

Bundled Services - Practical Aspects



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Today's Coverage

- **Importance of Classification**
- **Understanding what is/not bundled**
- **When possible to be clear**
- **Evidence which is important**
- **Practical Tips?**

Old wine in new bottle?-66F

- Continuing Importance of **Classification of Services** even under Negative List based Service Tax Law
- New title to classification - *Interpretation of Service*

Why Classification Significant?

- **Ascertainment of Negative List / Mega Exemption Notification**
- **Applicability of Joint Charge or Reverse Charge**
- **Ascertainment of Abatement Availability**
- **Ascertainment of Valuation method to be used**
- **For Classification of service under appropriate head at the time of Service Tax payment**
- **Selection of Service Tax category while filing returns**

3 Main Principles

Interpretation Principles u/s. 66F:

- **Main Service Provider – Services received by him**
- **Specific/General Description**
- **Bundled Services**

Sec. 66F(1) – Services used for providing main service

- **Reference to main service doesn't include services used for providing main service.**
- **Accordingly, if any service (say main service) is covered under negative list or mega exemption notification, services used for providing such main service **COULD BE TAXABLE.****

Undercurrent of Augmentation.

- **To tax the services used for providing any service covered under negative list or mega exemption notification.**
- **To break the CENVAT chain in above cases.**
- **No deduction for labour contract- exempted infrastructure.**

Sec. 66F(2) - Specific Vs. General Description

If a Service is capable of differential treatment, Specific description always preferable over general description.

VAT + CE + Old SR – same provisions.

Meaning of Bundled Services :

Bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services

- Explanation to Sec. 66F(3)

Nature of Bundled Services :

- **Services naturally bundled in the ordinary course**
- **Services not naturally bundled in the ordinary course**

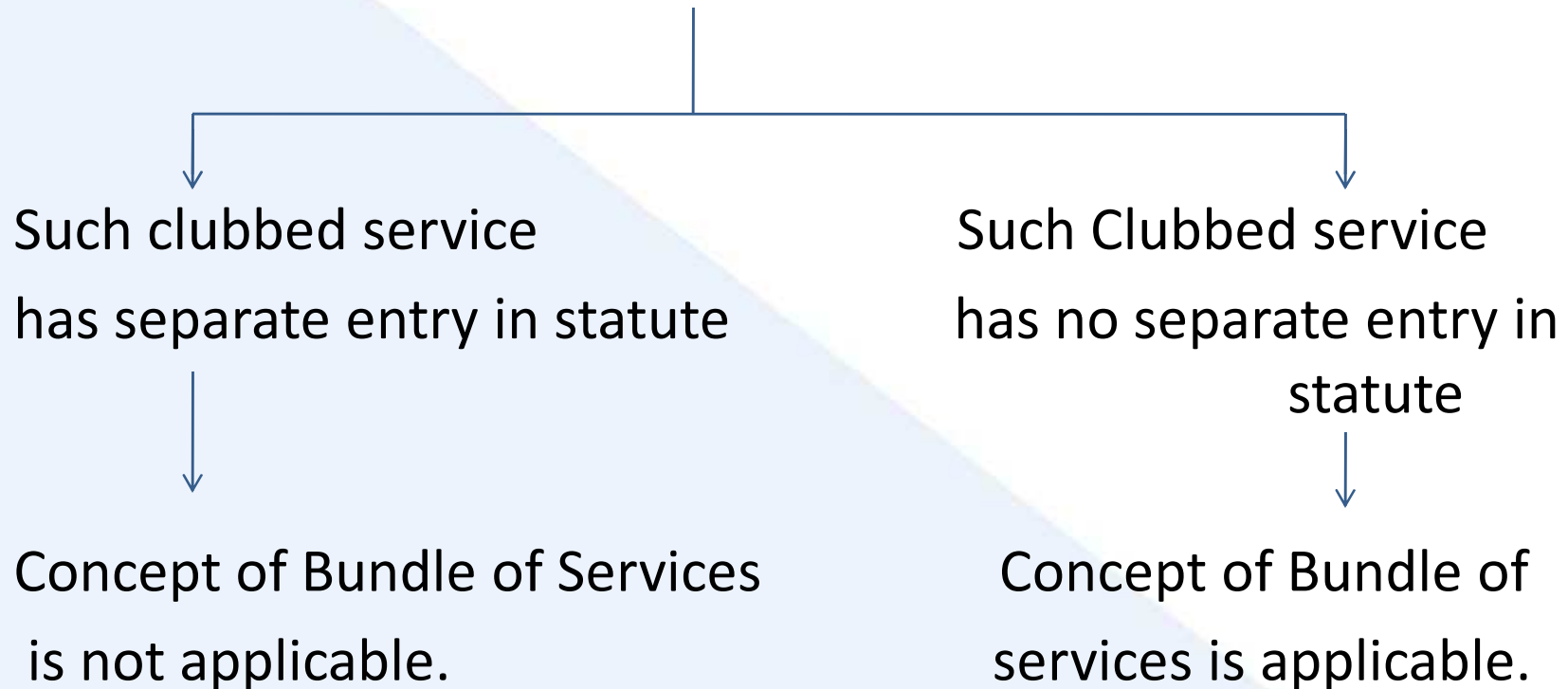
Other points :

Definition provides criteria for determining whether bundling exists or not

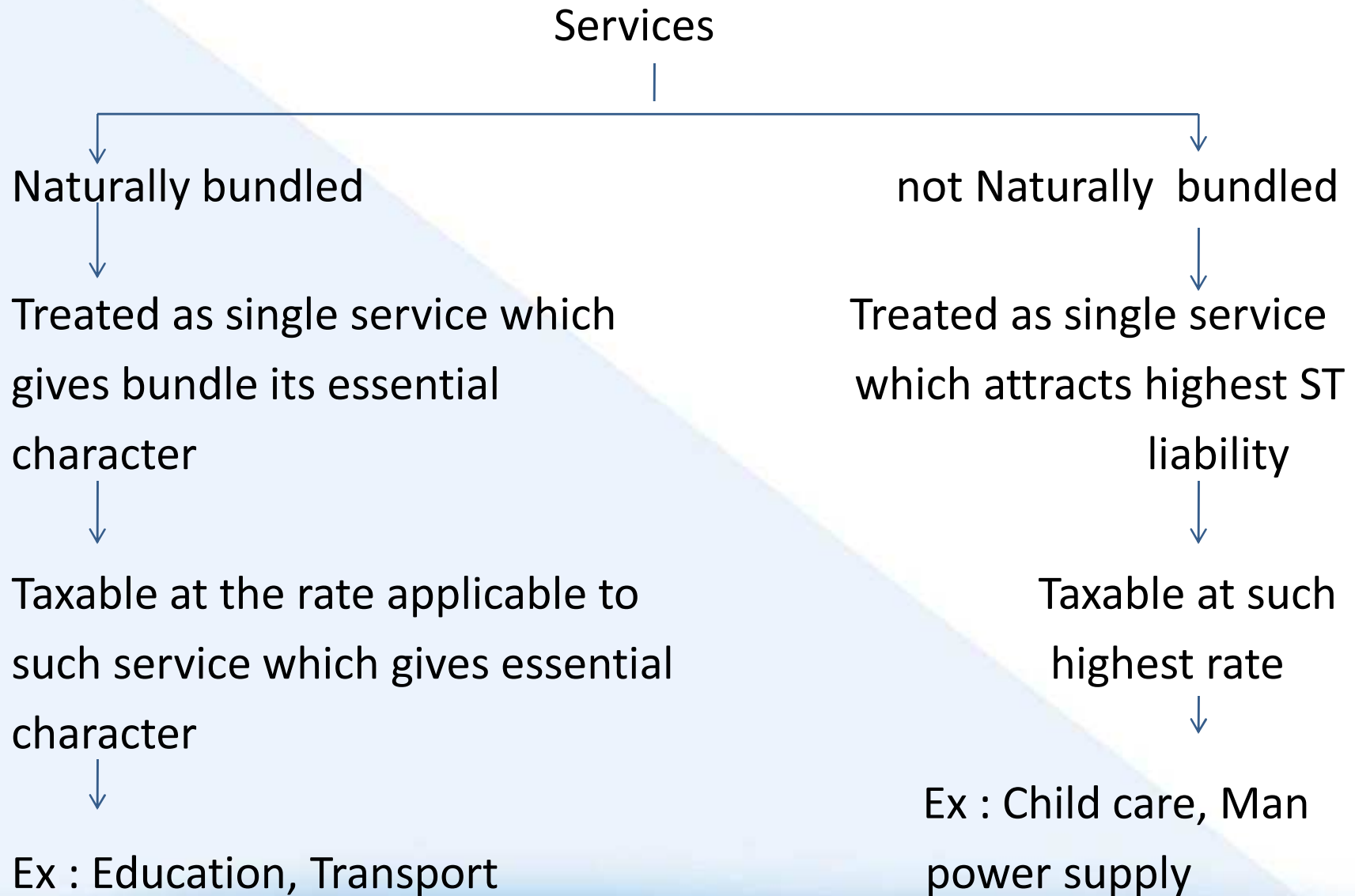
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Applicability of Concept of Bundled Services :

Service provider clubs various services to provide single service



Sec. 66F(3) – Taxability of Bundled Services



Driving Factors in determination of Nature of Bundle

- **Service Receiver's Perception [Trade]**
- **Majority Rule**
- **Homogeneity of Price to Service Receiver**
- **Different Elements integral to one supply**
- **Old Service Tax Law**
- **Advertisements & Publicity material [web site]**

Practical Reality- Issues

- **No definitions to key terms**
- **Certain confusion creating definitions in new law**
- **No clarity on determination of existence of bundle**
- **No clarity on how to determine the nature of bundle**

Contd...

Solutions to Practical Issues :

- Missing Clarity in law can be resolved by making appropriate provisions in the contracts by parties
- By making disclosures to revenue and seeking / getting confirmations
- Collections of documents to prove the nature of bundling

Solutions to Practical Issues :

- Association/ Leaders representation
- Obtaining customer perceptions regarding the nature of bundle
- Bifurcating contracts in case of doubt- exempted contracts

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