

**Review of service tax circulars / instructions / clarifications
T.R.Rustagi Committee recommendations**

2.Circulars / instructions / clarifications to be modified:

Sl.No.	Circular No.	Date	Issue	Comments
1	B3/7/2003-TRU	20.6.2003	In regard to credit of service tax on telephone connection, queries have been raised as to whether service tax credit would be admissible on telephone sets installed only in the business premises. The answer is in the affirmative, and credit will be allowed only on telephone sets installed in the business premises. Mobile phones are not covered.	The tribunal and the Courts may not buy this argument. Cenvat Rules do not make an exception. Some solution has to be found to resolve this controversy. Either it be disallowed legally, or be allowed legally—say a specific proportion of the tax paid on mobile phones in the name of the company.
2	F. No. 137/1/94 – CX4 (1/1/94)	29.06.1994	It is clarified that branches and divisions of the insurance companies will not pay the service tax and it's their head office, which have been made responsible for payment of service tax.	Clarification no longer needed in view of comprehensive rules on registration.
3	F. NO. 341/43/96 – TRU	31.10.1996	It is a Budget Circular covering different service including courier service. (a) Transporters undertaking door to door services (like “Express Cargo Service”) are covered by the definition of “Courier”. (b) Department of Post is not a “Commercial concern”. Hence speed post is not taxable are courier service. (c) Co-loaders are not covered in the definition of courier service. They are	May be retained. No longer valid now. The words ‘commercial concern’ have been replaced by ‘person’. May be abolished. This may be withdrawn. The words “commercial concern” has been replaced by

			<p>not required to pay service tax.</p> <p>(d) Any document received in India from abroad and for which no charge is made to the recipient is not liable to service tax as “courier agency”.</p> <p>(e) It is clarified that courier agency is liable to pay service tax on the amount charged in India from the customer even if the documents, goods or articles are delivered abroad.</p> <p>(f) If any facilities like warehousing, packing, inventory management, etc is provided by a courier agency the charges for same are includible in value as they are relatable to door to door transportation.</p>	<p>“person” in the definition of courier service. Business Auxiliary Service is very wide in scope, covering such activities. Also Cenvat credit is admissible. Thus, co-loaders are legally liable to pay service tax.</p> <p>Continues to be valid.</p> <p>Continues to be valid.</p> <p>Comprehensive valuation rules take care of it now. No longer needed.</p>
4	F. No. 341/43/96 – TRU	31.10.1996	It is clarified that the amount paid, excluding their own commission, by the advertising agency for space and time in getting the advertisement published in the print media or electronic media will not be includible with value of taxable service.	May be withdrawn. The position has changed now on account of the fact that the display of advertisements through electronic media is covered by a separate taxable service (Broadcasting service) and Cenvat credit rules have come in.
5	F. No. 341/43/96 – TRU	31.10.1996	It is clarified that expenses incurred by the advertising agency on account of travel, transportation and stay in hotels, etc. are to be included in value.	No longer needed. Now, comprehensive valuation rules are to be followed for determining value of a taxable service.

6	F. No. 341/43/96 – TRU	31.10.1996	It is clarified that if market research conducted by an advertising agency relates to advertisement, then its charges form part of value.	No longer needed. Now, comprehensive valuation rules are to be followed for determining value of a taxable service.
7	F. No. 341/43/96 – TRU	31.10.1996	A film producer engaged by an advertising agency for making a documentary or film in relation to an advertisement is not liable to pay service tax where the advertiser includes film producer's charges into his value to the client.	Clarification no longer valid now, after the words "commercial concern" have been replaced by "person" and the Cenvat rules have come. May be withdrawn.
8	F. No. 341/43/96 – TRU	31.10.1996	DAVP not being a commercial concern is not liable to pay service tax as an advertising agency.	Clarification no longer valid now. May be withdrawn.
9	F. No. B43/5/97 – TRU	02.07.1997	The levy does not fall on the sub-consultant, associate consultant or another consulting engineer. It falls only on to prime consultant or main consulting engineer who raises a bill on his client (which includes the charge for services rendered by the sub-consultant).	The clarification no longer holds good now. Sub-contractors are liable to pay tax.
10	F. No. B43/5/97 – TRU	02.07.1997	Expenses incurred by the consulting engineer as reimbursable expenses on behalf of the client and for which the documentary evidence is available do not form part of taxable value.	Clarification is not relevant after valuation rules have come in. Now, whether any such expenses are excludable or not is to be determined by application of these rules to a given situation.
11	F. No. B43/5/97 – TRU	02.07.1997	Service tax on manpower recruitment agencies shall be on the gross amount charged to the client for services rendered in relation to the recruitment of manpower excluding the amount incurred by the manpower recruitment agency on behalf of the client towards expenses, which are reimbursed on actual basis.	Instructions may be withdrawn. After the Valuation Rules have come into effect, the value is to be determined as per these rules.

12	F. No. B43/3197 – TRU	26.06.1997	Option to pay service tax at the rate of 0.25% of the basis fare in the case of domestic tickets and 0.5% of the basic fare in the case of international tickets.	May be deleted. Percentages have been revised. No need of issuing any Circular on this aspect.
13	B43/3/97 – TRU	26.06.1997	Service tax is to be paid not only on the hire charges for the mandap but also on charges for electricity, whether on actual basis or otherwise, charged to the customers. It is immaterial that bills are issued separately. Also charges for providing furniture, fixtures, lighting fittings, etc. to be included.	May be omitted. Now that the Valuation Rules have come into effect, value of any taxable service is to be determined as per these rules.
14	F. No. B43/3/97 – TRU	26.06.1997	If booking for mandap is cancelled no service tax is payable as no service has been rendered.	It is not needed. It is so obvious.
15	F. No. B43/3197 – TRU	26.06.1997	Even if mandap is located or situated in the premises of any public place of worship such as temple, church, etc. service tax's payable.	May be withdrawn. Since then exemption has been provided by notification No. 14/2003-ST dated 20.6.2003, effective from 1.7.2003.
16	F. No. B43/3197 – TRU	26.06.1997	In case Mandap keeper provides catering service also, the tax is payable on 60% of the total charges, by virtue of notification No. 21/97-ST.	Now the exemption is contained in notification No. 1/2006-ST
17	F. No. 332/82/97 – TRU	24.09.1997	In case no charges/rental is paid i.e. the premises are given out free of cost to hold such functions, there would be no service tax liability.	May be omitted now.
18	F. No. B43/10/97 – TRU	22.08.1997	State Roadways Corporations who ply passengers in neighbouring State will not be covered by the levy as they do not require a tourist permit but operate on the strength of	It appears that in the wake of several show cause notices issued, the issue had been kept in abeyance for a decision <i>vide</i> Board's letter F. No. 354/15/2004-TRU dated 30.1.2004. The

			agreements between the concerned State authorities.	issue needs to be clarified. It is not justified to charge service tax on such routine journeys. If need be, it may be exempted.
19	F. No. B43/10/97 – TRU	22.08.1997	In the case of a composite tour which combines tour within India and also outside India, service tax would be leviable only on services rendered for tours within India provided separate billing has been done by the tour operator for services provided in respect of tours within India.	It seems to lack legality. The scope of tour operator service has been widened in 2004. Exports of Service Rules have also come in. The clarification requires to be re-examined in the light of changes. These instructions were issued when service tax was yet to 'settle'. <i>Prima facie</i> , in this case, tax would fall on the full value.
20	F. No. B43/7/97 – TRU	11.07.1997	Service tax will not be payable in case where a bill has been raised on a Rent-a-Cab Scheme operator by another such operator who has sublet the motor cab to the latter operator provided he pays service tax on the amount billed to his client for renting out the motor cab so obtained by him.	The clarification does not seem to be legally correct. This clarification was in the context of service tax system when Cenvat credit scheme was not applicable. With Cenvat scheme now applicable to service tax the instruction may be withdrawn.
21	F. No. B11/1/98 – TRU	07.10.1998	If an architect sub-contracts the work to another architect no service tax is payable by the sub-contractor provided the principal architect pays the service tax.	The clarification is not legally correct. This clarification was given when Cenvat credit scheme was not applicable. The instruction may be withdrawn.
22	F. No. B11/1/98 – TRU	07.10.1998	Service tax is not leviable on supply of materials, items of furniture or decoration, <i>per se</i> , but on service rendered in any manner concerning planning, design or beautification of spaces. Also the service rendered by Art directors of films and others who render services of design etc. for setting up temporary structures/ setting for shooting etc. do not attract the service tax levy as such interior decoration	Instruction may be withdrawn. Some services may now come within the scope of Business Auxiliary Service, depending upon the facts.

			has no permanency and is only of a temporary nature.	
23	F, No. B11/1/98 – TRU	07.10.1998	If architect sub-contracts the work to another architect no service tax is payable by the sub-contractor provided the principal architect pays the service tax.	The clarification is not legally correct. This clarification was given when Cenvat credit scheme was not applicable. The instruction may be withdrawn.
24	B11/1/98 – TRU	07.10.1998	Services in respect of sale/purchase/leasing of real estate, evaluation of a proposal real estate scheme/project by conducting techno-economic studies, providing feasibility reports and even helping in marketing real estate projects are all covered in the service tax. However, it is clarified that activity of actual construction of building, carried out by builders/developers does not attract service tax.	Latter part no longer valid. Service tax is now applicable to construction of building also.
25	F. No. B11/1/98 – TRU	7.10.1998	It is clarified that no abatement in respect of Salary to the employee, employee's EST and EFP contribution, income tax deduction at source, payment towards professional tax and labour welfare fund and other non-statutory charges such as bonus, leave, uniforms, incidental expenses and other administrative and miscellaneous expenses is allowed from value of taxable service, except an account of statutory levies and taxes provided the same has direct relation with the services rendered to the client and is specifically billed to the client and is reimbursable by the client on actual basis. EPF, ESI contributions are also not admissible. These contributions are generally applicable and not confined to security agency alone.	Clarification may be withdrawn. Now that Comprehensive Valuation Rules have come into existence, value of a taxable service is to be determined by applying these rules.

26	F. No. B11/1/98 – TRU	07.10.1998	Service of providing safe deposit lockers or security/safe vaults either by the banks or by others is taxable but exempt by notification No. 56/98-ST dated 7.10.1998	No longer valid now. Notification No. 56/98 was rescinded on 9.7.2004.
27	F. No. B11/1/98 – TRU	7.10.1998	Information and advisory services, if any, rendered by credit rating agencies would not attract service tax for the reason that “taxable service” in respect of a credit rating agency means services provided to a client only in relation to credit rating of any financial obligation, instrument or security. Similar is the case of services of research and information such as analysis of industries in specific sectors, of financial and business out look of the company etc.	May be withdrawn. It is now covered under Banking and Other Financial Services.
28	F.No.B11/1/98-TRU	7.10.1998	A sub-contractor of a market research agency is not required to pay service tax.	The clarification is no longer valid now. Sub-contractor has to pay the tax and the main contractor can take the credit.
29	F. No. B11/1/98-TRU	7.10.1998	Services rendered by a market research agency to a person abroad shall not attract service tax as service tax levy extends only to services provided within India.	May be withdrawn. Now whether it attracts the tax has to be decided in the context of Export of Service Rules.
30	F. No. B11/1/98-TRU	7.10.1998	The fee of the rating agency is generally expressed as a percentage of the amount of debt sought to be raised. The fees on any assignment are usually paid at the time of entering with an agreement are usually paid at the time of entering into an agreement i.e. in advance. Such amounts are kept as advance against rating fee and is recognized as income only when the rating is assigned. After the rating is given it is	Instruction was issued to explain the nature of activity when the tax was introduced.

			communicated to the client. The rating of any instrument remains under surveillance until the entire debt is repaid. The surveillance is a mandatory exercise for rating agencies. After surveillance the client is billed as per the agreed fee structure. Service tax is payable both on the fees received for credit rating of the debt instrument and the surveillance fees.	
31	F. NoB11/1/98-TRU	7.10.1998	Reimbursable out-of-pocket expenses charged to the client on actual basis, such as traveling, boarding and lodging expenses, are not to be included in the value of taxable service.	Clarification may be omitted. Value of taxable service is now governed by application of Valuation Rules.
32	F. No/ B11/1/2001 – TRU	09.07.2001	If scientific or technical consultancy is provided to government departments or public sector undertakings for which consultant fees are received, then service tax has to be paid on such service.	Not needed. It is obvious.
33	F. No. B11/1/2001 – TRU	09.07.2001	The cost of unexposed photography film sold to customer is to be excluded from value if the cost is shown separately in the invoice along with description and value of film.	Not needed. Valuation is governed by detailed provisions now.
34	F. No. B11/1/2001 – TRU	09.07.2001	Individual professional photographers and others providing photographic service but who do not have fixed place of business will not be liable to pay service tax.	May be omitted. This was valid when notification No. 6/2001 was in force. Now they have to pay tax subject to exemption under notification No. 20/2005 dated 7.6.2005.
35	F. No. B11/1/2001 – TRU	09.07.2001	No service tax is applicable to convention held by the Chambers of Commerce and Industry for the reason that Chambers of Commerce and Industry are not commercial concerns.	The clarification is no longer relevant now. The words “commercial concern” have been replaced by “person”. It may be withdrawn.
36	F. No. B11/1/2001 – TRU	09.07.2001	Service tax is not be payable in respect of facsimile services where service charges are	The clarification is based on the consideration that telephone calls are already covered under

			based on the number of telephone calls consumed. Private Fax operators are providing this kind of service and, therefore, they are not liable to service tax again.	service tax. However, there is no good logic for not levying service tax on private Fax operators. They charge more than charges for telephone calls. If need be the definition of “taxable services” may be modified and the taxability in respect of fax service need not be confined to service provided by a “telegraph authorities”. However, it may also be seen whether this service has any revenue potential. If not, it may be better to withdraw tax on this service.
37	F. No. B11/1/2001 – TRU	09.07.2001	ISP ^s are liable to pay service tax. Paid websites are also liable to pay service tax. It is clarified that in e-commerce transactions no service of online information and data base access/retrieval is involved. Therefore e-commerce transactions will not ordinarily be covered under the service tax net.	Continues to be valid.
38	F. No. B11/1/2001 – TRU	09.07.2001	Cyber cafes are not liable to pay service tax.	Clarification is no longer valid now. Service tax has been imposed on Cyber cafes.
39	F. No. B11/1/2001 – TRU	09.07.2001	Interconnection charges paid by one ISP to another are not liable to service tax.	This clarification lacks legality. Now that Cenvat credit rules are in existence, this may be withdrawn.
40	54/3/2003-ST (F. No. 149/9/2002 – CX4)	21.04.2003	Internet telephony service falls in the category of on line information and data base access and/or retrieval service.	No longer valid. Now it falls under separately defined service.
41	F. No. B11/1/2001 – TRU	09.07.2001	The scope of taxable service covers any service in relation to videotape production in any manner. Thus facilitation activities such as providing studios, others facilities as light, gadgets, instruments, devices, providing technical person for operating the recording devices or for any other activity in relation to	Continues to be valid.

			video tape production are taxable. Similarly editing, colouring, dubbing, printing titles and special effects, film processing etc. by a video production agency will come within the scope of this service.	
42	F. No. B11/1/2001 – TRU	09.07.2001	It is clarified that reproduction of original master to make further copies of a video tape will not be taxable.	May not be valid now. Definition of taxable service now covers any post-production service also.
43	F. No. B11/1/2001 – TRU	09.07.2001	Services provided by individual photographers do not attract service tax. Tax is payable by studios, shops, and other establishments carrying on business of rendering services in the field of videography.	Individuals are also liable to pay service tax now, subject to exemption limit <i>vide</i> notification No. 20/2005 dated 7.6.2005.
44	F. No. B11/1/2001 – TRU	09.07.2001	The activities which fall under this category of service are providing the facility of studio, technical persons, musical instrument and other devices or any other facility or all the facilities in a consolidated manner, required for recording sound, editing thereof, providing different kinds of sounds from the sound library for use in theater film and radio, etc. services of mixing of sounds etc.	Explains the scope of taxable service. May be retained.
45	F. No. B11/1/2001 – TRU	09.07.2001	It is clarified that reproduction of original master to make further copies of the audio tape or CDs etc. will not come within the preview of service tax.	Requires examination. Any audio post-production activity is now covered by the definition of “taxable service”.
46	F. No. B11/1/2001 – TRU	09.07.2001	It may be emphasized that only such services are taxable which are in relation to general insurance business such as motor vehicle insurance, insurance of buildings and other properties, marine insurance, fire insurance and other miscellaneous insurance. Services	Not valid now. Since then service provided in relation to life insurance has become taxable as a separate service.

			provided in relation to life insurance are not taxable.	
47	F. No. B11/1/2001 – TRU	09.07.2001	The service providers are insurance agents, insurance surveyors and loss adjusters, actuaries and insurance consultants. They are liable to pay service tax in respect of the service provided to the insurance companies (insurer). However, in the case of insurance agents, the tax is to be paid by the insurance company.	Continues to be valid.
48	F. No. B11/1/2001 – TRU	09.07.2001	It is clarified that the amount billed to the client on account of out of pocket expenses which are reimbursable on actual basis such as traveling, boarding and lodging expenses, are not subject to service tax.	May be omitted. Such cases are now to be considered in the light of Valuation Rules.
49	F. No. 160/3/2002 – CX4	01.07.2003	Ship chandlers engaged in supply of “Ship stores” to the used or undertaking minor repair work to clear technical snag of the vessel through their locally arranged resources as work ship etc. are liable to pay service tax. These are services rendered in relation to the vessel under authorization form port authorities.	To be examined.
50	F. No. B11/1/2001 – TRU	09.07.2001	Cost of parts and accessories supplied during course of repair and servicing of which will not be includible in the taxable value. Such cost should be shown separately in the bill/invoice.	May be withdrawn. Value depends on facts of the case. They get consumed in the service provided. Thus, arguably, their value should form part of the value of the service provided. Cenvat credit is also admissible.
51	F. No. 281/1/2002 – CX4	05.03.2003	Cost of engine oil, gear oil, coolants is not be to be included in value. However paints used for painting body, etc. during the course of providing service forms an intrinsic part and	Instruction needs revision. Now that Cenvat Credit Scheme is applicable, there is no logic for excluding value of lubricating oils, paints, etc. from the value of taxable service.

			parcel of service and it is not distinctly and separately identifiable. Therefore value of such terms which form intrinsic part of service is to be included in value.	
52	F. No. B11/1/2002-TRU	1.8.2002	It has been provided in the Service Tax Rules that in the case of an insurance agent for life insurance, the person liable to pay service tax will be the concerned insurance company who has appointed the agent. Notification No. 12/2002 – ST refers.	Not needed. It is mentioned in the Rules.
53	F. No. B11/1/2002-TRU	1.8.2002	As a result of notification No. 9/2002, no service tax is payable on the service provided by an insurer to a policy holder in relation to life insurance business.	No longer valid. It is now taxable.
54	F. No. B11/1/2002-TRU	1.8.2002	The service tax is applicable to services provided on or after 16.8.2002 and any payment made for the services provided prior to this date will not be liable to tax though payment is made on or after 16.8.2002.	May be withdrawn. No longer needed now.
55	F. No. B11/1/2002-TRU	1.8.2002	If lump sum amount is charged for both transportation and cargo handling, the tax will be payable on the entire amount, unless the bill indicates the amounts separately on actual basis (verifiable by documentary evidence).	May be omitted. Valuation provisions are quite elaborate now.
56	F. No. B11/1/2002-TRU (Para 6)	1.8.2002	It is clarified that service provided in relation to any cargo which is meant for export, would not be taxable irrespective of the fact that it reaches the place of export after transshipment. However, relevant documents should show that the goods are for export.	May be retained. However, if the cargo is handled within the port area, it would attract tax as a port service, even if it is an export cargo.

57	F. No. B11/1/2002-TRU (Para 8)	1.8.2002	It is clarified that unaccompanied baggage of a passenger will not be leviable to service tax.	Not needed. It follows from the definition of 'taxable service' in this case.
58	F. No. B11/1/2002-TRU (Para 11)	18.2.2002	Where the CFS offers a total package rate, which includes transportation and handling in respect of imported laden containers from port to CFS, if the cost of transportations is claimed on actual basis, then it will not be includible in taxable value of cargo handling service.	May be omitted. Valuation provisions are elaborate now.
59	F. No. B/11/1/2002-TRU (Para 13)	1.8.2005	Marketing or canvassing for cargo for airlines does not come within the ambit of cargo handling service.	May be withdrawn. It may come in Business Auxiliary Service.
60	F. No. N11/1/2002-TRU (Para 15)	1.8.2002	If someone hires labour/labourer for loading or unloading of goods in his individual capacity, it will not come under the preview of service tax as a cargo handling agency.	Not needed. It is so obvious.
61	F. No. B11/1/2002-TRU (Para 5)	1.8.2002	Mere renting of space cannot be said to be in the nature of service provided for storage of warehousing of goods. Essential test is whether the storage keeper provides security of goods, stacking, loading/ unloading of goods in the storage are.	Arguably, it may not be correct. Rent could be payment in lieu of storage charges.
62	F. No. B11/1/2002-TRU (Para 6)	1.8.2002	Service provided by Airport Authority of India (AAI) for cold storage of perishable goods at cargo complexes is not taxable because Cold Storage has been specifically excluded from the tax net.	Not needed. It follows from the definition itself
63	F. No. B11/1/2002-TRU (Para 11)	1.8.2002	Terminal charges charged by Airport Authority of India (AAI) as facilitation charges for providing a terminal does not involve any	May be omitted now. Value is to be determined as per valuation provisions

			service but as per notification No. Cargo/13519/PEI dated 4.6.1993 of the Airport Authority of India, "Storage and processing charges" specifically include terminal charges also. Hence terminal charges are to be included in the value.	
64	F. No. B11/1/2002-TRU (Para 8)	1.8.2002	Cloak room service for passenger baggage in railway stations, bus stations, etc. is incidental to rail transport or road transport. They do not come within the preview of "storage and warehousing" service.	Arguably, it seems to lack legality. Storage of goods may be for short period or longer period. In both cases it is storage.
65	F. No. B11/1/2002-TRU (Para 10)	1.8.2002	CWC engages handling and transport contractors (H & T Contractors). H & T contractors have to pay service tax on cargo handling service and charge it to CWC. CWC adds supervision charges and raises the bill to the customers. For warehousing they raise a separate bill. The question is whether CWC is liable to pay service tax on cargo handling services and if so whether they can take credit of the tax paid on cargo handling services by the H&T contractor. Similar situation may exist in respect of storage and warehouse keepers. It is clarified that if the storage and warehouse keeper undertakes cargo handling services also and raises its own bill to the customer for such service, then he would be liable to pay service tax under the category of cargo handling services also. However, he would be eligible to take credit of service tax paid on cargo handling services rendered by the H&T contractors and	Credit Scheme has become liberal now. Credit can be taken across services. Such clarification is not really needed now.

			adjust the same against his service tax liability on cargo handling services provided he raises a separate bill for the same to his client. In other words, he can not adjust the credit against storage and warehousing service charges.	
66	F. No. B11/1/2002-CX4	10.7.2003	Handling/Storage and warehousing of empty containers would be covered within the scope of storage and warehousing service. Clarification issued vide F. No. B11/1/2002-TRU dated 1.8.2002 regarding empty containers not to be considered as cargo for cargo handling service has no relevance in this case.	Does not seem to be convincing. There is apparently contradiction in the approach in the two Circulars.
67	F. No. B11/1/2002-TRU (Para 4)	1.8.2002	Charges paid by the event manager to the photographer, videographer, sound recording studio, advertising agency, mandap keeper, security agency etc. will be included in the value of service.	This clarification is saying the obvious. It follows from the definition of value itself. Not needed now.
68	F. No. B11/1/2002-TRU (Para 5)	1.8.2002	In a case where the event is organized / managed by the Sponsor himself, no service tax is payable as "event management".	Not needed. Too trivial a clarification.
69	F. No. B11/1/2002-TRU (Para 5)	1.8.2002	It is clarified that service tax under the category of event management is not leviable on the sale proceeds of tickets or revenue generated from the sale of space.	May be retained. However, whether sale of tickets would attract service tax as Business Auxiliary Service requires to be looked into.
70	B11/1/2002-TRU	1.8.2002	Service tax is payable whether the rail travel agent is registered with railways or not.	Not needed. Too trivial a clarification.
71	F. No. B11/1/2002-TRU (Para 4)	1.8.2002	No abatement towards cost of material used is allowed. Tax is to be computed on the gross amount charged by beauty parlour.	Not needed now. The law relating to valuation is comprehensive.

72	B11/1/2002-TRU (Para 3)	1.8.2002	Hair cutting and shaving is not taxable.	Not valid now. Hair cutting is now specifically included in the definition. Shaving also should fall in beauty treatment.
73	F. No. B11/1/2002-TRU (Para 4)	1.8.2002	Tailor is involved only in stitching of clothes. He is not liable to pay service tax. Similarly, jeweller essentially makes jewellery and sells it. He is also not liable to pay service tax.	May be retained.
74	F. No. B11/1/2002-TRU (Para 6)	1.8.2002	At times fashion designer provides stitching service also if the bill shows the design charges separately, service tax is payable on the designing charges alone.	Not needed now. The law relating to valuation is comprehensive.
75	F. No. B11/1/2002-TRU (Para 5)	1.8.2002	Entertainment tax collected and paid for the government will not be includable in the value of taxable service provided the cable operator clearly indicates the entertainment tax element in his bill to the customer.	May be retained. Although why such clarification only for cable operator service? There should be general clarification regarding status of other taxes <i>vis a vis</i> value of taxable service, including advance tax.
76	F. No. B11/1/2002-TRU	1.8.2002	Service tax is not applicable to wet cleaning / washing provided the dry cleaner clearly mentions it in the bill. If details are not mentioned in the bill, it would normally be understood that cloth have been dry cleaned and in such situation service tax is liable to be paid.	As an anti-avoidance measure, service tax should be imposed on wet cleaning done by establishments commercially known as “Dry Cleaners” and the like.
77	F. No. B11/1/2002-TRU	1.8.2002	Service tax is not applicable to job of dyeing.	As an anti-avoidance measure, service tax should be imposed on wet cleaning done by establishments commercially known as “Dry Cleaners” and the like.
78	F. No. B7/3/2003-TRU	20.7.2003	For contracts entered into prior to 1.7.2003, service tax is payable on payments received after 1.7.2003. Similar will be the situation for payments made for continuing services.	This has been modified by Circular of even number dated 21.8.2003.

			If service is provided free to the customer during the guarantee period but payment is made by the company, service tax would be payable on the payment so received irrespective of the fact that the receiver of the service is different from the person making the payment for such service.	
79	F. No. B7/3/2003-TRU	21.8.2003	No service tax is payable on maintenance or repair service rendered prior to 1.7.2003 even though bill for payment was raised after 1.7.2003.	Not needed now. The clarification only states the general principle.
80	F. No. B3/7/2003-TRU	20.6.2003	Unless all the ingredient of definition of "franchise" are sales for an agreement is not a franchise. For example, the mere fact that a principal manufacturer has allowed production of goods bearing his brand name by another person under 'License Production Agreement' does not make the agreement a Franchise Agreement.	The Circular may be withdrawn. Definition of "Franchise" was changed in 2005 Budget.
81	F. NO. B3/7/2003-TRU	20.6.2003	In the case of turnkey project, service tax is leviable on commissioning or installation charges only and not on the initial and goods supplied. However, it is upto the service provider to show the break-up of commissioning or installation charges. In case service provider shows consolidated charges, service tax would be leviable on such consolidated amount.	There is confusion about applicability of service tax to turnkey projects. They should be covered under a separate service.
82	F. No. B3/7/2003-TRU	20.6.2003	Charges for erecting of plant are not covered by the service tax.	No longer valid now.
83	F. No. B3/7/2003-TRU	21.8.2003	Commissioning or installation service provided by an individual is exempt from service tax under notification No. 18/2003 dated 21.8.2003.	No longer valid now.

84	F. NO. B3/7/2003-TRU	20.6.2003	Business Auxiliary services provided by call centers and medical transcription centers have been fully exempt by notification No. 8/2003-ST dated 20.6.2003.	Not valid now.
85	F. NO. B3/7/2003-TRU	20.6.2003	Services of commission agent have been exempted by notification No. 13/2003-ST dated 20.6.2003. However, services of the consignment agent are taxable under the category of Clearing and Forwarding series.	Not valid now.
86	F. No. B3/7/2003-TRU	20.6.2003	Insurance agent, C & F agents working on commission basis do not fall under this category. They are controlled by respective separately defined taxable services.	Continues to be valid. Not needed now.
87	F. No. B3/7/2003-TRU	20.6.2003	Definition does not cover information technology service.	Not needed. It is by definition.
88	B1/6/2005-TRU	27.7.2005	It has been requested that in cases where liability for tax payment is on the consignor or consignee, the procedure as to how it should be confirmed by such consignor or consignee that the goods transport agency has not availed credit or benefit of notification No. 12/2003-Service Tax may be prescribed. In such cases it is clarified that a declaration by the goods transport agency in the consignment note issued, to the effect that neither credit on inputs or capital goods used for provision of service has been taken nor the benefit of notification No. 12/2003-Service Tax has been taken by them may suffice for the purpose of availment of abatement by the person liable to pay service tax.	Abatement is now provided by notification No. 1/2006-ST dated 1.3.2006. It is cumbersome to obtain the declaration for each transaction. Some trade-friendly approach, like quarterly declaration, is needed. Also, there is lot of hue and cry on this subject. The officers have not allowed benefit to those who pay the tax as service receiver. The DGST Circular created the avoidable confusion. Now, it is understood that C&AG has also taken objection. This matter needs to be resolved—by resorting to retrospective amendment, if need be. The intention can not be to deny the benefit of exemption.

89	137/3/2006-CX4	2.2.2006	In the case of depot sale of goods, the credit of service tax paid on the transportation of goods upto such depot would be eligible, irrespective of the fact whether the goods were chargeable to excise duty at specific rates or ad valorem rates on the basis of valuation under section 4 or 4A of the Central Excise Act.	This issue requires some serious consideration. There is significant confusion on the credit of service tax paid on transportation of goods from factories, when tax is paid by the consigner-manufacturer. Ideally, credit of service tax should be paid to whoever bears the incidence of tax.
90	80/10/2004-St	17.9.2004	In addition to the actual air freight charges, all charges collected towards storing, handling, loading / unloading (done in relation to air transportation of cargo) by an airlines are also chargeable to this levy.	Such instructions not needed now in view of comprehensive valuation rules.
91	80/10/2004-ST	17.9.2004	The service tax under this category would be limited to the services rendered in relation to survey and exploration only and not to any activity of the actual extraction after the survey and exploration is complete. The transport, refining, processing or production of the extracted products would also be out of the ambit of service tax. Activities such as seismic survey, collection/processing/interpretation of data and drilling or testing in relation to survey and exploration would, however, fall within the ambit of taxable service.	From Circular F. No. B1/6/2005-TRU dated 27.7.2005 issued while explaining the scope of "Survey and map making" it appears from para 8.2 of that circular that the term "other prospecting services" does not cover drilling. Thus, it appears that in relation to the survey and exploration of mineral service also, it was wrong to say that it covers 'drilling'. This requires to be examined for necessary clarification.
92	80/10/2004-ST	17.9.2004	A permanent transfer of intellectual property does not amount to rendering of service. On such transfer, the person selling their rights no longer remains a "holder of intellectual property right", so as to come under the preview of taxable service. Thus, there would not be any service tax on permanent transfer of IPRs.	The clarification not valid now. The definition of "intellectual property service" amended in 2005 has omitted reference to 'permanent transfer' of intellectual property right.

93	80/10/2004-ST	17.9.2004	If a person provides food also, he can avail of abatement of 30%. Thus, if a Pandal or Shamiana Contractor provides charges, say Rs. 50,000 for the composite service, including providing food, he has to pay the service tax on Rs. 35,000 only. See notification No. 22/2004-ST dated 10.9.2004.	No need of such clarification. The Notification is clear. Now the exemption is provided by notification No. 1/2006-ST dated 1.3.2006.
94	80/10/2004-ST	17.9.2004	If the bill of the caterer includes charges for food also, he has to pay service tax on 50% of the bill amount.	Notification relevant now is 1/2006. No circular needed to explain it.
95	80/10/2004-ST	17.9.2004	The levy would not be applicable to such premium of the existing policies which were paid before the new levy comes into force.	Not needed. It is so obvious. Notification No. 25/2004-ST provides the exemption.
96	80/10/2004-ST	17.9.2004	The insurance companies may be allowed to pay monthly service tax provisionally, based on estimates. The monthly estimated (i.e. provisional) duty payment for the entire company would be based on a provisional certificate issued by the Appointed Actuary, subject to final certification at the end of the year. At the end of the financial year, when the sum at risk is calculated and certified by the Actuary, the liabilities would be finalized and the companies would pay the balance tax or adjust the excess tax paid.	Banks have also expressed difficulty to make payment of service tax on actual basis by the 5th of the month. Perhaps they have genuine difficulty which needs to be addressed. If the due date of 5 th can not be extended, provision can be made for provisional payment on the basis of actual of last payment, which can then be adjusted on the basis of actual for the current month.
97	80/10/2004-ST	17.9.2004	Normally government construction would not be taxable.	Not needed. It is obvious as no service is involved.
98	F. No. B11/1/2001-TRU (Para 2.1.1)	9.7.2001	In the case of financial leasing including equipment leasing and hire-purchase, the service is taxable if rendered by a body	Not valid now. The words "any other person" included in the definition of taxable service should cover individuals and proprietorship or

			corporate. In other words, individuals, proprietorship or partnership firm will not come under the tax net. The leasing or hire-purchase may be of motor vehicles, machinery and equipment or other goods.	partnership firms.
99	F. No. B11/1/2001-TRU(Para 2.1.3)	9.7.2001	It is clarified that service tax in the case of financial leasing including equipment leasing and hire-purchase will be leviable only on the lease management fee/processing fee/documentation charges (recovered at the time of entering with the agreement) and on the finance/interest charges (recovered in equated monthly installments) and not on the principal amount.	May be omitted now. Valuations provisions are elaborate. Also see notification No. 4/2006-ST dated 1.3.2006.
100	B11/1/2001-TRU	9.7.2001	It is clarified that agreements entered into prior to 16.7.2001 will not be liable to service tax provided the property/goods has also been received by the lessee prior to 16.7.2001	There is apparently some contradiction in approach which needs to be convincingly reconciled. In Circular No. 65/14/2003 dated 5.11.2003 relating to commercial training and coaching centre, it is clarified that the service tax has to be paid on the value attributable to the relevant month/quarter on <i>pro rata</i> basis.
101	F. No. B11/1/2001-TRU (Para 2.2)	9.7.2001	In the case of credit card service charges like joining fee, additional card fee, annual fee, replacement card fee, etc. including interest charges are all part of value of taxable service.	In respect of interest it may be observed that in the case of telephone service no tax paid on late payment charges. In some sense, interest is akin to late payment charge.
102	F. No. B11/1/2001-TRU (Para 2.4.2)	9.7.2001	Asset management company is not liable to pay service tax (with respect to mutual funds) as such company not NBFC.	No longer valid now. The expanded definition covers them.
103	F. No. B3/7/2003-TRU (Para 4)	21.8.2003	A doubt has been raised whether all trading in foreign exchange will be chargeable service tax.	Not needed now. Also, see the comment below.

			<p>Prior to 1.7.2003 the service of “securities and foreign exchange (forex) broking” when provided by banking company/financial institution/body corporate was liable to service tax. Though Finance Act, 2003 “foreign exchange broking” when provided by foreign exchange brokers, other than banking company/financial institution /body corporate were also brought under the tax net w.e.f. 1.7.2003. As per the definition in law foreign exchange broker include authorize dealer of foreign exchange. Authorised dealer of foreign exchange has been assigned the meaning of “authorized person” under the FEMA, 1999. Accordingly autorised dealer/money changers, etc. which are authorized to deal in foreign exchange are covered in the definition of “foreign exchange broker” under service tax provisions. However, as explained above only the service of “foreign exchange broking” when provided by foreign exchange broker (other than banking company/financial institutions/body corporate which are already covered) has been brought under the tax net.</p>	
104	341/44/2005-TRU	6.10.2005	<p>Service tax on foreign exchange broking services is applicable to services provided by any foreign exchange broker including banking company, financial institution, non banking finance company any body corporate, or commercial concern. Statutory provisions are the same in respect of all these entities which are engaged in the same activity. Money changers cannot go out of the purview of</p>	<p>There are large numbers of representations in the context of this clarification. Some Commissioners have also supported the representations. It is argued that money changers do not deal in foreign exchange broking. They may have to take license from RBI, but, it is contended, they are not ‘authorised dealers’. It is also argued that no separate amount is charged by the money</p>

			<p>service tax on the plea that they are merely selling and purchasing foreign currency and not dealing or brokering on foreign exchange. Under Sale of Goods Act, Goods means every kind of moveable property but excludes money. Therefore transactions in foreign exchange do not fall under scope of sale.</p> <p>In view of the statutory provisions, the services provided by money changers in relation to foreign exchange is covered under Banking and financial services as defined under 65(12) of the Finance Act and leviable to service tax under Section 65(105)(zm) or Section 65(105) (zzk) of the Finance Act, 1994.</p>	<p>changers. Their profit is only difference on account of buying rate and selling rate. Considering the numerous representations, matter deserves to be re-examined in consultation with RBI.</p>
105	12/6/96 -F. No. 148/5/96-CX4	16.9.1996	Registration of Stock Brokers of National Stock Exchange.	Position to be examined with reference of new registration provisions.
106	B1/6/2005-TRU	27.7.2005	This service would generally cover construction services in respect of residential complexes developed by builders, promoters or developers.	Many have represented against DGST's Circular No. V/DGST/22/Audit/Misc/1/2004 dated 16.2.2006 in the context of <i>Raheja</i> judgment that the inference drawn by DGST is incorrect. This matters deserves clarification by the Board. It seems that facts are important. <i>Prima facie</i> construction of flats by builders is not a service.
107	64/14/2003-ST (F.No.B3/3/2003-TRU (Pt.)	5.11.2003	It has been clarified in this Circular that where the value of taxable service has been received in advance for a service which became taxable subsequently, service tax has to be paid on the value of service attributable to the relevant month/quarter which may be worked out on pro rata basis.	It seems that the Valuation rules should contain specific legal provision to deal with such situation. Also, a question arises as to how to deal with cases of life membership—like membership of clubs.

108	56/5/2003-ST	25.4.2003	It is clarified that date of issue of invoice would be the date for deciding the applicability of service tax.	It requires consideration. Some Chief Commissioners/Commissioners have argued that the date on which service is provided is the relevant date. In Central Excise lot of litigation had taken place on the date of levy. It is desirable that on such fundamental issues suitable and clear cut legal provision in service tax law should deal with such matter.
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