



# Reverse Charge Mechanism & Valuation Rules – J. B. Nagar CPE Study Circle

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## Matters to be covered



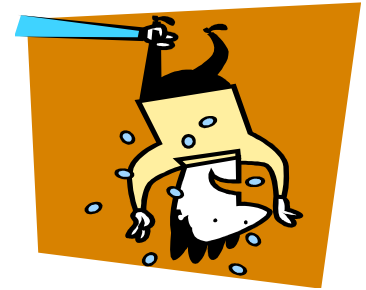
- ❑ Reverse Charge Mechanism of Taxation  
[N. No. 30/2012 – dated 20-06-2012]
- ❑ Valuation Rules – Service Tax (Determination of Value) Rules, 2006

# Person Liable to Pay Tax



- ❑ Every person providing taxable services to any person shall pay service tax in such manner and within such time as may be prescribed. [Section 68(1)]
- ❑ Central Government has power to notify such other person to discharge service tax liability and all provisions of service tax law would be applicable as if he is service provider.
- ❑ Board has notified such person by issuance of Notification No. 15/2012 – dated 17-03-2012

# Person Liable to Pay Tax



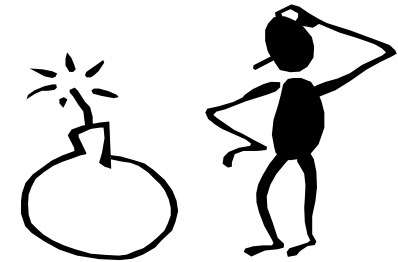
Description of Service	Service Provider	Service Receiver	Person Liable	Rate of Tax
Insurance Business	Insurance Agent	Insurance Company	Insurance Company	12.36%
Goods Transport	GTA	Specified persons	Specified persons	12.36%
Sponsorship	Any person	Body corporate or Firm	Body corporate or Firm	12.36%
Legal Services	Arbitral Tribunal or Advocate	Business Entity	Business Entity	12.36%
Support Services	Government or Local Authority	Business Entity	Business Entity	12.36%

# Person Liable to Pay Tax



Description of Service	Service Provider	Service Receiver	Person Liable	Rate of Tax
Hiring of Motor Vehicle - <b>On abated Value</b>	Individual, HUF, Prop. Firm, P' Firm, or AOP	Business Entity registered as Body Corporate	Business Entity registered as Body Corporate	12.36%
Hiring of Motor Vehicle - <b>On non abated Value</b>	Individual, HUF, Prop. Firm, P' Firm, or AOP	Business Entity registered as Body Corporate	Business Entity registered as Body Corporate Provider	40% of 12.36% 60% of 12,36%
Supply of Manpower & Security Services for any purpose	Individual, HUF, Prop. Firm, P' Firm, or AOP	Business Entity registered as Body Corporate	Business Entity registered as Body Corporate Provider	75% of 12.36% 25% of 12.36%

# Person Liable to Pay Tax



Description of Service	Service Provider	Service Receiver	Person Liable	Rate of Tax
Director Services	Non Executive Director	Company	Company	12.36%
Works Contract	Individual, HUF, Prop. Firm, P' Firm, or AOP	Business Entity registered as Body Corporate	Business Entity registered as Body Corporate	50% of 12.36%
			Provider	50% of 12.36%
Any Taxable Service	Located in <b>Non Taxable Territory</b>	Any person located in <b>Taxable Territory</b>	Any person located in Taxable Territory	12.36%

## Definitions and Meaning



- ❑ “advocate” means an advocate whose name is entered in any roll under the provisions of Advocate Act, 1961. [Section 2(1)(a)]
- ❑ “arbitral tribunal” means a sole arbitrator or a panel of arbitrator. [Section 2(d) of Arbitration and Conciliation Act, 1996]

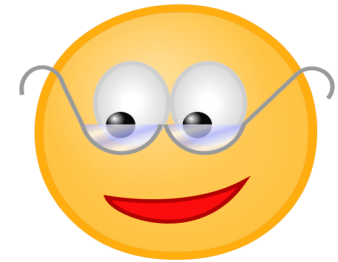
## Definitions and Meaning



- "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; [Section 65B (49)]



# Definitions and Meaning



- “motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and **includes** a chassis to which a body has not been attached and a trailer; **but does not include**
  - (i) a vehicle running upon **fixed rails**; or
  - (ii) a vehicle of a special type adapted for use only in a factory or in any other enclosed premises; or
  - (iii) a vehicle having less than four wheels fitted with engine capacity of not exceeding 25 cubic centimeters.

## Definitions and Meaning



- ❑ “Supply of Manpower” means supply of manpower, temporarily or otherwise, to another person to work under his superintendence or control. [Rule 2(1)(g) of Service Tax Rules, 1994]

## Definitions and Meaning



- Non-working director of a firm who is not an executive director and, therefore, does not participate in the day-to-day management of the firm. He or she is usually involved in planning and policy making, and is sometimes included to lend prestige to the firm due to his or her standing in the community or appointed to comply with the statutory requirements.

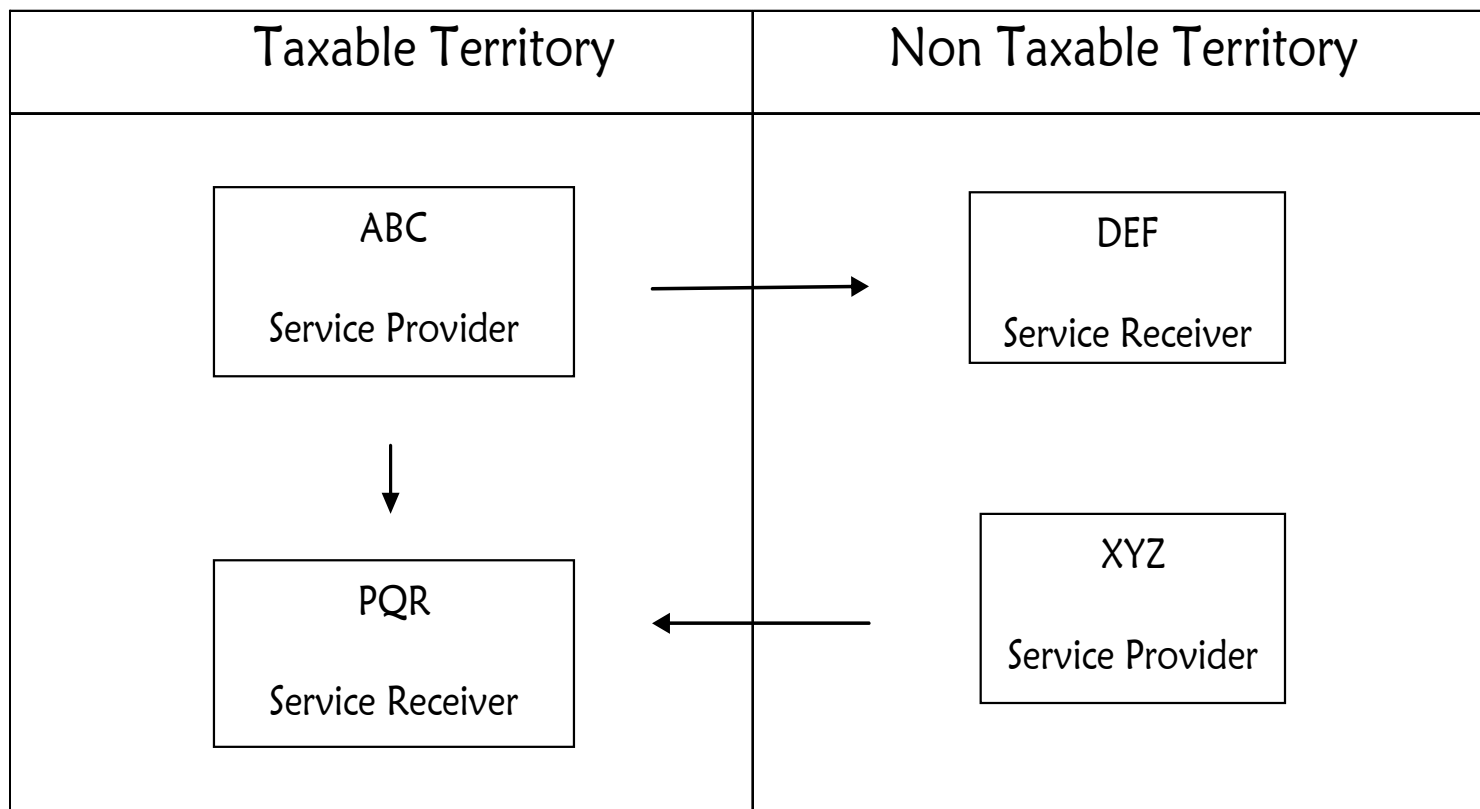
# Definitions and Meaning



- ❑ “works contract” means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;

[Section 65B(54)]

# Territory



## Person Liable to Pay Tax



- ❑ It is clarified that liability of the two persons is for respective amounts and is not influenced by compliance or the lack of it by the other side.
- ❑ Service receiver is not entitled for exemption limit of Rs. 10 Lacs.
- ❑ **Service provider** is allowed Cenvat Credit of tax paid by him on inputs and Input services. Similarly, **Service receiver** will also be eligible for Cenvat Credit of tax paid by him on the basis of tax challan.

# Determination of value of Works Contract

- Rule 2A of Service Tax (Determination of Value) Rules, 2006 provides two methods in which value of service portion in the execution of a works contract can be determined viz. Actual Method and Ad-hoc method.

## Actual Method: [Rule 2A(i)]

Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.

# 1<sup>st</sup> Method – Actual Method

	Particulars	Amount
	Gross amount  [It will not include VAT or sales tax paid or payable on transfer of property in goods involved in the execution of the said works contract]	10,00,000
Less :	Value of property in the goods transferred during the execution of works contract.  [VAT or Sales tax paid or payable on the <b>actual value</b> of property in goods transferred in the execution of the works contract, then such value can be adopted]	700,000
	Value of Service portion in execution of Works Contract	300,000



## Determination under Actual Method

- ❑ Value of service shall include labour charges, sub contract charges, hire charges, fuel / electricity cost, planning / designing fees, cost of establishments, other similar expenses, profit earned by the service provider relatable to supply of labour and services. [Rule 2A(i)(b) of Service tax (Determination of Value) Rules, 2006.

# Determination under Actual Method

## Ad-hoc Method: [Rule 2A (ii)]

When assessee is **not in a position** to determine the value of service portion in execution of works contract as per Actual method, as provided under Rule 2A (i), under such a scenario, person liable to pay service tax have to determine value as per ad-hoc method.

Rule has divided the works contract transactions in to three types and its valuations have to be done as under:

## 2<sup>nd</sup> Method – Ad hoc Method

Sr. no.	Nature of Work	% of tax payable
1	<p>Contract for Original Work –</p> <p><b>Original work means -</b></p> <ul style="list-style-type: none"> <li>(i) all new constructions,</li> <li>(ii) additions and alteration to abandoned or damaged structures on land</li> <li>(iii) Erection, commissioning or installation of plants, machinery or equipments or structure whether pre-fabricated or not</li> </ul>	<p><b>40%</b> of the total amount charged for the works contract.</p>

## 2<sup>nd</sup> Method – Ad hoc Method

Sr. no.	Nature of Work	% of tax payable
2	Contract for maintenance, repairs or re-conditioning or restoration or servicing of any goods - movable property	70% of the total amount charged for the works contract.
3	In case of any other contract, including maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property.	60% of the total amount charged for the works contract.

## Conditions – Ad hoc method

- Total amount means the sum total of gross amount charged for the works contract and the **fair market value** of all **goods and services** supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting –
  - (i) amount charged for such goods or services, if any; and
  - (ii) VAT or sales tax, if any, levied thereon.

Fair market value of goods and services so supplied may be determined in accordance with generally accepted accounting principles.

## Conditions -

- ❑ Service provider's are **not eligible** to claim Cenvat Credit on **“inputs”** used in or in relation to the said works contract.
- ❑ They are **eligible** to avail **Cenvat Credit** on **“Capital Goods”** and **“Input Services”** used in or in relation to the said works contract.

## Determination of valuation of Purchase & Sale of Foreign Currency

Particulars	Valuation
Currency is exchanged from or to Indian Rupees (INR)	Difference between buying rate or selling rate of RBI (reference rate) x total units of currency.
RBI reference rate is not available	1% of the gross amount of INR provided or received, by the person changing the money.
Currency exchanged is not in Indian Rupees	1% of the lesser of the two amounts received by the person changing the money by converting any of the two currencies in to INR on that day at the reference rate provided by RBI.

## Determination of value of service portion in supply of food or drink in restaurant or caterer

- Rule 2C provides mechanism for determining value of **service portion** in **supply of food** or any **other article of human consumption** or **any drink** in a **restaurant** or as a **outdoor caterer**.

Nature of Services	% of tax payable
Restaurants	40% of total amount
Outdoor Caterer	60% of total amount



## Conditions – Ad hoc method

- Total amount means the sum total of gross amount charged for the works contract and the **fair market value** of all **goods and services** supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting –
  - (i) amount charged for such goods or services, if any; and
  - (ii) VAT or sales tax, if any, levied thereon.

Fair market value of goods and services so supplied may be determined in accordance with generally accepted accounting principles.

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