

**National Conference on
Issues in Service tax
Western India Regional Council of
ICAI**

**Mega Exemption Notification
Important Sectoral Impact
(other than Construction/WC)**

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27/12/2013

Service relating to Government

Negative list of services

- (a) Services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—**
- (i) 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;**
 - (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;**
 - (iii) transport of goods or passengers; or**
 - (iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;**

Service relating to Government

The phrase 'Government' has not been defined in the Act. As per section 3 (23) of the General Clauses Act, 1897 'Government' includes both Central Government and any State Government.

(31) "local authority" means—

- (a) a Panchayat as referred to in clause (d) of article 243 of the Constitution;**
- (b) a Municipality as referred to in clause (e) of article 243P of the Constitution;**
- (c) a Municipal Committee and a District Board, legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;**
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 ;**
- (e) a regional council or a district council constituted under the Sixth Schedule to the Constitution;**
- (f) a development board constituted under article 371 of the Constitution; or**
- (g) a regional council constituted under article 371A of the Constitution;**

Service relating to Government

Negative list of services

(49) “support services” means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis;

Service relating to Government

Reverse Charge Mechanism;

Taxable service provided or agreed to be provided by,-

- **Government or local authority by way of support services excluding,-**

(1) renting of immovable property, and

(2) services specified in sub-clauses (i) (Dept of post), (ii) (services in relation to aircraft or vessels) and (iii) (transport of goods or passengers) of clause (a) of section 66D of the FA, 1994,

to any business entity located in the taxable territory;

Service relating to Government

- **Mega Exemption- ST 25/2012:**

12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958;

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

Service relating to Government

- **Mega Exemption- ST 25/2012:**
- **12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -**
 - (d) canal, dam or other irrigation works;**
 - (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (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 65B of the said Act (MP, MLA, MLC etc.)**

Service relating to Government

- **Mega Exemption- ST 25/2012:**
- **“governmental authority” means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W of the Constitution;**

Service relating to Government

- **Mega Exemption- ST 25/2012:**

13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-

(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;

(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;

(d) a pollution control or effluent treatment plant, except located as a part of a factory; or

(e) a structure meant for funeral, burial or cremation of deceased;

Service relating to Government

- **Mega Exemption- ST 25/2012:**

14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,-

(a) an airport, port or railways, including monorail or metro;

(c) low-cost houses up to a carpet area of 60 square metres 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;

Service relating to Government

- **Mega Exemption- ST 25/2012:**

25. Services provided to Government, a local authority or a governmental authority by way of -

(a) carrying out any activity in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or

(b) repair or maintenance of a vessel or an aircraft;

Service relating to Agriculture

Negative List:

(d) Services relating to agriculture or agricultural produce 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;**

Service relating to Agriculture

Services relating to agriculture or agricultural produce by way of—

(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;

(vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;

Service relating to Agriculture

(3) “agriculture” means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

4.4.2 Are activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry included in the definition of agriculture?

Yes. These activities are included in the definition of agriculture.

(4) “agricultural extension” means application of scientific research and knowledge to agricultural practices through farmer education or training;

Service relating to Agriculture

- (5) “agricultural produce” means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;**
- (6) “Agricultural Produce Marketing Committee or Board” means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;**

Service relating to Agriculture

- **Mega Exemption- ST 25/2012:**

14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,-

(d) post-harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or

(e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;

30. Carrying out an intermediate production process as job work in relation to -

(a) agriculture, printing or textile processing;

Service relating to Charitable Organisation

Mega Exemption – N. No. 25/2012:

4. Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities;

“charitable activities” means activities relating to -

(i) public health by way of -

(a) 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

(b) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion or spirituality;

Service relating to Charitable Organisation

- (iii) advancement of educational programmes or skill development relating to,-**
 - (a) abandoned, orphaned or homeless children;**
 - (b) physically or mentally abused and traumatized persons;**
 - (c) prisoners; or**
 - (d) persons over the age of 65 years residing in a rural area;**

- (iv) preservation of environment including watershed, forests and wildlife; or**

- (v) advancement of any other object of general public utility up to a value of,-**
 - **(a) eighteen lakh and seventy five thousand rupees for the year 2012-13 subject to the condition that total value of such activities had not exceeded twenty five lakhs rupees during 2011-12;**
 - **(b) twenty five lakh rupees in any other financial year subject to the condition that total value of such activities had not exceeded twenty five lakhs rupees during the preceding financial year;**

Service relating to Charitable Organisation

Mega Exemption – 25/2012-ST

- 34. Services received from a provider of service located in a non- taxable territory by –**
- (b) an entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities.**
- 38. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets;**

Service relating to Religious Organisation

Mega Exemption – 25/2012-ST

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;**

13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-

- (c) a building owned by an entity registered under section 12AA of the Income tax Act, 1961 and meant predominantly for religious use by general public**

religious place” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;

Service relating to Education

Negative List:

(I) services by way of—

- (i) pre-school education and education up to higher secondary school or equivalent;**
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;**
- (iii) education as a part of an approved vocational education course;**

Service relating to Education

“approved vocational education course” means,—

- (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or**

- (ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment; or**

- (iii) a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India;**

Service relating to Education

Mega Exemption – ST 25/2012

- 8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;**

- 9. Services provided to an educational institution in respect of education exempted from service tax, by way of,-**
 - (a) auxiliary educational services; or**
 - (b) renting of immovable property;**

Service relating to Education

“auxiliary educational services” means

- **any services relating to imparting any skill, knowledge, education or**
- **development of course content or**
- **any other knowledge – enhancement activity, whether for the students or the faculty, or**
- **any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including Services relating to;**
 - **admission to such institution,**
 - **conduct of examination,**
 - **catering for the students under any mid-day meals scheme sponsored by Government, or**
 - **transportation of students, faculty or staff of such institution**

Service relating to Education

- **Circular No.172/7/2013 – ST dated 19/09/2013**
- **3. By virtue of the entry in the negative list and by virtue of the portion of the exemption notification, it will be clear that all services relating to education are exempt from service tax. There are many services provided to an educational institution. These have been described as “auxiliary educational services” and they have been defined in the exemption notification. Such services provided to an educational institution are exempt from service tax. For example, if a school hires a bus from a transport operator in order to ferry students to and from school, the transport services provided by the transport operator to the school are exempt by virtue of the exemption notification.**
- **4. In addition to the services mentioned in the definition of “auxiliary educational services”, other examples would be hostels, housekeeping, security services, canteen, etc.**

Service relating to Education

9A. Any services provided by, -

(i) the National Skill Development Corporation set up by the Government of India;

(ii) a Sector Skill Council approved by the National Skill Development Corporation;

(iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;

(iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council

in relation to;

(a) the National Skill Development Programme implemented by the National Skill Development Corporation; or

(b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

(c) any other Scheme implemented by the National Skill Development Corporation

Service relating to Health Care

Mega Exemption – N. No. 25/2012:

(2) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;

“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 medicines in India and includes services by way of 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;

Service relating to Health Care

- **In terms of section 2(h) of the Clinical Establishments Act, 2010, the following systems of medicine are recognized systems of medicine:**
 - ◆ **Allopathy**
 - ◆ **Yoga**
 - ◆ **Naturopathy**
 - ◆ **Ayurveda**
 - ◆ **Homeopathy**
 - ◆ **Siddha**
 - ◆ **Unani**
 - ◆ **Any other system of medicine that may be recognized by central government**

Service relating to Health Care

“clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other 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 recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

Service relating to Health Care

“authorised medical practitioner” means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognized by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

Paramedics are trained health care professionals, for example nursing staff, physiotherapists, technicians, lab assistants etc.

(3) Services by a veterinary clinic in relation to health care of animals or birds;

Services relating to Transportation

Mega Exemption – ST 25/2012

20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods—

- **relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;**
- **defence or military equipments;**
- **newspaper or magazines registered with the Registrar of Newspapers;**
- **railway equipments or materials;**
- **agricultural produce;**
- **foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or**
- **chemical fertilizer and oilcakes;**

Services relating to Transportation

Mega Exemption – ST 25/2012

21. Services provided by a goods transport agency, by way of transport in a goods carriage of,-

- (a) agricultural produce;**
- (b) goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;**
- (c) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;**
- (d) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages;**
- (e) chemical fertilizer and oilcakes;**
- (f) newspaper or magazines registered with the Registrar of Newspapers;**
- (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or**
- (h) defence or military equipments;**

Services relating to Transportation

Mega Exemption – ST 25/2012

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 from 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;**
- (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or**
- (c) ropeway, cable car or aerial tramway;**

Others

Mega Exemption – ST 25/2012

28. Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution—

(a) as a trade union;

(b) for the provision of carrying out any activity which is exempt from the levy of service tax; 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;

Others

Mega Exemption – ST 25/2012

29. Services by the following persons in respective capacities—

- (a) sub-broker or an authorised person to a stock broker;**
- (b) authorised person to a member of a commodity exchange;**
- (c) mutual fund agent to a mutual fund or asset management company;**
- (d) distributor to a mutual fund or asset management company;**
- (e) selling or marketing agent of lottery tickets to a distributor or a selling agent;**
- (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;**
- (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or**
- (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;**

Others

Mega Exemption – ST 25/2012

- 37. Services by way of transfer of a going concern, as a whole or an independent part thereof;**

- 15. Services provided by way of temporary transfer or permitting the use or enjoyment of a copyright,-**
 - (a) covered under section 13(1)(a) of the Copyright Act, 1957, relating to original literary, dramatic, musical or artistic works; or**
 - (b) of cinematograph films for exhibition in a cinema hall or cinema theatre;”**

- 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 unit of accommodation below rupees one thousand per day or equivalent;**

Others

Mega Exemption – ST 25/2012

- 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;”;**
- 19A. Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948, having the facility of air-conditioning or central air-heating at any time during the year;**

**Thank You
Who Speaks
Sows**



**Who Listens
Reaps**