



WIRC BULLETIN

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For Members only

May 2012

From the Desk of Chairman



Dear Professional Collogues

"Organize your life around your dreams - and watch them come true." -

I am glad to inform you that WIRC has organized successfully, Campus Interviews under Integrated Campus Program planned by head office in Mumbai for Dec. 2011 passed out students. This is first

time in the history of WIRC that fifty five students have got placements in leading companies like Accenture, Amtek Auto, Cipla, Coal India, Mukund, ONGC, Pidotite, Suzlon, TCS, WIPRO with highest ever CTC offers starting from Rs. 5 Lacs to Rs. 10 Lacs per annum. Hearty Congratulations to all students selected.

Keep up the good work and wishing you all a very long and bright carrier. I also would like to compliment Mr. K. P. Unnikrishnan (Dy. Director Admin. WIRC), WIRC Staff, CMA Ashish Thatte (Hon. Secretary, WIRC) and the efforts of everyone alike contributed to the success of the campus program.

While organizing P.D. Programs we have dual objectives, on one hand there is a great need to have trained CMA professionals with focused expertise to undertake and deliver time bound statutory compliances, on the other hand we continuously need to bring about a lasting change and to broaden the excellence of CMA profession in all directions.

As a part of continuing professional development program WIRC organized seminar on "Applicability of Cost Audit and Cost Compliance in Organic & Inorganic Chemical Industry (Chapter 28,29,32,38,30) on 27th April 2012 at Hotel Jewel of Chembur, Chembur, Mumbai. I extend my sincere thanks to CMAs Kirit Mehta (Past Chairman WIRC), CMA Harshad Deshpande (Treasurer Pune Chapter), CMA Ashish Thatte (Hon. Secretary -WIRC) & CMA Sukrut Mehta for their valuable contributions. Looking to the demand from industries and members, WIRC is planning to continue with Industry Specific seminars in future, covering almost all the categories as notified in MCA Cost Audit Notifications dated 24-Jan-2012. I again appeal all the chapters to organize similar events in their

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CAMPUS INTERVIEW

WIRC had organized the 8th Campus Interview for Final students passed in December 2011 Examination on 21st and 22nd April 2012 at Aruna Manharlal Shah Institute of Management & Research, Ghatkopar (West), Mumbai. Around 110 students from Western Region participated in Campus and more than 50% students got selected.

WIRC received excellent feedback from the students and the Companies who participated in the Campus. CMA Ashish Thatte, Hon. Secretary WIRC and CMA Neeraj Joshi, Treasurer WIRC were co-ordinators of the campus.

Special Programme on "Personality and Communication Skills Development" was also organized on 21st April, to help students to prepare for Campus Interview. Prof. Neha Mathur, HRD Consultant was the faculty for the programme.

List of Companies Participated

- ACCENTURE
- AMTEK AUTO LTD.
- CIPLA
- COAL INDIA LTD.
- MUKAND LTD.
- ONGC
- PIDILITE INDUSTRIES LTD.
- SUZLON ENERGY LTD.
- TATA CONSULTANCY SERVICES
- WIPRO TECHNOLOGY LTD.

Glimpses of Campus Interview held on 21st and 22nd April 2012 at Aruna Manharlal Shah Institute of Management & Research, Ghatkopar (West), Mumbai.



Orientation Programme by Prof. Neha Mathur



Personal Interview by ONGC Panel



Personal Interview – Suzlon India



Written test in progress – Accenture

Chairman Communique Contd.... Page 1

cities to spread awareness on applicability of statutory cost accounting and audit compliances and other relevant subjects.

Surat South Gujrat Chapter celebrated 20th annual day program on 6th May-2012 and Vice President CMA Rakesh Singh graced the occasion with his presence and distributed the prizes to the students with commendable academic performances. I would like to thank CMA R.M. Bhave (founder Chairman - Surat Chapter) and CMA V.S. Datey (Chairman Nasik Chapter) for their educational and insightful presentations on IFRS and Service Tax. I congratulate chair person CMA Dr. Heena Oza, members and students who have taken sincere efforts to make the annual day function a grand success.

Our institute is going to celebrate foundation day on 19th May-2012 and on this auspicious day we are organizing Students Felicitation Ceremony in the western region to felicitate students with outstanding performance in the last attempt. I request you all to celebrate this day by organizing the events helping us for uniting in our stands and prepare to accept the challenges ahead in the profession.

My best wishes to all of you and your families!!

With Warm Regards

CMA Vijay P. Joshi

Statement about Ownership and other particulars about Newspaper "WIRC BULLETIN" as required to be published in the first issue of every year after the last day of February.

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I hereby declare that the particulars given above are true to the best of my knowledge and belief.

30th April 2012

Sd/-
Ashok B. Nawal

FULL DAY SEMINAR on Applicability of Cost Audit and Cost Compliance in Engineering Machinery, Tractor and Other Motor Vehicles (Chapter 84, 85 and 87)

Date : Saturday, 2nd June 2012 Time : 10.00 a.m. to 5.00 p.m.

**Venue : Hotel VITS Mumbai (Sapphire Hall),
Andheri Kurla Road, International Airport Zone, Konditita Lane, Andheri (East), Mumbai 400 059.**

Delegate Fees :

Company Sponsored : Rs. 2,500/- +Service Tax per participant • Practising CMA : Rs. 1,500/- +Service Tax per participant

(Four CEP Credit Hours will be provided)

About the Seminar

The Government of India is continuously encouraging Indian Industry to be Cost Competitive to face the Global Competition. With this objective rationalised, simplified and corporate friendly legislations are being introduced. The Ministry of Corporate Affairs has issued Notifications on The Companies (Cost Accounting Records) Rules 2011. The Companies (Cost Audit Report) Rules 2011 which supersede the Cost Accounting Records Rules for 36 industries and Cost Audit Report Rules 2001. MCA has also issued orders consequential to the new notifications.

These new rules and orders have totally transformed the Cost Audit Mechanism. The new Cost Audit Report Rules provide for Cost Accounting Policy, Product Group Details, Product Group wise Abridged Cost Statement, Performance Appraisal Report and so on. The new Cost Accounting Records Rules provide for maintenance of Cost Accounting Records on the basis of Cost Accounting Standards issued by the ICWAI and the Generally Accepted Cost Accounting Principles. The Compliance Report has been introduced for the First time, which is mandatory in case of almost all companies with turnover exceeding Rs. 20 Crores. The deliberations at seminar will help in understanding the applicability of cost audit and cost compliance in Industries like Electronics, Electrical, Auto Components etc. A unique kind of seminar exclusively talking about these industries.

Course Contents

1. The Companies (Cost Accounting Records) Rules 2011.
2. The Companies (Cost Audit Report) Rules 2011.
3. Cost Accounting Standards (CAS) issued by The ICWAI
4. Generally Accepted Cost Accounting Principles (GACAP)
5. MCA Cost Audit Branch Order dated 2nd May, 2011 regarding Mandatory Cost Audit for 8 industries.
6. MCA Cost Audit Branch Order dated 30th June, 2011 regarding Mandatory Cost Audit for 8 more industries.
7. MCA Cost Audit branch General Circular dated 11th April 2011 regarding appointment of Cost Auditor by Companies.
8. MCA Cost Audit Branch Order dated 24th January 2012.
9. Any further developments till the time of this seminar.

Speakers

CMA Amit Apte, CCM-ICAI
CMA Vijay Joshi, Chairman, WIRC
CMA Shrenik Shah, Vice-Chairman, WIRC
CMA A. B. Nawal, Past Chairman, WIRC
CMA Kirit Mehta, Past Chairman, WIRC
CMA Ashwin Dalwadi, Past Chairman, WIRC
CMA Sukrut Mehta, Practising Cost Accountant

Programme

09.30 a.m. to 10.00 a.m. Registration
10.00 a.m. to 10.15 a.m. Inauguration
10.15 a.m. to 11.45 a.m. Technical Session I
11.45 a.m. to 12.00 Noon Break
12.00 Noon to 01.15 p.m. Technical Session II
01.15 p.m. to 02.00 p.m. Lunch
02.00 p.m. to 03.15 p.m. Technical Session III
03.15 p.m. to 03.30 p.m. Tea Break
03.30 p.m. to 04.45 p.m. Technical Session IV
04.45 p.m. to 05.00 p.m. Panel Discussion

For Registration Contact :

WIRC of ICWAI, Rohit Chambers, 4th Floor, Janmabhoomi Marg, Fort, Mumbai 400 001.

Tel. 022 - 2287 3476 / 2204 3406 / 2204 3416 Extn. 35 • Fax: 022 - 2287 0763 • E.mail: seminar@icwai-wirc.org • Website: www.icwai-wirc.org

Thane Students and Members Facilitation Centre,

Bldg. No. 8, Ground Floor, Damani Hsg. Soc. Ltd., Damani Estate, Naupada, Thane (W) 400 602 • Tel. 022-2545 0763

Borivali Students and Members Facilitation Centre,

C/o. St. Francis Institute of Management and Research, Mt. Poinisur, S.V.P. Road, Borivali (W), Mumbai 400 103 • Tel. 022-2894 8302

Full Day Seminar on PACKAGED FOOD INDUSTRY EDIBLE OIL SEED AND OILS (Chapter 2 to 25 except 5, 6, 14, 23 and 24)

Date : Friday, 15th June 2012 **Time :** 10.00 a.m. to 5.00 p.m.

Venue : Grand Hotel, Ballard Estate, Mumbai 400 038

Delegate Fees :

Company Sponsored : Rs. 2,500/- +Service Tax *per participant*

Practising CMA : Rs. 1,500/- +Service Tax *per participant*

(Four CEP Credit Hours will be provided)

Speakers

Programme

CMA Amit Apte, CCM-ICAI	09.30 a.m. to 10.00 a.m.	Registration
CMA Vijay Joshi, Chairman, WIRC	10.00 a.m. to 10.15 a.m.	Inauguration
CMA Shrenik Shah, Vice-Chairman, WIRC	10.15 a.m. to 11.45 a.m.	Technical Session I
CMA A. B. Nawal, Past Chairman, WIRC	11.45 a.m. to 12.00 Noon	Break
CMA Kirit Mehta, Past Chairman, WIRC	12.00 Noon to 01.15 p.m.	Technical Session II
CMA Ashwin Dalwadi, Past Chairman, WIRC	01.15 p.m. to 02.00 p.m.	Lunch
CMA Sukrut Mehta, Practising Cost Accountant	02.00 p.m. to 03.15 p.m.	Technical Session III
	03.15 p.m. to 03.30 p.m.	Tea Break
	03.30 p.m. to 04.45 p.m.	Technical Session IV
	04.45 p.m. to 05.00 p.m.	Panel Discussion

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Report on CEP Saturday, 21st April 2012

Topic: SAP R/3 Product Costing

Speaker : CMA Pramod Bhave, ERP Consultant

WIRC Mumbai had organized CEP on very important Topic "SAP R/3 Product Costing." CMA Pramod Bhave, a well known ERP Consultant conducted this programme. CMA Vaibhav Joshi welcomed members and introduced CMA Bhave. CMA V.V. Deodhar, Past President ICAI welcomed CMA Bhave.

CMA Bhave began his session by narrating importance of Systems in organization Management. He gave brief ideas/history on evolution of ERP systems in old EDP Environment. He explained SAP R/3 systems 'relative advantages over other ERP systems in terms of inbuilt controls and audit trails.

He explained members various concepts on Company Code, Controlling Area, Organizational units which are important from Integration of Controlling Module with other modules of SAP i.e. FI, MM, SD, PP. Further he narrated importance of System Configuration, and System Applications, Authorizations and controls in SAP.

During his further explanations, CMA Bhave enlightened members on concept of Data Mapping in SAP and Data Needs for Product Costing. He suggested members to have knowledge of Business Processes, Management Needs and expectations, before applying these concepts in SAP Implementation.

Controlling Module is based on various concepts of Costing Sheets, Cost Elements, Costing Run, CMA Bhave explained these concepts in line with other important concepts from all modules which are related to Product Costing. Around 30 Members were present for this session.

CMA Vaibhav Joshi proposed vote of thanks at the end of the session.

Frequently asked Questions w.r.t. Service Tax based on negative list

CMA A. B. Nawal (Regional Council Member) nawal@bizsolindia.com



Law relating to service tax based on Negative List has been introduced in the Finance Bill, 2012 and various provisions have been totally changed which were appearing in the Finance Act, 1994.

Tax Research Unit of Department of Revenue, Ministry of Finance have issued a clarificatory circular No DOF No 334/1/2012-TRU dated 16th March 2012 wherein FAQ on various issues have been published in the draft guidance paper which explains majority of questions and clarifies the doubts. To avoid the repetition those FAQ have not been repeated except for certain important questions.

Basic Concepts and Definitions

1. What is Service?

The scope of services has been enhanced and existing services as defined under Sec 65 (105) of Finance Act, 1994 has been done away and now service has been defined in clause 44 of new section 65 means,

- Any activity
- for consideration
- carried out by a person for another

and includes

- declared services

but excludes

- any activity which constitute transfer of title of goods or immovable property by way sale, gift or in any other manner, money, actionable claims, service provided by employee to employer in the course of employment and fees payable to the court or tribunal set-up under the law for time being in force.

In other words, scope has been expanded and all activities including declared services except for the activities covered under Negative List and appearing in exempted list will be covered under the service tax net.

2. What is Activity?

The term activity has not been defined in the Finance Bill, 2012.

Law of Lexicon defines activity means

“any cost incurring operation within an organization which probably includes practically everything that happen”

“combination of operation undertaken whether or not it amounts to a business, trade or profession in ordinary sense”

Even activity could be active or passive and will also include forbiddance to act or to tolerate an act.

3. What is consideration?

Consideration has also not been defined in the act and therefore the definition of “consideration” as given under Indian Contract Act, 1972 will prevail. Therefore consideration means everything which is received in return for provision of service which includes monetary payment and any consideration of non-monetary nature as well as deferred consideration. It means any supply of free goods or services will be covered under non-monetary consideration and Sec 67 of Finance Act and Service Tax (Determination of Value) Rules, 2006 specifies the basis of determining the value.

In view of the above, amount received as Advance for performance of

service, deposit returned on cancellation of any agreement, advance forfeited for cancellation of contract, security deposit / un-paid security deposit / un-paid retention amount, demurrages will be considered as consideration.

4. Who is the person?

Person has been defined as under,

- a. an individual,
- b. a Hindu undivided family,
- c. a company,
- d. a society,
- e. a limited liability partnership,
- f. a firm,
- g. an association of persons or body of individuals, whether incorporated or not,
- h. Government,
- i. a local authority, or
- j. every artificial juridical person, not falling within any of the preceding sub-clauses;

5. What is “goods”?

Goods has been defined as “every kind of movable property other than actionable claim and money;and includes securities, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;”

6. What is “Transfer of Title”?

Transfer of title means change in ownership. Mere transfer of custody or possession over goods or immovable property, where ownership is not transferred does not amount to transfer of title.

7. What is Business Entity?

Business Entity means any person ordinarily carrying out any activity relating to industry, commerce or any other business.

Person has been defined as

- i) an individual,
- ii) a Hindu undivided family,
- iii) a company,
- iv) a society,
- v) a limited liability partnership,
- vi) a firm,
- vii) an association of persons or body of individuals, whether incorporated or not,
- viii) Government,
- ix) a local authority, or
- x) every artificial juridical person, not falling within any of the preceding sub-clauses;

8. What is Business, Trade and Industry?

Business, Trade or Industry is not defined in the Finance Act. However as per various judicial decisions following definitions of “business” can be noted

- a) Hon’ble Supreme Court held business connotes some real,

substantial and systematic or organized course of activity or conduct with a set purpose.

- b) Business is of large signification and its broadest sense includes nearly all the affairs in which either an individual or a corporation can be actors.
- c) Business has been held to denote an activity with the object or earning profit. However single transaction does not constitute business. The concept of business postulates continuity of transactions.
- d) Business is defined as meaning almost which is an occupation as distinguished form of ledger.
- e) Business is synonymous with Trade.
- f) It is also defined as anything which occupies the time and attention and labor of a person for the purpose of profit.

Competition Act 2002 defines Trade as, any trade, business, industry, profession or occupation relating to production, supply, distribution or control of goods and includes the provisions of services. Business of bartering is also a Trade.

9. What is Taxable Territory?

Taxable Territory has been defined as the territory to which the provision of Finance Act applies.

10. What is “non-taxable territory”?

Non-taxable territory means the territory which is outside the taxable territory.

11. Why there was a need to define India?

Provision relating to Service tax in the Finance Act has been made applicable to India except for Jammu & Kashmir and therefore there was need to define India. However in accordance with Section 2 (i) of SEZ Act, Domestic Tariff Area has been defined which means whole of India (including Territorial Water and continental shelf) but does not include the areas of SEZ. Therefore to include SEZ in the net of Service Tax, India has been defined.

Now, the question will arise whether Section 51 of SEZ Act will prevail having overriding effect on any other Act or Finance Act will prevail. However, As far as Service Tax is concerned Finance Act specifies the definition of Taxable Territories, Non Taxable Territories as well as SEZ therefore in our opinion; provisions of Finance Act will prevail.

12. What will be the coverage of Service Tax after Finance Bill is enacted and the date is notified?

- a) All services including declared services and excluding the services defined under negative list will be covered under the Service Tax.
- b) Further the specific exemptions under respective service categories are now merged into one notification with few additions / removals.
- c) As such all the definitions under Section 65 will be applicable only for the period pertaining to the period prior to the enactment of the Finance Act. The classification under different heads will not be valid thereafter.
- d) New definitions to the extent are essential for the purpose of determining negative list coverage, declared services, exemptions are proposed to be covered.
- e) The Place of Provision of Service Rules, 2002 will be notified and the taxable territory and non-taxable territory is defined, which will determine the taxability of a service.

13. When is the taxability of the services?

Taxability of services has been specified in Sec 66B of the Act. To be

Taxable service should be provided or agreed to be provided by a person to another in the taxable territory and which is not in the negative list.

14. What is the difference between provided or to be provided which was in existing provisions and provided or agreed to be provided in the proposed provisions?

Prima facie it seems that there is no difference. “To be provided” cannot be considered as activity by “agreed to be provided: is the Activity and therefore there is a change.

Moreover, perhaps “to be provided” has been replaced with “agreed to be provided” mainly to cover activities like forfeiting the amount on cancellation or to cover the activities which has been agreed to provide on retainer basis.

15. What is Government?

Though Government has not been defined, General Clause Act, 1897 will be applicable and Government includes State Government, Central Government, and State includes Union Territories.

16. Please explain, which services offered by the government will be covered under the definition of service, by giving suitable examples.

All services other than following provided by the government are excluded from the definition of service:

1. services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;
2. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
3. transport of goods or passengers; or
4. support services, other than services covered under clauses (i) to (iii) above, provided to business entities;

Some of the examples are: providing Birth / Death Certificate, Marriage Certificate, Completion Certificate, Passport, etc. . .

17. Whether branch office in India and branch office of same legal entity outside India will be treated as different person?

Yes. In accordance with explanation 2(b) of Sec 65B (44) of the Finance Bill, 2012 are covered as separate persons for the purpose of service tax.

18. What is the basic change in existing provisions of service tax and as mentioned in Finance Bill

Changes proposed in Finance Bill and other changes are mentioned hereunder:

- a) Under the existing provisions of Service Tax, the various definitions such as Chartered Accountant, Management or Business Consultant, etc are provided. Further under Section 65 clause (105) the taxable service is defined under various categories of services. The proposed provisions will do away with such classification of the services. The activity as defined under “service” including declared service will be treated as services. Only a negative list of services is provided which will not attract the service Tax.
- b) Rules of interpretation will change to take into account the above changes and Concept of bundling of service will be applicable.
- c) The reverse charge mechanism presently operates for import of services and 6 categories under reverse charge for domestic transactions such as GTA, Sponsorship, General Insurance, Mutual Fund, Tele-communication and Insurance Auxiliary. The same is further extended and would apply to certain additional services

like services provided by an individual advocate. Also in few cases, the partial service tax liability will be on the service provider and balance on the service Recipient where the service provider is an individual, partnership firm, LLP and the recipient is a body corporate. Such categories are rent-a-cab, manpower supply services, services provided by a person under non-taxable category and provided to a person under taxable category.

- d) Also in few cases, the partial service tax liability will be on the service provider and balance on the service Recipient where the service provider is an individual, partnership firm, LLP and the recipient is a body corporate. Such categories are rent-a-cab, manpower supply services, services provided by a person under non-taxable category and provided to a person under taxable category
- e) Point of Taxation for individuals and partnership firms having turnover upto 50 lacs in preceding year changed to billing basis instead of realisation basis. Previously the benefit of discharge of liability on receipt basis was available without limit to individuals and partnership firms w.r.t. specified professions as CAs, CMAs, etc. This benefit is now available to all individuals and partnership firms instead of specific professions, however subject to the condition that the turnover in preceding year does not exceed Rs.50 lacs
- f) Excess amount paid in a particular month / quarter can be adjusted without any limit (presently Rs.2 lacs) subject to the excess amount is not on account of interpretation, classification, valuation, applicability of exemption notification, etc.
- g) The Export of Service Rules, 2005 and Taxation of Service (Provided from Outside India and Received in India) Rules, 2006 will cease to apply and Place of Provision of Service Rules, 2012 will be notified.
- h) Rate change to 12% effective from 1st April, 2012
- i) Period for issue of demand is raised from existing 12 months to proposed 18 months
- j) EST-1 return to be filed on monthly basis instead of half-yearly basis for assesseees having paid more than Rs.25 lacs service tax in the previous year. For other assesseees, Quarterly return
- k) The manner and distribution of credit through ISD is linked to respective unit / proportionate to turnover, etc.
- l) Working of value for the purpose of service tax under Works Contract is simplified.

19. After enactment of the Finance Bill which Act / Rules will need amendment and where?

1. As classification of services will not be applicable, the existing notifications granting various abatements to specified services will be rescinded
2. All the existing notifications w.r.t. the exemptions will need to be rescinded / appropriate amended.
3. In our opinion, place of provision of service rules will be notified and Export of Service Rules, 2005, Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 will be rescinded
4. There will be a change in the Cenvat Credit Rules, 2004 changing definition of input service and exclusions will be reworded
5. Rule 6 of Cenvat Credit Rules, 2004 will be reworded so as to include negative services and exempted services
6. Notification no. 17 / 2011ST will need amended so as grant exemption or exemption by a way of refund

7. Notification no.52/2011ST will be amended where service tax is granted on specified services used for export of goods.

20. What will be the new service tax rate and from which date will it be effective?

Service tax rate will be 12% + Ed Cess + SHE Cess thereon and it is applicable w.e.f. 1st April 2012

21. What is the probable date of the implementation of the law relating to service tax based on negative list?

All new provisions will be notified by the Central Government after obtaining assent to the Finance Bill, 2012 from the President of India. Finance Bill has to be passed on or before 31st May 2012. Existing exemption notification has been extended upto 30th Jun 2012 and therefore most probably new provisions may be made effective from 1st Jul 2012.

22. How is the money value of non-monetary consideration determined?

The value of non-monetary consideration will be determined as per Section 67 of the Act and the Service Tax Determination of Value Rules, 2006, which is equivalent money value of such consideration.

Eg: Repair services under comprehensive contract are rendered. While invoicing the service provider bills for an amount after deducting an amount for the old part which is replaced and can be used by the service provider after repairing. In this case the notional value of the old part needs to be determined and added to arrive at the gross consideration.

Also, wherever the above value is not ascertainable, then (a) on the basis of gross amount charged for similar service or (b) value equivalent to not less than cost of provision of service

Declared Services

23. What is “Declared Services”?

Declared services means any activity carried out by a person for another person for consideration and declared as under Sec 66E and declared services has been notified as under,

- a) renting of immovable property;
- b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion-certificate by the competent authority.

Explanation - For the purposes of this clause,-

- (I) the expression “competent authority” means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—
 - (A) architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
 - (B) chartered engineer registered with the Institution of Engineers (India); or
 - (C) licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- (II) the expression “construction” includes additions, alterations, replacements or remodeling of any existing civil structure;
- c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information

technology software;

- e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- f) transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
- g) activities in relation to delivery of goods on hire purchase or any system of payment by installments
- h) service portion in the execution of a works contract;
- i) service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.

24. Why there is need to empower Government to include “Declared service”?

Certain activities are in nature which cannot be considered as “Service” but considering the past experience of litigations w.r.t. renting of immovable property, construction, software, hire purchase, leasing; government might of thought to introduce concept of “deemed services” in line with “deemed sale”.

25. What will be covered under Declared Services Clause E & Clause F under the definition of Declared Services?

Clause E covers activity of agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act. It may include the non-competing fee, outside court settlements or any compensation for not doing any activity.

Clause F covered activity of transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods. Such activity can cover all activities except for transfer of property / title / ownership. In other words absolute control and possession without transfer of property will be covered under such clause. It may include temporary transfer or permitting the use or enjoyment of any IPR, permission to allow brand name is covered under “Declared Services”.

26. Whether the goods purchased on installment will be covered under Service Tax?

Declared Services specifies activities in relation to delivery of goods on hire purchase or any system of payment by installments covered under the Service Tax. In our opinion taxability will depend on transfer of title / change of ownership of the goods and with / without transfer of right to use.

Activities / services provided in relation to such delivery of goods are covered under declared list and only those transactions will be taxable.

27. What is the difference between Hire -Purchase or any scheme of installments?

Section 2 b of Hire Purchase Act (now repealed) Hire means a sum paid periodically by hirer under Hire Purchase Agreement. In Hire Purchase possession of goods is delivered by owner to hirer on condition of payment of agreed no. of installments and hirer has option to purchase the goods as per terms of the agreement Property of goods is passed on to the hirer only after terms of agreement are fulfilled . Hirer is not the owner of the goods whereas in the installment purchases ownership is transferred no sooner goods are purchased on installment. The relationship between seller and buyer in case of hirer purchase agreement is of bailer/ bailee whereas in installment purchases the relationship between them is of debtors and creditors. In both cases there will be no service tax but activities in relation to delivery of such goods will be taxable.

28. Whether re-sale of flat of the building which has not obtained Completion Certificate will attract Service Tax?

In our opinion re-sale of the flat of the building which has not obtain completion certificate will not attract Service Tax since re-seller is not a builder or a developer carrying activity of construction and sale. It can be considered as transfer of title of immovable property.

Negative List of Services and exclusions for the definition of Services

29. What is the trading activity?

Trading means sale or purchase of goods for sale and title of goods, exchanges, on the event of either purchase or sale.

30. Whether Future Contracts in commodities, Duty Free Scrips, DEPB Scrip, DFIA will be covered under trading of goods?

Yes, these are covered under the commodities and title of property / ownership changes and hence these are covered under the trading activity.

31. Advertisement published on website, whether will be covered under net of Service Tax or Negative List?

Advertisement has been defined in Sec 65B as “any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person” and therefore advertisement published on website will be included in any other means and will not be taxable since it is covered under the Negative list.

32. What type of advertisement will not be taxable and will be covered under Negative list?

Sale of Space for advertisement in Print Media, Sale of space for advertisement in bill boards, public places, building, conveyances, cell phones, ATMs, Internet, Aerial advertisement will not be taxable being covered under Negative list.

33. Whether sitting fees received by independent director will attract Service tax?

In our opinion, Independent Director are appointed in accordance with the provisions of Companies Act, 1956 and sitting fees are paid in accordance with provisions of Companies Act, 1956 and hence it will cover under the exclusion clause of services as provided in the clause B of explanation 1 “the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity”. Therefore are not covered under the ambit of services.

Alternatively, if constitution is considered as Constitution of India then sitting fees received in the hands of the independent director will be on account of services provided by them and it will be taxable. Let us hope Board will issue necessary clarification.

34. Whether salaries paid to partner in accordance to Partnership Act, 1932 read with provisions of Income tax 1961 will be covered under net of Service Tax?

Though partners are not having the relationship of employer and employee and there is no mandatory provision under Partnership Act to provide salary to the partners. Hence salary received by a partner from the partnership firm will be covered under the service tax. Partners are never treated as employee under any other Labor laws.

Alternatively, person has been defined in the Finance Act, 1994 which includes individual as well as partnership firm amongst others. Therefore, partner and partnership firm are two different persons and it can be deemed that the partner is the employee of the partnership firm since salary is paid only to working partners. If this view is taken then it will not be considered as service and no tax will be paid. Let us hope Board may issue the clarification.

35. Whether managerial remuneration paid to the director will

be covered under the net of Service tax?

Full time directors are having relationship of employer and employee and therefore are excluded from the scope of the definition of services.

36. Whether Salary paid to the contractual employee / on employment of contractual basis will be covered under net of Service Tax?

If contractual terms establish the relationship of employer and employee then it will be excluded from the scope of services.

37. Whether rent on residential premises given to professionals who are residing therein and also carrying out their business will be exempted from payment of Service tax?

If residential house is primarily used for residence, then it will be excluded otherwise it may be covered under “Bundles Services” and service tax will be attracted accordingly.

38. M/s DahadVidyavardhini is Educational Institute and they teach various courses which are for 3 - 6 months and offer their own certificate on completion of duration and passing the examination. Kindly suggest M/s DahadVidyavardhini w.r.t. applicability of service tax.

Service Tax is applicable since it is not covered negative list of services however, if their courses are registered National Vocational training Institute or alike as stated then no Service Tax will be payable.

39. Whether a service provided by sole arbitrator is falling under Negative List?

Fees taken in any court or any Tribunal established under any law for the time being in force is excluded from the definition of services whereas the services provided by arbitrator is neither in Negative List nor Exempted List. If advocate is acting as arbitrator service receiver, if he is business entity, will have to pay Service Tax under reverse charge mechanism.

40. What is Entertainment and Recreation?

“Amusement facility” means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided;

“Entertainment event” means an event or a performance which is intended to provide recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or program;

Amusement facility and Entertainment event are included in Negative List whereas Auxiliary Services for organizing or promoting entertainment events are not exempted.

Entertainment with all its grammatical variations and cognate expressions means:

- (i) A horse race to which persons are admitted on payment
- (ii) Cinematograph show including video shows to which persons are admitted on payment or exhibition of films or moving pictures which are viewed and heard on the television receiving set, with the aid of any type of antennae with the cable network attached to it or cable television for which persons are required to make payment by way of contribution or subscription or installation and connection charges or any other charges collected in any manner, whatsoever;
- (iii) Any amusement or recreation or any entertainment, provided by a multi-system operator or exhibition or performance or pageant or a game or sport whether held indoor or outdoor to which

persons are admitted on payment.

Explanation: Recognized game or sport shall mean Cricket, Hockey, Foot Ball, Basket Ball, Tennis, Golf, Volley - ball, Badminton, Kabbadi, Swimming, Athletics, Base- Ball, Weight Lifting and any other sport or game the Government may notify “

In view of the above cultural programs, drama, A Ballet held anywhere, Stand one Ride set in the mall, entry to video parlors, exhibiting movies will be covered under the negative List. However Auxiliary Services for organizing or promoting entertainment events, membership of the club will not be covered under Service Tax and will be taxable.

41. Whether services provided to corporations formed by the government will be treated as Negative List?

Services by Government with certain exclusions like services by post, speed-post, etc are covered under Negative List whereas specified services to Government or local authority are appearing in the exempted list

Specified services includes

- a. repair of a ship, boat or vessel;
- b. effluents and sewerage treatment;
- c. waste collection or disposal;
- d. storage, treatment or testing of water for drinking purposes; or
- e. transport of water by pipeline or conduit for drinking purposes;

Any activities other than above provided to the Government / local authorities will be taxable.

42. Whether Shipping Company having the foreign fleet of vessels offering logistics services to service receiver in India, is chargeable to Service Tax?

Services by way of transportation of goods-

- i. by road except the services of-
 - a goods transportation agency; or
 - a courier agency;
- ii. by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or
- iii. by inland waterways;

are in negative list of service. Therefore the above activity is not covered under Services.

43. Whether Co-operative Federation providing services w.r.t. manpower supply for cutting, transportation of sugar cane to sugar factories will be taxable?

Services relating to agriculture are in negative list if provided by way of-

- i. agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;
- ii. supply of farm labour;
- iii. processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- iv. renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- v. loading, unloading, packing, storage or warehousing of agricultural produce;
- vi. agricultural extension services;

and therefore these activities will not be covered under the definition of services.

Exempted Services

44. What is exempted Services?

Exempted services are notified under the Mega Exemption Notification 12/2012-St dated 17th March 2012 which are given below

1. Services provided to the United Nations or a specified international organization;
 2. Health care services by a clinical establishment, an authorized medical practitioner or para-medics;
 3. Services by a veterinary clinic in relation to health care of animals or birds;
 4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
 5. Services by a person by way of-
 - a. renting of precincts of a religious place meant for general public; or
 - b. conduct of any religious ceremony;
 6. Services provided to any person other than a business entity by -
 - a. an individual as an advocate; or
 - b. a person represented on and as arbitral tribunals;
 7. Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organization approved to conduct clinical trials by the Drug Controller General of India;
 8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;
 9. Services provided-
 - a. to an educational institution by way of catering under any centrally assisted mid - day meals scheme sponsored by Government;
 - b. to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff;
 - c. to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education;
 10. Services provided to a recognized sports body by-
 - a. an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body;
 - b. another recognized sports body;
 11. Services by way of sponsorship of tournaments or championships organized,-
 - a. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
 - b. by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat;
 - c. by Central Civil Services Cultural and Sports Board;
 - d. as part of national games, by Indian Olympic Association; or
 - e. under PanchayatYuvaKreedAurKhelAbhiyaan (PYKKA)
- Scheme;
12. Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of -
 - a. a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use;
 - b. a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - c. a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
 - d. canal, dam or other irrigation works;
 - e. pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii)sewerage treatment or disposal; or
 - f. a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Finance Act;
 13. Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of-
 - a. road, bridge, tunnel, or terminal for road transportation for use by general public;
 - b. building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;
 - c. pollution control or effluent treatment plant, except located as a part of a factory; or
 - d. electric crematorium;
 14. Services by way of erection or construction of original works pertaining to,-
 - a. airport, port or railways;
 - b. single residential unit otherwise as a part of a residential complex;
 - c. low- cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
 - d. post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
 - e. Mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;
 15. Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;
 16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
 17. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
 18. Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or

- lodging purposes, having declared tariff of a room below rupees one thousand per day or equivalent;
19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a license to serve alcoholic beverages;
 20. Services by way of transportation by rail or a vessel from one port in India to another of the following goods -
 - a. petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
 - b. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - c. defense or military equipment's;
 - d. postal mail, mail bags or household effects;
 - e. newspaper or magazines registered with Registrar of Newspapers;
 - f. railway equipment's or materials;
 - g. agricultural produce;
 - h. foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
 - i. chemical fertilizer and oilcakes;
 21. Services provided by a goods transport agency by way of transportation of -
 - a. fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
 - b. goods where gross amount charged on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or
 - c. goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;
 22. Services by way of giving on hire -
 - a. to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
 - b. to a goods transport agency, a means of transportation of goods;
 23. Transport of passengers, with or without accompanied belongings, by -
 - a. air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; or
 - b. a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;
 24. Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;
 25. Services provided to the Government or a local authority by way of
 - a. repair of a ship, boat or vessel;
 - b. effluents and sewerage treatment;
 - c. waste collection or disposal;
 - d. storage, treatment or testing of water for drinking purposes; or
 - e. transport of water by pipeline or conduit for drinking purposes;
 26. Services of general insurance business provided under following schemes -
 - a. Hut Insurance Scheme;
 - b. Cattle Insurance under Swarnajayanti Gram SwarozgarYojna (earlier known as Integrated Rural Development Programme);
 - c. Scheme for Insurance of Tribals;
 - d. Janata Personal Accident Policy and Gramin Accident Policy;
 - e. Group Personal Accident Policy for Self-Employed Women;
 - f. Agricultural Pumpset and Failed Well Insurance;
 - g. Premia collected on export credit insurance;
 - h. Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
 - i. Jan ArogyaBima Policy;
 - j. National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
 - k. Pilot Scheme on Seed Crop Insurance;
 - l. Central Sector Scheme on Cattle Insurance;
 - m. Universal Health Insurance Scheme;
 - n. RashtriyaSwasthyaBima Yolanda; or
 - o. Coconut Palm Insurance Scheme;
 27. Services provided by an incubatee up to a total business turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-
 - a. The total business turnover had not exceeded fifty lakh rupees during the preceding financial year; and
 - b. A period of three years has not lapsed from the date of entering into an agreement as an incubatee;
 28. Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution -
 - a. As a trade union;
 - b. For the provision of exempt services by the entity to third persons; or
 - c. Up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
 29. Services by the following persons in respective capacities -
 - a. a sub-broker or an authorized person to a stock broker;
 - b. an authorised person to a member of a commodity exchange;
 - c. a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund;
 - d. a selling or marketing agent of lottery tickets to a distributor or a selling agent;
 - e. a selling agent or a distributor of SIM cards or recharge coupon vouchers; or
 - f. a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;
 30. Carrying out an intermediate production process as job work in

relation to -

- a. agriculture, printing or textile processing;
 - b. cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);
 - c. any goods on which appropriate duty is payable by the principal manufacturer; or
 - d. processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
31. Services by an organiser to any person in respect of a business exhibition held outside India;
32. Services by way of making telephone calls from -
- a. departmentally run public telephones;
 - b. guaranteed public telephones operating only for local calls; or
 - c. free telephone at airport and hospitals where no bills are being issued;
33. Services by way of slaughtering of bovine animals;
34. Services received from a service provider located in a non-taxable territory by -
- a. the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or
 - b. an entity registered under section 12AA of the Income tax

Act, 1961 (43 of 1961) for the purposes of providing charitable activities.

45. What is difference between negative list of services and exempted list of services?

Negative list of services will not be covered under the Taxable services, whereas exempted services are taxable service but service tax is exempted thereon. Further in our opinion, exemption can be withdrawn any time and thereafter such services will attract service tax.

The difference proposed is that the items included in the negative list would require amendment to Finance Act, whereas the exemptions could be altered through issue of notification.

Negative list consists of sectors which under the Control of State like Agriculture, Education, health care, Electricity, Entertainment etc. Therefore under the GST Regime some of the negative services may be taxed by the State Government whereas State Government cannot tax services exempted list.

46. Whether processing of goods is treated as service and the same attracts service tax under existing provisions? Whether there is any amendment w.r.t. the said provision?

If processing of goods amounts to manufacture in accordance with Section 2 (f) of Central Excise Act, 1944 and State Excise Act, then it is covered under the negative list irrespective of excise duties is exempted or otherwise. However the process which does not amount to manufacture and if the final product when cleared on payment of duties, no service tax will be attracted being covered under exempted list. Otherwise service tax will be attracted.

47. Review the notifications related to exempted services and provide whether the exemptions are new exemptions or covered in earlier exemption.

Earlier there were 88 exemptions under respective category of services. The list of exemptions proposed is as under:

Description of Exempted Services under new provisions	Exemption Applicability under existing provisions
Services provided to the United Nations or a specified international organization;	Yes under respective categories
Health care services by a clinical establishment, an authorized medical practitioner or para-medics;	Health Check-up and Treatment Services exempted
Services by a veterinary clinic in relation to health care of animals or birds	
Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;	Yes
Services by a person by way of-	
a) renting of precincts of a religious place meant for general public; or	
b) conduct of any religious ceremony;	Yes
Services provided to any person other than a business entity by -	
a) an individual as an advocate; or	
b) a person represented on and as arbitral tribunals;	Yes
Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organization approved to conduct clinical trials by the Drug Controller General of India;	No
Services by way of training or coaching in recreational activities relating to arts, culture or sports;	Yes
Services provided-	
a) to an educational institution by way of catering under any centrally assisted mid - day meals scheme sponsored by Government;	
b) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff;	

c) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education	Yes
Services provided to a recognized sports body by- a) an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body; b) another recognized sports body;	Yes
Services by way of sponsorship of tournaments or championships organized,- f. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone; g. by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat; h. by Central Civil Services Cultural and Sports Board; i. as part of national games, by Indian Olympic Association; or j. under PanchayatYuvaKreedaaAurKhelAbhiyaan (PYKKA) Scheme;	Yes
Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of - g. a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use; h. a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); i. a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; j. canal, dam or other irrigation works; k. pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii) sewerage treatment or disposal; or l. a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Finance Act;	Yes
Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of,- e. road, bridge, tunnel, or terminal for road transportation for use by general public; f. building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public; g. pollution control or effluent treatment plant, except located as a part of a factory; or h. electric crematorium;	Repair, maintenance of roads exempted
Services by way of erection or construction of original works pertaining to,- f. airport, port or railways; g. single residential unit otherwise as a part of a residential complex; h. low- cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; i. post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or j. Mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;	Partially covered such as related to port, airport, etc.
Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;	
Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;	
Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;	
Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below rupees one thousand per day or equivalent	Yes
Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a license to serve alcoholic beverages	Yes

<p>Services by way of transportation by rail or a vessel from one port in India to another of the following goods -</p> <ul style="list-style-type: none"> j. petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); k. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; l. defence or military equipment's; m. postal mail, mail bags or household effects; n. newspaper or magazines registered with Registrar of Newspapers; o. railway equipment's or materials; p. agricultural produce; q. foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or r. chemical fertilizer and oilcakes 	Yes
<p>Services provided by a goods transport agency by way of transportation of -</p> <ul style="list-style-type: none"> d. fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage; e. goods where gross amount charged on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or f. goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty 	Yes
<p>Services by way of giving on hire -</p> <ul style="list-style-type: none"> c. to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or d. to a goods transport agency, a means of transportation of goods 	
<p>Transport of passengers, with or without accompanied belongings, by -</p> <ul style="list-style-type: none"> c. air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; or d. a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire; 	
<p>Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility</p>	
<p>Services provided to the Government or a local authority by way of -</p> <ul style="list-style-type: none"> f. repair of a ship, boat or vessel; g. effluents and sewerage treatment; h. waste collection or disposal; i. storage, treatment or testing of water for drinking purposes; or j. transport of water by pipeline or conduit for drinking purposes 	
<p>Services of general insurance business provided under following schemes -</p> <ul style="list-style-type: none"> p. Hut Insurance Scheme; q. Cattle Insurance under Swarnajayanti Gram SwarozgarYojna (earlier known as Integrated Rural Development Programme); r. Scheme for Insurance of Tribals; s. Janata Personal Accident Policy and Gramin Accident Policy; t. Group Personal Accident Policy for Self-Employed Women; u. Agricultural Pumpset and Failed Well Insurance; v. premia collected on export credit insurance; w. Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; x. Jan ArogyaBima Policy; y. National Agricultural Insurance Scheme (RashtriyaKrishiBimaYojana); z. Pilot Scheme on Seed Crop Insurance; aa. Central Sector Scheme on Cattle Insurance; bb. Universal Health Insurance Scheme; cc. RashtriyaSwasthyaBima Yolanda; or dd. Coconut Palm Insurance Scheme; 	Yes - Partially covered under National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana), Weather Based Crop Insurance Scheme
<p>Services provided by an incubatee up to a total business turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-</p> <ul style="list-style-type: none"> c. The total business turnover had not exceeded fifty lakh rupees during the preceding financial year; and d. A period of three years has not lapsed from the date of entering into an agreement as an incubatee; 	

Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution - a) As a trade union; b) For the provision of exempt services by the entity to third persons; or c) Up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;	
Services by the following persons in respective capacities - a) a sub-broker or an authorized person to a stock broker; b) an authorised person to a member of a commodity exchange; c) a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund; d) a selling or marketing agent of lottery tickets to a distributor or a selling agent; e) a selling agent or a distributor of SIM cards or recharge coupon vouchers; or f) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;	Partially covered such as distributors or selling agents appointed or authorised by the lottery
Carrying out an intermediate production process as job work in relation to - a) agriculture, printing or textile processing; b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act ,1985 (5 of 1986); c) any goods on which appropriate duty is payable by the principal manufacturer; or d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year	Yes
Services by an organiser to any person in respect of a business exhibition held outside India	Yes
Services by way of making telephone calls from - a) departmentally run public telephones; b) guaranteed public telephones operating only for local calls; or c) free telephone at airport and hospitals where no bills are being issued;	Yes
Services by way of slaughtering of bovine animals	
Services received from a service provider located in a non- taxable territory by - 35. the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or 36. an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities	

48. Whether hospital which is the body corporate providing medical services to the patients will be covered under Exemption List and no Service tax will be attracted?

“Authorized medical practitioner” means any medical practitioner registered with any of the Councils of the recognized system of medicine and includes medical professional having the requisite qualification to practice in any recognized system of medicine as per any law for the time being in force,

“Clinical establishment” means a hospital, nursing home, clinic, sanatorium or an institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine, established and administered or maintained by any person or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases,

“Health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine and includes services by way of

supply of meals for the patient or transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma,
All medical services which are not covered under Healthcare Services will be taxable otherwise it is exempted.

49. PCO is providing service of Telephone to general public and paying service tax on the telephone lines. Will such PCO again have to pay service tax on the call charges paid by the general public?

Following services related to telephone are exempted as per the Mega Exemption Notification,

- departmentally run public telephones;
- guaranteed public telephones operating only for local calls; or
- free telephone at airport and hospitals where no bills are being issued

Apart from any other service mentioned above will be taxable under service tax.

Bundled Services**50. What are the existing rules of interpretation for the Service Tax classification and what are the changes proposed to the same? Explain with example.**

Existing Rules of Interpretation are as under:

1. A taxable service would be classified in the category which provides the most specific description
2. In case the service is of composite nature, the service which provides the most specific description
3. Where the taxable service cannot be classified in the above manner, the same shall be classified in the category which occurs first in the definitions under section 65 (i.e. amongst the services which merit consideration)

As per the proposed changes, the definitions and classifications will no longer be applicable. The rules of interpretation will be applicable only if the services are to be treated differentially for any reason and determining taxability of bundled services.

1. Reference to a service shall not mean reference to a service used for providing the service. Eg: if a particular service is covered under negative list, the same will not include the service used for providing such negative service and such service used will continue to be taxable,
2. If a service is capable of differential treatment, then the most specific description is to be used
3. Taxability for bundled services will be as under:
 - a. If various elements of the service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character
 - b. If various elements of the service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in the highest liability of service tax

51. What is bundled service and what is the impact of introduction of this concept? Explain with example.

Bundled service is service in nature of composite service with combination of elements of one or more service. Bundled service is introduced so as to tackle the issue where the service provider in the course of providing taxable service may also be providing services which are in the nature of non-taxable service.

Eg:

1. A builder is setting up a new residential project off the highway road. As terms of plan approval, the builder is also required to build the small patch of road towards the project which may be used by general public. As such in this case though the road construction is covered in the negative list, the said service shall be treated as provision of the single service and will be taxable, since it is in the ordinary course of business.
2. An advocate is representing the company w.r.t. case matter for confiscation of goods removed by suppression of acts. He is also representing the Director in connection with the same case for personal penalty levied. As such in this case though the service to an individual Director is covered in the negative list, the said service shall be treated as provision of the single service and will be taxable, since it is in the ordinary course of business.
3. Renting of house for residential purpose and commercial purpose is not in the ordinary course of business and therefore will be bundled as a single service under renting for commercial purpose since the same is attracting service tax which is higher.

52. An individual advocate is providing service to a body corporate in connection with suppression of facts; he is also defending the case on personal penalty on directors. Whether such activity will be covered under the Bundled services?

An advocate is representing the company w.r.t. case matter for confiscation of goods removed by suppression of acts. He is also representing the Director in connection with the same case for personal penalty levied. As such in this case though the service to an individual Director is covered in the negative list, the said service shall be treated as provision of the single service and will be taxable, since it is in the ordinary course of business.

Service Tax liability under Reverse Charge**53. M/s. Sameer Enterprises, Proprietor Concern, executed the work of plumbing which was lumpsum contract (along with Material) with M/s Bizsolindia services Pvt. Ltd amounting to Rs.28,500. The work was executed by him on 17th July 2012 and his turnover for the year 2011-12 was Rs.8 Lacs? Kindly advise M/s Sameerenterprises for his service tax liability and also advise Accounts department of Bizsolindia action they should take?**

Since the work is executed by Proprietor, provisions of reverse charge would be applicable in this case and 50% of service tax is payable by Sameer Enterprises and balance 50% by Bizsolindia. While Sameer Enterprises can continue to avail exemption from payment of service tax, being his turnover has not reached Rs.10 lacs, Bizsol will have to discharge the liability from every rupee billed by Sameer Enterprises taking into consideration the applicable abatement. Bizsol will discharge service tax liability @ 12.36% on 60% of invoice value.

54. Kindly provide your opinions on the points which need to be advised to the clients in case the contracts entered for Manpower Supply Contract, Job Work on piece rate basis, Security services and capturing of database for payment of Service tax?

- a) Clients will be advised to make change in the master of the service provider which will identify the constitution of the service provider and system will be designed so as to capture the data for payment of service tax under reverse charge mechanism which is applicable when services are availed from other than Body Corporate provided to Body Corporate.
- b) If contract has to be re drafted wherever possible where the essence of services will indicate the nature of services, for ex: security contract, if it is based on the control checks which is to protect property than it will not cover under man power supply. Similarly casual labor employed on production is paid on piece rate basis and control and supervision is of the contractor then it will not cover under Service tax.
- c) On account of the reverse charge provisions, it is necessary for the companies to review the contracts in totality and understand the possibility for splitting the contracts into pure manpower supply related and other margins / fees towards the same.
- d) Restructure the contracts wherever feasible to be outside the purview of reverse charge
- e) In case the client is not in a position to do the same, he would be liable for service tax under reverse charge category as service recipient at prescribed percentages.
- f) In such cases, the clients should ensure that the service provider is not charging service tax in excess of his liability. If he has charged, then the client should deduct the extra amount and pay the eligible amount only.

55. Control points for ensuring 100% statutory compliances in case of liability under reverse charge

- a. Scrutinize the ledger of service providers and check the constitution thereof, so as to ensure the payment of Service tax liability under reverse charge mechanism
- b. Review of contracts for determining liability under reverse charge
- c. Review of Foreign Creditors Accounts and Forex expenses as reflected in the notes to accounts
- d. Review of the CA Certificate issued for foreign remittances
- e. Review of specified accounts related to freight, transportation, hiring of motor vehicle, labour charges, sub-contracting charges, security charges, business promotion, etc for determining service tax liability under reverse charge for domestic transactions
- f. Review of the locations from which the service are provided, therefore addresses of the service providers to be reviewed to determine whether he is located in the non-taxable territory
- g. Accounting Policy to be studied w.r.t. transactions with associated enterprises
- h. Review TDS Returns especially w.r.t. payments made to contractors / sub-contractors
- i. Review of the Transfer Pricing Report
- j. Check accounting entries of CENVAT availment and reconcile with the books of accounts with Central Excise Records.

56. Whether there will be change in Taxation of Services (Provided from Outside India and received in India) Rules, 2006? If yes please specify the changes required. If in case of any other answer please explain in detail?

Similar changes as applicable in Export of Service Rules, 2005 would be applicable in this case and realignment would be required.

57. Whether transaction between office located in taxable territory and office located in J&K will be covered under reverse charge?

Explanation 2 (B) to the definition of services clarifies that an establishment of a person in the taxable territory and any of his other establishments in a non-taxable territory shall be treated as establishments of distinct persons. Therefore these will be considered as two different persons and hence service will be applicable under Reverse Charge mechanism.

58. What if I am providing a service falling under reverse charge, and is liable to pay a part of service Tax, but am not registered with the Service Tax Authority?

Service tax Registration number needs to be obtained only after crossing the turnover of Rs 9 lacs as per the provisions of Service tax Rules, 1994 and discharge the service tax liability after crossing basic exemption limit of Rs 10 Lacs.

59. Whether a services provided from Germany will be treated the services provided from the non-taxable territory?

At present it is covered under import of services under categories based on immovable property, performance of the service and recipient of the services. Taxability will depend on nature of service provided. However Place of Provision of Service Rules, 2012 is issued in draft form. When the new rules are introduced then taxability can be decided.

60. Whether proprietor dealer not registered with Central Excise having business in taxable territory who is availing services of GTA located in a non-taxable territory is liable to discharge service Tax liability?

The services provided by GTA are covered under reverse charge in respect of transportation of goods by road, where the consignor or the consignee is,-

- a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;
- c) any co-operative society established by or under any law;
- d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- e) anybody corporate established, by or under any law; or
- f) any partnership firm whether registered or not under any law including association of persons;

As such in the above condition, if the service availer is a proprietor dealer not registered with Central Excise, he is not liable for service tax under reverse charge mechanism for GTA.

However on account of the independent condition "in relation to any taxable service provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory", the proprietor would also be now liable for payment of service tax on GTA in cases where the service provider is located in a non-taxable territory.

61. Whether demurrages paid to the transporter / goods transport agency will be included in the valuation of GTA?

Demurrage received in the hands of GTA is to be considered as consideration in accordance with amended made to Rule 6 of Valuation Rule.

Export of Services**62. Whether export of Service Rules, 2005 will need a change? If yes please specify the changes required. If in case of any other answer please explain in detail?**

Exports of Service Rules, 2005 are presently defined taking into consideration majorly the 3 categories of services as under:

- a) Related to immovable property
- b) Related to performance
- c) Other services on recipient ant basis

As the classification and categorization of the services will be done away with, the rules need to be aligned in line with the same.

Further going forwarding the Place of Provision of Services Rules, 2012 will be operational, to be in line with the true spirit of Service Tax which is consumption based tax. The entire framework would undergo change and require the alignment of provisions w.r.t. location, establishment and consumption factor.

Works Contract**63. Give examples of works contract and also specify, in general, which accounting head will reveal the transactions of works contract?**

1. Examples of works contract include construction of building, making of furniture, repairs and maintenance under comprehensive contracts, painting jobs, erection and commissioning, renovation and alteration of building, Turn key projects, laying of pipeline, etc.
2. The various accounting heads which need to be reviewed would be as under:
 - a. Sub-contracting charges / Contract charges
 - b. Repairs and Maintenance
 - c. Fixed Assets additions / improvements
 - d. TDS on works contract

3. However Section 65B(54) of the Finance Act, defines Works contract means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion fitting out, improvement, repair, renovation, alteration of any building or structure on land or for carrying out any other similar activity or a part thereof in relation to any building or structure on land

64. The Proposed definition of Works Contract covers activity related to buildings, structures affixed to land. What will be the treatment to other Works Contract namely Repairs, maintenance, printing, painting, etc?

Works contract means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion fitting out, improvement, repair, renovation, alteration of any building or structure on land or for carrying out any other similar activity or a part thereof in relation to any building or structure on land.

The activities specified as Repair Maintenance other than building, Printing, Painting other than building etc will not be covered under Works Contract but since these are the activities, it will be covered under services and service tax will be attracted on invoice value,

65. Whether service tax is exempted on works contract given for construction of water sump and lying of water pipe lines?

Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of-

- a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use;
- a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
- a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
- canal, dam or other irrigation works;
- pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii) sewerage treatment or disposal; or
- a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Finance Act;

Similarly support services rendered for above are also covered under the Negative List. Other than above, any activity of such nature between one person to another person is covered under the services and service tax will be payable.

66. Whether service tax is exempted on works contract given for construction of airport and port? Whether service tax is payable on airport/port services?

Following Services are exempted services if provided by way of erection or construction of original works pertaining to,-

- airport, port or railways;
- single residential unit otherwise as a part of a residential complex;
- low- cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;

- post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
- Mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;

Special Economic Zone

67. What are the changes expected in the procedures for SEZ and Exemption / Exemption by way of refund related to the services provided to SEZs.

- The present benefits w.r.t. refund / exemption for services provided to SEZs is determined based on whether the services can be treated as wholly consumed or otherwise, whether the company is having any unit other than SEZ, etc. As the proposed provisions are planning to do away with the classification, appropriate amendments would be required in the governing Notifications.
- Place of Provision of Services Rules, 2012 will come into effect and therefore the SEZ Notification will have to take into account the said amendments.
- Obtaining Authorised list of taxable services for each category of service will not be required since the classification of services will be done away with. However each activity required for carrying out authorized operations of SEZ developer / unit will have to be planned and get it approved for claiming exemption or exemption by way of refund as the case may be and such list will have to be approved by Unit Approval Committee headed by Development Commissioner by establishing nexus between activities and authorized operations.

Others

68. What are the major changes proposed w.r.t. transfer of Cenvat Credit by Input Service Distributor? What points needs to be considered by the assessee on account of such change?

Provisions towards distribution of Cenvat Credit towards service tax on input services attributable under ISD are now amended so as to be more restrictive:

Credit attributable to service:

- Wholly used in a unit, shall be distributed wholly to that unit.
- Service used in more than one unit, shall be distributed prorata on the basis of turnover of the concerned unit to the sum total of the turnover of all units to which the services relates

Further the following provisions as in the earlier provisions will continue to apply.

- Wholly used in exempted goods / services, shall not be distributed
- Credit distributed against a document shall not exceed the amount of service tax paid on respective input services.

We points needs to be taken care by the assessees

- Accumulated credits as on 31st March, 2012 to be immediately distributed to the units where there are possibilities of liabilities at all times
- Use cost accounting records for the purpose of allocation of expenses and apportion common services based on the turnover of the Unit and Turnover should be in accordance with clearances made by the Unit as per ER-1 / ER-2 Return. Basis of apportionment of turnover should be followed consistently.
- Identify all services which though common can be contracted in a manner within the legal framework, so as to link it to a particular unit where the liability arises so that the entire credit can be distributed to the said unit. Similarly identification of services

which though related to a particular unit, can be contracted as common service within the legal framework

4. Maintain proper records w.r.t. correlation of the service and the unit to which it is transferred
5. Identification of all unregistered premises and considering the same for the purpose of arriving at the amount of distribution

69. What will happen to my existing Service Tax registration which has obtained various categories?

Since the registration obtained for various services as defined under Section 65 (105) of the Finance Act, 1994 will not exist after notified date, new registration number will be obtained which will be common for all types of activities performed from the said premises and will cover all activities under Reverse Charge Mechanism.

70. Whether the existing account code will remain for the payment of the service tax?

In our opinion there may be only one account code in the same line with Excise and Customs

71. One company has one manufacturing unit in Maharashtra and another unit located in West Bengal. Whether services offered by one unit to another will now be taxed?

As per the definition of services, activity performed by a person for another person is covered. In this case both the Units are under same legal entity in other words it is "one person". Therefore activity between these unit will not be covered under the definition of service tax since services have not been provided to another person for consideration.

72. Whether freight separately shown on Excise invoice will attract Service Tax on reverse charge basis?

If excise duty is charged on such freight then it will be included in the transaction value of the goods and if freight is not included in the transaction value then service tax will be payable as reverse charge mechanism by the person who receives the goods.

73. Whether Service Tax will be payable on reimbursement of expenses incurred on behalf of service receiver while providing the services?

Since Service Tax (Determination of Value) Rules 2006 will be applicable, existing provision will continue. It means if reimbursement of expenses which has been claimed has been incurred for performing of the services or in connection of providing services then reimbursement of expenses will be included in the valuation of the services. However, if it has been incurred as pure agent then it will not be included in the valuation.

But there can be lot of litigation w.r.t. whether the services are in nature of Pure agent or can be covered under Bundled Services, Eg: If CHA is claiming reimbursement of DO, THC, Surveyor fees, transportation which is supported with actual invoices then it will be considered as Pure Agent, but there is any mark-up or un supported then it will be considered as Bundled Services.

74. Whether Service Tax is payable on sharing of expenses between 2 or more Business Entities?

Activity of sharing of expenses are from one person to another and sharing of expenses is the consideration and therefore Service Tax will be attracted on such activity even though there is no profit element and actual expenses are shared.

75. Whether use of intellectual property rights, which is always capitalized, is a service now?

Nature of expenses i.e. whether capital or revenue in nature does not have any impact on the applicability of service tax. IPR is covered under the declared services and therefore service is applicable on the same.

76. If Job worker is availing input services, whether credit is allowed to him?

If job worker is performing the activity which amounts to manufacture then no service tax is payable being covered under Exempted Service and therefore job worker will not be entitled to avail Cenvat Credit on input services.

77. Whether Service Tax is payable henceforth on Industrial land given on 99 years lease by the State Industrial Corporations, even though such corporation is owned by the Government ?

Leasing is covered under "Declared Service" State Industrial Corporation is neither covered under the definition of Government nor in the definition of Local Authority. Therefore prima facie it will be covered under the "services" and hence service tax will be payable. However it has to be examined from the fact that lease more than 25 years is considered "Sale" for the purpose of collecting stamp duties. Suitable clarification may be issued by the Department.

78. Whether the service receiver is allowed to obtain credit of service, which is yet to be received but advance payment is made and invoice is also received?

Yes, Cenvat Credit is allowed on Input Services and supported with documents prescribed in Rule 9 of Cenvat Credit Rules, 2004. Services include services to be provided or agreed to be provided. There is no change in Cenvat Credit Rules, 2004 and hence existing provisions are applicable.

79. Whether services provided by the airlines company to passengers are taxable now?

Yes, it is covered under the definition of services and in accordance with Notification 13/2012-ST dated 17.03.2012, service tax will be payable on 40% of the ticket value provided Cenvat Credit on Inputs and Capital goods is not been taken by airlines.

80. If private bus service providers offering the service of transportation of passengers, whether service tax is payable?

Service of transportation of passengers, with or without accompanied belongings, by-

- (i) a stage carriage;
- (ii) railways in a class other than-
 - (A) first class; or
 - (B) an air-conditioned coach;
- (iii) metro, monorail or tramway;
- (iv) inland waterways;
- (v) public transport, other than predominantly for tourism purpose, in a vessel of less than fifteen tonne net; and
- (vi) metered cabs, radio taxis or auto rickshaws are covered under the Negative List of Services.

However Passenger Transport Service in Contract Carriage excluding Tourism, Conducted Tour, Chartered or Hire are exempted vide Notification No 12/2012-ST dated 17.03.2012

81. If Industry Association is organizing exhibition for promoting products of such industry, whether it will be taxable?

Yes, it will taxable, however if exhibition is arranged outside, then it will be considered as export of service and hence not taxable.

82. Whether technical testing of new drugs by clinical research organisation will be taxable?

Services by way of technical testing or analysis of newly developed drugs including vaccines and herbal remedies on human participants by clinical research organization approved to conduct clinical trials, by the Drug Controller General of India are exempted vide Notification no. 12/2012 dated 17.03.2012.

83. If provider of service has outsourced the said service / agreement to another service provider, whether service tax is payable, on such a service outsourced completely?

Yes, both the transactions are different and activities performed by both are different and hence both will fall under the definition of services. Therefore service tax will be applicable on the same.

84. Will now barber service be covered under Service Tax ambit?

Yes, as he/she will be doing activity for consideration and such activity is not covered under either Negative List or exempted list therefore the same will be covered definition of service tax and service tax will be payable after basic exemption limit. Earlier it was also covered under beauty parlour services.

85. Different Service providers who are proprietors, having close relations such as Husband, Wife, Sons & Daughters providing services separately and each of such providers is having service turnover less than threshold limit of service tax. Whether such individual turnovers be clubbed for considering the threshold limits?

In case the service providers have distinct identity in terms nature of activities undertaken by them then the service turnover cannot be clubbed just because they are close relative. However if there is a common fund or mutuality of interest is established and other firms considered as dummy firm that it may be clubbed. It will depend on facts.

86. Whether any Cost Accountant is availing the service of Chartered Accountant, both as a part of a commercial entity or individually, whether service tax is payable?

Yes, it will be taxable in both cases i.e. service provided for commercial entity and service provided to Individual. However if firm of LLP having the partners of Chartered Accountant / Cost Accountants and services of each other has been taken for providing output services by LLP then there are no services provided from one person to another person and therefore it will not be considered as service.

87. Whether a person offering services of distributing wedding cards, paying electricity bill, distributing newspapers, delivering milk packets, delivering tiffins, paying telephone bills, whose annual turnover is more than 10 lacs, is liable to pay Service Tax. And if so, in which category it should be taxed?

The above activities will be covered under the definition of services and in case the turnover is in excess of Rs.10 Lacs. In the new regime there will not be any category of service.

88. If Central Excise Department appoints a consultant who can be Cost Accountants, Chartered Accountants, Lawyer etc, for pleading the departmental case before CESTAT, is the service tax payable by them in their individual capacity?

Only specified services mentioned in the Mega Exemption Notification provided to Government are exempted from payment of service tax. Therefore in such cases, the Cost Accountant / Chartered Accountant / Firm of Lawyers will be required to discharge the service tax. However, in case of Individual Lawyer there will be no liability as service provided by the individual lawyer to Business Entity are only taxable under reverse charge. Central Excise Department cannot be termed as "Business Entity"

89. When payment is made through Credit Card and supplier takes 2%, whether such amount will be covered under Service Tax?

If excess amount of 2% recovered by supplier is consideration of goods then no Service Tax will be leviable. But if it is recovered as Service charge then Service tax will be leviable.

90. Whether payment made to the Dance Bars / Night Club will attract Service Tax?

If consideration is paid for entry of Dance Bars and Night Club, it will not be covered under Negative List and hence service tax will be payable. However, if hotel / food / drink bill is given then service tax is payable when hotels / restaurant / club have air conditioning in any part and having license of bar.

91. A Job worker manufacturing branded and unbranded Jewellery on which some of the principal manufacturer pays two percent duty while others pays 6 percent duty. Whether Job worker is liable to pay service tax?

Since process which amounts to manufacture is covered under Exempted List no service tax will be payable.

92. Whether services provided by Charitable Institution like conducting series of Yoga, Mass Movement will be exempted?

Yoga is recognized as System of Medicine and covered under Healthcare Service. However such Charitable Institution is neither medical practitioner nor clinical establishment and therefore it is not covered under Exempted Services. However Charitable Activities are specified which includes:

- (a) public health by way of -
 - (I) care or counseling of (i) terminally ill persons or persons with severe physical or mental disability, (ii) persons afflicted with HIV or AIDS, or (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (II) public awareness of preventive health, family planning or prevention of HIV infection;
- (b) advancement of religion;
- (c) advancement of educational programmes or skill development relating to,-
 - (I) abandoned, orphaned or homeless children;
 - (II) physically or mentally abused and traumatized persons;
 - (III) prisoners; or
 - (IV) persons over the age of 65 years residing in a rural area;
- (d) preservation of environment including watershed, forests and wildlife; or
- (e) advancement of any other object of general public utility up to a value of twenty five lakh rupees in a financial year subject to the condition that total value of such activities had not exceeded twenty five lakh rupees during the preceding financial year.

Since Yoga is not covered above, it is not in exempted list and hence Service Tax is applicable.

93. If I provide vacant land for parking of motors, whether it will be taxable?

If vacant land has been provided for parking of motors for general public then it will fall under exempted service however, if it given for parking for other than general public then it will be taxable.

94. If, co-operative housing society is collecting monthly contribution, whether the same is taxable?

If co-operative housing society collecting the monthly contribution which is less than Rs. 5000 per month then it will be under exempted services and hence not taxable.

95. Whether one time maintenance charges recovered by builder / developer will attract Service Tax?

Activity of collection of one time maintenance from builder / developer to the buyer of the flat on consideration is covered under services and hence taxable. However, if the same amount has been included in the

value of the consideration of a flat which is been purchased after obtaining completion certificate and without giving any advance and land is also owned by builder then no service tax will be attracted. Otherwise Service Tax is payable.

96. If you avail Xerox service, whether abatement with respect to paper cost is allowed?

No, there is no abatement prescribed in the Notification 13/2012-ST and hence service tax will be payable on the entire invoice value.

97. If any service provider is in doubt, whether his service is taxable or not, which Government Authority should he approach to for getting the clarifications?

Such person can approach to the help desk in each division of Central Excise or he can approach to the CBEC Board to seek the clarification. However it is advised to obtain AAR from Advance Ruling Authorities.

Point of Taxation

98. Whether Service tax liability will arise no sooner contract has been signed between the service provider and the service receiver?

Even though taxability of service is based on “agreed to be provided” and when agreement is signed it is agreement to provide the service, there will be no service tax liability considering Point of Taxation Rules, 2011.

99. A has raised the bill on 31st March 2012 for Rs.2,00,000/- thereby the turnover for the year reached to 42 Lacs. A receives the payment on 17th July 2012 and Finance Bill is enacted and date is notified on 1st July 2012. When he should pay the service tax on that Invoice and at what rate?

Assuming A is in the category of specified persons who are not discharging liability on receipt basis, the liability of service tax needs to be discharged by 31st March, 2012 on billing basis. The tax rate will be 10.3% (including EC & SHEC).

100. M/s Behede Joshi & Associates, Chartered Accountants, have raised the bill of Rs.5 Lacs on 31st March 2012 thereby the turnover for the year reached to Rs.52 Lacs. They received the payment on 17th July 2012 and Finance Bill is enacted and date is notified on 1st July 2012. When should they pay the service tax on that Invoice, what amount and at what rate?

Point of Taxation in the above case is on receipt basis for the period ended 31st March, 2012. However as per the proposed changes, on account of removal of provision under Rule 7 w.r.t. such services, the point of taxation shall be date of issuing of invoice as per Rule 4 of Point of Taxation Rules, and therefore the tax rate would be 10.3%. But this would have created confusion.

To avoid this, clarification is introduced vide Circular No.154/5/2012 - ST, dated 28-3-2012, that for invoices issued on or before 31st March, 2012, the point of taxation shall continue to be governed by the Rule 7 as it stands till the said date. Thus in respect of invoices issued on or before 31st March, 2012 the point of taxation shall be the date of payment.

As such in the above case Point of Taxation in the above case is on receipt basis for the period ended 31st March, 2012 i.e. 17th July 2012. Further as per the amended Section 67A, the rate of tax will be the rate prevalent when the service is provided / agreed to be provided and therefore the rate of tax will be 10.3%.

Also for invoices raised on or after 1st April, 2012, the POT will be determined on billing basis, since the turnover has crossed Rs.50 lacs.

101. What will be the Point of Taxation in different situations?

Sr. No	Scenario	Relevant Rule	First Event	Subsequent Events	Point of Taxation
1	Normal situation (not covered under rules 4 to 9)	3(a) of POTR	Issue of Invoice	Completion of service or receipt of advance payment	Time of Invoice
2	–	3(a) of POTR	Completion of service	Invoice issued within prescribed period	Time of Invoice
3	–	Provision to 3(a) of POTR	Completion of service	Invoice not issued within prescribed period	Date of completion of provision of service
4	–	3(b) and Explanation to rule 3 of POTR	Receipt of payment or advance	Invoice or completion of service	Time of receipt of payment to the extent of such payment
5	Continuous Supply of service (applicable separately to each event as specified in contract)	3(a) of POTR	Issue of Invoice and payment received after the change in effective rate	Completion of service or receipt of advance payment	Time of Invoice
6	–	3(a) of POTR	Completion of service	Invoice issued within prescribed period	Time of Invoice
7	–	Provision to 3(a) of POTR	Completion of service	Invoice not issued within 14 period	Date of completion of service
8	–	3(b) and Explanation to rule 3 of POTR	Receipt of payment or advance	Invoice or completion of service	Time of receipt of payment to the extent of such payment
9	Taxable Service provided before change in effective rate of service tax	4(a) (i) of POTR	Invoice issued prior to change in effective rate	Payment received after change in effective rate of tax	Date of receipt of payment or date of issuance of invoice whichever is earlier
10	–	4(a) (ii) of POTR	Invoice issued prior to change in effective rate	Payment received after change in effective rate of tax	Date of Issuing Invoice

Sr. No	Scenario	Relevant Rule	First Event	Subsequent Events	Point of Taxation
11	–	4(a) (iii) of POTR	Payment received before change in effective rate	Invoice issued after change in effective rate of tax	Date of receipt of payment
12	Taxable Service provided after change in effective rate of service tax	4(b) (i) of POTR	Invoice issued prior to change in effective rate of tax	Payment received after change in effective rate of tax	Date of receipt of payment
13	–	4(b) (ii) of POTR	Invoice issued and payment also received prior to change in effective rate of tax	Taxable Service provided	Date of receipt of payment or date of issuance of invoice whichever is earlier
14	–	4(b) (iii) of POTR	Payment received before change in effective rate	Invoice issued after change in effective rate of tax	Date of Issuing Invoice
15	New service brought under tax net	5(a) of POTR	Invoice issued and payment received before service became taxable	N.A.	No service tax payable
16	–	5(b) of POTR	Payment received before service became taxable	Invoice issued within 14 days when service is taxed for the first time	No service tax payable
17	–	3(a) of POTR	Service provided before tax became effective	Invoice issued within 14 days and payment received after tax became effective	No service tax payable
18	Services where tax payable by receipt of service under reverse charge	7 of POTR	Receipt of service	Payment made to service provider in advance or within six months of date of invoice of service provider	Date of Payment
19	–	7 and provision to rule 7 of POTR	Receipt of service	Payment not made to service provider within six months of date of invoice of service provider	As per rule 3,4,5,6 or 8A of POTR (as applicable). Interest will be payable.
20	Individuals, partnership firms and LLP having value of taxable services less than 50 lakhs per annum	Fourth provision to rule 6(1) of STR	Invoice, completion of service or receipt of payment in any sequence	–	Date of receipt of payment
21	Service received from associated enterprise when service provider outside India	Second provision to rule 7 of POTR	Date of debit in books of account of person receiving service	Date of making payment	Date of debit in books of account of person receiving service
22	–	Second provision to rule 7 of POTR	Date of making payment	Date of debit in books of account of person receiving service	Date of making payment
23	Intellectual Property Service (copyright, trade mark, design or patent), where consideration not ascertainable at the time of service	8	Receipt of payment or benefit is received by service provider	Invoice issued by service provider	Receipt of payment or benefit is received by service provider
24	–	8	Invoice issued by service provider	Receipt of payment or benefit is received by service provider	Invoice issued by service provider
25	If cannot be determined on any of above basis	8A of POTR	–	–	To be determined by Excise Officer after personal hearing

However, in our opinion, Point of Taxation Rules are contrary to section 67A as section 67A reads as follows - The rate of service tax, value of a taxable service and rate of exchange, if any, shall be the rate of service tax or value of a taxable service or rate of exchange, as the case may be, in force or as applicable at the time when the taxable service has been provided or agreed to be provided. In POT Rules often date of invoice is Point of

Taxation - does not match with section 67A at all.

We have tried to appreciate the issues involved but we are also aware that numbers of questions will still arise in minds of Service Providers and Service Receiver and therefore kindly feel free to send a e-mail to us at servicetax@bizsolindia.com. We assure that replies will be sent immediately.

Trade Facilitation from Talisman's Perspective

– K. R. Bhargava

(Retired as Chief Commissioner of Customs and can be reached at kuldiprbhargava@hotmail.com)

Mahatma Gandhi, father of the nation said following in 1948 to all those who matter in the society:

"I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man or woman whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him (her) to control over his (her) own life and destiny? In other words, will it lead to swaraj (freedom) for the hungry and spiritually starving millions? Then you will find your doubts and yourself melt away."

This famous quote is as valid today as it was in 1948 when our nation had just become independent. In fact, now it is more valid and more needed when the entire world has become one village, consumerism is at peak, companies compete with each other to book more profits in their books than their counterparts, ecosystem is under threat, corruption and self overweighs everything else and life is so hectic that individuals have no time for themselves. In this intense competition to survive better than others, self interest is above everything and millions live in the country without basic necessities of life. But if all in the society follows what Gandhiji said in the above quote while performing various jobs, things will improve for one and all. Gandhiji's quote will help in making fair, fast and cheap decisions. Gandhiji wants people in authority to keep interest of the poorest and weakest person in mind while taking decision; because such a person has no resources to fight with the powerful. And for unfair, wrong and costly decisions, he will continue to suffer. For him, swaraj will have no meaning.

This quote also suggests that when an issue is being decided between parties say government and business or a manufacturing company and a dealer; decision making should be fair and favourable to the ultimate consumer and of course, to the poorest of them even though he is not directly in picture. And if you have such a person at the core, complexities will go away; creativity will be at work in the desired direction and good solutions will emerge.

In the above backdrop, while all areas of human endeavour concern the common man, one area of our concern is international trade. Costs other than tariff and non tariff in course of international movement are so high in terms of time and money that conducting business becomes a painful, costly and difficult experience. Governments, international bodies like WTO and WCO and Research and Educational Institutes are working hard to relieve the situation but players and complexities being too many, task continues to be difficult one and keeps on throwing challenges. And, when situation is complex and players are many, it is good to note and follow the following words of Bertrand Russell, English philosopher:

"The only thing that will redeem mankind is cooperation".

Let us examine the above with reference to following case studies.

A trader imported certain consumer goods at a major port and made proper declaration in regard to description, quantity, value etc. for determination of customs duties including MRP based countervailing duties before the customs authorities. The imported goods though had all the manufacturing details on their bodies/packing at the time of their import but were subject to additional compliance requirement under the Indian laws before these are cleared from docks. To put it simply, the goods were required to be affixed with labels indicating Maximum Retail Price before these are cleared from docks for domestic consumption. The process involved de-stuffing of goods from the containers and then affixation of stickers showing MRP. Because of unhygienic conditions, time and space constraints and added stuffing, de-stuffing and processing costs including additional ground rent and container detention charges, impugned importer like many others did not affix required labels and cleared goods with connivance of the officers from docks to his warehouse for affixation of labels, distribution and marketing of these goods. This warehouse was raided by the Central Excise officials and goods valued over Rs 3 cr were seized on the plea that party was affixing labels on the goods and according to excise authorities, this process amounted to 'manufacture' and required compliance to the excise law. The verification of the MRP declared before the customs and written on the relevant stickers by the investigating officers did not reveal any variation. In other words, importer had not played with the government revenue. Even if excise procedure is followed, no additional revenue will come to government exchequer. In spite of the facts being so, goods were released provisionally on taking bank guarantees over Rs. 75 lac after considerable struggle.

In the relevant context, it will be good to look at the definition of manufacture:

As per note 6 to chapter 34 of the Central Excise Tariff, in relation to products of this chapter, labelling or relabelling of containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to 'manufacture'.

This note was added to charge excise duty on value addition due to costs incurred on account of advertisement, sale promotions, packing etc. as many manufacturers including many MNCs used to remove their goods from the factories in bulk packing and paid duty just on bare manufacturing cost and notional profit. They had been shifting goods to their warehouses/

branches and then repacking those for the purpose of marketing as per needs of the consumer market. In our subject case, there is no value addition, no change in the declared MRP and hence no gain to the revenue. It is difficult to appreciate that decision to seize and then release goods provisionally pending adjudication can be considered as a decision keeping “Ganghiji’s Talisman” in mind or just to keep “self” and “doubts” in mind. The right course should have been to bring the practice of clearing goods without affixing MRP stickers to the notice of concerned commissioner of customs for appropriate action against the importer and conniving officials and of course, initiating such administrative steps that would help in voluntary compliance to the legal requirement.

It also appears that condition to affix MRP label on the goods before clearance from docks has been imposed without keeping the “Talisman” in mind. Before imposing conditions that will cause severe undue financial hardships and are impractical for want of required infrastructure and thereby, likely to lead to unethical practices, it is better either to ban such imports or to redesign strategies to achieve the objective such as making it mandatory for the importer to affix MRP stickers in his premises before releasing goods for the domestic market. Non affixation be made punishable and leading to confiscation of goods even if these are in the hands of retailers. Introduce consumer/retailer product awareness programs so that noncompliant goods are not sold in the market. FSSI has already started taking such initiatives to improve consumer awareness in the country. The relevant laws can be aligned and this alignment can reduce costs and help the consumer to get goods at lower prices.

It is sometimes a practice with government to make laws/legal provisions effective without creating supporting infrastructure and administrative framework. For instance, the Ministry of Environment and Forests in 2010 imposed a condition that waste paper when imported should not contain non-recyclable waste more than a particular percentage. Consequently, hundreds of containers were detained for analysis in one Indian port. The Paper industry protested against such detention on the following grounds:

1. News paper waste is collected by the supplier from different sources and then stuffed in the containers in terms of terms and conditions of the purchase contract. Sample collected from one side/corner etc. may not be a representative sample. For making a representative sample, goods need to be de-stuffed and then representative sample need to be prepared by mixing small quantities drawn from different locations. However, no sampling and testing methodologies have been laid down by the competent authorities. The officers will be left to their discretions.
2. After the entire process, it will be difficult to re-stuff the goods in container and this will lead to pilferage in docks.

3. In any case, officers of the competent authority visit their factories every month and draw and test samples of all raw materials procured to ensure compliance to environmental law. In view of this, goods may be cleared for industrial consumption on the basis of documents accompanying the shipments.

The officials of authorized laboratories, on consultation, confirmed the above position.

It needs to be appreciated that implementation of laws in the aforesaid manner is inappropriate and leads to avoidable additional costs, delays, disruption in industrial production, shortage of goods in consumer market and higher costs to consumers besides confusion, harassment etc. to traders and manufacturers. It is in this context, Gandhiji suggested keeping common man in mind when you are contemplating a decision. If you keep his interest in mind and think of the impact your contemplated decision is going to make on him, you are likely to develop strategies that are most suitable and convenient to address the issues involved.

Trade facilitation is often misconstrued as facilitation of traders. Interpretation, this way means benefit of facilitation accrues to the traders and often some boys in authority like the traders to share their benefit with them. This understanding and attitude needs to be changed. Trade facilitation means developing rules, procedures, practices, technologies and administrative structures so as to clear legally compliant goods across international borders in minimum time so that these reach the consumers and consuming industries at lowest prices. And of course, all of us are final consumers of all goods and thereby, trade facilitation benefits all of us in the community.

And whereas the two cases quoted, hereinabove, are from public sector the Gandhian advice is equally relevant to the private players playing important role in international supply chain. There are instances when they take advantages of their dominating position and often compromise with ethics while performing their functions in the supply chain. No business organization works for charity; it works for profit but this objective should not outweigh the ethical practices and interest of ultimate customers who are none other than you and me. Everyone in the supply chain (shippers, shipping/airlines, ports, container freight stations, freight forwarders, banks, insurance companies, customs brokers, transporters, railways etc. and their employees) should see whether his/her organization is managing the business not only in the interest of shareholders but ethically and in the interest of consumers. This is important as they are engaged in a very pious act. Making various things available to consumers for their living is an act of God. Participation in this act is service to God and those who discharge this act with devotion to Him are blessed by Lord Krishna. To meet the objective, everyone engaged in the supply chain should cooperate with one another to address genuine concerns and needs of others keeping words of Mahatma Gandhi and Bertrand Russell in mind. ■

INDIAN AGRICULTURE NEEDS ATTENTION

By CMA Indraneel Sen Gupta, Global Business Strategy Advisor & Global Macro Economic Researcher, neel19414@gmail.com,

PRIVATE EQUITY OPPORTUNITIES IN INDIAN AGRICULTURE

The three sectors of the Indian economy witnessed slowdown in 2011-12. Moderation in agriculture growth notwithstanding, the year witnessed an all-time high food grains output. The services sector reflected the slowdown in construction, while industrial growth slackened due to the disappointing performance of mining and manufacturing sub-sectors. Data relating to Q3 of 2011-12 shows that growth moderated for the fourth successive quarter to 6.1 per cent, recording the lowest rate in the last eleven quarters. The agricultural sector is facing the heat of non availability of storage facility. According to RBI its is marked that the current stock of food grains, at 53 million tonnes, continues to be much higher than the quarterly buffer and security reserve requirements.

PE: TO IDENTIFY AGRICULTURE AS AN INVESTMENT POT.

India needs extensive investment to support agricultural research, development of water resources, infrastructure, particularly, power, storage and transportation. PE and IB needs to focus on these areas of investments where Agricultural growth can be achieved. New strategies need to be developed for doing investments into these areas. In Western economies its is found that factors which are driving interest in agriculture are surging commodity prices; increasing demand of agri products thus prices will remain high for the medium-term and sustained or growing demand for biofuels.

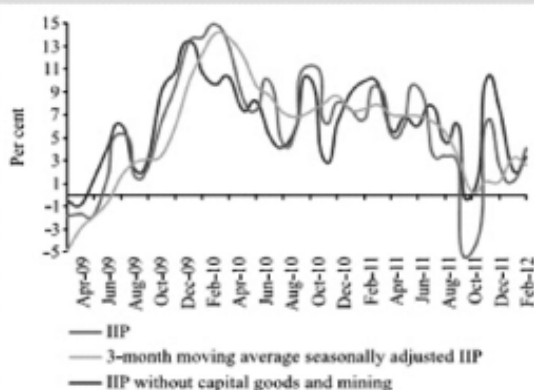
In an recent projection like the one from the United Nations' Food and Agriculture Organization found that 70% more food production will be needed to feed a projected global population of 9.1 billion people by 2050. Western economies are doing aggressive investments in agri products since they have identified that healthy commodity prices will continue to climb and are here to stay since Asia can't feed itself. According to their investment target is focused on Asian nations which will need lot of commodity products and the suppliers will be from South America, but also from the United States and Canada. Hence western economies are making their PE and IB is just printing money from investments in agri sector. India has much potential to do investments.

PE can find investments in Crop insurance which is very much highly required in Indian demographic conditions. PE and IB will find prime opportunities in crop improvement and biotechnology, fertilizers, infrastructure, irrigation technologies and machinery. Yes among these entire investments one should not forget that a return from these investments is long term deal and good things takes time. Investments in agriculture typically have a longer time horizon than most private equity investments hence patience is the most important capital needs to be adopted by the PE. PE should invest in entrepreneurs who are coming into agriculture sector. Since they are equipped and well versed with modern technology and business centric strategies which will help Indian agriculture sector to achieve tall heights. Once the land acquisition bill get changed PE can do investments in farm land buying them up and later on leasing them to the farmers and reaping the long term gains.

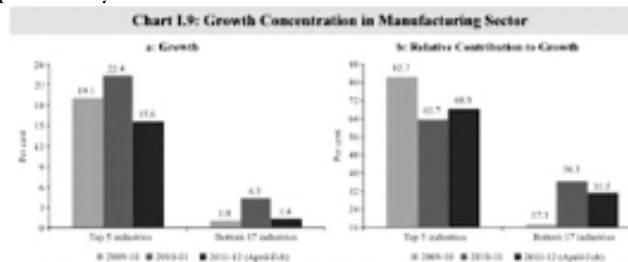
SLOWDOWN IN OTHER SECTORS

We have become too much dependent on service sector and manufacturing sector. Industrial growth slowed down sharply during 2011-12, led by contraction in mining and poor performance of the manufacturing sub-sector. Industrial activity

Chart I.7: IIP Growth (y-o-y)



lost steam on account of weak demand for consumer durables, reflecting interest rate sensitivity, deceleration in external demand and subdued investment demand due to decline in business confidence. If one makes a quick look towards the IIP numbers from April 2009 to February 2012 we find 3.3 for IIP excluding capital goods compared with 4.7 for the overall IIP during the period April 2009 to February 2012. Manufacturing sector growth remained volatile and highly concentrated, with seven out of the twenty two industry groups showing negative growth during April-February 2011-12.



Moreover in 2012 we will find slowdown in global economy backed by slowdown in Europe Indian manufacturing will find difficulty to dump its manufacturing. Export market will remain tight hence growth from manufacturing will be difficult in 2012-13. The eight core industries grew at a subdued pace of 4.4% during April- February 2011-12 compared to 5.8% during the corresponding period of the previous year. This is mainly on account of contraction in natural gas and poor performance of coal and fertilizer industries.

In the recent finding by RBI it has been found that the Order Books, Inventory and Capacity Utilization Survey indicates that the y-o-y growth in new orders in Q3 of 2011-12 was lower than in Q3 of the previous two years. In simple terms new order formation for the manufacturing sector remained slump compared to the peak of 2010-11. Capacity utilization dropped resulting surplus productivity in cement and thermal power.

Table I.5: Changes in Estimated Employment

Industry/Group	In million				
	2010-11 April-Dec	2011-12 April-Dec	2010-11 Q3	2011-12 Q3	2011-12 Q3
1. Textiles including apparel	0.22	0.09	0.04	0.04	0.08
2. Leather	0.04	-0.01	0.02	0.00	-0.01
3. Metals	0.07	0.09	0.00	0.04	0.00
4. Automobiles	0.10	0.03	0.02	0.02	-0.01
5. Gems and jewellery	0.00	0.00	-0.01	0.01	0.01
6. Transport	-0.01	0.00	0.00	-0.01	0.03
7. IT/ITPO	0.06	0.04	0.14	0.20	0.11
8. Hardware/Powertrain	0.01	0.02	0.00	0.01	0.01
Overall	0.40	0.26	0.21	0.30	0.22

Source: Thomson's Quarterly Quick Employment Survey, Oct 2011/Dec 2011, Labour Bureau.

Service sector managed to maintain the growth but shows signs of plummeting due to decline in construction activity in India. Decline in new investments has resulted drop in construction activity. A revival in domestic industrial activity and improving prospects can improve the service sector growth prospects in 2012-13. The quarterly quick surveys of employment situation conducted by the Labour Bureau in select sectors of the economy indicate that employment generation slowed in Q3 of 2011-12 compared to Q2. Further salary growth remained in comfortable levels. Led by engineering services sector, the projected jump of 12.9% in salaries for this year is higher than the actual increase of 11.7% seen in 2010. It is being expected that once investment cycles come into full swing service sector is expected to touch the peak levels of 2010-11.

Hence keeping all the three sectors in mind it is being found that agriculture sector needs PE investments since other sectors are prone to global macro factors matched with domestic factors. But consumption of food products and commodity prices will continue its upward rally. Where western economies are printing money based on the Asian economies agricultural slowdown. If and when private equity investments in agriculture become more common, several impacts from the influx of capital could take shape. Substantial private equity investments would also likely result in an intensification of mechanization and escalation in the trend toward larger-scale, more vertically integrated operations developing the Indian agricultural sector. PE and IB needs to come up to grow the Indian agricultural growth.

CHAPTER NEWS

NAVI MUMBAI

Report on the "Challenges of CFO - Maximising Strategic impact" organized by the Chapter on Sunday, the 15th April 2012. CMA Vivek Bhalerao, Chairman of the Chapter, welcomed the audience and the speaker Mr. Amitava Sur, Finance Director - India and Regional Leader for Financial Compliance - Asia at Videojet.

The speaker nicely took the audience through the topic. He, in a very lucid language, explained the change of Role of a CFO, from a traditional Accountant to Business Partner. He also explained the emergence of different kinds of challenges due to change in expectation level of Investor and Management from CFO. Challenges faced by CFO due to the introduction of different Regulations, were also discussed at length.

The speaker nicely threw different points before the audience for debate and the debates and deliberations were extremely thought provocative. The program ended with a hearty vote of thanks from CMA Pratyush Chattopadhyay.

PIMPRI-CHINCHWAD-AKURDI

The Pimpri-Chinchwad-Akurdi Chapter of Cost Accountants organized CEP on "Revised Schedule VI" and "Recent changes in Maharashtra State Budget" at ATSS College, Chinchwad on 18th April 2012.

In his welcome address, CMA Laxman D Pawar, Chairman of the Chapter gave a brief overview of the working of the Chapter. He also explained the importance of the topics which were being covered in the Seminar.

The guest speakers - CMA Rammohan Bhawe and CMA BrijMohan Sharma were felicitated by the Chapter Chairman with bouquets.

The Seminar was well attended by over 35 people - Members, Industry Delegates and students of ICAI. While giving Vote of thanks CMA Pradeep Deshpande appealed to members for their valuable suggestion to arrange more number of Seminar/CEP's on various subjects.

PUNE

A. CEP ON "MUTUAL FUND INVESTMENT - BENEFITS AND RISKS"

Pimpri-Chinchwad-Akurdi Centre of Pune Chapter of Cost Accountants organized CEP ON MUTUAL FUND INVESTMENT - BENEFITS AND RISKS" on 19th April 2012. The programme was conducted by CMA Anant Dhavale. CMA Sandesh Badkas, Secretary, PCAC Working Committee welcomed the Speaker and the audience.

CMA Chaitanya Mohrir - Chairman, Professional Development Committee, PCCA and large number of members and students from Pimpri-Chinchwad-Akurdi area attended. CEP ended after CMA Sandesh Badkas, Secretary, PCAC Working Committee proposed a vote of thanks

B. INDUSTRIAL VISIT FOR STUDENTS

PCCA arranged an industrial visit for the students of Intermediate to Universal Construction & Equipment Co. The company made all necessary arrangements to make the visit of students very informative. For the students the visit was an eye opener. They were made aware of the connection between theory and practice. CMA Harshad Deshpande, Treasurer, PCCA, accompanied the students on this visit.

C. STUDENTS FELICITATION PROGRAMME

The Solapur unit of PCCA felicitated the students who were successful in December 2011 examinations. The felicitation was done at Prin. K. P. Mangalwedhekar Institute of Management, H. D. School Campus, Railway Line, Solapur on 21st March 2012.

CMA & CA Sunil Ingale, Chairman of Solapur Unit welcomed the Chief Guest Dr.Sawant, Director of Bharti Vidya Peeth Solapur. CMA R.V.Kshirsagar introduced the guest. While Dr. Sawant explained the importance of hard work and time management for success, CMA Murli Ayengar emphasized on importance of regular study and improvement of English language as key to success. Dr.Sawant also gave guidance to teachers for effective teaching. Mr.Budhalkar co-ordinated the programme. CMA N.D. Dontul proposed a vote of thanks



GLOBAL WEBINAR

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May 26, 2012 Saturday Indian Time 1.00 to 6.30 pm

Speakers for the Webinar

- President (ICAI - ICWAI) - Chief Guest
- Rammohan Bhawe
- Ms. Maya Pangarova, From Bulgaria*
- Mr. Taiji, ex MD, Credit Suisse, Tokyo Japan*
- Ms Siobhan Pandya, CFO Shell, USA*
- Mr. K VijayKumar, D & B, Dubai*
- Mr. Mittal (Mittal Group)*
- Mr. Hassan Gomaa, Egypt
- Mr. Pradeep Kumar Shrestha, Chairman ASB, Nepal

Attend this webinar by either of the following modes:

- Mail us for regn : email Name, Contact No., Email ID, City - location at SS@ConsultIFRS.com
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*Participation certification will be issued.

*Unstructured CPE hours can be claimed.

*(subject to confirmation)

(Advt.)

Glimpses of Half Day Seminar on Applicability of Cost Audit and Cost Compliance in Organic and Inorganic Chemicals Industry held on 27th April 2012 at Hotel Jewel of Chembur, Mumbai



Participants lighting the lamp



CMA Ashish Thatte, Hon. Secretary welcoming the participants



CMA Kirit Mehta



CMA Harshad Deshpande



CMA Sukrut Mehta

Report on Seminar

A half day seminar on “Applicability of Cost Audit and Cost Compliance in Organic & Inorganic Chemical Industry (Chapter 28,29,32,38,30) was organized by WIRC on 27th April 2012 at Hotel Jewel of Chembur, Chembur, Mumbai. CMAs Kirit Mehta, Past Chairman WIRC, Harshad Deshpande, Treasurer Pune Chapter & Sukrut Mehta were the speakers for the seminar.

CMA Ashish Thatte, Hon. Secretary welcomed the participants & speakers and session started by lighting of the lamp.

CMA Harshad Deshpande reviewed on Companies Rule 2011 (Cost Accounting Records and Cost Audit Report) and briefed on applications of Cost Audit Orders issued by MCA including Compliance Report.

CMA Sukrut Mehta reviewed on various aspects to be incorporated while considering the Cost. He explained application of Cost Accounting Standards and GACAP in Chemical Industry

CMA Kirit Mehta expressed his views on the rules 2011, MCA order dated 24th Jan 2012 in detail. He also

emphasized on the approach towards the Cost effective applications, Cost Audit and Compliance. He stressed importance of Performance Appraisal Report in Cost Audit Mechanism.

CMA Ashish Thatte, Hon. Secretary WIRC proposed vote of thanks. Members from Industry and Practice attended the seminar. Participants have shown their satisfaction on the contents of the seminar and also expressed their willingness to participate in the future seminar organized by WIRC of ICAI.

CAREER FAIR

WIRC participated in Career Fair organized by Sandesh Pratishthan, an NGO at Andheri (E) on 20th & 21st April 2012. Fair is an initiative of Mr. Suresh Shetty, (Hon. Minister of Public Health, Govt. of Maharashtra).

Large number of students visited the Institute's stall.

*Service Tax Seminar scheduled on 18th May 2012 has been postponed.
New date will be informed later.*



**WESTERN INDIA REGIONAL COUNCIL
OF
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(Statutory Body under an act of Parliament)

jointly with

Ahmedabad Chapter of Cost Accountants

announces

**54th National Convention
at Ahmedabad in January 2013**



Shrirang Abhyankar, Director, PCCA seeing students off for industrial visit organised by Pune Chapter

ATTENTION MEMBERS !!!

Revised Membership Fee

The fees payable by the members of the Institute have been revised by the Council with effect from **1st April, 2012 from the Financial year 2012-13** onwards as follows:

Category of fees	Amount Payable
Associate Entrance Fee	Rs. 1,000/-
Associate Membership Fee	Rs. 800/- p.a.
Fellow Entrance Fee	Rs. 1,000/-
Fellow Membership Fee	Rs. 1,500/- p.a.
Certificate of Practice Fee	Rs. 1,000/- p.a.

The fees payable by the retired members entitled to pay at reduced rate in pursuance of Regulation 7 (4) of the Cost and Works Accountants Regulations, 1959 with effect from 1st April, 2012 from the financial year 2012-2013 onwards shall be as follows:

Category of fees	Amount Payable
Associate Membership Fee	Rs. 200/- p.a.
Fellow Membership Fee	Rs. 375/- p.a.



If undelivered please return to:

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
WESTERN INDIA REGIONAL COUNCIL,
Rohit Chambers, Janmabhoomi Marg, Fort, Mumbai 400 001.

Tel.: 2204 3406 / 2204 3416 / 2284 1138

Fax : 2287 0763

E-mail : bulletin@icwai-wirc.org

Website : www.icwai-wirc.org

To