

SERVICE TAX ON REAL ESTATE TRANSACTIONS

Relevant Services:-

- ✚ Architect Service – sec.65 (105) (p) , 65 (6)- Date of levy -16-10-98.
- ✚ Auction of Property – sec.65 (105) (zzzr); sec. 65(7a)- Date of levy 1.05.2006
- ✚ Construction of Commercial & Industrial complex – sec.65 (105)(zzq), 65 (25b)- 10.09.2004
- ✚ Construction of residential complex – sec.65 (105) (zzzh),65 (30a); 65 (91a)- 16.06.2005
- ✚ Engineering Service- Sec 65 (105)(g), 65 (31), dated 16-07-1997
- ✚ Erection, Commissioning & Installation Service. Sec65 (29), 65 39a), 65(105)(zzd)- 1.07.2003
- ✚ Interior Decorator Sec 65 (59); 65(105)(q) -16.10.1998
- ✚ Real Estate Agent & Consultants –sec 65 (88),65 (89), 65 (105)(v)- 16.10.1998.
- ✚ Renting of Immovable Property- Sec 65 (90a), 65 (105)(zzzz)- 1.06.2007
- ✚ Management Repair and Maintenance – Sec 65 (64), 65(105)(zzg) – 1.07.2003
- ✚ Site formation, clearance excavation, earthmoving and demolition service;- Sec 65 (105) (zzza), 65 (97a) -16.06.2005.
- ✚ Works Contract – sec. 65 (105)(zzzza) -1.06.2007.

Other few Services

Taxable Service:- Sec.65(105) – e.g.

Taxable service means any service provided or to be provided –

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(zzzh) to any person, by any other person, in relation to construction of complex.

In this reference, the relevant abstract of the decision in MAGOUS CONSTRUCTION PVT. LTD. Vs. UOI 2008 (11) S.T.R. 225 (GAU) is reproduced as follows:-

In the light of what has been laid down in the catena of decision referred to above, it becomes clear that the circular, dated August 1, 2006, aforementioned, is blinding on the Department and this circular makes it more than abundantly clear that when a builder, promoter or developer undertakes construction activity for its own self, then, in such cases, in the absence of relation-ship of “service provider” and “service recipient” the question of providing “taxable service” to any person by any other person does not arise at all. In the present case too, the material placed by the writ petitioners clearly show that **the construction activities, which the petitioners have been undertaking, are in respect of the petitioners, own work and it is only the completed construction work, which is sold by the petitioner-company to the buyers, who may have made agreements for sale before the construction had actually started or during the progress of the construction activity or at the end or completion of the construction activity. Any advance, made by a prospective buyer, or deposit received by the petitioner company, is against consideration of sale of the flat / building to such prospective buyer and not for the purpose of obtaining “service” from the petitioner-company.**

CONSTRUCTION SERVICE:-

(A) Residential Complex:-

For the word “Construction of Complex”, kindly refer sec. 65(30a) is reproduced as follows-

Construction of complex means:-

- (a) construction of a new residential complex or a part thereof; or
- (b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or
- (c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;

The term “taxable service” means any service provided or to be provided to any person, by any other person, in relation to construction of complex - Sec. 65 (105) (zzzh) the Finance Act, 1994.

The term ‘residential complex’ as per section sec. 65 (91a) of the Finance Act, 1994, means any complex comprising of—

- (i) a building or buildings, having more than twelve residential units;
- (ii) a common area; and
- (iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation:— For removal of doubts, it is hereby declare that for the purposes of this clause-

- (a) “personal use” includes permitting the complex for use as residence by an other person on rent or without consideration;
- (b) “residential unit” means a single house or a single apartment intended for use as a place of residence.”

(B) Commercial Complex:-

“Commercial or industrial construction service” means -

- (a) construction of new building or civil structure or a part thereof; or
- (b) construction of pipeline or conduit; or
- (c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fitting and other similar services, in relation to building or civil structure; or
- (d) repair, alteration or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit,

which is –

- (i) used, or to be used, primarily for; or
- (ii) occupied, or to be occupied, primarily with; or
- (iii) engaged, or to be engaged, primarily in,

commerce or industry or work intended for commerce or industry, but does not include such services provided in respect of road, airports, railways, transport terminals bridges, tunnels and dams; [sec. 65 (25b) as amended by Finance Act, 2005].

(C) Real Estate Agent and Consultant:-

Sec. 65(88) & (89) of the Act, 1994, defines the terms as follows:-

“Real estate agent” means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;

“Real estate consultant” means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate.

Taxable service means any service provided or to be provided to any person, by a real estate agent in relation to real estate – sec. 65(105)(v).

(D) Auction of Property:-

Sec.65 (7a) by the Finance Act, 1994 lays down that:-

“auction of property” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property.

Sec.65 (105) (zzzr) of the Finance Act, 1994 stipulates that :-

Taxable service means any service provided or to be provided to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government.

(E) Erection Commissioning & Installation Service:-

Commissioning and installation agency means any agency providing service in relation to erection, commissioning or installation – Sec. 65 (29) of the Finance Act, 1994.

“Erection, commissioning or installation” means any service provided or to be provided by a commissioning and installation agency, in relation to,-

- (i) erection, commissioning or installation of plant, machinery or equipment or structures whether pre-fabricated or otherwise; or
- (ii) installation of -

- (a) electrical and electronic devices, including wirings or fittings therefore; or
- (b) plumbing, drain laying or other installations for transport of fluids; or
- (c) heating, ventilation or air –conditioning including related pipe work, duct work and sheet metal work; or
- (d) thermal insulation, sound insulation, fire proofing or water proofing; or
- (e) lift and escalator; fire escape staircases or travelators; or
- (f) such other similar services.

[Sec.65(39a) as amended by the sec 68(A)(13) of the Finance Act, 2006].

The term “taxable service means any service provided or to be provided to any person, by a commissioning and installation agency in relation to erection, commissioning or installation – Sec. 65(105) (zzd).

(F) Works Contract:-

Taxable service means any service provided or to be provided to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.-

Explanation:-

For the purpose of this sub-clause, “ works contract means a contract wherein,-

- (i) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and
- (ii) such contract is for the purposes of carrying out,—
 - (a) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or
 - (b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or
 - (c) construction of a new residential complex or a part thereof; or

(d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or

(e) turnkey projects including engineering, procurement and construction or commissioning (EPC) projects;-sec 65 (105)(zzzza) [see also sec 135 (A) (13) (h) of the Finance Act 2007]

(G) Renting Of Immovable Property:-

"Renting of immovable property" includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

- (i) renting of immovable property by a religious body or to a religious body; or
- (ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

Explanation.1—For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings;’

Explanation.2 – for the removal of doubts, it is hereby declared that for the purpose of this clause “renting of immovable property” includes allowing or permitting the use or space in the immovable property, irrespective of the transfer of the possession or control of the said immovable property[Sec 65 (90a)].

Taxable Services means any service provided or to be provided to any person, by any other person in relation to renting of immovable property for use in the course or furtherance of business or commerce.

Explanation 1.—For the purposes of this sub-clause, “immovable property” includes—

- (i) building and part of a building, and the land appurtenant thereto;
- (ii) land incidental to the use of such building or part of a building;
- (iii) the common or shared areas and facilities relating thereto; and
- (iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate,

but does not include-

- (a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;
- (b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;
- (c) land used for educational, sports, circus, entertainment and parking purposes; and
- (d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.

Explanation 2.—For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce;-Sec.65(105)(zzzz)

Forms of Business:-

- ✚ Sole ownership basis i.e. whether individual or a Corporate Entity or a Co-operative society
 Tax effect: - the contractor is the service provider while the land owner is the service receiver.
- ✚ Partnership Firms i.e. partnership between land owner and contractor-cum-builder;
 Tax effect:- since both are the service receiver, while the small contractor is the service provider
- ✚ Joint Venture- i.e. AOP between land owner and builder – cum – contractor – basis of distribution
 - ❖ Net income after tax;
 - ❖ Gross consideration without determining the income
 - ⇒ distribution of sale consideration
 - ⇒ distribution of residential / commercial unit.

Tax effect: - since both are the service receiver, while the small contractor is the service provider

Whether there is a AOP or a pure contractor agreement, it depends upon the facts and circumstances of each case. Terms and conditions of the agreement is quite considerable.

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Valuation:-

Under sec 67, on gross amount of recovery, tax is to be paid. However valuation is subject to the following exemptions:-

Notification No 12/2003 S.T.– Exemption to goods and materials sold by service provider to recipient of service.

In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts so much of the value of all the taxable services, as is equal to the value of goods and materials sold by the service provider to the recipient of service, from the service tax leviable thereon under section (66) of the said Act, subject to condition that there is documentary proof specifically indicating the value of the said goods and materials.

"Provided that the said exemption shall apply only in such cases where-

- (a) no credit of duty paid on such goods and materials sold, has been taken under the provisions of the Cenvat Credit Rules, 2004; or
- (b) where such credit has been taken by the service provider on such goods and materials, such service provider has paid the amount equal to such credit availed before the sale of such goods and materials.

2.This notification shall come into force on the 1st day of July, 2003.

Notification No1/2006 S.T.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service of the description specified in column (3) of the Table below and specified in the relevant sub-clauses of clause (105) of section 65 of the Finance Act, specified in the corresponding entry in column (2) of the said Table, from so much of the service tax leviable thereon under section 66 of the said Finance Act, as is in excess of the service tax calculated on a value which is equivalent to a percentage specified in the corresponding entry in column (5) of the said Table, of the gross amount charged by such service provider for providing the said taxable service, subject to the relevant conditions specified in the corresponding entry in column (4) of the Table aforesaid:

Table

S. No	Sub-clause of clause (105) of Section 65	Description of taxable service	Conditions	Percentage
(1)	(2)	(3)	(4)	(5)

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5.	(zzd)	Erection, commissioning or installation, under a contract for supplying a plant, machinery or equipment and erection, commissioning or installation of such plant, machinery or equipment.	This exemption is optional to the commissioning and installation agency. <i>Explanation.</i> - The gross amount charged from the customer shall include the value of the plant, machinery, equipment, parts and any other material sold by the commissioning and installation agency, during the course of providing erection, commissioning or installation service.	33
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7.	(zzq)	Commercial or industrial construction service.	This exemption shall not apply in such cases where the taxable services provided are only completion and finishing services in relation to building or civil structure, referred to in sub-clause (c) of clause (25b) of section 65 of the Finance Act. <i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used by the provider of the construction service for providing such service.	33
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10.	(zzzh)	Construction of complex.	This exemption shall not apply in cases where the taxable services provided are only completion and finishing services in relation to residential complex, referred to in sub-clause (b) of clause (30a) of section 65 of the Finance Act. <i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.	33
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Provided that this notification shall not apply in cases where, -

- (i) the CENVAT credit of duty on inputs or capital goods or the CENVAT credit of service tax on input services, used for providing such taxable service, has been taken under the provisions of the CENVAT Credit Rules, 2004; or
- (ii) the service provider has availed the benefit under the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2003-Service Tax, dated the 20th June, 2003[G.S.R. 503 (E), dated the 20th June, 2003].

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♣ **SERVICE TAX – Few Other Services:-**

Mandap Keeper’s Services:-

Section 65(66) of the Finance Act, 1994, lays down that “**Mandap**” means any immovable property as defined in Section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein, let out for consideration for organizing any official, social or business function.[For this Purpose, “Social Function” includes marriage see Explanation as inserted by sec.135 (A) (8) and (9) of the Finance Act, 2007]

Mandap Keeper has been defined as a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function – section 65(67).

The term "taxable Service":-The **taxable service** has been defined as services provided or to be provided to any person by mandap keeper in relation to the use of mandap in any manner including the facilities provided or to be provided to the client in relation to such use and also services, if any, provided or to be provided as a caterer –Sec.65 (105)(m).

Business Auxiliary Services:-

Sec 90 (19) of the Finance (No.2) Act, 2004:

"Business auxiliary service" means any service in relation to, -

- (i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or
- (ii) promotion or marketing of service provided by the client;

Explanation: - For the removal of doubts, it is hereby declared that for the purposes of this sub-clauses, "service in relation to promotion or marketing of service provided by the client" includes any service provided in relation to promotion or marketing of games of chance, organised, conducted or promoted by the client, in whatever form or by whatever name called, whether or not conducted online, including lottery, lotto, bingo; or

- (iii) any customer care service provided on behalf of the client; or
- (iv) procurement of goods or services, which are inputs for the client; or

Explanation- For the removal of doubts, it is hereby declared that for the purpose of this sub-clause "input " means all goods or services intended for use by the client; or

- (v) production or processing of goods on behalf of the client; or
- (vi) provision of service on behalf of the client; or
- (vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision,

and includes services as a commission agent, but does not include any activity that amounts to “manufacture” within the meaning of clause (f) of section 2 of the Central Excise Act, 1944 (1 to 1994).

Explanation – For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “service in relation to promotion or marketing of service provided by the client” includes any service provided in relation to promotion or marketing of games of chance, organised, conducted or promoted by the client, in whatever form or by whatever name called, whether or not conducted online including lottery, lotto, bingo”

- (a) “**Commission agent**” means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person-
- (i) deals with goods or services or documents of title to such goods or services; or
 - (ii) collects payment of sale price of such goods or services; or
 - (iii) guarantees for collection or payment for such goods or services; or
 - (iv) undertake any activities relating to such sale or purchase of such goods or services;

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By sec 68(A)(33)(f) of the Finance Act, 2006 [read with Notification No.15/2006 S.T. dt.25-04-2006] the word “a commercial concern” has been replaced by the word “any person”.

Taxable service:-

Clause (105) of sec 65 points out that taxable service means any service provided or to be provided to any other person by any person in relation to business auxiliary service.

Outdoor Catering Services:-

“**Outdoor caterer**” means a caterer engaged in providing services in connection with catering at a place other than his own but including a place provided by way of tenancy or otherwise by the person receiving such services- Sec. 65 (76a). **Taxable Service** means any service provided or to be provided to any person by an outdoor caterer- sec. 65 (105) (zzt).“**Caterer**” means any person, who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non- alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion- Sec. 65 (24).

Business Support Services or Support Services of Business:-

Sec.65 (104c) by the Finance Act, 1994 lays down that:-

“**Support Services of Business or Commerce**” means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation.—For the purposes of this clause, the expression “**Infrastructural Support Services**” includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security.

Sec.65 (105) (zzzq) of the Finance Act, 1994 stipulates that :-

Taxable service means any service provided or to be provided to any person, by any other person, in relation to support services of business or commerce, in any manner.

Management, Maintenance or Repair Services:-

“management, maintenance or repair” means any service provided by—

- (i) any person under a contract or an agreement; or
- (ii) a manufacturer or any person authorised by him, in relation to,—
 - (a) management of properties, whether immovable or not;
 - (b) maintenance or repair of properties, whether immovable or not; or
 - (c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle; [Sec.65 (64) of the Finance Act, 1994].

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause,-

(a) “goods” includes computer software;

(b) “properties” includes information technology software;

The term “**taxable service**” means any service provided or to be provided to any other person, by any person in relation to maintenance or repair – See clause (105) (zzg) of sec. 65 of the Finance Act 1994 as amended by the Finance Act, 2006.

Convention Services:-

As per section 65(32), “**convention**” has been defined to mean a formal meeting or assembly which is not open to the general public, and does not include a meeting or assembly the principal purpose of which is to provide any type of amusement, entertainment or recreation.

As per section 65(105)(zc) as amended by sec.68(A)(33)(C) of the Finance Act, 2006, the **taxable service** is any service provided or to be provided to any other person by any person in relation to holding of a convention.

Information Technology Service:-

As per sec. 65 (zza) [inserted by sec. 90 (A) (6) of the Finance Act 2008 w.e.f May 16, 2008], "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment;

Taxable service means any service provided or to be provided to any person, by any other person in relation to information technology software for use in the course, or furtherance, of business or commerce, including,—

- (i) development of information technology software,
- (ii) study, analysis, design and programming of information technology software,
- (iii) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,
- (iv) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the startup phase of a new system, specifications to secure a database, advice on proprietary information technology software,
- (v) acquiring the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,
- (vi) acquiring the right to use information technology software supplied electronically

Tour Operator's Services:-

The Finance (No2) Act, 2004 defines the term "tour operator" by amending sec. 65 (115) of the Act, 1994 as follows:-

"Tour operator" means any person engaged in the business of planning, scheduling organizing or arranging tour (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of **transport, and includes** any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 or the rules made thereunder".

Taxable Service:- Taxable Service means any service provided or to be provided to any person by a tour operator in relation to a tour - Sec.65 (105) (n).

The Finance Act, 2008:-

W.e.f. May 16, 2008 [by sec. 90(A)(18) of the Finance Act, 2008], sec. 65(115) has been substituted as follows:-

"Tour operator" means any person engaged in the business of planning, scheduling, organizing or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of **transport, and includes** any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by a permit, other than a stage carriage permit, granted under the Motor Vehicles Act, 1988 or the rules made thereunder.

Explanation.— For the purposes of this clause, the expression “tour” does not include a journey organized or arranged for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field;

Architect:-

"architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Acts, 1972 (20 of 1972) **and also includes** any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

Franchisor:-

“franchisor” means any person who enters into franchise with a franchisee **and includes** any associate of franchisor or person designated by franchisor to enter into franchise on his behalf and the term “franchisee” shall be construed accordingly. - Sec. 65 (48)

Management or Business Consultant:-

“management or business consultant” means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organization or business in any manner **and includes** any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management; - Sec. 65 (65)

Technical Testing and Analysis Agency:-

“technical testing and analysis agency” means any agency or person engaged in providing service in relation to technical testing and analysis. - Sec. 65 (107)

Technical Inspection and Certification Agency:-

“technical inspection and certification agency” means any agency or person engaged in providing service in relation to technical inspection and certification.- Sec. 65 (109)

Video Production Agency:-

"video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production. - Sec. 65 (119)

Photography Studio or Agency:-

"photography studio or agency" means any professional photographer or any person engaged in the business of rendering service relating to photography.- Sec. 65 (79)

Security Agency:-

"security agency" means any person engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel - Sec. 65 (94)

Sound Recording Studio or Agency:-

"sound recording studio or agency" means any person engaged in the business of rendering any service relating to sound recording - Sec. 65 (99)

Goods Transport Agency (G.T.A) :-

“goods carriage” has the meaning assigned to it clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) – Sec. 65 (50a)

“goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called – Sec. 65 (50b)

"Taxable Service" means any service provided or to be provided to any person, by a goods transport agency, in relation to transport of goods by road in a goods carriage. – Sec. 65 (105) (zpz)

Proviso II to Rule 4A lays down that –

Provided further that in case the provider of taxable service is a goods transport agency, providing service to any person, in relation to transport of goods by road in a goods carriage, an invoice, a bill or, as the case may be, a challan shall include any document, by whatever name called, which shall contain the details of the consignment note number and date, gross weight of the consignment and also contain other information as required under this sub-rule.

Rule 4B stipulates that –

Any goods transport agency which provides service in relation to transport of goods by road in a goods carriage shall issue a consignment note to the recipient of service:

Provided that where any taxable service in relation to transport of goods by road in a goods carriage is wholly exempted under section 93 of the Act, the goods transport agency shall not be required to issue the consignment note.

Explanation.- For the purposes of this rule and the second proviso to rule 4A, “consignment note” means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.

Rule 2(1)(d)(v) provides that –

in relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is,-

- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
- (b) any company formed or registered under the Companies Act, 1956 (1 of 1956);
- (c) any corporation established by or under any law;
- (d) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;
- (e) any co-operative society established by or under any law;
- (f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; or
- (g) any body corporate established, or a partnership firm registered, by or under any law,

any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage.

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