face value of lottery ticket by selling agent.
- Amount of TDS shall not be deducted while calculating taxable value of service.
- Excess payment by mistake is also a consideration if it is not returned.

RULE 2A ⇒ Valuation of Works Contract Service

Value of Material Supplied is known

⇓

Gross Amount Charged (ex. VAT/sales Tax)	xxxx
Less:- Value of Goods transferred	xxxx
Value of Service portion	xxxx

Note ⇒ Works contractor can not Book Cenvat Credit of value of Goods and Material Sold in the execution of Works Contract.

Value of Material supplied unknown

⇓

- Original work = 40% of Total Amount Charged

⇓

* New Construction
* Addition/Alteration on structure to make them workable.

- Other = 70% of Total Amt. Charged

⇓

* Maintainance & Repairs
* Finishing on immovable property.

RULE 2B ⇒ Money Changing Service

Forex is converted against Indian ₹

⇓

Value = [Market Rate − RBI Rate] × Forex

⇓

If RBI Rate is not available then value = 1% of Indian ₹

Forex is converted against another Forex

⇓

$₹A = Forex_A \times RBI\ Rate$

$₹B = Forex_B \times RBI\ Rate$

Value = 1% of $₹_A$ / $₹_B$

⇓

whichever is lower.

Rule 2C ⇒ Restaurant or Outdoor Catering service.

For Restaurant = 40% of Total Amt. Charged
For Outdoor Catering = 60% of Total Amt. Charged

Rule 3 ⇒ General Rule

(i) Value = Amount charged by service provider for similar service provided to other person.

If value can not be determined by option (i), then, go for option (ii).

(ii) Value = Monetary Consideration + Mkt value of Non Monetary Consideration.

(But value in option (ii) shall not be less than the cost of provision of such service)

Rule 4 ⇒ Rejection of Value

- CEO can satisfy himself as to the accuracy of any information / document furnished for valuation.
- If CEO is satisfied that value is not as per the provisions then he can issue a SCN stating that why the value should not be fixed at the amount specified in SCN.
- After providing reasonable opportunity of being heared, he can determine the value of such taxable service.

Rule = 5 ⇒ Inclusions OR Exclusions from Value

Inclusions
⇓
- Exp./cost incurred by SP while providing service.
-

Exclusions
⇓
Exp./cost incurred by SP as a pure agent shall be excluded from value of service
⇓
Conditions:-
- SP acts as a pure agent of SR.
- SR uses the goods/service procured by SP as a pure agent.
- SR is liable to make payment to third party.
- SR authorizes the SP to make payment on his behalf.
- SR knows that goods/service will be provided by third party.
- Payment made by SP is separately indicated in Invoice.
- SP will recover only that amount which has been paid by him to the third party.

Pure Agent
Agreement with SR

Pure Agent Means:-
- Agreement with SR
- Not hold any title of goods/services procured from third party.
- Does not use such goods/service
- Receives only Actual payment incurred.

Rule = 6 ⇒ Commission / other Costs

Inclusions
⇓
- ~~Ag~~ Any type of Commission, Brokerage, Demmurage.
- Amount Adjusted from Initial Deposits.

Exclusions
⇓
- Initial Deposits
- Air / Rail fare
- Interest
- Delayed Payment Cha
- Taxes
- Accidental Damages
- Subsidies / grants received from gov

Insurance compensation
Compensation for Damages
⇓
Due to Unforseen Actions

Composition Schemes

Optional Schemes

Air Travel Agent :-- (या तो commission पर 15% ST दो या फिर composition scheme में आ जाओ)

Domestic Booking = ·7% of Basic fare

International Booking = 1·4% of Basic Fare.

- Option cant be changed during FY under any situation.

Distributor / selling Agent of Lottery

Prize Pay out Ratio	Service Tax
• More than 80%	= ₹ 8200 for every 10 Lakh or part of 10 Lakh of total Face Value of Lottery ticket printed / sold
• Less than 80%.	= ₹ 12800 on every ₹ 10 Lakh (or part of 10 Lakh) of total Face Value of Lottery ticket printed / sold.

Transport of Goods from Outside India upto Custom Station

Service Tax = CIF Value × 1·4%
+ SBC + KKC

Note ⇒ Benefit of Abatement is N/A.

Life Insurance Business

Risk Cover
↓
Premium लेकर सिर्फ Risk Cover करते हैं Policy Mature होने पर कोई पैसा नहीं मिलता।
↓
ST @ 14% on premium charged
↓
i.e. composition scheme N/A

Saving Policy
↓
premium लेकर investment करते जाते हैं। Policy पूरी होने पर पैसे मिलते हैं
↓
Value = Pre - Inv.
↓
ST @ 14% on Value
↓
i.e. composition scheme N/A

Single Premium Annuity Policy
↓
Pay Lump sum amt. to insurance co. & after some time Ins. co. will pay annuity for Life time
↓
composition scheme
↓
ST = 1.4% of Single premium
i.e. 1.4% of lump sum amount

Composite policy
↓
Risk cover + Saving Policy
↓
whether Value of investment to be done from premium is intimated

- Yes
  ↓
  Value = Premium - Investment Component
  ↓
  Pay ST @ 14% on Value
- No
  ↓
  I year = 3.5% of premium
  Subseq. Year = 1.75% of premium.

Money Changing Business

Gross Amount of Currency exchanged per transaction	Service Tax.	subject to
upto ₹ 1 Lakh	= 0.14%	Minimum ₹ 35
More than 1 Lakh but upto 10 Lakh	= 140 + .07% on excess over ₹ 1 Lakh.	
More than 10 Lakh	= 770 + .014% on excess over ₹ 10 Lakh.	
		Maximum = ₹ 7000

Note ⇒ The above calculations is to be done for each transaction separately and not for the money changer / Bank as whole.

- Health Care Services by
  - Clinical Establishment
  - Authorised Medical practicioner
  - Paramedics.

- Health Care services by
  - Clinical Establishment (Clinic/Hospital/Nursing Home)
  - Authorised Medical practicioner (Doctor)
  - Paramedics (compounder/Lab Assistant)

Note ⇒ Hair transplant/cosmetic or plastic surgery are excluded from Health Care services. But if these are necessary in operation then these can be considered as Health care services.

- All types of Ambulance services are exempt.

- Renting of ~~precincts~~ precincts (जगह) of a religious place for general public.
  - Located within outer Boundry wall
  - Located within area of Religious place.

- Religious place must be owned by -
  - 12AA Trust
  - 10 (23C) institution
  - 10 (23BBA) Authority.

Note ⇒ Exemption तभी मिलेगी जब Religious place की जगह किराये पर दें। अगर 12AA trust school की जगह किराये पर देता है तो exemption नहीं मिलेगी)

- Specified organisation -
  - Uttarakhand
  - Haj committee

⇓

Services to दर्शनार्थी

⇓

ST exempt.

"MEGA EXEMPTION"

Date :

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1. Services provided to United Nations or a specified International Organisation.

2. Health Care Services / Ambulance Services.

2A Services provided by core Blood Bank for preservation of Blood.

2B Bio Medical waste treatment services to clinical establishment

3. Services by a Veterinary clinic in ~~real~~ relation to health care of Animals / Birds.

4 Services by 12AA trust by way of Charitable activities.

5 • Renting of Immovable property (Amendment)
• Services by a person for conduct of any religious ceremony (i.e. Pandit / Molvi / Father).

5A Services by specified organisation to religious pilgrimage

Teacher's Signature :

Services provided by :-

• An Arbitral Tribunal to –
  → Any person other than B/E
  → B/E whose turnover in preceeding F.Y. is upto 10 Lakhs

• Individual Advocate (except Senior Advocate providing Representational Service) OR Firm of Advocates to –
  → An Advocate / Firm of Advocate
  → Any person other than B/E
  → B/E having turnover upto ₹ 10 Lakhs. in PFY.

• Senior Advocate providing Representational Service –
  → Any person other than B/E
  → B/E having turnover upto ₹ 10 Lakhs. (Amendment)

• Services provided by an educational institution to its students, faculty & staff.

• Service provided to an educational institution by any person by way of
  → Transportation of Students, faculty, staff.
  → Catering
  → Security, Cleaning, House keeping service
  → admission related / conduct of exams.

• Service provided by –
  → NSDC
  → SKC
  → Agency / training partner
  –
  → Skill Development prog.
  → Vocational S.D. course
  → Any other scheme.

• Services by IIM – as per CG guidelines to their students.
  → 2 yrs Mgmt. program after CAT [whether Residential or Not]
  → Fellow program in Mgmt.
  → 5 yrs. integrated program in Mgmt.

Note ⇒ Executive Development program (EDP) by IIM is taxable.

• Services of assessing bodies by way of assessment under SDI scheme.

• Services by training partner under DDUGKY by way of offering skill / vocational courses certified by NCVT

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6. Advocate Service.

7. Drug testing service is now taxable.

8. Training / coaching in recreational activities related to Art / culture / sports. (अगर सीखता रहे हैं तो भी exempt है. i.e. अगर perform कर रहे हैं तो tax लगेगा)

9. Educational Institution (Education Related services)

Educational institute –
  → Preschool, Higher & Secondary school whether national or international [u
  → Institute which provides education as a part of syllabus for obtaining a qualification recognised by India
  → which provides approved vocational education course.

Amendment ⇒ CATS services are exempt only if these are provided to an educational institution providing preschool, Higher secondary or equivalent education.

Teacher's Signature : ____

- Services provided by an Individual to a recognised sports Body as:-
  - Player
  - Refree
  - Umpire
  - Coach
  - Team Manager.

- Services provided by a recognized sports Body to another recognized sports Body.

- Service of sponsorship of sporting events Organised by
  → National sports Fedration
  → University / School
  → Cultural & sports Board
  → Indian olympic association
  → PYKKA Scheme.

- Construction Services provided to Govt./ Local Authority/ Govt. Authority → By way of construction, Repairs and Maintainance of
  → Historical Monuments & Archealogical site
  → Canal / Dam/ other irrigation site
  → Pipeline, conduit or plant for water / sewerage. (Tubewell is covered here)

Note ⇒ User charges collected from public to access the canal is taxable.

Construction Services provided to Govt. / Local Auth. / Govt. Auth.

⇓

By way of construction, Repairs & Maintainance of

⇓

- Govt. Buildings
- Govt. School/college/Hospital
- Art/Cultural Establishment
- Residential Complex for Govt. employees.

Note ⇒ Contract 1/3/2015 से पहले मिला हो + 1/4/2020 तक काम खत्म हो जाना चाहिए

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10. Sports Service.

11. Sponsorship of sporting events

12 Construction Services to Govt.

12A Ongoing Construction services to Govt.

Services of Construction, Repairs & Maintanance of.

- Services of construction, Repairs & Maintanance of, for use of general public. (Infrastructure)
  - * Road / Bridge / tunnel / terminal for use of general public. (Infrastructure)
  - * Civil Structure related to Nehru / Rajiv Gandhi Yojna.
  - * Civil Structure for slum Dewellers under Housing for All / PM Yojna.
  - * Civil Structure related to Individual House Construction under PM Yojna.
  - * Building of trust which is used for religious purpose by general public.
  - * Pollution control plant except located as a part of factory.
  - * Structure for funeral, burial, cremation of deceased.

Services by way of construction to

- → Railways
- → Single Residential Unit other than as a part of Complex.
- → low cost house upto carpet area of 60 sq. Mtr. under approved housing project.
- → W/H, Coldstorage for agriculture produce.
- → Machenised food grain Handling system for units processing agriculture produce.

Note → Repairs & Maintainance is taxable.

Note → In Case of Port / Airport / Monorail / Metro,

Port / Airport → contract 1/3/2015 से पहले मिला है।

Monorail / Metro → contract 1/3/2016 से पहले मिला है।

- Original work related to literary, dramatic, musical or artistic
- Cinematograph films for exhibition in Hall / Theatre.

⇓

Temporary t/f of CopyRight

⇓

No service Tax

Services by an artist by way of performance in folk or classical forms, but the consideration must be less than ₹ 1.5 Lakhs.

Note → अगर Brand Ambessador बनके performance दे तो service tax लगेगा।

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13. Construction Service.

14 Original Construction Service.

14A Original Construction of Port / Airport.

15 Services of Temporary Transfer of Copy Right.
(Permanent t/f करे तो उसे sale माना जायेगा No ST on Sale)

16 Performance service by an artist.
150000

• Services provided by
- → Independent Journalist
- → PTI
- → UNI

By way of → collecting / providing news.

• Hotel / Inn / Guest House / whatever name called

⇓

Service of lodging & Residence. whether
- → commericial
- → Non Commercial

⇓

Exempt if Declared tariff of a unit is below ₹ 1000.

Declared tariff: Including all charges, Including any Discount.

• Non A/c Restaurant • A/c Canteen in a factory.

⇓

• अगर Restaurant के एक भी part में A/c है तो tax लगेगा।

• अगर एक Building में दो Restaurant है जिनका kitchen common है तो Non A/c Restaurant पर ST नहीं लगेगा तथा A/c वाले पर ST लगेगा।

Transportation by Rail or Vessel within India
- → Relief Material
- → Agricultural Produce (including fruit)
- → Defence or Military equipment
- → Railway equipments or Material
- → Registered News papers & Magazines
- → Milk / salt / Food grain including flours, pulses, rice,
- → Chemical fertilizer, Organic Manure, Oil cakes.
- → Cotton, Ginned, Baled.

Transportation of Goods by GTA
- → All Above items. (excluding Railway equipments/Material)
- → Amt. charged for all goods of a single person ≤ 750.
- → Amt. charged for a single carriage ≤ 1500.

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17. Independent Journalist.

18. Services of Hotel / Inn / Guest House.

* 1000 का criteria decide करने में Discount less नहीं करते पर जब Serv Value निकालते हैं, तब Declared Tariff में से Disc. less करो, और फिर Value में से 40% Abatement less करो।

19 Restaurant Service.

20 Goods Transportation by Rail/Vessel.

21 Goods transportation by Goods Carriage i.e. GTA

Giving on Hire
- A Motor Vehicle which can carry more than 12 passangers. example ⇒ Bus. ⇒ To a State Transport Undertaking (i.e. GSRTC)
- Goods Carriage (Truck) ⇒ To a GTA.

Transport of Passanger by
- Non A/c Contract Carriage (Point to point) (excluding Radio Taxi)
- Non A/c stage Carriage
- Air ⇒ Starting/ending airport located in
  - Arunachal Pr.
  - Assam
  - Manipur
  - Meghalaya
  - Mizoram
  - Nagaland
  - Sikkim
  - Tripura
  - Bagdogra.

Note ⇒ If Non A/c contract carriage is ~~used~~ provided for tourism, conducted tour, charter or hire then it is not covered in Mega exemption i.e. liable to service tax.

Services provided to Govt/ Local Aut/ Govt. Aut. ⇒ By way of
- Water Supply / Public Health / Sanitation / Solid waste Mgmt. / Slum improvement
- Repair or Maintainance of Vessel.

---

26 • General insurance service under specified schemes.

Latest
- Pradhanmantri Suraksha Bima Yojna
- Niramaya Health Insurance Scheme.

26A • Life Insurance Service under specified Schemes.
(Life Micro insurance product approved by IRDA, where Maximum Cover amount is ₹ 50 lakhs)

26B • Services of Collection of Contribution under Atal Pension Yojna

26C • Life Insurance Business under NPS Scheme.

Date :

Expt. No. Page No.

22 Hiring of Carriage

23 Transport of Passangers.

24. Vehicle parking services to general public now taxable.

25. Services provided by private entity to Government

26 Insurance Service.

23 A New Entry Inserted [N.N. 07/2017 w.e.f. 2/2/2017]

Central Govt. → Airline operator (INDIGO) → Passenger.

consideration for service = VGF
ST = Exempted

consideration for service = Transport Charge
ST = 90% Abatement

Teacher's Signature :

Services provided by Incubatee ⇒ Exempt upto ₹ 50 Lakhs if –
- → Turnover in last year ≤ 50 Lakh.
- → 3 yrs has not been lapsed as incubatee

• Unincorporated Body / NPO provides services to its Members.

⇓

After that charges are reimbursed by members as share of their contribution.

⇓

Now this activity is exempt from tax if

- It is a trade union
- OR
- Service is exempt from levy of service tax
- OR
- Amount collected from per member per Month ≤ 5000.

Q 48 on Pg 485 of ym.

Specified Services →
- → Sub Broker / Authorised Agent of Stock Broker
- → Authorised person of Member of a Commodity ex.
- → Selling Agent / Distributor of SIM / Recharge coupon
- → BF / BC to a Banking Co.
- → Agent of BF/BC
- → BF/BC to insurance company

→ Rural Area में A/c open करने वाले insurance कंपनी)

- → Sub contractor to Work Contractor. (उपर Main service exempt हैं तो है)

J/w service for →
- → Agriculture, printing, textile processing
- → Diamonds, gemstones, jewellery of gold, other precious metal
- → Any goods on which Duty is payable by principal Manufacturer (except alchoholic Liquors for Human consumption)
- → Processes during the course of Manufacture of parts of Cycle / sewing Machine upto ₹ 150 Lakh if value is less than ₹ 150 Lakh during last year. (i.e. last year में 150 Lakh तक की value का ही काम किया तो current year में 150 Lakh तक exemption मिलेगी/

Date :

Expt. No. Page No.

27 Services provided by Incubatee (⇑ Young enterpreneure)

28 Services by an unincorporated Body or NPO.

Third Party —Invoice→ RWA —Collection from Members→ Members

29 Services by specified persons.

Banking Service	Insurance Service
Banking Co. [Rural Area] ← ANY A/c → A/c Holder	Insurance Co. (Rural Area) ← Insurance service →
• Services provided by BF/BC to Banking Co. w.r.t. this A/c	• Service provided by BF/BC to an insurance Co. in Rural Area
• Services provided by Agent of BF/BC to BF/BC w.r.t. this A/c	• Service provided by Agent of BF/BC to BF/BC is taxable here.

30 Job Work Service.

Teacher's Signature :

Organiser provides ⇒ Service to any person ⇒ In respect of Business exhibition held outside India.

Service provider located in NTT, provides service to –
- (a) ⇒ Govt./local Auth./Govt. Auth./Individual (If Service received for commercial purpose then liable to ST under RCM)
- (b) ⇒ Entity Registered u/s 12AA of I.T. Act.
- (c) ⇒ Person located in NTT.

for RCM

But Above exemptions are Not available if –
- OIDAR services received by persons of (a) & (b)
- Transportation of goods by vessel from a place outside India upto the customs stations of clearance in India received by person of Clause (c).

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31 Services of an organiser for Business exhibition

32 Telephone call service now taxable.

33. Services by way of slaughtering of Animals.

34 Service provider located in NTT

35 Services of Public libraries.

36 Services provided by ESI Corporation to persons covered under ESI

37 Service provided to t/f going concern as a whole or an independent part there of.

38 Public Toilet Service.

39 Any function /Activity of Municipality done by Government

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40	Services of loading, unloading, packing, repacking, storage, warehousing of rice, cotton, ginned, bailed.
41	Services received by RBI from outside India for management of forex reserves.
42	Services provided by Tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
43	Common Effluent Treatment service.
44	Services of finishing on Fruits & vegetables. Finishing → Pre Conditioning / Pre Cooling → Ripening / Waxing → Retail Packing / Labelling.
45	Admission to Museum, National Park, Wildlife Sanctuary, tiger reserve, zoo.
46	Exhibition of Movies for Distributors or Association of exhibitors.

47 Ticket of Entertainment Event.

- Exhibition of Films, Circus, Dance, Theatrical performance, Drama or Ballet
- Recognised Sports Event
- Any other function where price of ticket ≤ ₹ 500.

48 Service provided by Govt./ local Authority to small B/E. (छोटे B/E = whose turnover in ~~past~~ last year was less than ₹ 10 Lakhs)

49 Services provided by EPF organisation to persons covered under EPF Act.

50 Services provided by IRDA to insurers.

51 Services of SEBI

52 Cold Chain Knowledge Dissemination service provided by National Center for Cold Chain Development.

53 Transportation of Goods by an Aircraft from a place outside India upto custom station of clearance in India.

54 Service provided by Govt./Local Authority to another Govt./ Local Authority.

Teacher's Signature :

55 Passport, Visa, Driving licence, Birth Certificate, Death certificate services provided by Govt./ Local Auth

56 Services provided by Govt./ Local Authority where amount charged is ≤ ₹ 5000. (excluding 66 D (a) (i), (ii), (iii)) In case of continuous supply of service ₹ 5000 limit ~~per~~ will apply per financial year.

57 Fines or Liquidated damages charged by govt./ Local Auth. for tolerating non performance of a contract.

58 Registration charges / testing / Calibration / safety check / certification charges under any law collected by Govt./ Local Authority.

59 Assignment of Right to use natural resources to an individual farmer for the purpose of agriculture by Govt./ local authority.

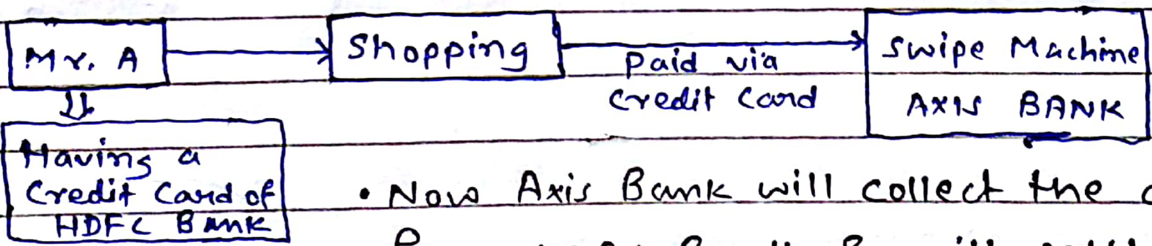
60 Activities / functions of panchayat performed by Govt./ local authority / govt. authority.

61 Service provided by Govt/local authority by way of assignment of Right to use Natural Resources before 1/4/16.

62. Services provided by Govt./local authority by way of allowing a B/E to operate as telecome service provider or to use radio frequency spectrum on or before 1/4/16 on payment of fees/charges.

63 Service provided by Govt. on payment of Merchant overtime charges.

64 Services by an Acquiring Bank to any person in relation to settlement of amount upto ₹ 2000 in a single transaction transacted through credit card, Debit card, charge card or any other payment & service.



- Now Axis Bank will collect the amount from HDFC Bank & will settle the transaction for Shopping Vendor.
- Axis Bank will charge Merchant service charges from vendor for settlement.
- No service tax will be levied on Merchant service charges if amount of single transaction is upto ₹ 2000.

Exemption to Small Service Provider (SSP)

Small Service Provider (SSP) ⇒ A Service provider whose aggregate value of taxable services provided from one or more premises does not exceed ₹ 10 Lakhs in the preceeding financial Year.

Exclusions from Aggregate Value :-

- Exempted services
- Value of Goods / Material supplied by service Receiver.
- Activities not amounting to service.
- Negative listed services.
- Services provided in Non Taxable Territory (NTT)
- Abated part of value of service.

Exemption ⇒ Value of taxable services upto ₹ 10 Lakhs provided during the financial year are exempted from service tax. However excess over ₹ 10 Lakhs shall be chargeable to service tax.

Conditions ⇒
- Cenvat Credit ~~can~~ on input services / capital goods can be taken only when SP starts paying service tax.
- Cenvat credit on input in stock shall be lapse on the date of opting for exemption.

Other Notes ⇒
- SSP exemption is optional. (If Availed then can't be withdrawn in current year.)
- SSP exemption is available service provider wise, i.e. not for each taxable service or each premise.
- Services provided under a Brand Name or Trade Name, whether Registered or Not, of another person are not eligible for SSP exemption.
- Services provided under RCM are not eligible for SSP exemption.

Abatement

Date :

Expt. No. Abatement on Value of Service Page No.

	Service	Condition	Abatement
1.	Financial Lease & Hire purchase	–	90%
2.	Transport of Goods by Rail (Railway वालो को माल दे दिया, अब वो ही transport करेंगे) Mr. A ⟶ Indian Railway	No CC on input No CC on C.G.	70%
2A	Transport of Goods in container by Rail by any person other than Indian Railways. (container co. को माल दे दिया। अब container co. माल container में भरेगी तथा उन container को Rail से भेजेगी) Mr. A ⟶ Container Co. → Railway	No CC on input No CC on C.G.	60%
3	Transport of passenger by Rail	No CC on input No CC on C.G.	70%
4	Bundled Service (Food + premises) Value = Amount Charged – Value of Goods supplied	No CC on input – VAT on such Goods.	30%
5	Transport of passengers by Air • Economy Class • Other than economy Class	No CC on input No CC on C.G.	 60% 40%
5A	Regional Connectivity Scheme. Transport of passengers by Air, embarking from or terminating on a Airport covered in R.C.S.	No CC on I/CG/IS	90%

Note: This Abatement is applicable for one year from the date of Starting of operations at RCS Airport.

Teacher's Signature :

	Service	Condition	Abatement
6.	Renting of Hotel/inns/Guest House/club/other commercial place for Residence or lodging	No CC on input No CC on C.G.	40%
7.	GTA (other than used Household goods)	No CC of I/c/s	70%
7A	GTA (transport of Used Household goods)	No CC of I/c/s	60%
8.	Services provided by foreman of Chit fund in relation to Chit.	No CC of I/c/s	30%
9.	Renting of Motor CAB Input Service Renting of Motor CAB ⇓ SP availing abatement = Full CC SP not availing abatement = 40% CC Other service ⇓ No CC	No CC on input No CC on C.G. ← Input service	60%
9A	Transport of Passenger by :- • Contract Carriage (other than Motor CAB) • Radio Taxi • Stage Carriage	No CC on I/c/s	60%
10	Transport of Goods in a Vessel [This Abatement is Not Available in case of Goods transported in a vessel from outside India to custom station in India]	No CC on Input No CC on C.G.	70%
11.	Tour Operator Services [Amended by N.N. 4/17] Condition:- • Bill is inclusive of charges of accommodation and transportation required for such tour. • Amount charged in the Bill is Gross amount charged for such tour.	No CC on Input No CC on C.G.	40%
12.	Construction service. (consideration का कुछ part advance में Receive होना चाहिये। अगर पूरा consideration बाद में Receive हो रहा है तो वो Sale माना जायेगा)	No CC on input (Value of land is included in amt. charged)	70%

Reverse Charge Mechanism (RCM)

Date :

Expt. No. Page No.

S.No	Service Provider	Service Receiver.	RCM
1.	Insurance Agent	Insurance Co.	100%
2.	GTA If specified persons are located in NTT, then GTA will be liable to pay ST.	Specified Persons :- • factory. • Society. • Co op. Society • Dealer of excisable goods • Body Corporate • Firm / AOP	100%
3.	Sponsorship. (BCCI)	Company / firm located in TT (VIVO)	100%
4.	• Arbitral Tribunal • firm / Individual advocate by way of legal services. • Senior advocate by way of Representational services	Business Entity.	100%
5.	Govt. / Local Authority. Except :- • Renting of I.M. Property • PAT Services	Business entity.	100%

6. Director	Company	100%
7. Person located in NTT	Person located in TT	100%
8. Recovery Agent	BC/FI/NBFC	100%
10. Selling/Marketing Agent of lottery ticket (SSD)	Lottery Distributor (FSD)	100%
11. Service of Aggregator [A person who have a web Based Application software and enables a customer to connect with service providers under his Brand Name] [PAYTM]	Aggregator If Aggregator is not have a physical presence in TT then:- • Representative of Aggregator in TT OR • Person appointed by Aggregator in TT.	100%

Note ⇒ Definition of Aggregator is Amended by FA 2016.

12. Renting of Motor vehicle designed to carry passenger.	Person who is not engaged in similar Business.	
• If Abatement Claimed		100%
• If Abatement not Claimed		50%
13. Supply of Manpower./Security Services		100%
14 Service portion of works Contract [SP ⇒ Ind./HUF/firm] [SR ⇒ Company]		50%
15 OIDAR Service [SP is a person located in NTT]	SERVICE RECIPIENT [Except Non AOR]	100%
16. Transportation of Goods in a vessel from a place outside India upto the custom station of clearance in India [SP = A person located in NTT]	The Importer	100%

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Point of Taxation Rules

Date :

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Page No.

• Need of POT →
- → Rate of Service Tax ⇒ Date of POT
- → Rate of Exchange ⇒ Date of POT (R-11 of STR 1994)
- → Due Date for payment of ST ⇒ जिस Month/quarter में POT fall कर रहा है, उसके next month की 5th/6th तक service tax deposit करवाना है।

R-2A	Date of payment =[Book entry or Credit in Bank]w.i. earlier Note- Date of Payment = Credited in Bank (i) there is a CHANGE IN EFFECTIVE RATE OF TAX or when a service is taxed for the first time during the period BETWEEN SUCH ENTRY IN BOOKS OF ACCOUNTS AND ITS CREDIT IN THE BANK A/C; AND (ii) the CREDIT IN THE BANK ACCOUNT IS AFTER 4 WORKING DAYS FROM THE DATE when there is CHANGE IN EFFECTIVE RATE OF TAX or a service is taxed for the first time; AND (iii) the PAYMENT IS MADE BY WAY OF AN INSTRUMENT WHICH IS CREDITED TO A BANK ACCOUNT,

SR ने cheque दिया ⇒ उसे Books में enter किया ⇒ बैंक में लगा दिया। ⇒ ST Rate बदल जाती/ ST Levy हो जाता। ⇒ ST लगाने के 4 दिन बाद Bank A/c में पैसा आया। जिस दिन पैसा आया उस दिन को Date of payment मानेंगे।

Rule 4A of STR, 1994 ← Req. of issue of Invoice →
- → Normally ⇒ with in 30 days from payment/completion
- → Banking Co ⇒ with in 45 days from P/C

In case of continuous supply of service, Invoice will be issued with in 30 Days of completion of each event.

Rule = 3 ⇒ General Rule :-

Invoice

Issued with in Time Limit	Not issued with in Time limit
⇓	⇓
Invoice / Payment	Completion / Payment
⇓	⇓
Earlier	Earlier

• In case of continuous service Date of completion of service is replaced by Date of completion of Event.

• Continuous service →
- → Notified ⇒ telecommunication, works contract
- → Service provided continuously on Recurrent Basis under a contract for a period exceeding 3 months.

Teacher's Signature :

- Individual / Firm / OPC ⇒ If Aggregate value of services provided in preceeding financial year does not exceed ₹ 50 Lakhs, then Rule : 3 shall not apply in current year. They can pay ST on payment basis. [Rule 6 of STR 1994] [This option is N/A to HUF]
- Advance received are taxable at the time when they are received so POT will be the date on which amount is received.*
- If SP received a payment upto ₹ 1000 in excess of amount indicated in Invoice, then he has the option to pay service tax when (Invoice issued or completion of service) whichever is earlier. No need to issue separate Invoice.

Rule 4 ⇒ Change in Rate of Service Tax :-

Service provided

- Before Change in Rate ⇓ Invoice / Payment ⇓ whichever is earlier
- After Change in Rate ⇓
  - But Invoice & Payment both are before change in Rate ⇓ Invoice / payment ⇓ whichever is earlier
  - Otherwise ⇓ Invoice / payment ⇓ whichever is later

In case of Rule : 4, tax rate will be taken of that period in which 2 out of 3 conditions are fulfilled :-

- Date of Completion
- Date of Invoice
- Date of Payment

Rule 5 ⇒ New service Became Taxable / New tax levy on services [like KKC]

No ST, if –
- Payment received before service became taxable, And
- Invoice issued before / within 14 days of service became taxable

Note ⇒ If service completed and Invoice issued before 1/June/2016 then KKC will not be charged even if payment received after 1/6/2016.

Rule 7 ⇒ Reverse Charge

POT –
- Payment
- 1st Day after 3 months from the date of Invoice

] ⇒ whichever is earlier

- Govt. द्वारा RCM –
  - Due Date of payment
  - Date of payment

  ] ⇒ whichever is earlier.

Change in Liability :-

- Service Completed & Invoice issued before change in liability.
- After that liability got changed due to change in –
  - ST Rate
  - Abatement %
  - RCM Ratio
- POT = Date of Invoice.

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* After Receiving Advance if service is not provided and ~~amount~~ advance is refunded then ST paid can be claimed as refund or ~~can be adjusted against subsequent ST liability.~~

Date:

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Associated Enterprises :-

- SP is located outside India

POT – → Date of Payment / → Date of Debit in Books (By SR) ⇒ whichever is earlier.

Rule = 8 ⇒ Patent / Copyright / Trademark / Design :-

- Total Amount of consideration is not ascertainable at the time of provision of service. (अगर consideration ascertainable है तो R=3 लगेगा)
- Use or Benefit of these services by a person other than service provider.

POT – → Date of Invoice / → Date of Payment ⇒ whichever is earlier.

Rule 8A ⇒ Best Judgement Rule :-

If POT can not be determined as per above rules due to non availability of Date of Invoice / Date of payment / Both, then CEO may demand Relevant accounts, documents and other evidence from assessee. Now he can determine ~~to~~ the Point of taxation to the best of his judgement after giving the assessee an opportuinity of being ~~heared~~ heard.

Rule 8B ⇒ Goods imported in a Vessel from outside India

- Date of Bill of Lading of such goods in the vessel at the port of export.

PLACE of PROVISION of SERVICE (POPOS)

Popos Rules are there to determine where the service has been provided. Because the service is taxable only if it has been provided in taxable territory.

Rule = 3 ⇒ General Rule :-

• Service Not covered under Rule 4 to 12 —
  → Location of Service Receiver
  → If location of SR is Not available ⇒ Location of Service provider.
  ⇓
  But this proviso is not applicable in case of OIDAR Service.

∴ Popos in case of OIDAR service will always be location of SR.

Rule = 4 ⇒ Performance Based Services :-

• Goods to be made physically available by SR to SP = location where Service performed
• Service provided from Remote location by electronic means = location of Goods
• Goods Temporary Imported ⇒ Repaired ⇒ Exported without Use = Rule 4 N/A
• Service requires physical presence of SR or his proxy. = location where service performed

Rule = 5 ⇒ Service Relating to Immovable property :-

Service Directly Related to Immovable property
+
Location of Immovable property must be known
⇒ Location of Immovable Property.

Rule = 6 ⇒ Event Related Service :-

Place where Event is Actually Held.

Rule = 7 ⇒ Service provided at More than one location :-

• Location in TT where the Highest proportion of service performed.
• Only for Rule 4/5/6.

Rule 8 ⇒ Service provider and Service Receiver located in TT :-

• Location of Service Receiver.

Note ⇒ If a service is covered in More than on Rule then the Rule that occurs Latter shall apply. (R=14)

Date :

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Rule = 9 ⇒ Specified Services :-

- Banking Co./ Financial inst./ NBFC ⇒ Account Holder
- ~~Online Data access or Retrival services~~ ← ommitted ⇓ Now R=3 shall apply for OIDAR service
- Intermediary services / Agent services
- Hiring of Transport Medium

Location of Service provider.

Note ⇒ Service by Banking Co. to A/c Holder by way of :-

- * Hire purchase / lease
- * Merchant Banker
- * Banker to issue
- * Forex Broking
- * Merger Acquisition
- * Asset Management

⇒ Not Covered by Rule = 9 ⇓ Now Rule = 3 Applicable.

Note ⇒ Rule 9 is not applicable on-

- * Aircraft
- * Vessel
- * Yachts (exceeding 1 Month)

⇒ Rule 3 shall apply.

Rule = 10 ⇒ Goods Transportation Services :-

- Transport of Goods (except GTA, Courier) ⇒ Destination
- Services of GTA ⇒ Location of person liable to pay ST.

Rule = 11 ⇒ Transportation of Passangers :-

- Place from where person Board the Conveyance.

Rule = 12 ⇒ Service Provided to passangers during journey :-

- First Scheduled point of Departure of the Conveyance for journey.

Teacher's Signature :

"DECLARED SERVICES"

i) Renting of Immovable Property :-

- Renting / leasing / letting / licensing an Immovable property with or without transfer of possession or control.
- Renting of Theaters by owners to Film Distributors.
- Letting out of Halls / Rooms by Hotel, Restaurants, Convention centers for social, official, Business, Cultural function.
- Permitting use of Immovable property for placing vending/ dispensing machine in Malls.
- Allowing erection of communication tower on a Building.
- Renting of land, Building for entertainment / Sports / Circus.

Negative List
- Renting of Vacant Land for Agriculture [With or Without Structure]
- Renting of property by RBI.
- Renting of Residential Dwelling for use as Residence.
- Renting out of Any property by Govt / Local Authority to Non Business entity (Non B/E)

Mega Exemption ⇒ Entry No. 5, 18 Available.

Abatement ⇒ 40% with No Cenvat of Input / Capital Goods.

POPOS ⇒ Rule 5 / Rule 8

Note ⇒

Value of Taxable service = Gross Amount Charged for Renting of Such Immovable property − property tax paid to local Bodies.

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ii) Intellectual Property Service :- [Temporary t/f of IPR]

- Intellectual property right includes CopyRight, Patent, Trademark, Design, any other similar Right to an intangible property.
- IPR → Temporary t/f ⇒ Service ⇒ Service Tax
  → Permanent ⇒ Sale ⇒ No Service Tax
- Mega Exemption

* IPR Related to Original work of literary, dramatic, musical or artistic work, covered u/s 13(1)(a) of copy Right Act.

* Cinematograph films for exhibition in Cinema Hall or Cinema Theatre.

* Exhibition of movies by an exhibitor for Distributors or an AOP in which exhibitor is a Member.

Note ⇒ Temporary t/f of IPR is taxable even if such IPR is registered under Foreign LAW.

Note ⇒ In case IPR is imported, then SR is liable to pay service Tax under 100% RCM. But R&D cess paid on import of technology shall be allowed as deduction from such service tax.

POPOS ⇒ General Rule = 3 ⇒ Location of Service Receiver.

Point of Taxation :-

- Consideration ascertainable at the time of provision of service :-

* Yes ⇒ Rule 3 i.e. General Rule

* No ⇒ Rule 8 ⇒ Date of Invoice or Payment ⇒ Earlier.

iii) Works Contract Service:-

Valuation ⇒ As per Rule 2A of Valuation Rules.

Cenvat ⇒ CCr of Input used in works contract ⇒ N/A
CCr. of Input Service ⇒ Available.

Mega Exemption ⇒ Entry No. 12, 12A, 13, 14, 14A, 29 Available.

Reverse Charge ⇒ 50% RCM if SP is Ind./HUF/Firm and SR is Body Corporate.

iv) Construction Service:-

Mega Exemption ⇒ Entry No. 12, 12A, 13, 14, 14A Available.

Abatement ⇒ 70% Abatement [No CCr on Input]

v) Refrain From Act:-

Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act has been specified as a declared service.

vi) Delivery of Goods on Hire Purchase OR Installment System:-

Activities and services provided in Relation to such Delivery of Goods are covered under Declared services.

Valuation = $\underbrace{[\text{Interest} \times 10\%]}_{90\% \text{ Abatement}}$ + Other Charges & Fees.

• Int = Installment − Principal

vii) Information Technology Software Services:-

covered –
→ Development, Design, Programming
→ Customization, adaptation, upgradation
→ Enhancement, Implementation
⇒ of Information Technology Software.

Service Tax is Exempt if –
→ Such software is recorded in a Media under chapter 85 of CETA and on which MRP is Required to be declared under legal Metrology Act.
→ Value has been determined u/s 4A of CEA 1944.
→ Excise Duty / Custom Duty / Add. Duty have been paid.
→ SP declares on Invoice that no amount in excess of MRP has been Recovered.

Other points –
→ On site Development, Advice, Consultancy ⇒ Liable to ST
→ Licence to use pre packaged software ⇒ Liable to ST
→ Customised Development and Delivery through Media ⇒ Liable to ST.

viii) Hiring OR Leasing Related Services :-

- Transfer of Goods by way of Hiring / Leasing / licensing without t/f of Right to Use such Goods.

Mega Exemption ⇒ Entry No. 22 of Mega exemption.
Abatement ⇒ 60% with conditions.
RCM ⇒ Applicable
POPOS ⇒ Rule 9 / Rule 3

ix) Assignment of the Right to Use Radio frequency Spectrum :-
Exemption ⇒ Entry No. 62 of Mega Exemption.
RCM ⇒ Service Receiver liable to pay tax = 100% RCM.
POT ⇒ Due Date of Payment / Date of Payment ⇒ Earlier.

Cenvat Credit ⇒ • Cenvat of ST. paid shall be spread equally over a period of three years.
- Time limit of one year under Rule 9(1) of CCr Rules ⇒ N/A on this service

x) Food Related service :- (Restaurant)
Exemption ⇒ Entry No 9, 19, 19A of Mega Exemption.
Valuation ⇒ Rule 2C of Valuation Rules.
Abatement ⇒ 30% in case of Bundled service in a premises together with Renting of such premises.

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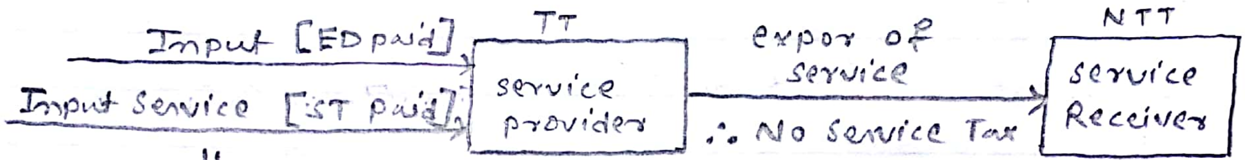
Export of Service

- Conditions to be satisfied for a service to be treated as export of service:-
  - * SP is located in TT
  - * SR is located in NTT
  - * Service is not covered in negative list
  - * POPOS of service is outside India
  - * Payment of service must be received in convertible forex.
  - * SP & SR are not assumed Distinct person. [H.O. (TT) ⟷ Branch (NTT)]

  (मतलब कि Assumed Distinct है case में Export of service की जाएगी → और Export Benefit नहीं मिलेगा)

- Liability to pay service tax arises only when service is provided or agreed to be provided in Taxable Territory (TT). In case of export of service no service tax shall be payable as the SR is located in NTT in most of the cases. ∴ No ST liable on export of service.



⇓

what about Duty/tax paid on Input/service used in providing export services.

⇓

- CG has granted rebate of the whole of the duty paid on excisable inputs and whole of the service tax paid on all input services used in providing export services to any country other than Nepal & Bhutan. But subject to conditions:-

⇓   Note ⇒ SBC/KKC का भी Refund मिलेगा।

Conditions :-

- Service has been exported in terms of Rule 6A
- ED/ST on input/input service of which Rebate has been claimed, have been paid to supplier/service provider/Govt. [in case of RCM]
- Rebate of Duty/ST is ≥ 1000.
- No CCr has been booked of input/input service on which rebate has been claimed.
- If
  - → ED/ST not paid to Supplier/sp/Govt. (OR)
  - → Service has not been exported (OR)
  - → CCr booked of such ED/ST

  And ⇒ Claimed Rebate ⇒ Then such Rebate shall be recovered with interest.

-: Exemption to services of GTA to an Exporter :-

GTA service → Exporter of Goods → Exports Goods

⇓

For transport of Goods to be exported

⇓

- From CFS/ICD to Port/Airport/Land Custom Station (LCS)
- From Place of Removal to CFS/ICD/Port/Airport/LCS

⇓

Now as per normal provisions exporter is liable to pay service tax under RCM, But as per N.N. 31/2012 govt. exempted S.T. on fulfiling certain conditions.

Online Information & Database Access or Retrieval Services (OIDAR)

Services –
- Delivered on Internet or an electronic network
- Involving minimal Human intervention i.e. Fully Automated
- Impossible to ensure in the absence of Info. Technology
- Includes electronic services on:-
  - Advertising on Internet
  - Providing cloud services
  - Access to online content i.e. ebooks, media, software etc.
  - Online Data or information
  - Online supplies of Digital content (Jio TV)
  - Digital Data storage
  - Online Gaming.

Note ⇒ OIDAR services are excluded from the definition of telecommunication services.

POPOS
- Pre Amendment ⇒ OIDAR services were covered in Rule 9 of POPOS, i.e. location of service provider.
- After Amendment ⇒
  - OIDAR services are removed from R-9
  - Now Rule = 3 i.e. General Rule apply.
  - i.e. POPOS ⇒ location of service Receiver.
  - Proviso in R-3 is N/A on OIDAR service

MEGA EXEMPTION
- Pre Amendment ⇒ As per entry no. 34, if SP is located in NTT and provides service to.
  - a) Govt./local Auth./Govt. Aut./Ind. for non commercial purpose
  - b) Entity registered u/s 12AA of IT Act
- Post Amendment ⇒ A proviso has been inserted in entry no 34 which states that; exemption shall not apply in case of OIDAR services received by the person referred in 34(a)/34(b).

Person liable to pay service tax in case of OIDAR service:-

Service Receiver

Non Assessee online Recipient [NAOR]

⇓

- Govt./local Auth./Govt. Auth./ Individual receiving OIDAR services for Non Commercial purpose
- Any person not having service tax Registration and receives OIDAR services.

⇓

Forward Charge Applicable i.e. Service provider is liable to pay service tax

⇓

But Service provider is from NTT

∴ service tax Rules are amended

⇓

- Service provider is required to take Registration
- He is required is issued Invoice
- He is required to file Returns.
- He is required to pay S.T. online.

Other than NAOR

⇓

RCM Applicable i.e. SR is liable to pay Tax

Service provider provides service

- **Through his own portal**
  - ⇓ Service provider is liable to pay S.T.
  - ⇓ If SP appointed any person located in TT as his Representative then such person is liable to pay S.T.

- **Through an Intermediary located in NTT**
  - ⇓ check Conditions
  - ⇓
    - Invoice clearly shows service
    - Invoice shows supplier of service in NTT
    - Invoice shows STRN of supplier in TT
    - Intermediary is not Responsible for collection or process of payment
    - Intermediary does not authorise Delivery
    - T&C of supply are not set by intermediary
  - ⇓ If all the conditions are satisfied
    - **Yes** ⇓ Service provider is liable to pay service tax
    - **NO** ⇓ Intermediary is liable to pay service tax.

The whole concept of OIDAR service is based on that SP is located in NTT and service Receiver is located in TT.
Now How to determine whether SR is located in TT or Not.
i.e. in OIDAR service SR may receive service online anywhere.

- **On the Basis of Address**
  - ⇓
    - Address presented by SR
    - Billing Address
    - IP Address / SIM Card
    - Land line address

- **On the Basis of Payment**
  - ⇓
    - If payment is made by card, the location where card was issued
    - The location of Bank in which Account is maintained.

Transportation of Goods from Outside India to Custom station

- By Aircraft
  - POPOS => Rule 10 => Destination of Goods
  - Negative List => Not Available due to FA 2016
  - Mega exemption => New Entry No. 53 => Exempt from ST.

- By Vessel
  - POPOS => Rule 10 => Destination of Goods
  - Negative List => Not Available due to FA 2016
  - Mega Exemption

Pre Amendment Provisions => As per entry no. 34(c) of Mega exemption if service provider located in NTT and service Receiver is also located in NTT then service provided will be exempt from service Tax.

	Case I	Case II	Case III	Case IV
SP = Shipping Co.	TT	TT	NTT	NTT
SR = • Importer (IM) • Exporter (EX)	IM - TT	EX - NTT	IM - TT	EX - NTT
Mega Exemption i.e. 34(c)	N/A Because Both are in TT	N/A Because SP is in TT	N/A Because SR is in TT	Yes, Both are in NTT
Service Tax	Yes	Yes	Yes	N/A
Person Liable	SP i.e. Shipping company	SP	SR (RCM)	N/A

Provisions After Amendment => Proviso has been inserted in entry no. 34 of Mega exemption notification. As per this proviso exemption under 34(c) is not available in case of "services by way of transportation of goods by vessel from a place outside India upto the custom station of clearance in India."

Due to this proviso CASE-IV which was not liable to ST, is now covered in the ambit of service Tax.

∴ ST is applicable in CASE-IV also.

Person liable to pay Service Tax ⇒
- 22/1/17 to 22/4/17 ⇒ Shipping Agent of Shipping Co.
- From 23/4/17 ⇒ Importer (RCM)

Point of Taxation ⇒ Date of Issuance of Bill of Lading of Such goods at port of export.

Note:- No service tax if Bill of Lading is issued before 22/1/2017.

Valuation of Tax Liability ⇒
- 14% Service Tax + SBC + KKC

  OR
- Composition ⇒ ST = CIF × 1.4% + SBC + KKC

Note ⇒ As per CBEC Clarification Abatement is Not Available.